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No. 106

## House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. DAVIS of Alabama).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
June 25, 2008.

I hereby appoint the Honorable ARTUR DAVIS to act as Speaker pro tempore on this day.

NANCY PELOSI,  
*Speaker of the House of Representatives.*

### PRAYER

The Reverend Archie E. Barringer, Veterans Medical Clinic, Fayetteville, North Carolina, offered the following prayer:

Our Father, we thank You for this grand and glorious occasion which has brought us together. We thank You for the privilege of living in a free country, for the right to assemble to represent the will of our people, and to invoke the laws of this great land.

We ask now for Your divine direction, wisdom, and guidance in all the issues that will come before this body of legislators today.

We know, O God, these are perilous times in which we live. We are confronted and bombarded with opposition and evil that threaten our very way of life, from within and from without.

Grant us the courage combined with commitment, pride, tempered by humility and dedication driven by determination to be the best, to stand in the gap, and to be all You would have us be in order to protect, preserve, and defend those freedoms God has intended for all mankind. And may we persevere until that day when we shall beat our spears into pruning hooks, our swords into plowshares, and study war no more.

For we ask this prayer, O Lord, in Your name. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of Ohio led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### WELCOMING REVEREND ARCHIE E. BARRINGER

The SPEAKER pro tempore. Without objection, the gentleman from North Carolina (Mr. HAYES) is recognized for 1 minute.

There was no objection.

Mr. HAYES. Mr. Speaker, today, I rise to honor Reverend Archie Barringer and to thank him for being here today to deliver this morning's prayer.

Reverend Barringer has dedicated his life to serving his country as a soldier, his fellow soldiers and veterans, his community, and most importantly the Lord.

I would like to thank all of our military chaplains for the exceptional service and spiritual guidance to our soldiers, veterans, and their families.

Mr. Speaker, many of our veterans of Christian faith are complaining that they are being religiously disenfranchised by the VA's effort to

neutralize chapels, services, and memorials. Reverend Barringer has spoken out against what he feels are overly aggressive practices and guidelines, in fact. He resigned rather than implement what he felt were discriminatory policies.

Mr. Speaker, it is my hope that his presence here today will help raise awareness of these issues so that we may preserve the tenets and principles that have served as the religious foundation for so many of our veterans for so many years.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 15 further requests for 1-minute speeches on each side of the aisle.

### JUSTICE REVIUS O. ORTIQUE

(Mr. JEFFERSON asked and was given permission to address the House for 1 minute.)

Mr. JEFFERSON. Mr. Speaker, the death of Justice Revius O. Ortique this past Sunday marked the passing of a true public servant and a selfless leader. A man of historic firsts, most notably the first African American member of the Civil District Court of Louisiana and the first African American member of Louisiana's Supreme Court, he blazed a trail for others to follow. He was an outstanding lawyer, winning landmark civil rights cases, and serving as president of the National Bar Association. He served our community as a leader of our Urban League and as chair of the New Orleans Aviation Board. He served our Nation, as an army officer and as an appointee to significant Federal posts by five different Presidents.

Justice Ortique was a man of community, faith, and family. He was a man who loved justice, and he pursued it for

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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himself and for others his entire life. Our Nation is better for his service, his leadership, and his commitment to his country. We pray God's comfort for his wife of over 60 years, Miriam, his daughter, Rhessa, and her husband, Alden, and his grandchildren Chip, Heidi, and Todd.

#### SUCCESS WE CAN BUILD UPON

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, as we approach Independence Day, I am grateful for the success of our troops in Iraq and in Afghanistan to protect American families by defeating terrorists overseas. With two sons who have served in Iraq and my former National Guard 218th Brigade in Afghanistan, I know firsthand our military's accomplishments.

The Department of Defense reports violence in Iraq has declined significantly. Security incidents have fallen to their lowest level in 4 years. Civilian deaths are down 75 percent from a year ago, with the Iraqi military taking greater control over military operations against al Qaeda and Iranian-backed militias.

Increased security has led to increased political and economic progress where Iraqis are sharing oil revenues, are developing and implementing a budget, and are taking greater financial responsibility for building their infrastructure. We should recognize these achievements to eliminate terrorist safe havens so our decisions here in Washington do not reverse this progress, which would threaten our allies and American families.

In conclusion, God bless our troops, and we will never forget September the 11th.

#### BIG OIL DOESN'T NEED MORE LAND TO DRILL; THEY SHOULD USE IT OR LOSE IT

(Mr. WILSON of Ohio asked and was given permission to address the House for 1 minute.)

Mr. WILSON of Ohio. Mr. Speaker, with gas prices reaching \$4 a gallon and rising, the American people are searching for real relief at the pump. While Washington Republicans continue to advocate for the same failed energy policies that got us where we are today, Democrats are providing American consumers with real solutions.

We must increase drilling. I support a new piece of legislation that says to oil companies: Use it or lose it. Use the leases you have on land where we know there is oil or lose those leases to an oil company that is willing to drill.

Oil companies that are raking in record profits are currently sitting on 68 million acres of leased oil-rich Federal land that they are not drilling. The amount of oil which could be pro-

duced from these reserves would nearly double the total U.S. production. If oil companies drilled those 68 million acres, the U.S. could produce an additional 4.8 million barrels a day.

Mr. Speaker, this week, we will have the opportunity to tell Big Oil to either use the leases they have or to lose them.

#### ENERGY INDEPENDENCE

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Mr. Speaker, I rise today, calling for expanded domestic energy exploration and for a truly comprehensive energy policy, including renewables.

Access to oil and natural gas resources from Federal lands and waters is critical to the energy supply of West Virginia consumers, businesses, and homeowners. Specifically, the Outer Continental Shelf will be increasingly important to our Nation's energy future. Approximately 25 percent of U.S. oil and natural gas production comes from offshore areas. Technology has allowed the industry to explore deeper in the Gulf of Mexico and to make many new discoveries.

However, current policy unnecessarily keeps many promising prospects off limits, restraining additional growth and supplies. Congress and past Presidents have put a stop to offshore drilling and development. This must end. With gas prices at more than \$4 a gallon and filling up the minivan at \$70, we simply cannot afford to deliberately ignore our abundant resources. It is time to use our resources and to use our common sense.

#### IS DIPLOMACY MORE DANGEROUS?

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Yesterday, the value of shares on the Lisbon stock market dropped amid rumors of a military attack on Iran's nuclear research facilities.

The Bush administration has been mindlessly threatening the use of nuclear bunker busters on Iranian nuclear facilities. The Physicians for Social Responsibility have analyzed the effect of such an attack: "Within 48 hours, fallout would cover much of Iran, most of Afghanistan, and spread into Pakistan and India. Fallout from the use of a burrowing weapon such as the B61-11 would be worse than from a surface or air-burst weapon due to the extra radioactive dust and debris ejected from the blast site. In the immediate area of the two attacks, our calculations show that, within 48 hours, an estimated 2.6 million people would die; over 10.5 million people would be exposed to significant radiation from fallout."

Do we really believe the best way to deal with Iran's nuclear facilities is to blow them up? Where are our spiritual values? our moral sensibilities? Is diplomacy more dangerous?

#### BROADCASTER FREEDOM ACT

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. One year ago, over 300 Democrats and Republicans stood together to oppose efforts to restore the so-called Fairness Doctrine to the airwaves of this country for a single year. It was an encouraging vote. But, following that vote, I introduced the Broadcaster Freedom Act, which would permanently ban the Fairness Doctrine from ever coming back, and so far, not one single House Democrat has signed our position for an up-or-down vote on broadcast freedom. Now we know why.

Asked yesterday if she supported reviving the Fairness Doctrine, Speaker NANCY PELOSI replied, "Yes." At a meeting at the Christian Science Monitor, she said that the Broadcaster Freedom Act would not receive a vote because "the interest of my caucus is the reverse."

I say to Speaker PELOSI, with respect, defending freedom is the paramount interest of every Member of the American Congress.

I urge my Democrat colleagues to take a stand for freedom. Oppose the Democrat leadership's plan to censure the airwaves of American talk radio and American Christian radio. Sign the discharge petition for broadcast freedom, and help us send the Fairness Doctrine to the ash heap of broadcast history where it belongs.

#### BIG OIL DOESN'T NEED MORE LAND TO DRILL; THEY SHOULD USE IT OR LOSE IT

(Ms. SHEA-PORTER asked and was given permission to address the House for 1 minute.)

Ms. SHEA-PORTER. Mr. Speaker, every day, American consumers are being squeezed at the pump. They can no longer afford for Congress to be divided on this issue.

I urge every Member of Congress to support legislation on the floor that would compel the oil industry to drill on the public lands it already controls. Big Oil would either have to produce from these lands, would have to show they are being diligent in their development or would have to give up the right to control even more Federal energy resources.

Simply put, we are telling Big Oil to either use it or lose it.

Experts estimate that 68 million acres of leased land could produce 4.8 million barrels of oil, which would nearly double the Nation's total oil production.

Congressional Republicans and President Bush are calling for domestic

drilling, saying it is the only solution to control high prices. Republicans should then be demanding that Big Oil drill on the 68 million acres where they already have leases.

Mr. Speaker, Americans have been deeply hurt by the prices at the pump. Republicans should join with the Democrats and should tell Big Oil companies to get to work now.

#### WHO DO WE FIGHT?

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, who do we fight against? We have been at war in Iraq and Afghanistan for years. We heard that we are fighting a war on terror. But what does that mean? Who are the people at war with America?

Now, after all this time, our government has decided we must have a politically correct name for our enemy. No longer can we use the term "Jihadist," the primary meaning being a holy war to subject the world to Islam. After all, using that term might hurt our enemies' feelings.

And certainly the most accurate term, "Islamofascists," is strictly taboo because it might further anger our enemies by insinuating they are a bit radical when they murder in the name of religion.

So the government insists that we call the bad guys "extremists" or "terrorists."

That vague term won't indicate the war against us is waged in the name of radical Muslim religious doctrine. But isn't that the reason for this war?

The term "Jihadist" is not a reflection on all Muslims. After all, many Muslims are literally fighting these radical ideas.

In a war, we must specifically define our enemy. Otherwise, we don't know who they are or why we fight.

And that's just the way it is.

#### SUPPORTING THE DESIGNATION OF A NATIONAL TOURETTE SYNDROME DAY

(Mr. SIREs asked and was given permission to address the House for 1 minute.)

Mr. SIREs. Mr. Speaker, today, I rise to help raise awareness of Tourette syndrome. This is a misunderstood disorder that affects an unknown number of Americans. The experts think that maybe 200,000 of us suffer from this neurological disorder; although no one really knows because it is often misdiagnosed. That is why we need to increase awareness and applaud those who work on a daily basis to make this one of the issues that we must be aware of.

In my home State, the New Jersey Center for Tourette Syndrome and Associated Disorders provides an innovative, multidisciplinary, multi-institutional approach to the treatment for those in New Jersey who have the

Tourette syndrome and for their families. It is the first and only program of its kind in the Nation, and it serves as a model for other centers.

In concert with the State legislature, they declared every Wednesday in New Jersey as Tourette Syndrome Day to call attention to this disorder. In order to continue to bring awareness to this disorder, today, I will introduce a resolution supporting the designation of a National Tourette Syndrome Day.

□ 1015

#### LIFT BAN ON OFFSHORE DRILLING

(Mr. BARRETT of South Carolina asked and was given permission to address the House for 1 minute.)

Mr. BARRETT of South Carolina. Mr. Speaker, last week, Senator JOHN MCCAIN stated that we need to lift the Federal moratorium on offshore drilling for oil and gas. President Bush also agreed that the U.S. needs to lift its long-standing ban on offshore oil and gas drilling so we can increase our energy production here.

I agree. We need to increase U.S. oil production to lower gas prices for American families. Mr. Speaker, the U.S. has access to 112 billion barrels of onshore and offshore oil and access to 1 to 2 trillion barrels of recoverable oil shale. To ban exploration of these energy sources is simply outdated.

The rise in gas prices has brought a daily increase in the cost of consumer goods due to higher transportation costs, groceries and airfare. American families are looking for relief, Mr. Speaker, and the President is correct when he said Americans are turning to Washington for solutions. The only way we can help these families is to lift the ban on energy resources that we have here at home.

#### BIG OIL: USE IT OR LOSE IT

(Mr. BRALEY of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRALEY of Iowa. Mr. Speaker, the two men most responsible for our record prices at the pump today are President Bush and Vice President CHENEY. They came to the White House from the executive suites of Big Oil, and their energy policies continue to mirror Big Oil's agenda.

President Bush has, once again, called for drilling in ANWR even though his own Energy Department has said that opening up the Arctic would only save pennies per gallon 10 years from now. Now the President has suggested opening up the Outer Continental Shelf to drilling even though 80 percent of the oil available there is already open to leasing.

Why would we give Big Oil access to more of our land and waters if they refuse to drill on the 68 million acres they have now? If President Bush believes that drilling is the answer, why

isn't he demanding that Big Oil use the land they already have?

Mr. Speaker, Republicans have repeated the same domestic drilling rhetoric for years. Tomorrow they have the chance to act on that rhetoric and to tell Big Oil to either use it or lose it by joining us in passing the Responsible Federal Oil and Gas Lease Act of 2008.

#### CRITICAL ENERGY NEEDS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, the U.S. faces a critical need to encourage domestic petroleum production. It seems as if the United States has unilaterally disarmed itself in the competition for energy supplies by imposing a host of unnecessary restrictions on domestic oil and energy production. Indeed, in the past three decades, we've thwarted construction of refineries and nuclear power plants that could have helped to ease the competition for energy supply and that could have secured greater energy independence for all of us.

Further, taxes on the major domestic oil producers lower incentives for new investments, and they add more costs to finished products at the pump. Furthermore, there is growing doubt that the recent rush to develop corn-based ethanol and other alternative and renewable energy sources will bring genuine relief or true energy security. By creating a bonanza for corn growers and agribusiness giants, we have succeeded in driving up food prices both in the United States and abroad.

American families deserve better from the Democrat-controlled Congress.

#### PRESERVING HEALTH CARE ACCESS

(Ms. GIFFORDS asked and was given permission to address the House for 1 minute.)

Ms. GIFFORDS. Mr. Speaker, yesterday, with my enthusiastic support, the House passed the Medicare Improvements for Patients and Providers Act, H.R. 6331.

In Cochise County, which is a rural part of my southern Arizona district, access to primary health care is a real challenge, but it is a challenge that particularly impacts our seniors.

This legislation protects payments for community physicians, for critical hospitals and for ambulances in rural areas. In southern Arizona, these doctors and hospitals provide vital services to our seniors throughout a very rural part of America, including areas like Naco, Sierra Vista, Douglas, and Bisbee, Arizona.

I would like to take a moment to thank members of my senior advisory council and my health care advisory council. They have worked diligently to highlight the need for improving access to health care for our seniors, especially in underserved and remote areas.

Yesterday was a good day in the House of Representatives. I urge my colleagues in the Senate to take swift action this week to also pass this legislation and to send it to the President.

#### CNN HOST SAYS MEDIA BIASED

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Texas. Mr. Speaker, Howard Kurtz, host of CNN's program "Reliable Sources," has strongly criticized the media's coverage of Senator BARACK OBAMA's breaking his promise that he would accept public campaign funds.

Last Sunday, Kurtz argued: "All of these liberal commentators who have always supported campaign finance reform, getting big money out of politics, many of them are defending OBAMA. And I have to think the press is cutting him a break here."

Kurtz concluded the segment by saying, "If George W. Bush had done this, blown off public financing as he considered doing during the 2004 campaign, there would be howls in the media about one candidate trying to buy an election."

A recent poll found that, by more than a 3-to-1 margin, voters believe the media favors Senator BARACK OBAMA over Senator JOHN MCCAIN. The media should report the facts, not slant the news.

#### EXPLORING, ELIMINATING AND ENCOURAGING

(Mr. PERLMUTTER asked and was given permission to address the House for 1 minute.)

Mr. PERLMUTTER. Mr. Speaker, there have been a lot of complaints by the Republican side of the aisle as to the increase in gas prices, but I would have to say: Is it any wonder that gas prices have increased with two oil men in the White House? The question is what is being done. I would say it is the three E's.

First, explore the 68 million acres that are under lease to the oil companies today. Let's extract the oil that we have under lease and not go explore ANWR or the Outer Continental Shelf.

Two, eliminate the gouging and the hoarding and the speculating that is going on that is increasing the price of oil per barrel by \$60 or \$70 per barrel.

The third E, encourage alternatives. We can no longer be hooked on just one commodity. We have to have other approaches and other ways to power this Nation or we will have to learn this lesson over and over and over again. That is what the Democratic Congress is doing—exploring what we have, eliminating the gouging and encouraging alternatives.

#### BOY SCOUT TRAGEDY AT LITTLE SIOUX RANCH

(Mr. FORTENBERRY asked and was given permission to address the House for 1 minute.)

Mr. FORTENBERRY. Mr. Speaker, I would like to commend my colleague Congressman LEE TERRY for introducing the resolution expressing heartfelt sympathy for the victims and families following the tornado that hit Little Sioux, Iowa.

On June 11, we were given a stark reminder of just how fragile life is. In 1 minute, the Boy Scouts at the Little Sioux Scout Ranch were attending a leadership camp, Boy Scouts undoubtedly filled with joy, laughter and achievement, all of those wonderful things that make scouting a core ideal of America. In the next minute, a tornado tore through the camp, taking the lives of 4 Boy Scouts and injuring 40 others.

The four scouts who lost their lives—Aaron Eilerts from West Point, Nebraska, and Josh Fennen, Sam Thomsen and Ben Petrzilka from Omaha—were exemplary young men.

After the tornado struck, many other young men applied first aid to the injured and worked to free those trapped in the rubble. Clearly, the scouts lived up to their motto, "Be prepared."

Mr. Speaker, may God bring comfort to the families and friends of those who lost loved ones that day.

#### HONORING OFFICER JOSE RIVERA

(Mr. CARDOZA asked and was given permission to address the House for 1 minute.)

Mr. CARDOZA. Mr. Speaker, it is with great sadness that I rise today to honor the late Jose Rivera, a correctional officer at the Federal penitentiary in Atwater, California.

Officer Rivera's life was taken by two inmates on Friday, June 20, 2008. He was 22 years old. He is survived by his mother, Terry, by his sisters Teresa, Martha and Angelica and by his brother, Daniel.

After graduating from Le Grand High School, he served for 4 years in the Navy, completing two tours of duty in Iraq, and he began his career as a correctional officer on August 5, 2007. His life of service was cut tragically short.

Mr. Speaker, I have long voiced my concerns, most recently in a letter I sent in April to the director of the Bureau of Prisons, about the lack of sufficient resources and staff to safely operate our Federal prisons.

The fact is that staffing levels are decreasing while inmate populations are increasing. The Atwater Penitentiary is operating at 85 percent of the staffing level and is at 25 percent overcapacity for inmate levels.

As we honor Officer Rivera's legacy of commitment and service to our country, his senseless death is a reminder that we must provide adequate funds to keep our prisons and our communities safe.

#### REDUCE PRICE AT THE PUMP

(Mrs. BLACKBURN asked and was given permission to address the House

for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, in middle Tennessee today, you are going to pay about \$3.93 for a gallon of gas. My constituent families know that this price is outrageous, and they know that now they are being faced with choices: How much are they going to put in the tank or how much are they going to put in that grocery cart when they go to the grocery store? This is unacceptable, and my constituents know that.

They also know that there are some things that we could and should be doing. May I offer a suggestion to that, Mr. Speaker. Here is a simple way to start:

To the Democrat leadership, admit you made a mistake, and repeal the so-called Energy Independence and Security Act that you passed last December that didn't produce one bit of oil or gas or move anything to the marketplace. It put in place roadblocks, and we have far too many roadblocks to putting gas into the pumps and into our cars.

Specifically, let's repeal section 526 of this so-called Energy Policy Act, and let's get rid of a roadblock that makes it more difficult for the U.S. Government to address the needs that we have and, certainly, for our Air Force.

There are many things that we could and should be doing before we leave for July 4. There are things that we could and should be doing to make certain that our constituents have a safer July 4th celebration.

Let's reduce the price at the pump.

#### DEMOCRATS HELP REBUILD ECONOMY

(Mr. JOHNSON of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of Georgia. Mr. Speaker, with the price of groceries, gasoline and health care rising every day, Americans everywhere are feeling the economic squeeze. They worry about losing their jobs and their homes, and they fear losing their standard of living.

The Democratic Congress has led the way in working to jump start the American economic recovery by approving \$107 billion in stimulus checks that have already reached 76 million homes.

With job losses exceeding 324,000 this year, with 48,000 having been lost in the month of May alone, we acted quickly last week to extend unemployment benefits for millions of workers who are having a hard time finding a job. These benefits will help struggling families put food on the table and gas in their cars.

Congress has passed the most comprehensive legislation responding to the devastating housing crisis. The package will help millions of families avoid foreclosure, and it will rehabilitate properties in areas hit hard by the housing crisis.

Mr. Speaker, this is a good beginning, but we must do more to alleviate the economic hurt Americans are enduring, and we must work together to turn the failed Bush-McCain economy around.

□ 1030

#### DRILL HERE, DRILL NOW, PAY LESS

(Mr. DANIEL E. LUNGREN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I have been informed that the rules of the House do not allow me to wear a lapel pin or a lapel sign, so I had to take this off. I was going to use this chart, but I thought, maybe, since the rules allow it, I would take this pin off and put it here so people can see what it says. It says, simply, "Drill here. Drill now. Pay less."

It is also symbolic of the smallness of the area that would be affected if we went offshore or if we went to ANWR. It would have to be about a pin dot here of this size to display what it would actually represent in ANWR versus all of Alaska.

Drill here in the United States. American resources. Drill now, not 20 years from now, not 30 years from now. Now. Pay less. As the futures market would look at the change in policy and would recognize that we're no longer going to hamstring ourselves, they would begin to understand that prices would not go up as fast as they have been going, and we would begin to pay less.

Drill here. Drill now. Pay less for the American people.

#### HONORING SUPERINTENDENT DAN NERAD

(Mr. KAGEN asked and was given permission to address the House for 1 minute.)

Mr. KAGEN. Mr. Speaker, for those, like me, who believe in the invaluable resource that is our public schools, it is a bittersweet time in the Green Bay School District. Dan Nerad, the superintendent of the largest public school system in my district for the past 7 years, is leaving to assume a similar position in Madison, Wisconsin.

Dan began his career in Green Bay 33 years ago. He is known for his intelligence, for his integrity and for his candor. He tackled the toughest problems of our time in Wisconsin—school security and the achievement gap between minority and Caucasian students—while at the same time dealing with a shrinking financial resource.

While his leadership will be missed, he is to be congratulated for taking the next step in an already distinguished career. Green Bay's loss will almost certainly be Madison's gain. He leaves an indelible mark on our children, on

our educators and on our community. And I wish him well.

Thank you, Superintendent Dan Nerad.

#### KOREAN WAR ANNIVERSARY

(Mr. ROYCE asked and was given permission to address the House for 1 minute.)

Mr. ROYCE. On this day, on this very day 58 years ago, North Korea invaded South Korea. Over the course of the next 3 years after that invasion until July 27 of 1953, until that armistice brought a halt to the fighting, more than 36,000 Americans died, and more than 1.5 million South Korean soldiers and civilians became casualties of that act of aggression.

In the aftermath of this conflict, the Republic of Korea has flourished, becoming the world's 11th largest economy and becoming the United States' 7th largest trading partner. Seoul is a vibrant city which has hosted the Olympic Games and the World Cup.

As cochairman of the U.S.-Republic of Korea Interparliamentary Exchange, I have had the chance to see this miraculous growth up close in South Korea.

Mr. Speaker, as is inscribed in the Korean War Memorial here in Washington, D.C., it is important that we never forget those who nobly sacrificed their lives for the cause of freedom and liberty.

#### UNEMPLOYMENT INSURANCE NECESSARY FOR 3.8 MILLION JOB-LESS AMERICANS

(Mr. PAYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE. Mr. Speaker, with the Bush economy losing 325 jobs so far this year, it is important for the House to extend a financial lifeline to millions of unemployed workers, many in my home State of New Jersey and across the Nation, who are having trouble finding jobs. Today, 1.6 million Americans have exhausted all of their unemployment benefits. The numbers are expected to grow to more than 3 million Americans by the end of this year.

Last week, with strong support from both Democrats and Republicans, this House passed legislation giving workers and their families an extended 13 weeks of benefits so that they don't have to worry about losing their homes and their cars while they're looking for work.

For weeks, despite continued bad economic news and huge job losses in the airline and auto industries, the White House actually threatened to veto the legislation. Fortunately, they have reconsidered, and they are now supporting that the unemployment insurance will continue.

#### E-PRESCRIBING AND ITS POTENTIAL TO IMPROVE QUALITY AND HEALTH OUTCOMES IN OUR HEALTH CARE SYSTEM

(Ms. SCHWARTZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SCHWARTZ. Mr. Speaker, under the Democratic-controlled Congress, the country is moving in a new direction. Improvements in our health care delivery system are key parts of this new direction.

I applaud my colleagues for an overwhelming bipartisan victory yesterday in support of our Nation's seniors, disabled and health care providers.

The Medicare bill we passed yesterday will not only prevent the impending physician fee cut, but it will also strengthen Medicare and will provide more accessible access to service and will promote improved patient safety and health outcomes.

I'm proud to be a leader in Congress in promoting health technology. The legislation I introduced last year, which was included in the Medicare bill yesterday, promotes the use of E-prescribing by Medicare providers. Electronic prescribing will eliminate injuries, hospitalizations and mortalities that occur each year as a result of 1.5 million prescription errors annually.

The use of E-prescribing is smart; it is timely, and it is a major step forward in expanding the use of electronic medical records. It has the potential to improve quality, to improve health outcomes and to reduce costs in our health care system.

I urge the Senate to pass and accept our legislation.

#### DEMOCRATS OFFER A NEW ENERGY POLICY THAT REJECTS THE FAILED POLICIES OF THE PAST

(Mr. ELLISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ELLISON. Mr. Speaker, with two former oil executives in the White House, is it any wonder why gas prices are at a record high? President Bush's energy policy, created in secret by Vice President CHENEY and by Big Oil, leaves us dangerously dependent on foreign oil, and it hurts our economy and American families.

Washington Republicans only offer more drilling, even though 68 million acres of Federal oil reserves are already open and leased for development. New drilling won't lower prices for years to come. In fact, drilling in the pristine Alaskan Wildlife Refuge wouldn't yield oil for 10 years, and in 22 years, it would only save consumers about 2 cents a gallon.

Mr. Speaker, if congressional Republicans really are interested in helping consumers at the pump today, they will join us this week in passing legislation that forces Big Oil to either drill

where they already have leases or to lose those leases. It's time Big Oil uses it or loses it.

#### MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 430. An act to designate the United States bankruptcy courthouse located at 271 Cadman Plaza East in Brooklyn, New York, as the "Conrad B. Duberstein United States Bankruptcy Courthouse".

H.R. 781. An act to redesignate Lock and Dam No. 5 of the McClellan-Kerr Arkansas River Navigation System near Redfield, Arkansas, authorized by the Rivers and Harbors Act approved July 24, 1946, as the "Colonel Charles D. Maynard Lock and Dam".

H.R. 1019. An act to designate the United States customhouse building located at 31 Gonzalez Clemente Avenue in Mayagüez, Puerto Rico, as the "Rafael Martínez Nadal United States Customhouse Building".

H.R. 2728. An act to designate the station of the United States Border Patrol located at 25762 Madison Avenue in Murrieta, California, as the "Theodore L. Newton, Jr. and George F. Azrak Border Patrol Station".

H.R. 3712. An act to designate the United States courthouse located at 1716 Spielbusch Avenue in Toledo, Ohio, as the "James M. Ashley and Thomas W.L. Ashley United States Courthouse".

H.R. 4140. An act to designate the Port Angeles Federal Building in Port Angeles, Washington, as the "Richard B. Anderson Federal Building".

H. Con. Res. 32. Concurrent resolution honoring the members of the United States Air Force who were killed in the June 25, 1996, terrorist bombing of the Khobar Towers United States military housing compound near Dhahran, Saudi Arabia.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 2403. An act to designate the new Federal Courthouse, located in the 700 block of East Broad Street, Richmond, Virginia, as the "Spottswood W. Robinson III and Robert R. Merhige, Jr. Federal Courthouse".

S. 2837. An act to designate the United States courthouse located at 225 Cadman Plaza East, Brooklyn, New York, as the "Theodore Roosevelt United States Courthouse".

S. 3009. An act to designate the Federal Bureau of Investigation building under construction in Omaha, Nebraska, as the "J. James Exon Federal Bureau of Investigation Building".

S. 3145. An act to designate a portion of United States Route 20A, located in Orchard Park, New York, as the "Timothy J. Russert Highway".

#### PROVIDING FOR CONSIDERATION OF H.R. 2176, BAY MILLS INDIAN COMMUNITY LAND CLAIMS SETTLEMENT

Mr. HASTINGS of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1298 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1298

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 2176) to provide for and approve the settlement of certain land claims of the Bay Mills Indian Community. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. In lieu of the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill, the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions of the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit with or without instructions.

SEC. 2. During consideration of H.R. 2176 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

The SPEAKER pro tempore. The gentleman from Florida is recognized for 1 hour.

Mr. HASTINGS of Florida. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend, the gentleman from Washington, Representative HASTINGS.

All time yielded during consideration of the rule is for debate only. I yield myself such time as I may consume.

I also ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 1298.

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

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, House Resolution 1298 provides for consideration of H.R. 2176, a bill which provides for, and approves, the settlement of certain land claims of the Bay Mills Indian Community.

In lieu of the substitute reported by the Committee on Natural Resources, the rule makes in order the substitute printed in the Rules Committee report. The Rules substitute consists of the text of H.R. 2176 with that same language and the text of H.R. 4115 as reported by the Committee on Natural Resources. That bill provides for, and approves, the settlement of certain land claims of the Sault Sainte Marie Tribe of Chippewa Indians.

This is a fair rule, and it gives the proponents and opponents of the two Michigan Indian land claims bills a straight up-or-down vote on the bills.

Mr. Speaker, the underlying legislation seeks to settle a land claim agreement which was reached in 2002 by the then-Republican Governor of Michigan John Engler and the two tribes. The

current Democratic Governor of Michigan, Jennifer Granholm, has also approved the deal.

Under these bills, both tribes have agreed to relinquish their claims to land in Charlotte Beach, located in Michigan's Upper Peninsula, in exchange for a parcel of land outside of Port Huron, Michigan. The agreement reached between the tribes and the State allows the tribes to conduct gaming on their new land.

If approved by Congress and the President, this agreement secures the private ownership rights of the Charlotte Beach land in question and will help to restore the fair market value of the land. It will also provide the two tribes with an opportunity to help create jobs and economic opportunities in Port Huron while further providing for their membership.

The underlying bill conforms with the Indian Gaming Regulatory Act, and the land being given to the two tribes was selected by the State of Michigan as appropriate places for economic development.

Mr. Speaker, the underlying legislation is nothing new. Under the Constitution, only Congress—not the Department of the Interior or a Federal court—holds the power to settle Indian land title and claims. As such, Congress has taken similar action in at least 14 different instances in recent years when there have been disputed land claim settlements. Not once in those instances did Congress prohibit a tribe from conducting gaming on the tribal lands. We also never forced a tribe to jump through hoops to exercise its right to do what it wishes on its own land. I see no reason why we should start now.

Mr. Speaker, I have little doubt that today's debate on this issue will be both spirited and intense. Nevertheless, I am hopeful that the House will do the right thing and pass this rule and the underlying legislation.

□ 1045

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

Mr. HASTINGS of Washington. Mr. Speaker, I want to thank my friend and namesake from Florida, the other Mr. HASTINGS, for yielding me the customary 30 minutes, and I yield myself as much time as I may consume.

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, this bill deals specifically with Indian land claims settlements in Michigan and designating new tribal trust lands that will be used to open any new Indian casinos in two Michigan towns.

The Michigan delegation is split in their support and opposition to this legislation, with the two Representatives whose districts will become home to the new casinos being strongly in favor of this proposal.

Generally, Mr. Speaker, it has been my long-held view that when it comes

to matters that affect individual congressional districts that the House should give great consideration and deference to the views of the Representatives elected by the voters in those districts.

However, I know many of my colleagues join me in having various serious concerns about our Nation's broken Indian gaming law, as well as the troubling issue of Indian tribes seeking to acquire new, prime locations to open casinos where no business or interest would be allowed to do so otherwise, and doing this without the ability of the local community to have a say in the expansion of gambling in their community.

These aren't just matters affecting Michigan. They affect States across the Nation. Yet, this House is not being permitted to debate needed improvements to Federal Indian gaming law.

This totally closed rule blocks every single Member of this House from coming to this bill. The House is being severely restricted and is spending its time refereeing a parochial Michigan dispute instead of addressing the larger, more serious matters confronting other States.

This violates the promises made by the liberal leaders of this House to the American people to operate in an open manner. This is not an open process, Mr. Speaker. It's a closed process. It's not open when debate is restricted only to Michigan when, in fact, there are very serious issues affecting many States all across this country.

Congress created the ability of Indian tribes to get special treatment in opening casinos, and we've got a duty to police this process.

The Federal Indian Gaming Regulatory Act is broken and needs improvement. The simple fact the House is spending several hours today debating this Michigan matter is evidence that the law is broken.

If the House is going to spend time debating this subject, we should be fixing the larger problem. And if Congress is going to spend its precious time resolving a Michigan dispute, then we could use some real help in the State of Washington, my home State, where the citizens are seeing a dramatic expansion of Indian gaming, more casinos, bigger casinos, higher betting limits, with big profits being collected, and yet our State doesn't get one dime in revenue sharing.

One of the reasons the proponents of this Michigan legislation, including the State's Governor, argue in favor of creating this new tribal land and two new casinos is because it will bring in millions of dollars in more revenue to the government of Michigan.

Yet, in my home State of Washington, our State government gets nothing from Indian casinos that generate over \$1.3 billion a year in revenue. In fact, there was a proposed revenue sharing of \$140 million a year that the Governor of Washington State re-

jected without input from the citizens of the State or a vote of the State legislature. Some would say, well, your Governor made a terrible deal, and I would, of course, wholeheartedly agree. But there is something seriously wrong if a law allows giveaways of this magnitude to Indian casinos.

But instead of allowing the House to discuss and consider amendment on the larger issues of revenue sharing, compact negotiations, and off-reservation gaming, today's debate is restricted just to Michigan.

Meanwhile, the liberal leaders of this House continue to refuse to let Representatives consider and vote on solutions to lower the price of gas in our country.

Prices are skyrocketing. In Florida, the average price for a gallon of unleaded regular gasoline is \$4.03. In Michigan, it's \$4.07. In my State of Washington, it's \$4.33. That's 31 cents higher than just a month ago and \$1.20 higher than a year ago.

Mr. Speaker, our Nation needs to produce more American-made energy. We have the resources and technology to do it now. Now we just need to get the will of Congress here to allow it. For far too long, our Nation's reserves have been off limits. We can't afford these policies anymore, Mr. Speaker.

America has abundant reserves in Alaska, in the West and offshore. Let's produce more oil and natural gas here in our country.

But of course, this isn't the only answer. We need to invest in more nuclear power, hydropower, wind, solar, and other new energy sources. But all of this needs to happen in addition to tapping our own oil and gas reserves.

Gas prices just keep going up and the liberal leaders of this Congress just can't say "no" to American-made energy anymore.

Let the House debate proposals to generate more energy here in America. Stop blocking a House vote on tapping into America's oil and gas reserves while the price of gasoline climbs higher and higher.

So, Mr. Speaker, I will urge my colleagues to vote "no" on the previous question so that the House can right away debate solutions to our higher gasoline prices.

With that, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I would urge my friend from Washington—I understand his passion and the need to stay on message about gas prices, but we're here talking about House Resolution 1298, which is the Bay Hills Indian Community, the land settlement matter with the State of Michigan, and a bill that came out of Natural Resources.

My friend is insistent that we do something about oil. Well, when the Democrats on yesterday tried to pass price gouging, it was the Republicans that categorically rejected it. It's kind of hard to do something when people won't let you do nothing, particularly in the other body.

I am very pleased, Mr. Speaker, to yield 2 minutes to my very good friend from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, I rise in strong opposition to H.R. 2176.

I believe this bill will lead to an unprecedented expansion of off-reservation Indian gaming by offering a blueprint to any Indian tribe that wants to circumvent the laws regulating Indian gaming in order to build a casino outside the boundaries of its sovereign territory.

And let me show you, Mr. Speaker, what I'm talking about. We are looking at the two Indian reservations that have requested this special interest legislation. The land they are talking about is hardly an ancestral part of their reservation. It is 350 miles away from their ancestral lands where they already have a casino.

As a Las Vegas Representative in Congress, I do not oppose gaming. I can attest to the positive impact that gaming can have on a community. I have no problem with other communities trying to replicate the Las Vegas experience, and I support the right of tribes to participate in gaming on their reservations, as both of these tribes already do.

But the bill we are considering today is an attempt to circumvent the Indian Gaming Regulatory Act, using a bogus land claim, a bogus land claim that has already been tossed out of State court and Federal court, and the result if this bill passes will be two new off-reservation casinos more than 350 miles from the lands of these two tribes.

Now, why are they coming to Congress? Because they have lost in State court. They have lost in Federal court. They do not comply with the Indian Gaming Regulatory Act. So what do you do if you want a casino 350 miles away from your reservation? You find a friendly Congressman to introduce special interest legislation in Congress.

The SPEAKER pro tempore. The time of the gentlewoman from Nevada has expired.

Mr. HASTINGS of Florida. I yield the gentlelady 1 additional minute.

Ms. BERKLEY. How do we know this land claim is bogus? In his testimony before Congress in 2002, the chairman of the Sault Saint Marie Tribe called this land deal "shady," "suspicious" and "a scam," until his tribe partnered up with the shady, suspicious land deal, and all of a sudden switched his position.

But more than 60 tribes across this country have announced their opposition to H.R. 2176, in which Congress for the first time would allow a tribe to expand its reservation into the ancestral lands of another tribe for the express purpose of gaming.

This bill is opposed by the Department of the Interior, the NAACP, UNITE HERE, and a unanimous House Judiciary Committee. To sum up the issue: Congress is being asked to pass special interest legislation benefiting two tribes, each of which already has

gaming, based on a suspect land claim that has already been thrown out of court, so they can open casinos hundreds of miles from their ancestral lands, in direct competition with existing facilities.

Mr. Speaker, I am honored to be here today with Chairman CONYERS and Congresswoman KILPATRICK to share my opposition to H.R. 2176. I believe this bill will result in an unprecedented expansion of off-reservation Indian gaming by offering a blueprint to any Indian tribe that wants to circumvent the laws regulating Indian gaming in order to build a casino outside the boundaries of its sovereign territory.

As Las Vegas's representative in Congress, I do not oppose gaming. I can attest to the positive impact that gaming can have on a community. I have no problem with other communities trying to replicate the Las Vegas experience, and I support the right of tribes to participate in gaming on their reservations, as both of these tribes already do. But the bill we are considering today is an attempt to circumvent the Indian Gaming Regulatory Act using a bogus land claim that has already been tossed out of both Federal and State court, and the result if the bill passes will be two new off-reservation casinos more than 350 miles from the lands of these two tribes. And beyond that, if this bill becomes law, any one of the more than 500 recognized Native American tribes can argue that they have the right to sue private landowners in an attempt to bargain for gaming somewhere else.

How do we know the land claim is bogus? In his testimony before Congress in 2002, the chairman of the Soo Saint Marie tribe called it "shady," "suspicious," and "a scam." Soon thereafter, his tribe became a party to the deal and switched its position. But more than 60 tribes across the Nation have announced their opposition to H.R. 2176, in which Congress for the first time would allow a tribe to expand its reservation into the ancestral lands of another tribe for the express purpose of gaming.

This bill is also opposed by the Department of the Interior; the NAACP; UNITE HERE; and a unanimous House Judiciary Committee. To sum up the issue: Congress is being asked to pass special interest legislation benefiting two tribes, each of which already has gaming, based on a suspect land claim that has already been thrown out of State and Federal court, so they can open casinos hundreds of miles from their ancestral lands, in direct competition with existing facilities that have helped revitalize a major American city.

If this bill is brought to the floor, I will strongly urge my colleagues to oppose it.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to the gentlelady from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. I certainly appreciate the gentleman yielding time to me.

This rule allows us to proceed, and I wish to speak in strong support of the underlying bill, and I rise in very strong support of H.R. 2176, which is sponsored by Mr. BART STUPAK of Michigan and cosponsored by myself and also the companion bill, H.R. 4115, sponsored by Mr. DINGELL, because these bills impact only three congressional districts in this House, only

three, period. And those districts are Mr. STUPAK's and my district and Mr. DINGELL's.

These bills are offered in the spirit of bipartisanship, and they are offered to settle a land claim that has existed in our State of Michigan, actually, for well over 100 years, about 150 years, when the State literally stole land from the Indians.

And after the Indians spent decades seeking justice, the land claim settlement was negotiated by former Governor John Engler, and here is what he had to say about it, Mr. Speaker.

He said: "As Governor of Michigan, it was my duty to negotiate the land settlement agreements between the State of Michigan and Bay Mills and the Sault Tribe in 2002 . . . In December of 2002, I signed the agreement with the Sault Tribe. I am proud that every concerned party involved in this settlement supports this agreement. This is a true example of a State and the Tribes promoting cooperation rather than conflict."

I think it is important to note that these bills are supported by every elected official who represents the City of Port Huron, including the current Governor, Jennifer Granholm, both United States Senators, myself, the State senator there, the State representatives, all of the county commissioners, the entire city council, and most importantly, the citizens themselves who voted "yes" on a city-wide referendum.

It is supported by civic groups. It is supported by educational leaders, by labor leaders like the UAW, by every law enforcement officer in the county, including the county sheriff, the county prosecutor, and the police chiefs.

It is about fairness and opportunity for one of the most economically distressed areas in the Nation, where the current unemployment rate, by best estimates, is somewhere between 14 to 16 percent.

And it has been very unfortunate, in my opinion, that the opponents have been so untruthful about their opposition to these bills.

For instance, they say that it is precedent setting, and yet the truth is in this bill. In section 3(b), the bill states the following: "The provisions contained in the Settlement of Land Claim are unique and shall not be considered precedent for any future agreement between any tribe and State."

The opponents also say that it allows for off-reservation gaming. Yet the truth is in section 2(a)(2) of the bill. It states: "The alternative lands shall become part of the Community's reservation immediately upon attaining trust status."

And they also say it violates a 2004 Michigan referendum.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. HASTINGS of Washington. I yield the gentlelady 1 additional minute.

Mrs. MILLER of Michigan. I thank the gentleman for yielding.

The truth is that it actually, the referendum—and as a former Secretary of State, I understand what ballot language actually says—it says, "Specify that voter approval requirement does not apply to Indian Tribal gaming."

So clearly, most of the opposition, Mr. Speaker, to these bills comes from those who already have theirs, and they don't want anybody else to have it.

□ 1100

They don't want competition. And I think that is un-American. This bill is about fairness and opportunity for an area that desperately needs it. It is about justice.

The city of Port Huron is home to the Blue Water Bridge, which is the second busiest commercial artery on the Northern Tier. It is the only international crossing where there is a gaming facility on the Canadian side and there is not one on the U.S. side. And if you were a very good golfer—maybe not me, but a good golfer—you could hit a golf ball and hit that Canadian casino facility right now where 80 percent of the revenues comes from America. Those are U.S. dollars and U.S. jobs that are being sent right across the river.

I urge my colleagues to be fair.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 4 minutes to my good friend, the distinguished gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. ALCEE HASTINGS, I salute you for bringing this bill to the floor from the Rules Committee. I support the rule, without qualification.

Ladies and gentlemen, why do so many people approve this bill if it has so many problems? Well, because it's a bit like a wolf in sheep's clothing; you don't know what's underneath it. And so reciting all of these folks—starting with the Governor of my State—don't know what's underneath this bill. When H.L. Mencken says it's not about the money, you can bet it's about the money. And when I hear my colleagues say—and I'm going to count the times that it will happen today—"It's not about casinos. This is not about casinos, folks."

Oh, no, that's what it's about. Okay?

Let's start off with something that we should try to get clear. The assertion that this is about getting justice for two tribes who have waited for all these many years to get justice and we finally were able to get it to the Congress. How charming. How disingenuous.

This so-called land claim—and we spent a good amount of time on it—to the extent there really was ever a land claim, arose in the 19th century. It didn't have anything whatsoever to do with the tribe's historical lands or any treaty with the U.S. Government. The Charlotte Beach land in question apparently was a private gift to the tribe—and in those days it was one tribe—by individual members of the



tribe who had brought it. And rather than deed the land directly over to the tribe, the members evidently deeded it over to the Governor of Michigan—neither of the two that have been mentioned—to hold in trust for the tribe. That was back in the 1850s. It's not clear if the previous owner tribal members or anyone else ever told the tribe or the Governor about the gift. In any event, the lands were totally neglected by the tribe. About 30 years later, they were sold off by the State for a long-standing property tax delinquency.

The so-called land claim lay moribund and forgotten for 100 years, as best we can tell. And in 1982 one of these tribes, the Sault, asked the Interior Department to review and pursue a claim for the loss of the Charlotte Beach land. The Interior Department declined, saying the case had no merit. They renewed the request in 1983 and in 1992, getting the same answer each time. The Interior closed the files on the matter, and that was the end of it.

Then one day an enterprising lawyer, a member of the bar doing land research, looking for an Indian land claim he could help engineer and do the authorization to build a new casino outside the established legal process, came across a record of the delinquency sale.

The SPEAKER pro tempore. The time of the gentleman from Michigan has expired.

Mr. HASTINGS of Florida. I yield my colleague an additional 1 minute.

Mr. CONYERS. I thank my colleague. By that time, the tribe had divided.

There were two possible candidates for reasserting the claim. The first tribe he contacted, the Sioux, was not interested. But the other one, Bay Mills, was very interested. And so this wonderful lawyer began preparing a case to file based on the delinquency sale he had uncovered and its connection to the tribe he had interest in.

A bare week before the lawsuit was filed, another enterprising gentleman purchased some land within the Charlotte Beach claim area. Coincidental. And within a few months, he had entered into a so-called settlement with the tribe regarding the so-called land claim in which he agreed to give the tribe a parcel of land he already owned near Detroit.

Now, all the other off-reservation casinos are 10 miles away, 20 miles away, not 350 miles away.

He also agreed to sell the tribe some additional land adjacent to the parcel. Enough land for a new casino—and not too far from Detroit.

But the settlement was conditioned on the Interior Department taking the land into trust, a necessary step to its being eligible for an Indian casino.

That part didn't work out like they'd planned, so that settlement was eventually scrapped in favor of Plan B, back to the courts in an attempt to get a favorable court ruling to take to Interior.

As we know, Plan B also failed. So then came Plan C, which brings us here today.

But the three plans are not that different. They all share the same objective. The dif-

ference is just means to an end. Apparently, any means.

And who was backing Mr. Golden? The details are still somewhat shrouded in mystery.

But we do know that the principal stakeholders in this off-reservation Indian casino venture are Michael Malik and Marian Illich, wealthy casino developers from the State of Michigan, who have opened casinos from coast to coast and in Hawaii, bankrolling legislation and referenda as needed to open the way.

And they have also been quite active politically in Washington in recent years as well. I won't go into the details of that now, but I think you get the idea.

Many of the facts I have just recited are in the public record. The essence of the rest were laid out in testimony by one of the two tribes, the Sioux Tribe, the tribe that initially wouldn't take the bait, back before they were persuaded to go after their own short-cut to getting an off-reservation casino.

That statement can be found in the printed hearing of the Senate Committee on Indian Affairs, held on October 10, 2002, on the bill S. 2986, a precursor bill to the one we are considering today.

That was 5 long years ago, of course. And the chairman, or chief, of that tribe at the time, Bernard Bouschor, who gave that testimony, who had held that elected position for 17 years at the time he testified, no longer holds that position.

And his tribe, who now stands to gain an off-reservation casino that could take in hundreds of millions of dollars a year, is now busy doing what they can to disown his testimony.

But if my colleagues find Chief Bouschor's testimony credible, as I do, it certainly lays out the course of events in a way that some were quite likely not aware of before. And any assertion that this is a legitimate Indian land claim just won't stand up to those facts.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL of California. I thank my colleague and friend from Washington for yielding.

You know, Mr. Speaker, the original intent of why we allow gambling on Indian reservations was so that we could give some economic opportunity to full-blooded Indians on their native tribal lands in very remote areas in which hardly any economic opportunity existed.

So what do we have now? Now we see various Indian tribes that have already achieved tremendous economic benefits that are now wanting to put casinos in urban and suburban areas that are long distances from their native tribal lands and where there is a lot of economic opportunity, and to fill those, not even helping any of the people in their tribe who are back on the reservation.

With a bill like this, we have strayed a long ways from the original intent of Indian gambling. Now, this bill is about two tribes specifically in Michigan. I am from California, but yet this trend, this movement, is not limited to just Michigan. Throughout the country, you see groups either trying to create new tribes in urban areas in

order to locate gambling operations or, like these in Michigan, to extend from a remote area and set up new gambling in a new metropolitan area. All of this has nothing to do with the original intent of the Indian gambling laws.

If communities like Detroit, or anywhere, wish to have gambling, they don't need this House; they don't need this Congress; they don't need the Indian gambling laws to do it. Through their State and local communities, they can allow people to gamble. They can set up various gambling operations, if they want, within their community and within their State. That's up to them. But let us not all here in this House, in this Congress, set a trend. Let's not set a precedent. Let's not use Indian tribes in order to dot the urban and suburban areas of this country with monopoly gambling operations.

Mr. HASTINGS of Florida. Mr. Speaker, at this time, I am very pleased to yield 2 minutes to the dean of the House, my good friend, JOHN DINGELL, the gentleman from Michigan.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, before us is a very simple responsibility. It is a power that has been exercised exclusively by Congress since the very first Congress in 1789, when in the Indian Nonintercourse Act of that year, only Congress may extinguish Indian land claims. That has been the law ever since.

So before us is simply the question of whether we're going to accept or deny a settlement agreed upon by the tribes and by the State of Michigan to resolve a serious problem in the Upper Peninsula, in the district of our good friend and colleague, Mr. STUPAK.

Having said that, what is going to happen is this legislation will permit us to resolve those questions, to enable Indians to resolve the land claims concerns that they have, and to allow the State of Michigan to resolve its concerns and to allow its citizens to remove clouds over the title on the lands which they own up there, and which will enable the Indians to begin to live a more orderly and proper life.

This legislation was opposed by my friend, Mr. Jack Abramoff, who left a rather spectacular and smelly legacy. And it is a chance for us now to undo some of the nastiness that he sought to do by preventing the resolution of these questions.

I urge my colleagues to support the rule. I urge my colleagues to support the settlement of these rights which were agreed upon between two Governors of the State of Michigan—Governor Engler, a Republican, and Governor Granholm, a Democrat.

And this legislation is not only supported by the affected tribes and citizens of the Upper Peninsula but also by the AFL-CIO and the UAW and a wide roster of other unions that are strongly supportive of this.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Nevada (Mr. PORTER).

Mr. PORTER. Mr. Speaker, I appreciate this opportunity—and to my colleagues, in a bipartisan effort—to make sure we can maintain restrictions on off-reservation casinos and gambling.

I want to point out five key areas, Mr. Speaker, that, I think, are part of the argument.

First and foremost, I do support tribal gaming. I think it's been very successful. As a matter of fact, a number of our properties from Nevada are partners across the country with tribal gaming establishments. So, when the rules are followed, I think it's a very appropriate approach to revenues for the communities.

But first of all, Mr. Speaker, the bill authorizes an unprecedented expansion of off-reservation gaming. Never before has the U.S. Congress been in the business of deciding whether a community should and can have a casino. I don't think it's the job of the U.S. Congress to make decisions for local and State governments. Does that mean someone from Iowa or from Illinois or from Arizona could come in and request to have a casino in their back yard? I don't think that was the intent of the Tribal Gaming Act. And this is a dangerous precedent. It permits unlimited expansion across this country.

Number two, it overrides a careful review process. Currently, Mr. Speaker, if a tribe wants to build a casino, there is a process in place. All the rules must be followed; all inspections must be done. I think that's an appropriate use of the process that's available currently under U.S. law.

Number three, it also violates the 1993 Tribal Compact by the Michigan tribes. I know there are arguments on both sides of that, but there was an agreement made in 1993.

Number four, as a Member of Congress from the great State of Nevada, one of my jobs is to make sure we can uphold the wishes of a particular State. This legislation overrides the wishes of Michigan people. In 2004, there was a referendum that limited gaming to specific areas that were approved by local and State governments. This has not happened in this case.

Number five, I know my colleague from Nevada, Congresswoman SHELLEY BERKLEY, talked about the validity of the land claims. There is a question.

But the bottom line, Mr. Speaker, is, should Members of Congress be making a decision for local communities and for State governments on whether there should be tribal gaming or whether there should be expansion? I stand here today in a bipartisan effort with my colleagues from across the aisle, asking for the balance of this Congress to vote "no." It establishes a dangerous precedent expanding casinos across our country without following the proper rules and regulations.

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

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Speaker, I appreciate the opportunity to be here, and I appreciate the bipartisan spirit in which this debate is conducted and why this is just a bad idea.

Many of us come to this microphone, to this well, through our conclusions from a whole variety of backgrounds and interests. I think back, not all that long ago, when I had a good friend in town, and we had a great philosophical debate about organized gambling coming to his town. And he was all for it. He had been, I think, the third generation of a great restaurant in that town. It was very well known, well known all over the State, and he said it would boost his business. Well, about 2 years after that casino landed in that town, he closed his doors. I think it was in his family for decades. It broke his heart. There was trembling in his voice when we had a conversation over the phone. Because, when organized gambling comes to your town, there are very few who will make a whole bunch, and there are a whole bunch who will lose a lot.

And it is not the economic tool that people profess. Study after study after study clearly shows there is more net loss, that there is more cannibalization of small businesses around these organized gambling casinos than there is success and benefit that happens inside.

Certainly, the local governments that house them love it; it means cash to them. That's great. But at what price? And we really need to stop ourselves and ask, at what price?

□ 1115

We already have more casinos in Michigan than we have public universities. And this isn't about fairness for this tribe. This tribe has seven casinos already, \$400 million in revenue. And what they are asking to do is something unprecedented. The Federal court ruled against them. The State court ruled against them. But they said let's go around all of those things, including a 2004 referendum by the State of Michigan that said enough is enough, we're going to cap it right here at what we have. They went around all of those things, and it's like putting a casino from a tribe in Washington, DC in Cleveland and saying, "This is part of our heritage, you need to help us." That's not what this is. This is about organized gambling and putting it in a place where they think they can make more than the \$400 million in revenue they are already making.

I just plead with this House and this Congress don't set this precedent. And I don't care if they say it in the bill or not, it is a precedent. And every community in America will wake up one

day and say we can do this too. We can come to Congress. We can show up and go around our States and our legislatures and our people and the courts, and we'll go to Congress too and get special treatment to have an organized gambling casino in a neighborhood near you.

A lot of people speak for both sides of this issue, but very few will speak for the folks who will lose everything when these casinos come to town.

I plead with this House not to do this. It's not the right thing to do. We know it's not the right thing to do. I encourage all of us to vote "no" on the rule and vote "no" on the subsequent legislation.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, after I made my opening remarks, my friend from Florida stood up and said that I was on message, and I thank him very, very much for the compliment because I was talking about something that the American people clearly, clearly are concerned about, and that is the high energy costs and particularly the high prices of gasoline. So I think, Mr. Speaker, it's time for the House to debate ideas for lowering prices at the pump and for addressing the skyrocketing price of gasoline.

By defeating the previous question, the House will have that opportunity. If the previous question is defeated, I will move to amend the rule, not rewrite the rule, just amend the rule, to make in order and allow the House to consider H.R. 5656, introduced by Representative HENSARLING of Texas.

If this House has time to spend several hours debating Indian land claims and new casinos in Michigan, then it certainly has time to debate the high price of gasoline. It's time we start producing more American-made energy. Our country can't afford the knee-jerk, no-to-any-drilling-in-America approach that the liberal leaders of this House still cling to. The citizens of our country can't afford a Congress that does nothing. It's time for this House to act, and defeating the previous question will allow us to do so.

So, Mr. Speaker, I ask unanimous consent to have the text of the amendment and extraneous material inserted into the RECORD prior to the vote on the previous question.

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

There was no objection.

Mr. HASTINGS of Washington. Mr. Speaker, I urge my colleagues, then, to defeat the previous question so this House can get serious about rising gas prices and so we can start producing American-made gasoline and energy.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the balance of my time.

I am forever amazed, Mr. Speaker, at my colleagues' way of going about trying to assert something into measures

that we are dealing with, that, when all is said and done, don't have anything to do with the measure that we're dealing with.

I agree with my colleague that we have a serious crisis in this country having to do with energy policy. But I also would urge him to understand that the President's energy policies have failed this country and that when he and his party were in the majority and had an opportunity to do all the things they are talking about, that many of them were not done.

The fact is there are 68 million acres offshore and in the United States that are leased by oil companies. They are open to drilling and are actually under lease but are not developed. The fact is that if oil companies tapped the 68 million Federal acres of leased land, it could generate additional oil, six times what ANWR would produce at its peak. The fact is 80 percent of the oil available in the Outer Continental Shelf is in regions that are already open to leasing, but the oil companies haven't decided it's worth their time to drill there. And, when they are saying it's not worth their time, they are saying they don't have the equipment to do it. The fact is that drilling in the Arctic Wildlife Refuge wouldn't yield any oil for a considerable period of time in the future, probably as many as 8 to 10 years, and then would only save the consumer less than 2 cents per gallon in 2025.

All of us know all the things to say here. We know to say "switchgrass" and "shale" and "geothermal" and "solar," and we could go on and on and on the number of potentials for alternative energy. But yesterday, when we tried to do something about price gouging, it was the minority party that defeated the measure, that was on the floor of the House, under suspension.

Now, Mr. Speaker, back to the bill. I support gaming in this country. I support the MGMs and the Harrah'ses of the world and their right to run a casino wherever legally they may be permitted to do so. I support the Seminole Indians and the Miccosukee Tribes in Florida that I am proud to represent. And I support and have supported continuously their right to run a casino. I also support Jai Lai in my community and their right to run a casino. I also support casinos in my community and their right to run a casino, just like I support these two tribes in Michigan as well. I also support competition and economic development and the job creation it can spur. And I take full exception to my colleague from Lansing, who is a dear friend of mine on the other side who spoke earlier. I can attest to job creation in the Seminole and Miccosukee Indian Tribe areas that were told that there would be no jobs created, and literally thousands of people, mostly not Native Americans, are working in those establishments.

Finally, I support all of us in this body coming to terms with what hap-

pened to Native Americans, Africans, and people of Caribbean descent and others after Columbus discovered America in 1492. I'm always reminded of Flip Wilson's comedy routine that he did that, if Columbus discovered America, then the Native Americans must have been running down the shoreline, saying, "Discover me."

So, before Members of this body start talking about Indian tribes unfairly swapping pieces of land, they should remember that the land wasn't ours in the first place. We took it from the tribes and then often relocated them to some far-off, remote, and undesirable place that we could find for them to be placed.

Mr. Speaker, this is not an ideal situation for any of us in this body. We all wish that a unanimous agreement would have materialized in Michigan. Yet, despite a land claims compact being reached by the State and the tribes, a Republican and Democratic governor, some just don't want this agreement to go through, and that is their prerogative. Thus, as it has done at least 14 times in the recent past, Congress must do what is right and settle this dispute. When an injustice has been done and there are efforts to perpetuate that injustice, something must be done. Someone must step in and stop it from happening again.

I urge my colleagues to do just that and to support the previous question, the rule, and the underlying legislation.

The material previously referred to by Mr. HASTINGS of Washington is as follows:

AMENDMENT TO H. RES. 1298 OFFERED BY MR. HASTINGS OF WASHINGTON

At the end of the resolution, add the following:

Sec. 3. Immediately upon the adoption of this resolution the House shall, without intervention of any point of order, consider in the House the bill (H.R. 5656) to repeal a requirement with respect to the procurement and acquisition of alternative fuels. All points of order against the bill are waived. The bill shall be considered as read. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking member of the Committee on House Oversight and Government Reform; and (2) an amendment in the nature of a substitute if offered by Representative Waxman, which shall be considered as read and shall be separately debatable for 40 minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for

the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's *Precedents of the House of Representatives*, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the *Floor Procedures Manual* published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from *Congressional Quarterly's "American Congressional Dictionary"*: "If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

Deschler's *Procedure in the U.S. House of Representatives*, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. HASTINGS of Florida. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Washington. 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, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 6275, ALTERNATIVE MINIMUM TAX RELIEF ACT OF 2008

Mr. WELCH of Vermont. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1297 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1297

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 6275) to amend the Internal Revenue Code of 1986 to provide individuals temporary relief from the alternative minimum tax, and for other purposes. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. The amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions of the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit with or without instructions.

SEC. 2. During consideration of H.R. 6275 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

The SPEAKER pro tempore. The gentleman from Vermont is recognized for 1 hour.

Mr. WELCH of Vermont. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend, the gentleman from Texas (Mr. SESSIONS). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. WELCH of Vermont. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous materials into the RECORD.

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

There was no objection.

Mr. WELCH of Vermont. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. Res. 1297 provides for consideration of H.R. 6275, the Alternative Minimum Tax Relief Act of 2008, under a closed rule. The rule provides for 1 hour of debate, controlled by the Committee on Ways and Means.

As Americans know, the alternative minimum tax was enacted in 1969 with a very legitimate intent: to ensure fair-

ness in our tax system by avoiding the situation where very wealthy individuals don't pay taxes and to close loopholes. It is in the same spirit of fairness that we consider legislation today that will keep the middle class out of being hit by the alternative minimum tax when it was never intended that they would be caught up in its web and who have been because of inflation and because of no adjustments in the Tax Code.

The Alternative Minimum Tax Relief Act of 2008 will provide, one, 25 million Americans with over \$61 billion in tax relief. Two, it offers property tax relief to homeowners and expands the child and adoption credits to parents. Nearly 50,000 families in my own State of Vermont, Mr. Speaker, will see tax relief from this legislation.

However, in order for the tax relief to be fair, we have to ensure that the cost of the tax relief is not simply passed on, the credit card debt, to our children, and we have already saddled the next generation with \$9 trillion in debt, costing us \$1 billion a day in interest payments, money that could be spent on other, much more productive things. Enacting an AMT patch today when we don't pay for it would simply shift that \$62 billion burden from the middle class on to their children and their grandchildren. What we fail to pay today they will be forced to pay tomorrow with interest.

Furthermore, we do pay for this tax relief by improving the Tax Code. With the bill's offsets, we are closing two very large tax loopholes, one that has benefited very wealthy hedge fund managers at the expense of middle class taxpayers, and let me talk about that first.

The "carried-interest" loophole. It is a preferential rate of capital gains tax, a 15 percent rate that gets applied to income earned by many people who do financial work.

□ 1130

Right now, under current law, the income earned by many investment fund managers at a private equity firm, and hedge funds, are taxed at the lower capital gains tax rate. So you have this very unjustified situation where some of these folks who are making, in some cases, billions of dollars, pay a tax rate lower than the secretaries who work in their firms, and they do this when they don't actually put their capital at risk but manage the capital of others.

A second loophole that is closed in this bill stops major oil companies from receiving what is called a special domestic production subsidy through the Tax Code. As we all know, record gas prices, the record cost of a barrel of oil is resulting in oil company profits that are unparalleled in the history of this country, in some cases, as high as \$11 billion in a single 3-month period. So it's clear that those companies are doing very well and that they do not need continued taxpayer assistance.

I commend Chairman RANGEL and Chairman NEAL and the Committee on

Ways and Means for their excellent work on this legislation, and I encourage my colleagues to support the rule and the underlying legislation.

I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I want to thank my friend, the gentleman from Vermont, for not only yielding me this time to discuss the proposed rule for consideration of the alternative minimum tax, but I want to thank him for his friendship in the committee and the professional nature of the way he conducts himself.

Mr. Speaker, today we are going to debate a tax increase on America. No surprise. The American public has gotten used to this. The tax-and-spend Democrat Congress, the new Congress, the new way to run Washington, D.C. has resulted in not only economic failures here in this country the last 18 months but also higher gas prices, the inability that we have to control the flow in energy that comes into this country and has made us now more than ever to where we have to go get our energy overseas, send our money overseas, and not be able to be energy sufficient here in this country.

But now I find out that the excuse for raising taxes on Americans today is that there's a loophole in the tax law—a loophole—and unintended consequences. The bottom line is that it's the tax law, it was therefore reasoned, and the opportunity for us to grow our economy and build jobs and have job creation and to protect the American consumer is why these were parts of the tax law. It is not unintended consequences, it is not a loophole, it is the law, the tax law of the United States that I am very proud of, and I am disappointed to see that the Congress today will be debating new tax increases on the American people.

So I rise in strong opposition to this closed rule, yet another closed rule by this new majority that we have here, and to the underlying legislation, which takes the baffling approach, once again, of raising taxes on Americans and on the American economy during a downturn of our economy, rather than taking a way to prevent a tax increase on hardworking and unsuspecting middle class taxpayers, which sets the stage for even more job-killing tax increases in the very near future just to prevent the current low-tax policies that Republicans in Congress worked so hard to pass and to support on behalf of American taxpayers.

I think it's interesting, Mr. Speaker, that when Republicans bring tax bills to the floor of the House of Representatives, we are able to tout how many jobs our tax bill will create, how many jobs the economy will create. I have never, ever heard of a Democrat tax-and-spend bill that then touts how many jobs will be created, because they don't. They kill jobs. They kill jobs in America every time we do what we are doing today with the new Democrat majority to raise taxes on America.

Under the Democrats' flawed policy of pay-as-you-go logic used to defend this legislation, in just 2 short years—when a number of critically important tax policies like the \$1,000 Republican tax credit and the Republican lower tax rate on income and capital gains and dividends are set to expire, that created job growth—the new Democrat majority pay-as-you-go rules will require more than \$3.5 trillion in tax increases, and that is what they stand for today, increasing taxes on the American people, killing jobs all across the country, and yet they want to blame President Bush. Just incredible.

It makes no sense to me why we are hamstringing our economy and saddling working families with higher taxes when revenues aren't the problem. Washington is already collecting more taxes as a percentage of GDP than the historical average over the last 40 years.

We don't have a revenue problem. We have a spending problem. What Washington really has is a spending problem that this new Democrat majority can't fix and can't solve because they are all about taxing and spending. Federal spending is higher by nearly \$530 billion more than the Congressional Budget Office's 2000 projection for the year 2007. So going back to 2000, and they projected how much money we would need to spend, we are \$530 billion more this year, thanks to a new Democrat majority, making increased spending the main reason why 99 percent of our Nation's worsened budget picture over the last 7 years is occurring. We have got a downturn in the economy because we are raising taxes and spending to support a bloated government.

Mr. Speaker, the American people have known for a long time that Republican Members of Congress support an economically responsible solution to solving the alternative minimum tax problem. Just contrast this year's Republican budget proposal, which prevented expansion of the AMT for the next 3 years and achieved full repeal in 2013, with the Democrat budget. If you compare them, the Democrat budget, which jammed a \$70 billion tax increase into our economy to pay for simply a temporary 1-year fix, and did nothing about AMT for the next 5 years after that. A 1-year fix, raising taxes \$70 billion, rather than fixing the problem.

Mr. Speaker, taxpayers are already aware that last month, House Republicans unanimously supported a clean AMT patch without tax increases to prevent more than 25 million families—including 21 million families who didn't owe AMT in 2007—from paying an additional \$61.5 billion that's going to come due this next April, just like we did in December of last year and just like we will continue to do if Republicans once again become the majority party in Congress.

What taxpayers may not realize is that House Democrats used to be for the same thing—at least that was until

they won the majority. And with it came the opportunity to salivate, to get all this money, and to couple what used to be a bipartisan, commonsense tax prevention policy with massive, unnecessary tax hikes that burden this country, and for 18 months we have seen the promise of higher taxes, and it's killing our economy. As recently as last December, the House passed a "clean" AMT patch, without crippling the economy with tax increases, by an overwhelming majority of 352-64.

The only thing worse than House Democrats' tax-and-spend flip-flops on this issue is the fact that their comrades in the other body—including Finance Chairman MAX BAUCUS—have already recognized the reality that at the end of this day, the AMT patch will not be paid for, and that this cynical exercise meant to provide political cover is in fact dead-on-arrival the moment it passes this House. But let it be said: It's another opportunity for the new Democrat majority to show how much they want tax increases to ruin our economy.

The cost of this political gamesmanship is really quite simple: the exposure of millions of middle class taxpayers to an average tax increase of \$2,400, and the increased likelihood of a repeat of last year's mismanaged process in which the late enactment of the patch prevented the IRS from processing AMT-affected returns until about 4 weeks into the filing season. It was a disaster this year as a result of the new majority.

What is worse, Mr. Speaker, is how the Democrat Congress proposed to raise the additional \$61 billion of additional taxes just to prevent this tax increase. That's right. We are going to have a tax increase on the tax increase on middle class families who were never intended to pay this.

First, and rather unsurprisingly, this Democrat "Drill-Nothing" Congress helps repeal a tax deduction that helps American companies to produce energy for American consumers, but they are going to take that advantage away from consumers. It will only hurt energy exploration in this country, and now what we are going to see is that the American consumer will pay more at the pump.

While this proposal is laughable at best for everyone tuning in on C-SPAN across America today, it is about par for the course for the Democrat Party that also thinks that suing OPEC, not increasing the supply of American energy, will help bring down prices for consumers.

Second, this bill increases taxes on entrepreneurs that create jobs and improve failing companies, and raises the long-term capital gains rate on them from 15 to 35 percent, or even higher. So the people that are the "goose that are laying the golden egg" are once again slaughtered by this new Democrat proposal.

Once again, I know that most people around this country watching this de-

bate understand that raising taxes on job creators reduces jobs and hurts our economy. But don't worry. You can blame President Bush for that, for the actions of this Congress.

Unfortunately, this proposal is not a surprise, coming from a Democrat Congress that believes when real estate and credit markets are at their weakest, that is the optimal time to raise taxes and send our economy over the edge.

Finally, the bill goes back on America's word by increasing taxes on transactions with treaty countries by mandating a new reporting requirement on private companies so that the IRS can know directly how much is being paid to merchants every year, including the Social Security or tax identification numbers associated with those transactions.

Mr. Speaker, I have got to hand it to the new Democrat majority. Every single week, they find out a new way to assault the taxpayer, every single week they find a way to raise taxes, to increase spending, and more rules and regulations. They did it again this week. Congratulations to the new Democrat majority.

Mr. Speaker, I strongly oppose this tax increase, and I will tell you that I will continue to stand up on the side of taxpayers and middle class Americans who say enough is enough.

I reserve the balance of my time.

Mr. WELCH of Vermont. Mr. Speaker, I am the last speaker on our side. I will reserve the balance of my time until the gentleman from Texas has an opportunity to close.

Mr. SESSIONS. I thank the gentleman.

Mr. Speaker, I will tell you—you've already heard me say it—this massive tax increase, once again, not only on the economy, but on Americans, could be done a different way. It could be solved. It could be solved by following through on promises that were made by both parties to do something about the AMT.

We've got to do something. We continue to see middle class Americans caught in the crossfire. Today, we see it's not just a crossfire with inability to solve the problem, it's partially solved for 1 year by raising \$61 billion worth of new tax increases on Americans that they will have to pay this next April.

□ 1145

Mr. Speaker, since taking control of Congress in 2007, this Democrat Congress has totally neglected its responsibility to do anything constructive to address the domestic supply issues that have created skyrocketing gas, diesel and energy costs that American families are facing today. As a matter of fact, gas rose 10 cents a gallon across America just in the last few days.

So, today, I urge my colleagues once again to vote with me to defeat the previous question so this House can finally consider real solutions to the energy problems and the high costs that

we are facing. If the previous question is defeated, I will move to amend the rule to allow for consideration of H.R. 5656, which would repeal the ban on acquiring advanced alternative fuels, introduced by my good friend JEB HENSARLING of Texas back in March, almost 3 full months ago.

This legislation would reduce the price of gasoline by allowing the Federal Government to procure advanced alternative fuels derived from diverse sources like oil shale, tar sands and coal-to-liquid technology—in other words, marketplace answers—just by allowing the government to do that.

Section 526 of the Energy Independence and Security Act of 2007, which this Democrat Congress passed, places artificial and unnecessary restraints on the Department of Defense in getting its fuel from friendly sources, like coal-to-liquid, oil shale and tar sands resources that are all abundant in the United States and Canada. Needless to say, it raises grave national and economic security concerns.

Mr. Speaker, this new Democrat Congress wants us to spend hundreds of billions of dollars to go build another Dubai. They want consumers in this country to pay higher costs. By doing so, it is a national security issue. We must do something. Adding alternatives to the supply chain is what is important.

Mr. Speaker, Canada currently is the largest U.S. oil supplier. It sent 1.8 million barrels per day of crude oil and 500,000 barrels per day of refined products to the United States in 2006. According to the Canadian Government, about half of the Canadian crude is derived from oil sands, with the oil sands production forecast to reach about 3 million barrels a day in 2015. Section 526, passed by this Democrat House, choked this flow of fuel from one of our Nation's most reliable allies and economic partners, and it increased our military's reliance on fuels from unfriendly and unstable governments around the world.

Mr. Speaker, I ask unanimous consent to have the text of that amendment and the extraneous material inserted into the RECORD prior to the vote on the previous question.

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

There was no objection.

Mr. SESSIONS. Mr. Speaker, I urge my colleagues to vote for our military, for energy independence for Americans, and to help American consumers in this time of need and to support our economy by increasing the amount of oil we import and produce from friendly and reliable sources like Canada and from our own American, buy-American proven resources, these advanced alternative fuels, by voting to defeat the previous question.

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

Mr. WELCH of Vermont. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my friend from Texas characterizes a bill that will provide tax relief to 25 million Americans as a tax increase, and it is just flat out wrong. There are 25 million Americans. These are folks who earn between \$40,000, \$50,000, \$60,000 a year, who, if we do not pass this legislation, will find themselves essentially being the target of legislation that was intended in 1969 to have millionaires pay their fair share.

We are talking about soldiers returning from Iraq and Afghanistan who get a job as a police officer or as a carpenter. We are talking about some of our school teachers all across the country. We are talking about sanitation workers who are struggling hard on \$40,000 or \$50,000 a year, oftentimes with two people in that family who are working, raising three or four kids. We are saying in this legislation that we are going to protect you, because we know you need to have that money to pay your bills.

We also have to level with the American people. This is going to be \$61 billion in tax relief for those incredibly hard-working Americans who are getting clobbered by these \$4-plus gas prices. They can't fill up their tank. They have got cars or SUVs or trucks that they have to drive, and they don't have the money to get something that is a little bit more fuel efficient. A lot of them have long commutes. This legislation is going to give them the opportunity to keep a little bit more money in their pocket so they can make it from one end of the week to the other and can pay their bills.

Now, the question is for this Congress, do we pay for it, or do we put it on the credit card? As to what my friend from Texas is characterizing as a tax increase, let me go through it, because I think Americans have a commitment to fairness, and I think Americans know a very commonsense proposition, and that is we have all got to bear the burden. We all have to pay our share of the load.

There are two very glaring situations in the Tax Code, and attention should be paid to them, and it is overdue. One is this hedge fund exemption, where folks who make an awful lot of money pay at a capital gains rate. What is unfair about it? If you are a financial advisor, if you or I ask someone to help us figure how to invest our money, we pay them a fee, and of whatever earnings they get, they pay a regular tax rate just like any other American. Whatever that rate is—15, 20, 35 percent—that is what they pay.

If you are a hedge fund executive and you make billions, because of this provision in the Tax Code, which I am calling a loophole, they get to pay at a 15 percent rate. That is costing the treasury billions of dollars, and it is also a glaring unfairness, because you literally have a situation where the hedge fund manager who is doing the same work as another financial advisor down the street pays one rate, 15 per-

cent, while the other person doing the same work, working just as hard but who is perhaps making less money, pays 35 percent.

You also have this bizarre situation where the person making this immense amount of money pays a much lower tax rate than the secretary, than the back office help in that very same firm. I think most Americans see a basic fairness, and let's have the income tax rate apply to earned income. That is what this provision does.

The second question is on the oil company exemption, and I am using the word "loophole." What is a "loophole"? I think, commonly, you know it when you see it. What a "loophole" is in this case is giving taxpayer benefit to very successful companies that do very well in what they do—explore for oil, sell it. We are taking money from the taxpayers of America to give it to major American and foreign oil companies. These are mature industries that are making hundreds of billions of dollars, and they don't need taxpayer help.

So this legislation provides 25 million Americans with tax relief, and it is the folks who need it. It asks other Americans, the hedge fund executives, to pay at the income tax rate, and it has oil companies foregoing what has been an incredibly good deal—tax credits that they get at the expense of the American taxpayer.

I urge a "yes" vote on the previous question and on the rule.

The material previously referred to by Mr. SESSIONS is as follows:

AMENDMENT TO H. RES. 1297 OFFERED BY MR. SESSIONS OF TEXAS

At the end of the resolution, add the following:

SEC. 3. Immediately upon the adoption of this resolution the House shall, without intervention of any point of order, consider in the House the bill (H.R. 5656) to repeal a requirement with respect to the procurement and acquisition of alternative fuels. All points of order against the bill are waived. The bill shall be considered as read. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking member of the Committee on House Oversight and Government Reform; and (2) an amendment in the nature of a substitute if offered by Representative Waxman, which shall be considered as read and shall be separately debatable for 40 minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's "American Congressional Dictionary": "If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. WELCH of Vermont. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SESSIONS. 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, further proceedings on this question will be postponed.

## PROVIDING FOR CONSIDERATION OF H.R. 3195, ADA AMENDMENTS ACT OF 2008

Ms. SUTTON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1299 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1299

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3195) to restore the intent and protections of the Americans with Disabilities Act of 1990. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. The amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions of the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit with or without instructions.

SEC. 2. During consideration of H.R. 3195 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

The SPEAKER pro tempore. The gentleman from Ohio is recognized for 1 hour.

Ms. SUTTON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. SESSIONS). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Ms. SUTTON. Mr. Speaker, I ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 1299.

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

There was no objection.

Ms. SUTTON. I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1299 provides for consideration of H.R. 3195, the ADA Amendments Act of 2008. The rule makes in order as base text the bill as reported by the Committee on Education and Labor that was identical to the bill as reported by the Committee on the Judiciary. The bill provides for 1 hour of debate, with 40 minutes controlled by the Committee on Education and Labor and 20 minutes by the Committee on the Judiciary. The rule waives all points of order against consideration of the bill, except clauses 9 and 10 of rule XXI. Lastly, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, I rise today in strong support of House Resolution 1299 and

the underlying bill, H.R. 3195, the ADA Amendments Act. It was nearly 18 years ago that the Americans with Disabilities Act was signed into law. It sent a resounding message that discrimination against individuals with disabilities would not be tolerated, not in employment, not in transportation, not in housing, not in services, or in any other area of our daily lives. It was a law intended to tear down the barriers, preventing individuals with disabilities from reaching their full potential. It was a commitment from Congress that discrimination in any form would not be tolerated.

The Americans with Disabilities Act was an historic civil rights law, the most sweeping since the Civil Rights Act of 1964. Yet, despite the broad application of other civil rights statutes, a series of court decisions has dramatically narrowed the scope of the ADA. Unfortunately, this has denied millions of disabled Americans the protections Congress had originally intended for them.

Mr. Speaker, the intent of Congress was to allow individuals with disabilities to fully participate in society, free from the fear of discrimination. Yet Supreme Court interpretations have shifted the focus from whether an individual has experienced discrimination to whether an individual could even be considered "disabled enough" to qualify for the protections of the law.

In making this determination, the Court has implemented a standard that excludes many individuals originally intended to be covered by the ADA. They have held that the definition of "disability" must be applied "strictly to create a demanding standard for qualifying as disabled." In addition, the Court has found that mitigating measures that help address an impairment, such as medication, hearing aids or other treatments, must be considered in determining whether an impairment is disabling enough to qualify under the ADA.

□ 1200

And so millions of Americans with disabilities have found themselves in a Catch-22. They face employment discrimination because of their disabilities, yet they may be denied relief under the ADA because they are considered "too functional" to qualify for its protections. Mr. Speaker, this is completely at odds with the original intent of Congress and the original focus of the ADA.

Due to these narrow interpretations, individuals with serious conditions such as epilepsy, diabetes, cancer, cerebral palsy, multiple sclerosis, and developmental disabilities have found themselves excluded from the protections afforded by the ADA.

Basic equality under the law has been denied to millions of disabled Americans for too long. But today, after months of hard work on all sides of this issue, we seek to fulfill the

promise we made to Americans with disabilities nearly two decades ago.

And let me be clear. The ADA Amendments Act does not expand the original scope of the ADA. Rather, it restores the promise that Congress made to every single American, a promise that everyone will have an equal opportunity to succeed; that we will tear down the barriers that prevent individuals from reaching their full potential; and that we will be judged on our abilities rather than on our disabilities.

The ADA Amendments Act clarifies that the ADA's protections are intended to be broad. It also restores the focus to wrongful discrimination. Our bill clarifies that anyone who is discriminated against because of an impairment, whether or not this impairment limits the performance of any major life activities, is entitled to the ADA protection.

And, finally, it states that mitigating measures will not disqualify people with disabilities from the protections afforded by the ADA.

I am proud to join with over half of the Members of this body as a cosponsor of this important bill. Today we are demonstrating our commitment to every American that discrimination will not be tolerated. This should be the case whether based on race, national origin, gender, age, religion, sexual orientation or disability. By upholding this most important of principles, our country will be richer for it.

I urge my colleagues to support this rule and the underlying bill.

I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I want to thank the gentlewoman, my friend from Ohio, for yielding me the time to discuss this proposed rule for consideration of the Americans with Disabilities Restoration Act of 2007. And a hearty congratulations to the new Democrat majority for their openness as we celebrate the 58th closed rule, a new record for the United States Congress.

Mr. Speaker, I rise in support of the underlying legislation, which would amend and improve the Americans with Disabilities Act, or ADA as it is called, that was enacted into law in 1990 by President George Herbert Walker Bush with the strong bipartisan support of Congress.

The ADA—which was passed to, and I quote, provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities—protects individuals from discrimination in hiring, firing, pay, and other terms and conditions of employment on the basis of a person's disability.

Often referred to as the world's first comprehensive disability anti-discrimination law, the ADA specifies what employers, government agencies, and the managers of public facilities must do to ensure that persons with disabilities have the opportunity to fully participate in our society.

The ADA consists of three major titles protecting Americans with disabilities:

Title I prohibits discrimination in public or private employment;

Title II prohibits discrimination at public entities, like public universities or hospitals;

And title III prohibits discrimination at places of public accommodations like hotels and restaurants.

Mr. Speaker, this law has made a world of difference for millions of Americans with disabilities. But, for all of the great results that have come from this law, I believe it can still be improved. For far too long, our Federal courts, including the Supreme Court, have wrestled with some of the contents of Congress' intent in defining the ADA key concepts.

For example, the ADA requires employers to make reasonable accommodations to facilitate employees with disabilities but not if this causes undue hardship, leaving the courts to decide what is reasonable and what is undue. Most of all, Federal courts have spent years being puzzled over exactly who is considered disabled under the law. But, today, we have the opportunity to pass this legislation and to clarify Congress' intent, finally settling these outstanding questions of law once and for all, or so we hope.

I want to be clear that these shortcomings do not in any way minimize the great things that this legislation has achieved for disabled people in America. Today, many public accommodations like hotels, restaurants, and recreation facilities have opted for voluntary compliance. We have cut curbs, the areas where sidewalks slope down, to be at a level of the street to allow easy passage for wheelchairs and for other mechanisms that aid the disabled, which were virtually unheard of before ADA was passed and that now are in compliance in most major cities.

Unfortunately, since 1999, several U.S. Supreme Court decisions have narrowly provided the definition of disabilities so much so that persons with serious conditions, such as epilepsy, muscular dystrophy, cancer, diabetes, and cerebral palsy have been determined to not have impairments that meet the definition of "disability" under the ADA.

H.R. 3195 builds upon the ADA's original intent by clarifying what disabilities qualify an individual for coverage, and they address a number of the statute's further limitations that have been raised by disability advocates.

Because of this ambiguity, today, I join with more than 250 of my colleagues in supporting this legislation, which passed out of the Judiciary Committee by unanimous consent and out of the Education and Labor Committee by a vote of 43-1. Like my colleagues, I support expanding the definition of "disabled," which was the main goal of this legislation, as well supporting to ensure that people with disabilities do

not lose their coverage under the ADA because their condition is manageable and treatable with medication.

These policies have been endorsed by the U.S. Chamber of Commerce, the National Association of Manufacturers, the Society for Human Resource Management, the Human Resources Policy Association, and many other pro-business organizations.

From the disability community, this legislation was also supported by the National Epilepsy Foundation, the American Diabetes Association, the American Association of People with Disabilities, and other leading advocacy groups.

Mr. Speaker, the ADA has transformed the American society since its enactment, helping millions of Americans with disabilities to succeed in the workplace and making transportation, housing, buildings, services, and other elements of daily life more accessible to individuals with disabilities.

I applaud my colleagues for bringing this legislation, an important action, to the floor today, and I look forward to its passage.

I reserve the balance of my time.

Ms. SUTTON. Mr. Speaker, I am the last speaker on this side, so I will reserve my time until the gentleman has closed for his side and yielded back his time.

Mr. SESSIONS. Mr. Speaker, I yield myself the balance of my time.

Since taking control of Congress in 2007, this Democrat Congress has totally neglected its responsibilities to do anything constructive to address the domestic supply issues that have created skyrocketing gas, diesel, and energy costs that American families are facing today, including costs that are unacceptable for many disabled Americans who are struggling to be able to get to work or to live their life.

So, today, I urge my colleagues to vote with me to defeat the previous question so this House can finally consider real solutions to the energy crisis. If the previous question is defeated, I will move to amend the rule to allow for consideration of H.R. 5656, yet another time this Republican party is on the floor to say we support consumers and that we support American independence and security. This bill, H.R. 5656, would repeal the ban on acquiring advanced alternative fuels, and this bill was introduced by my dear friend JEB HENSARLING of Texas way back in March, 3 months ago.

This legislation would reduce the price of gasoline by allowing the Federal Government to procure advanced alternative fuels derived from diverse sources like oil shale, tar sands, and coal-to-liquid technology, common-sense marketplace answers to make sure that the American consumer and America is competitive with the world, rather than sending billions of dollars overseas, funding American enemies and providing the world with jobs and opportunities outside of what the consumer intended in this country.



Section 526 of the Energy Independence and Security Act of 2007, which this Democrat Congress passed, places artificial and unnecessary restraints on the Department of Defense. Perhaps it is no surprise that this Democrat Congress places artificial and unnecessary restraints on the Department of Defense in getting its own fuel from friendly sources, like the coal-to-liquid, oil shale, and tar sands resources that are abundant in the United States and in Canada, our friend to the north. Needlessly raising grave national and economic security concerns is what this Democrat Congress has done to our military.

Mr. Speaker, Canada is currently the largest U.S. oil supplier. It sent 1.8 million barrels every day of crude oil and 500,000 barrels per day of refined products to the United States in 2006. That is according to the Canadian government. About half of the Canadian crude is derived from oil sands, with the sands production forecast to reach almost 3 million barrels per day in 2015.

Section 526 is choking this flow of fuel from one of our Nation's most reliable allies and economic partners, and is increasing the military's reliance on fuels from unfriendly and unstable countries. On top of that, it is causing the American consumer to pay more at the pump. We saw a 10-cent rise in the price of each gallon of gasoline just in the last week.

Mr. Speaker, now is the time for action. Now is not the time to be suing OPEC and to be saying "no" to a balanced energy proposal.

I ask unanimous consent to have the text of the amendment and extraneous material inserted into the RECORD prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. HOLDEN). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SESSIONS. I urge my colleagues to vote for our military and for our economy, including many disabled people who are having a tough time paying for the high energy costs as a result of this Democrat Congress' insensitive position to not allow Americans to have their own energy independence. It is time that we produce more from America and from friendly places, like reliable sources like Canada.

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

Ms. SUTTON. Mr. Speaker, my good friend from Texas is trying to shift the discussion away from this fantastic, fantastic bill, the Americans With Disabilities Act Amendments, onto an issue of energy. But the American people know that for the past 7 years this country under this administration has been following an energy policy from the White House written by the Vice President with the oil executives.

Truth be told, there are 68 million acres of leased land available for drilling. And we believe that, of course, that drilling should be taking place on

that 68 million acres of leased land, but we also believe that we should be looking diligently for alternative forms of energy.

The reality of it is that this is a deflective tactic. This House has passed under this new Congress landmark energy legislation that will provide relief in years to come.

□ 1215

We have also passed measure after measure after measure that would provide relief to American consumers but only to have them blocked by those on the other side of the aisle and by the administration.

But, today, we don't rise to dwell on that. We rise to support and to celebrate this bill. The Americans with Disabilities Act was passed in 1999 with such a broad coalition of support that it was regarded as a mandate, Mr. Speaker, and we have made progress in a number of areas to ensure individuals with disabilities are fully able to participate in society. But, in many ways, the ADA is a promise that remains unfulfilled.

Today, through the ADA Amendments Act, we are unequivocally demonstrating our commitment to the principle of equal opportunity for all Americans. We will be removing the hurdles individuals with disabilities have faced when trying to enjoy the freedoms that are the right of every American.

The ADA Amendments Act has the full support of one of the most diverse coalitions of groups I have ever seen, from the disability community, the civil rights community, groups representing pro-business interests, and from Members on both sides of the aisle from this, the people's House.

It represents a balance between the interests of employers and individuals with disabilities, and it demonstrates our resolve to ensure that all Americans can work to reach their full potential.

I strongly urge my colleagues to support this rule and the underlying legislation. I urge a "yes" vote on the previous question and on the rule.

The material previously referred to by Mr. SESSIONS is as follows:

AMENDMENT TO H. RES. 1299 OFFERED BY MR. SESSIONS OF TEXAS

At the end of the resolution, add the following:

Sec. 3. Immediately upon the adoption of this resolution the House shall, without intervention of any point of order, consider in the House the bill (H.R. 5656) to repeal a requirement with respect to the procurement and acquisition of alternative fuels. All points of order against the bill are waived. The bill shall be considered as read. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking member of the Committee on House Oversight and Government Reform; and (2) an amendment in the nature of a substitute if offered by Representative Waxman, which shall be considered as read and shall

be separately debatable for 40 minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's "American Congressional Dictionary": "If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Ms. SUTTON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SESSIONS. 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, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order: Ordering the previous question on House Resolution 1298; adopting House Resolution 1298, if ordered; ordering the previous question on House Resolution 1297; adopting House Resolution 1297, if ordered; ordering the previous question on House Resolution 1299; and adopting House Resolution 1299, if ordered.

The first electronic vote will be conducted as a 15-minute vote. Remaining votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF H.R. 2176, BAY MILLS INDIAN COMMUNITY LAND CLAIMS SETTLEMENT

The SPEAKER pro tempore. The unfinished business is the vote on ordering the previous question on House Resolution 1298, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The vote was taken by electronic device, and there were—yeas 226, nays 194, not voting 14, as follows:

[Roll No. 449]  
YEAS—226

Abercrombie	Boyd (FL)	Cooper
Ackerman	Boyd (KS)	Costa
Allen	Brady (PA)	Costello
Altmire	Braley (IA)	Courtney
Andrews	Brown, Corrine	Cramer
Arcuri	Butterfield	Crowley
Baird	Capps	Cuellar
Baldwin	Capuano	Cummings
Barrow	Cardoza	Davis (AL)
Bean	Carmahan	Davis (CA)
Becerra	Carney	Davis (IL)
Berkley	Carson	Davis, Lincoln
Berman	Castor	DeFazio
Berry	Cazayoux	DeGette
Bilbray	Chandler	Delahunt
Bishop (GA)	Clarke	DeLauro
Bishop (NY)	Clay	Dicks
Blumenauer	Cleaver	Dingell
Boren	Clyburn	Doggett
Boswell	Cohen	Doyle
Boucher	Conyers	Edwards (MD)

Edwards (TX)	Lee
Ellison	Levin
Ellsworth	Lewis (GA)
Emanuel	Lipinski
Engel	Loeb
Eshoo	Loftgren, Zoe
Etheridge	Lofrey
Farr	Lynch
Fattah	Maloney (NY)
Filner	Markey
Foster	Marshall
Frank (MA)	Matheson
Giffords	Matsui
Gonzalez	McCarthy (NY)
Gordon	McCollum (MN)
Graves	McDermott
Green, Al	McGovern
Green, Gene	McIntyre
Grijalva	McNerney
Gutierrez	McNulty
Hall (NY)	Meeke (FL)
Hare	Meeks (NY)
Harman	Melancon
Hastings (FL)	Michaud
Herseth Sandlin	Miller (NC)
Higgins	Miller, George
Hinchee	Mitchell
Hinojosa	Mollohan
Hirono	Moore (KS)
Hodes	Moore (WI)
Holden	Moran (VA)
Holt	Murphy (CT)
Honda	Murphy, Patrick
Hooley	Murtha
Hoyer	Nadler
Inslee	Napolitano
Israel	Neal (MA)
Jackson (IL)	Oberstar
Jackson-Lee	Obey
(TX)	Oliver
Jefferson	Ortiz
Johnson (GA)	Pallone
Johnson, E. B.	Pascarell
Jones (OH)	Pastor
Kagen	Payne
Kanjorski	Perlmutter
Kaptur	Peterson (MN)
Kennedy	Pomeroy
Kildee	Price (NC)
Kilpatrick	Rahall
Kind	Rangel
Klein (FL)	Reyes
Kucinich	Richardson
Langevin	Rodriguez
Larsen (WA)	Ross
Larson (CT)	Rothman

NAYS—194

Aderholt	Davis (KY)
Akin	Davis, David
Alexander	Davis, Tom
Bachmann	Deal (GA)
Bachus	Dent
Barrett (SC)	Diaz-Balart, L.
Bartlett (MD)	Diaz-Balart, M.
Barton (TX)	Donnelly
Biggert	Doolittle
Bilirakis	Drake
Bishop (UT)	Dreier
Blackburn	Duncan
Blunt	Ehlers
Boehner	Emerson
Bonner	English (PA)
Bono Mack	Everett
Boozman	Fallin
Boustany	Feeney
Brady (TX)	Ferguson
Broun (GA)	Flake
Brown (SC)	Forbes
Brown-Waite,	Fortenberry
Ginny	Fossella
Buchanan	Fox
Burgess	Franks (AZ)
Burton (IN)	Frelinghuysen
Buyer	Galleger
Calvert	Garrett (NJ)
Camp (MI)	Gerlach
Campbell (CA)	Gilchrest
Cantor	Gingrey
Capito	Gohmert
Carter	Goode
Castle	Goodlatte
Chabot	Granger
Childers	Hall (TX)
Clay	Hastings (WA)
Cole (OK)	Hayes
Conaway	Heller
Crenshaw	Hensarling
Culberson	Herger

Roybal-Allard	McMorris
Ruppersberger	Rodgers
Ryan (OH)	Mica
Salazar	Miller (FL)
Sanchez, Linda	Miller (MI)
T.	Miller, Gary
Sanchez, Loretta	Moran (KS)
Sarbanes	Murphy, Tim
Schakowsky	Musgrave
Schiff	Myrick
Schwartz	Neugebauer
Scott (GA)	Nunes
Scott (VA)	Paul
Serrano	Pearce
Sestak	Pence
Shea-Porter	Peterson (PA)
Sherman	Petri
Shuler	Pickering
Sires	Pitts
Skelton	Platts
Slaughter	Poe
Smith (WA)	Porter
Solis	Price (GA)
Space	Radanovich
Spratt	Ramstad
Stark	
Stupak	Baca
Sutton	Cannon
Tanner	Cubin
Tauscher	Gillibrand
Taylor	Kuhl (NY)
Thompson (CA)	
Thompson (MS)	
Tierney	
Towns	
Tsongas	
Udall (CO)	
Udall (NM)	
Van Hollen	
Velázquez	
Visclosky	
Walz (MN)	
Wasserman	
Schultz	
Waters	
Watt	
Pomeroy	
Waxman	
Weiner	
Welch (VT)	
Wilson (OH)	
Woolsey	
Wu	
Yarmuth	
Young (AK)	

Regula	Smith (NJ)
Rehberg	Smith (TX)
Reichert	Souder
Renzi	Stearns
Reynolds	Sullivan
Rogers (AL)	Tancred
Rogers (KY)	Terry
Rogers (MI)	Thornberry
Rohrabacher	Tiahrt
Ros-Lehtinen	Tiberti
Roskam	Turner
Royce	Upton
Ryan (WI)	Walberg
Sah	Walden (OR)
Saxton	Walsh (NY)
Scalise	Wamp
Schmidt	Weldon (FL)
Sensenbrenner	Weller
Pitts	Sessions
Shadegg	Whitfield (KY)
Shays	Wilson (NM)
Shimkus	Wilson (SC)
Shuster	Wittman (VA)
Simpson	Wolf
Smith (NE)	Young (FL)

NOT VOTING—14

Lampson	Snyder
Mahoney (FL)	Speier
Pryce (OH)	Watson
Putnam	Wexler
Rush	

□ 1243

Messrs. WHITFIELD of Kentucky, REICHERT, DONNELLY, and ENGLISH of Pennsylvania changed their vote from “yea” to “nay.”

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Washington. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 207, nays 204, not voting 23, as follows:

[Roll No. 450]

YEAS—207

Abercrombie	Chandler	Etheridge
Ackerman	Clarke	Farr
Allen	Clay	Fattah
Altmire	Cleaver	Filner
Andrews	Clyburn	Foster
Arcuri	Cohen	Frank (MA)
Baird	Cole (OK)	Giffords
Baldwin	Conyers	Gonzalez
Barrow	Cooper	Gordon
Bean	Costa	Green, Al
Becerra	Costello	Green, Gene
Berkley	Cramer	Grijalva
Berman	Crowley	Gutierrez
Berry	Cuellar	Hall (NY)
Bishop (GA)	Cummings	Hare
Bishop (NY)	Davis (AL)	Harman
Boren	Davis (CA)	Hastings (FL)
Boswell	Davis (IL)	Herseth Sandlin
Boucher	Davis, Lincoln	Higgins
Boyd (FL)	DeFazio	Hill
Brady (PA)	DeGette	Hinchee
Braley (IA)	Delahunt	Hinojosa
Brown, Corrine	DeLauro	Hirono
Butterfield	Dick	Hodes
Capps	Dingell	Holden
Capuano	Doggett	Holt
Cardoza	Donnelly	Hooley
Carmahan	Doyle	Hoyer
Carney	Edwards (MD)	Inslee
Carson	Edwards (TX)	Israel
Castor	Ellison	Jackson (IL)
Cazayoux	Ellsworth	Jackson-Lee
Chandler	Emanuel	(TX)
Clarke	Engel	Jefferson

Johnson (GA) Miller, George  
 Johnson, E. B. Mitchell  
 Kagen Mollohan  
 Kanjorski Moore (KS)  
 Kaptur Moore (WI)  
 Kennedy Moran (VA)  
 Kildee Murphy (CT)  
 Kind Murphy, Patrick  
 Klein (FL) Nadler  
 Larsen (WA) Napolitano  
 Larson (CT) Oberstar  
 Lee Obey  
 Levin Oliver  
 Lewis (GA) Ortiz  
 Lipinski Pallone  
 Loeb sack Pastor  
 Lofgren, Zoe Payne  
 Lowey Perlmutter  
 Lynch Pomeroy  
 Maloney (NY) Price (NC)  
 Markey Rahall  
 Marshall Rangel  
 Matheson Reyes  
 Matsui Ross  
 McCarthy (NY) Rothman  
 McCollum (MN) Roybal-Allard  
 McDermott Ryan (OH)  
 McGovern Salazar  
 McIntyre Sanchez, Linda  
 McNerney T.  
 McNulty Sanchez, Loretta  
 Meek (FL) Sarbanes  
 Meeks (NY) Schakowsky  
 Melancon Schiff  
 Michaud Schwartz  
 Miller (MI) Scott (GA)  
 Miller (NC) Scott (VA)

NAYS—204

Aderholt Flake  
 Akin Forbes  
 Alexander Fortenberry  
 Bachmann Fossella  
 Bachus Fox  
 Barrett (SC) Franks (AZ)  
 Bartlett (MD) Frelinghuysen  
 Barton (TX) Gallegly  
 Biggart Garrett (NJ)  
 Bilirakis Gerlach  
 Bishop (UT) Gilchrest  
 Blackburn Gingrey  
 Blumenauer Gohmert  
 Blunt Goode  
 Boehner Goodlatte  
 Bonner Granger  
 Bono Mack Graves  
 Boozman Hall (TX)  
 Boustany Hastings (WA)  
 Boyda (KS) Hayes  
 Brady (TX) Heller  
 Broun (GA) Hensarling  
 Brown (SC) Hergert  
 Buchanan Hobson  
 Burgess Hoekstra  
 Burton (IN) Hulshof  
 Buyer Hunter  
 Calvert Inglis (SC)  
 Camp (MI) Issa  
 Campbell (CA) Johnson (IL)  
 Cantor Johnson, Sam  
 Capito Jones (NC)  
 Carter Jones (OH)  
 Castle Jordan  
 Chabot Keller  
 Childers Kilpatrick  
 Coble King (IA)  
 Conaway King (NY)  
 Courtney Kingston  
 Crenshaw Kirk  
 Culberson Kline (MN)  
 Davis (KY) Knollenberg  
 Davis, David Kucinich  
 Davis, Tom LaHood  
 Deal (GA) Lamborn  
 Dent Langevin  
 Diaz-Balart, L. Latham  
 Diaz-Balart, M. LaTourette  
 Doolittle Latta  
 Drake Lewis (CA)  
 Dreier Lewis (KY)  
 Duncan Linder  
 Ehlers LoBiondo  
 Emerson Lucas  
 English (PA) Lungren, Daniel  
 Eshoo E.  
 Everett Mack  
 Fallon Manzullo  
 Feeney Marchant  
 Ferguson McCarthy (CA)

Smith (TX) Thornberry  
 Souder Tiahrt  
 Stark Tiberi  
 Stearns Turner  
 Sullivan Upton  
 Tancredo Walberg  
 Taylor Walden (OR)  
 Terry Wamp  
 Thompson (CA) Waters

NOT VOTING—23

Baca Mahoney (FL)  
 Bilbray Neal (MA)  
 Cannon Pryce (OH)  
 Cubin Putnam  
 Gillibrand Rogers (AL)  
 Honda Ros-Lehtinen  
 Kuhl (NY) Rush  
 Lampson Saxton

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
 The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1251

Mr. HILL changed his vote from “nay” to “yea.”

So the resolution was agreed to.  
 The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 6275, ALTERNATIVE MINIMUM TAX RELIEF ACT OF 2008

The SPEAKER pro tempore. The unfinished business is the vote on ordering the previous question on House Resolution 1297, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This will be a 5-minute vote.  
 The vote was taken by electronic device, and there were—yeas 225, nays 194, not voting 15, as follows:

[Roll No. 451]

YEAS—225

Abercrombie Childers  
 Ackerman Clarke  
 Allen Clay  
 Altmiere Cleaver  
 Andrews Clyburn  
 Arcuri Cohen  
 Baird Conyers  
 Baldwin Cooper  
 Barrow Costa  
 Bean Costello  
 Becerra Courtney  
 Berkeley Cramer  
 Berman Crowley  
 Berry Cuellar  
 Bishop (GA) Cummings  
 Bishop (NY) Davis (AL)  
 Blumenauer Davis (CA)  
 Boren Davis (IL)  
 Boswell Davis, Lincoln  
 Boucher DeFazio  
 Boyd (FL) DeGette  
 Boyda (KS) Delahunt  
 Brady (PA) DeLauro  
 Bradley (IA) Dicks  
 Brown, Corrine Dingell  
 Butterfield Doggett  
 Capps Doyle  
 Capuano Edwards (MD)  
 Cardoza Edwards (TX)  
 Carnahan Ellison  
 Carney Ellsworth  
 Carson Emanuel  
 Castor Engle  
 Cazayoux Eshoo  
 Chandler Etheridge

Jones (OH) Moore (KS)  
 Kagen Moore (WI)  
 Kanjorski Moran (VA)  
 Kaptur Murphy (CT)  
 Kennedy Sherman  
 Kildee Murtha  
 Kilpatrick Nadler  
 Kind Napolitano  
 Klein (FL) Neal (MA)  
 Kucinich Oberstar  
 Langevin Obey  
 Larsen (WA) Oliver  
 Larson (CT) Ortiz  
 Lee Pallone  
 Levin Pascrell  
 Lewis (GA) Pastor  
 Lipinski Payne  
 Loeb sack Perlmutter  
 Lofgren, Zoe Peterson (MN)  
 Lowey Pomeroy  
 Lynch Price (NC)  
 Maloney (NY) Rahall  
 Markey Rangel  
 Marshall Reichert  
 Matheson Reyes  
 Matsui Richardson  
 McCarthy (NY) Rodriguez  
 McCollum (MN) Ross  
 McDermott Rothman  
 McGovern Roybal-Allard  
 McIntyre Ruppelberger  
 McNerney Ryan (OH)  
 McNulty Salazar  
 Meek (FL) Sanchez, Linda  
 Meeks (NY) T.  
 Melancon Sanchez, Loretta  
 Michaud Sarbanes  
 Miller (NC) Schakowsky  
 Miller, George Schiff  
 Mitchell Schwartz  
 Mollohan Scott (GA)

NAYS—194

Fallin Lungren, Daniel  
 Feeney E.  
 Ferguson Mack  
 Bachmann Marchant  
 Bachus McCarthy (CA)  
 Barrett (SC) McCaul (TX)  
 Bartlett (MD) McCotter  
 Barton (TX) Fossella  
 Biggart Fox  
 Bilbray Franks (AZ)  
 Bilirakis Frelinghuysen  
 Bishop (UT) Gallegly  
 Blackburn Garrett (NJ)  
 Blunt Gerlach  
 Boehner Gilchrest  
 Bonner Gingrey  
 Bono Mack Gohmert  
 Boustany Goode  
 Brady (TX) Goodlatte  
 Broun (GA) Granger  
 Brown (SC) Graves  
 Brown-Waite, Hall (TX)  
 Ginny Hastings (WA)  
 Buchanan Heller  
 Burgess Hensarling  
 Burton (IN) Hergert  
 Buyer Hill  
 Calvert Hobson  
 Camp (MI) Hoekstra  
 Campbell (CA) Hulshof  
 Cantor Hunter  
 Capito Inglis (SC)  
 Carter Issa  
 Castle Johnson (IL)  
 Chabot Johnson, Sam  
 Coble Jones (NC)  
 Cole (OK) Jordan  
 Conaway Keller  
 Crenshaw King (IA)  
 Culberson King (NY)  
 Davis (KY) Kingston  
 Davis, David Kirk  
 Davis, Tom Kline (MN)  
 Deal (GA) Knollenberg  
 Dent Kuhl (NY)  
 Diaz-Balart, L. LaHood  
 Diaz-Balart, M. Lamborn  
 Donnelly Latham  
 Doolittle LaTourette  
 Drake Latta  
 Dreier Lewis (CA)  
 Duncan Lewis (KY)  
 Ehlers Linder  
 Emerson LoBiondo  
 English (PA) Lucas  
 Everett

Shimkus Terry Weldon (FL) Moore (WI) Roybal-Allard Sutton Dingell Pryce (OH) Speier  
 Shuster Thornberry Weller Moran (VA) Ruppertsberger Tanner King (NY) Putnam Watson  
 Simpson Tiahrt Westmoreland Murphy (CT) Ryan (OH) Tauscher Lampson Rush Wexler  
 Smith (NE) Tiberi Whitfield (KY) Murphy, Patrick Salazar Taylor Mahoney (FL) Snyder  
 Smith (NJ) Turner Wilson (NM) Murtha Sanchez, Linda Thompson (CA) Thompson (MS)  
 Smith (TX) Upton Wilson (SC) Nadler T. Sanchez, Loretta Tierney  
 Souder Walberg Wittman (VA) Neapolitano Neal (MA) Sarbanes Towns  
 Stearns Walden (OR) Wolf Oberstar Schakowsky Tsongas  
 Sullivan Walsh (NY) Young (AK) Obey Schiff Udall (CO)  
 Tancredo Wamp Young (FL) Ortiz Scott (GA) Udall (NM)  
 Van Hollen  
 Velazquez  
 Visclosky  
 Walz (MN)  
 Wasserman  
 Schultz  
 Waters  
 Watt  
 Waxman  
 Weiner  
 Welch (VT)  
 Wilson (OH)  
 Woolsey  
 Wu  
 Yarmuth

NOT VOTING—15

Baca Lampson Rush  
 Barton (TX) Mahoney (FL) Snyder  
 Cannon Manzullo Speier  
 Cubin Pryce (OH) Watson  
 Gillibrand Putnam Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1258

So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Washington. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered. The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 224, nays 193, not voting 17, as follows:

[Roll No. 452]

YEAS—224

Abercrombie Davis (AL) Israel  
 Ackerman Davis (CA) Jackson (IL)  
 Allen Davis (IL) Jackson-Lee  
 Altmire Davis, Lincoln (TX)  
 Andrews DeFazio Jefferson  
 Arcuri DeGette Johnson (GA)  
 Baird Delahunt Johnson, E. B.  
 Baldwin DeLauro Jones (OH)  
 Barrow Dicks Kagen  
 Bean Doggett Kanjorski  
 Becerra Donnelly Kaptur  
 Berkley Doyle Kennedy  
 Berman Edwards (MD) Kildee  
 Berry Edwards (TX) Kilpatrick  
 Bishop (NY) Ellison Kind  
 Blumenauer Ellsworth Klein (FL)  
 Boren Emanuel Kucinich  
 Boswell Engel Langevin  
 Boucher Eshoo Larsen (WA)  
 Boyd (FL) Etheridge Larson (CT)  
 Boyda (KS) Farr Lee  
 Brady (PA) Fattah Levin  
 Braley (IA) Filner Lewis (GA)  
 Brown, Corrine Foster Lipinski  
 Butterfield Frank (MA) Loeb sack  
 Capps Giffords Lofgren, Zoe  
 Capuano Gillibrand Lowey  
 Cardoza Gonzalez Lynch  
 Carnahan Gordon Maloney (NY)  
 Carney Green, Al Markey  
 Carson Green, Gene Marshall  
 Castor Grijalva Matheson  
 Cazayoux Gutierrez Matsui  
 Chandler Hall (NY) McCarthy (NY)  
 Childers Hare McCollum (MN)  
 Clarke Harman McDermott  
 Clay Hastings (FL) McGovern  
 Cleaver Herseth Sandlin McIntyre  
 Clyburn Higgins McNerney  
 Cohen Hinchey McNulty  
 Conyers Hinojosa Meek (FL)  
 Cooper Hirono Meeks (NY)  
 Costa Hodes Melancon  
 Costello Holden Michaud  
 Courtney Holt Miller (NC)  
 Cramer Honda Miller, George  
 Crowley Hooley Mitchell  
 Cuellar Hoyer Mollohan  
 Cummings Inslee Moore (KS)

Gerlach  
 Gilchrest  
 Gingrey  
 Gohmert  
 Goode  
 Goodlatte  
 Granger  
 Graves  
 Hall (TX)  
 Hastings (WA)  
 Hayes  
 Heller  
 Hensarling  
 Herger  
 Hill  
 Hobson  
 Hoekstra  
 Hulshof  
 Hunter  
 Inglis (SC)  
 Issa  
 Johnson (IL)  
 Johnson, Sam  
 Jones (NC)  
 Jordan  
 Keller  
 King (IA)  
 Kingston  
 Kirk  
 Kline (MN)  
 Knollenberg  
 Kuhl (NY)  
 LaHood  
 Lamborn  
 Latham  
 LaTourette  
 Latta  
 Lewis (CA)  
 Lewis (KY)  
 Linder  
 LoBiondo  
 Lucas  
 Lungren, Daniel E.  
 Mack  
 Manzullo  
 Marchant  
 McCauly (CA)  
 McCaul (TX)  
 McCotter  
 McCreery  
 McHenry  
 McHugh  
 McKeon  
 McMorris  
 Rodgers  
 Mica  
 Miller (FL)  
 Miller (MI)  
 Miller, Gary  
 Moran (KS)  
 Murphy, Tim  
 Musgrave  
 Myrick  
 Neugebauer  
 Nunes

NAYS—193

Aderholt  
 Akin  
 Alexander  
 Bachmann  
 Bachus  
 Barrett (SC)  
 Bartlett (MD)  
 Barton (TX)  
 Biggert  
 Bilirakis  
 Bishop (UT)  
 Blackburn  
 Boehner  
 Bonner  
 Bono Mack  
 Boozman  
 Boustany  
 Brady (TX)  
 Broun (GA)  
 Brown (SC)  
 Brown-Waite, Ginny  
 Buchanan  
 Burgess  
 Burton (IN)  
 Buyer  
 Calvert  
 Camp (MI)  
 Campbell (CA)  
 Cantor  
 Capito  
 Carter  
 Castle  
 Chabot  
 Coble  
 Cole (OK)  
 Conaway  
 Crenshaw  
 Culberson  
 Davis (KY)  
 Davis, David  
 Davis, Tom  
 Deal (GA)  
 Dent  
 Diaz-Balart, L.  
 Diaz-Balart, M.  
 Doolittle  
 Drake  
 Dreier  
 Duncan  
 Ehlers  
 Emerson  
 English (PA)  
 Everett  
 Fallin  
 Feeney  
 Ferguson  
 Flake  
 Forbes  
 Fortenberry  
 Fossella  
 Foxx  
 Franks (AZ)  
 Frelinghuysen  
 Gallegly  
 Garrett (NJ)

Baca  
 Bilbray

Paul  
 Pearce  
 Pence  
 Peterson (PA)  
 Petri  
 Pickering  
 Pitts  
 Platts  
 Poe  
 Porter  
 Price (GA)  
 Radanovich  
 Ramstad  
 Regula  
 Rehberg  
 Reichert  
 Renzi  
 Reynolds  
 Rogers (AL)  
 Rogers (KY)  
 Rogers (MI)  
 Rohrabacher  
 Ros-Lehtinen  
 Roskam  
 Royce  
 Ryan (WI)  
 Sali  
 Saxton  
 Scalise  
 Schmidt  
 Sensenbrenner  
 Sessions  
 Shadegg  
 Shays  
 Shimkus  
 Shuster  
 Simpson  
 Smith (NE)  
 Smith (NJ)  
 Smith (TX)  
 Souder  
 Stearns  
 Sullivan  
 Tancredo  
 Terry  
 Thornberry  
 Tiahrt  
 Tiberi  
 Turner  
 Upton  
 Walberg  
 Walden (OR)  
 Walsh (NY)  
 Wamp  
 Weldon (FL)  
 Weller  
 Westmoreland  
 Whitfield (KY)  
 Wilson (NM)  
 Wilson (SC)  
 Wittman (VA)  
 Wolf  
 Young (AK)  
 Young (FL)

PROVIDING FOR CONSIDERATION OF H.R. 3195, ADA AMENDMENTS ACT OF 2008

The SPEAKER pro tempore. The unfinished business is the vote on ordering the previous question on House Resolution 1299, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This will be a 5-minute vote. The vote was taken by electronic device, and there were—yeas 221, nays 194, not voting 19, as follows:

[Roll No. 453]

YEAS—221

Abercrombie DeFazio Kanjorski  
 Ackerman DeGette Kaptur  
 Allen Delahunt Kennedy  
 Altmire DeLauro Kildee  
 Arcuri Dicks Kilpatrick  
 Baird Dingell Kind  
 Baldwin Doggett Klein (FL)  
 Barrow Doyle Kucinich  
 Bean Edwards (MD) Langevin  
 Becerra Edwards (TX) Larsen (WA)  
 Berkley Ellison Larson (CT)  
 Berman Ellsworth Lee  
 Berry Emanuel Levin  
 Bishop (GA) Engel Lewis (GA)  
 Bishop (NY) Eshoo Lipinski  
 Blumenauer Etheridge Loeb sack  
 Boren Farr Lofgren, Zoe  
 Boswell Fattah Lowey  
 Boucher Filner Lynch  
 Boyd (FL) Foster Maloney (NY)  
 Boyda (KS) Frank (MA) Markey  
 Brady (PA) Giffords Marshall  
 Braley (IA) Gillibrand Matheson  
 Brown, Corrine Gonzalez Matsui  
 Butterfield Gordon McCarthy (NY)  
 Capps Green, Al McCollum (MN)  
 Capuano Green, Gene McDermott  
 Cardoza Grijalva McGovern  
 Carnahan Gutierrez McIntyre  
 Carney Hall (NY) McNulty  
 Carson Hare Meek (FL)  
 Castor Harman Meeks (NY)  
 Cazayoux Hastings (FL) Melancon  
 Chandler Herseth Sandlin Michaud  
 Childers Higgins Miller (NC)  
 Clarke Hinchey Mitchell  
 Clay Hinojosa Mollohan  
 Cleaver Hirono Moore (KS)  
 Clyburn Hodes Moore (WI)  
 Cohen Holt Moran (VA)  
 Conyers Honda Murphy (CT)  
 Cooper Hooley Murphy, Patrick  
 Costa Hoyer Murtha  
 Costello Inslee Nadler  
 Courtney Israel Napolitano  
 Cramer Jackson (IL) Neal (MA)  
 Crowley Jackson-Lee Oberstar  
 Cuellar (TX) Obey  
 Cummings Jefferson Ortiz  
 Davis (AL) Johnson (GA) Pallone  
 Davis (CA) Johnson, E. B. Pascrell  
 Davis (IL) Jones (OH) Pastor  
 Davis, Lincoln Kagen

NOT VOTING—17

Bishop (GA) Cannon  
 Blunt Cubin

Payne	Schwartz	Thompson (MS)
Perlmutter	Scott (GA)	Tierney
Peterson (MN)	Scott (VA)	Towns
Pomeroy	Serrano	Tsongas
Price (NC)	Sestak	Udall (CO)
Rahall	Shea-Porter	Udall (NM)
Rangel	Sherman	Van Hollen
Reichert	Shuler	Velázquez
Reyes	Sires	Visclosky
Richardson	Skelton	Walz (MN)
Rodriguez	Slaughter	Wasserman
Ross	Smith (WA)	Schultz
Rothman	Solis	Waters
Roybal-Allard	Space	Watt
Ryan (OH)	Spratt	Waxman
Salazar	Stark	Weiner
Sánchez, Linda	Stupak	Welch (VT)
T.	Sutton	Wilson (OH)
Sanchez, Loretta	Tanner	Woolsey
Sarbanes	Tauscher	Wu
Schakowsky	Taylor	Yarmuth
Schiff	Thompson (CA)	

NAYS—194

Aderholt	Garrett (NJ)	Myrick
Akin	Gerlach	Neugebauer
Alexander	Gilchrest	Nunes
Bachmann	Gingrey	Paul
Bachus	Gohmert	Pearce
Barrett (SC)	Goode	Pence
Bartlett (MD)	Goodlatte	Peterson (PA)
Barton (TX)	Granger	Petri
Biggert	Graves	Pickering
Bilbray	Hall (TX)	Pitts
Bilirakis	Hastings (WA)	Platts
Bishop (UT)	Hayes	Poe
Blackburn	Heller	Porter
Boehner	Hensarling	Price (GA)
Bonner	Herger	Radanovich
Bono Mack	Hill	Ramstad
Boozman	Hobson	Regula
Boustany	Hoekstra	Rehberg
Brady (TX)	Holden	Renzi
Broun (GA)	Hulshof	Reynolds
Brown (SC)	Hunter	Rogers (AL)
Brown-Waite,	Inglis (SC)	Rogers (KY)
Ginny	Issa	Rogers (MI)
Buchanan	Johnson (IL)	Rohrabacher
Burgess	Johnson, Sam	Ros-Lehtinen
Buyer	Jones (NC)	Roskam
Calvert	Jordan	Royce
Camp (MI)	Keller	Ryan (WI)
Campbell (CA)	King (IA)	Sali
Cantor	King (NY)	Saxton
Capito	Kingston	Scalise
Carter	Kirk	Schmidt
Castle	Kline (MN)	Sensenbrenner
Chabot	Knollenberg	Sessions
Coble	Kuhl (NY)	Shadegg
Cole (OK)	LaHood	Shays
Conaway	Lamborn	Shimkus
Crenshaw	Latham	Shuster
Culberson	LaTourette	Simpson
Davis (KY)	Latta	Smith (NE)
Davis, David	Lewis (CA)	Smith (NJ)
Davis, Tom	Lewis (KY)	Smith (TX)
Deal (GA)	Linder	Souder
Dent	LoBiondo	Stearns
Diaz-Balart, L.	Lucas	Sullivan
Diaz-Balart, M.	Lungren, Daniel	Tancredo
Donnelly	E.	Terry
Doolittle	Mack	Thornberry
Drake	Manzullo	Tiahrt
Dreier	Marchant	Tiberi
Duncan	McCarthy (CA)	Turner
Ehlers	McCaul (TX)	Upton
Emerson	McCotter	Walden (OR)
English (PA)	McCrery	Walsh (NY)
Everett	McHenry	Wamp
Fallin	McHugh	Weldon (FL)
Feeney	McKeon	Weller
Ferguson	McMorris	Westmoreland
Flake	Rodgers	Whitfield (KY)
Forbes	Mica	Wilson (NM)
Fortenberry	Miller (FL)	Wilson (SC)
Fossella	Miller (MI)	Wittman (VA)
Fox	Miller, Gary	Wolf
Franks (AZ)	Moran (KS)	Young (AK)
Frelinghuysen	Murphy, Tim	Young (FL)
Gallely	Musgrave	

NOT VOTING—19

Andrews	Mahoney (FL)	Snyder
Baca	McNerney	Speier
Blunt	Miller, George	Walberg
Burton (IN)	Pryce (OH)	Watson
Cannon	Putnam	Wexler
Cubin	Ruppersberger	
Lampson	Rush	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1312

So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution. The resolution was agreed to.

A motion to reconsider was laid on the table.

ALTERNATIVE MINIMUM TAX RELIEF ACT OF 2008

Mr. RANGEL. Mr. Speaker, I call up the bill (H.R. 6275) to amend the Internal Revenue Code of 1986 to provide individuals temporary relief from the alternative minimum tax, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6275

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

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the “Alternative Minimum Tax Relief Act of 2008”.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:  
Sec. 1. Short title, etc.

TITLE I—INDIVIDUAL TAX RELIEF

Sec. 101. Extension of increased alternative minimum tax exemption amount.

Sec. 102. Extension of alternative minimum tax relief for nonrefundable personal credits.

TITLE II—REVENUE PROVISIONS

Sec. 201. Income of partners for performing investment management services treated as ordinary income received for performance of services.

Sec. 202. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.

Sec. 203. Limitation on treaty benefits for certain deductible payments.

Sec. 204. Returns relating to payments made in settlement of payment card and third party network transactions.

Sec. 205. Application of continuous levy to property sold or leased to the Federal Government.

Sec. 206. Time for payment of corporate estimated taxes.

TITLE I—INDIVIDUAL TAX RELIEF

SEC. 101. EXTENSION OF INCREASED ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNT.

(a) IN GENERAL.—Paragraph (1) of section 55(d) is amended—

(1) by striking “(\$66,250 in the case of taxable years beginning in 2007)” in subparagraph (A) and inserting “(\$69,950 in the case of taxable years beginning in 2008)”, and

(2) by striking “(\$44,350 in the case of taxable years beginning in 2007)” in subparagraph (B) and inserting “(\$46,200 in the case of taxable years beginning in 2008)”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 102. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking “or 2007” and inserting “2007, or 2008”, and

(2) by striking “2007” in the heading thereof and inserting “2008”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

TITLE II—REVENUE PROVISIONS

SEC. 201. INCOME OF PARTNERS FOR PERFORMING INVESTMENT MANAGEMENT SERVICES TREATED AS ORDINARY INCOME RECEIVED FOR PERFORMANCE OF SERVICES.

(a) IN GENERAL.—Part I of subchapter K of chapter 1 is amended by adding at the end the following new section:

“SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING INVESTMENT MANAGEMENT SERVICES TO PARTNERSHIP.

“(a) TREATMENT OF DISTRIBUTIVE SHARE OF PARTNERSHIP ITEMS.—For purposes of this title, in the case of an investment services partnership interest—

“(1) IN GENERAL.—Notwithstanding section 702(b)—

“(A) any net income with respect to such interest for any partnership taxable year shall be treated as ordinary income for the performance of services, and

“(B) any net loss with respect to such interest for such year, to the extent not disallowed under paragraph (2) for such year, shall be treated as an ordinary loss.

All items of income, gain, deduction, and loss which are taken into account in computing net income or net loss shall be treated as ordinary income or ordinary loss (as the case may be).

“(2) TREATMENT OF LOSSES.—

“(A) LIMITATION.—Any net loss with respect to such interest shall be allowed for any partnership taxable year only to the extent that such loss does not exceed the excess (if any) of—

“(i) the aggregate net income with respect to such interest for all prior partnership taxable years, over

“(ii) the aggregate net loss with respect to such interest not disallowed under this subparagraph for all prior partnership taxable years.

“(B) CARRYFORWARD.—Any net loss for any partnership taxable year which is not allowed by reason of subparagraph (A) shall be treated as an item of loss with respect to such partnership interest for the succeeding partnership taxable year.

“(C) BASIS ADJUSTMENT.—No adjustment to the basis of a partnership interest shall be made on account of any net loss which is not allowed by reason of subparagraph (A).

“(D) EXCEPTION FOR BASIS ATTRIBUTABLE TO PURCHASE OF A PARTNERSHIP INTEREST.—In the case of an investment services partnership interest acquired by purchase, paragraph (1)(B) shall not apply to so much of any net loss with respect to such interest for any taxable year as does not exceed the excess of—

“(i) the basis of such interest immediately after such purchase, over

“(ii) the aggregate net loss with respect to such interest to which paragraph (1)(B) did not apply by reason of this subparagraph for all prior taxable years.

Any net loss to which paragraph (1)(B) does not apply by reason of this subparagraph

shall not be taken into account under subparagraph (A).

“(E) PRIOR PARTNERSHIP YEARS.—Any reference in this paragraph to prior partnership taxable years shall only include prior partnership taxable years to which this section applies.

“(3) NET INCOME AND LOSS.—For purposes of this section—

“(A) NET INCOME.—The term ‘net income’ means, with respect to any investment services partnership interest, for any partnership taxable year, the excess (if any) of—

“(i) all items of income and gain taken into account by the holder of such interest under section 702 with respect to such interest for such year, over

“(ii) all items of deduction and loss so taken into account.

“(B) NET LOSS.—The term ‘net loss’ means with respect to such interest for such year, the excess (if any) of the amount described in subparagraph (A)(ii) over the amount described in subparagraph (A)(i).

“(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

“(1) GAIN.—Any gain on the disposition of an investment services partnership interest shall be treated as ordinary income for the performance of services.

“(2) LOSS.—Any loss on the disposition of an investment services partnership interest shall be treated as an ordinary loss to the extent of the excess (if any) of—

“(A) the aggregate net income with respect to such interest for all partnership taxable years, over

“(B) the aggregate net loss with respect to such interest allowed under subsection (a)(2) for all partnership taxable years.

“(3) DISPOSITION OF PORTION OF INTEREST.—In the case of any disposition of an investment services partnership interest, the amount of net loss which otherwise would have (but for subsection (a)(2)(C)) applied to reduce the basis of such interest shall be disregarded for purposes of this section for all succeeding partnership taxable years.

“(4) DISTRIBUTIONS OF PARTNERSHIP PROPERTY.—In the case of any distribution of property by a partnership with respect to any investment services partnership interest held by a partner—

“(A) the excess (if any) of—

“(i) the fair market value of such property at the time of such distribution, over

“(ii) the adjusted basis of such property in the hands of the partnership, shall be taken into account as an increase in such partner’s distributive share of the taxable income of the partnership (except to the extent such excess is otherwise taken into account in determining the taxable income of the partnership),

“(B) such property shall be treated for purposes of subpart B of part II as money distributed to such partner in an amount equal to such fair market value, and

“(C) the basis of such property in the hands of such partner shall be such fair market value.

Subsection (b) of section 734 shall be applied without regard to the preceding sentence.

“(5) APPLICATION OF SECTION 751.—In applying section 751(a), an investment services partnership interest shall be treated as an inventory item.

“(c) INVESTMENT SERVICES PARTNERSHIP INTEREST.—For purposes of this section—

“(1) IN GENERAL.—The term ‘investment services partnership interest’ means any interest in a partnership which is held by any person if such person provides (directly or indirectly) a substantial quantity of any of the following services with respect to the assets of the partnership in the conduct of the trade or business of providing such services:

“(A) Advising as to the advisability of investing in, purchasing, or selling any specified asset.

“(B) Managing, acquiring, or disposing of any specified asset.

“(C) Arranging financing with respect to acquiring specified assets.

“(D) Any activity in support of any service described in subparagraphs (A) through (C).

For purposes of this paragraph, the term ‘specified asset’ means securities (as defined in section 475(c)(2) without regard to the last sentence thereof), real estate, commodities (as defined in section 475(e)(2)), or options or derivative contracts with respect to securities (as so defined), real estate, or commodities (as so defined).

“(2) EXCEPTION FOR CERTAIN CAPITAL INTERESTS.—

“(A) IN GENERAL.—If—

“(i) a portion of an investment services partnership interest is acquired on account of a contribution of invested capital, and

“(ii) the partnership makes a reasonable allocation of partnership items between the portion of the distributive share that is with respect to invested capital and the portion of such distributive share that is not with respect to invested capital,

then subsection (a) shall not apply to the portion of the distributive share that is with respect to invested capital. An allocation will not be treated as reasonable for purposes of this subparagraph if such allocation would result in the partnership allocating a greater portion of income to invested capital than any other partner not providing services would have been allocated with respect to the same amount of invested capital.

“(B) SPECIAL RULE FOR DISPOSITIONS.—In any case to which subparagraph (A) applies, subsection (b) shall not apply to any gain or loss allocable to invested capital. The portion of any gain or loss attributable to invested capital is the proportion of such gain or loss which is based on the distributive share of gain or loss that would have been allocable to invested capital under subparagraph (A) if the partnership sold all of its assets immediately before the disposition.

“(C) INVESTED CAPITAL.—For purposes of this paragraph, the term ‘invested capital’ means, the fair market value at the time of contribution of any money or other property contributed to the partnership.

“(D) TREATMENT OF CERTAIN LOANS.—

“(i) PROCEEDS OF PARTNERSHIP LOANS NOT TREATED AS INVESTED CAPITAL OF SERVICE PROVIDING PARTNERS.—For purposes of this paragraph, an investment services partnership interest shall not be treated as acquired on account of a contribution of invested capital to the extent that such capital is attributable to the proceeds of any loan or other advance made or guaranteed, directly or indirectly, by any partner or the partnership.

“(ii) LOANS FROM NONSERVICE PROVIDING PARTNERS TO THE PARTNERSHIP TREATED AS INVESTED CAPITAL.—For purposes of this paragraph, any loan or other advance to the partnership made or guaranteed, directly or indirectly, by a partner not providing services to the partnership shall be treated as invested capital of such partner and amounts of income and loss treated as allocable to invested capital shall be adjusted accordingly.

“(d) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—

“(1) IN GENERAL.—If—

“(A) a person performs (directly or indirectly) investment management services for any entity,

“(B) such person holds a disqualified interest with respect to such entity, and

“(C) the value of such interest (or payments thereunder) is substantially related to the amount of income or gain (whether or not realized) from the assets with respect to

which the investment management services are performed,

any income or gain with respect to such interest shall be treated as ordinary income for the performance of services. Rules similar to the rules of subsection (c)(2) shall apply where such interest was acquired on account of invested capital in such entity.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) DISQUALIFIED INTEREST.—The term ‘disqualified interest’ means, with respect to any entity—

“(i) any interest in such entity other than indebtedness,

“(ii) convertible or contingent debt of such entity,

“(iii) any option or other right to acquire property described in clause (i) or (ii), and

“(iv) any derivative instrument entered into (directly or indirectly) with such entity or any investor in such entity.

Such term shall not include a partnership interest and shall not include stock in a taxable corporation.

“(B) TAXABLE CORPORATION.—The term ‘taxable corporation’ means—

“(i) a domestic C corporation, or

“(ii) a foreign corporation subject to a comprehensive foreign income tax.

“(C) INVESTMENT MANAGEMENT SERVICES.—The term ‘investment management services’ means a substantial quantity of any of the services described in subsection (c)(1) which are provided in the conduct of the trade or business of providing such services.

“(D) COMPREHENSIVE FOREIGN INCOME TAX.—The term ‘comprehensive foreign income tax’ means, with respect to any foreign corporation, the income tax of a foreign country if—

“(i) such corporation is eligible for the benefits of a comprehensive income tax treaty between such foreign country and the United States, or

“(ii) such corporation demonstrates to the satisfaction of the Secretary that such foreign country has a comprehensive income tax.

“(e) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary or appropriate to carry out the purposes of this section, including regulations to—

“(1) prevent the avoidance of the purposes of this section, and

“(2) coordinate this section with the other provisions of this subchapter.

“(f) CROSS REFERENCE.—For 40 percent no fault penalty on certain underpayments due to the avoidance of this section, see section 6662.”

(b) APPLICATION TO REAL ESTATE INVESTMENT TRUSTS.—

(1) IN GENERAL.—Subsection (c) of section 856 is amended by adding at the end the following new paragraph:

“(9) EXCEPTION FROM RECHARACTERIZATION OF INCOME FROM INVESTMENT SERVICES PARTNERSHIP INTERESTS.—

“(A) IN GENERAL.—Paragraphs (2), (3), and (4) shall be applied without regard to section 710 (relating to special rules for partners providing investment management services to partnership).

“(B) SPECIAL RULE FOR PARTNERSHIPS OWNED BY REITS.—Section 7704 shall be applied without regard to section 710 in the case of a partnership which meets each of the following requirements:

“(i) Such partnership is treated as publicly traded under section 7704 solely by reason of interests in such partnership being convertible into interests in a real estate investment trust which is publicly traded.

“(ii) 50 percent or more of the capital and profits interests of such partnership are owned, directly or indirectly, at all times during the taxable year by such real estate

investment trust (determined with the application of section 267(c)).

“(iii) Such partnership meets the requirements of paragraphs (2), (3), and (4) (applied without regard to section 710).”

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 7704(d) is amended by inserting “(determined without regard to section 856(c)(8))” after “856(c)(2)”.

(C) IMPOSITION OF PENALTY ON UNDERPAYMENTS.—

(1) IN GENERAL.—Subsection (b) of section 6662 is amended by inserting after paragraph (5) the following new paragraph:

“(6) The application of subsection (d) of section 710 or the regulations prescribed under section 710(e) to prevent the avoidance of the purposes of section 710.”

(2) AMOUNT OF PENALTY.—

(A) IN GENERAL.—Section 6662 is amended by adding at the end the following new subsection:

“(i) INCREASE IN PENALTY IN CASE OF PROPERTY TRANSFERRED FOR INVESTMENT MANAGEMENT SERVICES.—In the case of any portion of an underpayment to which this section applies by reason of subsection (b)(6), subsection (a) shall be applied with respect to such portion by substituting ‘40 percent’ for ‘20 percent.’”

(B) CONFORMING AMENDMENTS.—Subparagraph (B) of section 6662A(e)(2) is amended—

(i) by striking “section 6662(h)” and inserting “subsection (h) or (i) of section 6662”, and

(ii) by striking “GROSS VALUATION MISSTATEMENT PENALTY” in the heading and inserting “CERTAIN INCREASED UNDERPAYMENT PENALTIES”.

(3) REASONABLE CAUSE EXCEPTION NOT APPLICABLE.—Subsection (c) of section 6664 is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively,

(B) by striking “paragraph (2)” in paragraph (4), as so redesignated, and inserting “paragraph (3)”, and

(C) by inserting after paragraph (1) the following new paragraph:

“(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of an underpayment to which this section applies by reason of subsection (b)(6).”

(D) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 731 is amended by inserting “section 710(b)(4) (relating to distributions of partnership property),” before “section 736”.

(2) Section 741 is amended by inserting “or section 710 (relating to special rules for partners providing investment management services to partnership)” before the period at the end.

(3) Paragraph (13) of section 1402(a) is amended—

(A) by striking “other than guaranteed” and inserting “other than—

“(A) guaranteed”.

(B) by striking the semicolon at the end and inserting “, and”, and

(C) by adding at the end the following new subparagraph:

“(B) any income treated as ordinary income under section 710 received by an individual who provides investment management services (as defined in section 710(d)(2));”

(4) Paragraph (12) of section 211(a) of the Social Security Act is amended—

(A) by striking “other than guaranteed” and inserting “other than—

“(A) guaranteed”.

(B) by striking the semicolon at the end and inserting “, and”, and

(C) by adding at the end the following new subparagraph:

“(B) any income treated as ordinary income under section 710 of the Internal Revenue Code of 1986 received by an individual who provides investment management serv-

ices (as defined in section 710(d)(2) of such Code);”

(5) The table of sections for part I of subchapter K of chapter 1 is amended by adding at the end the following new item:

“Sec. 710. Special rules for partners providing investment management services to partnership.”

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after June 18, 2008.

(2) PARTNERSHIP TAXABLE YEARS WHICH INCLUDE EFFECTIVE DATE.—In applying section 710(a) of the Internal Revenue Code of 1986 (as added by this section) in the case of any partnership taxable year which includes June 18, 2008, the amount of the net income referred to in such section shall be treated as being the lesser of the net income for the entire partnership taxable year or the net income determined by only taking into account items attributable to the portion of the partnership taxable year which is after such date.

(3) DISPOSITIONS OF PARTNERSHIP INTERESTS.—Section 710(b) of the Internal Revenue Code of 1986 (as added by this section) shall apply to dispositions and distributions after June 18, 2008.

(4) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—Section 710(d) of such Code (as added by this section) shall take effect on June 18, 2008.

(5) PUBLICLY TRADED PARTNERSHIPS.—For purposes of applying section 7704, the amendments made by this section shall apply to taxable years beginning after December 31, 2010.

**SEC. 202. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) (relating to exceptions) is amended by striking “or” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, or”, and by inserting after clause (iii) the following new clause:

“(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).”

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) is amended by adding at the end the following flush sentence:

“For purposes of clause (iv), the term ‘primary product’ has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.”

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

“(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

“(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

“(i) the oil related qualified production activities income of the taxpayer for the taxable year,

“(ii) the qualified production activities income of the taxpayer for the taxable year, or

“(iii) taxable income (determined without regard to this section).

“(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term ‘oil related qualified production activities income’ means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.”

(2) CONFORMING AMENDMENT.—Section 199(d)(2) (relating to application to individuals) is amended by striking “subsection (a)(1)(B)” and inserting “subsections (a)(1)(B) and (d)(9)(A)(iii)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

**SEC. 203. LIMITATION ON TREATY BENEFITS FOR CERTAIN DEDUCTIBLE PAYMENTS.**

(a) IN GENERAL.—Section 894 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

“(d) LIMITATION ON TREATY BENEFITS FOR CERTAIN DEDUCTIBLE PAYMENTS.—

“(1) IN GENERAL.—In the case of any deductible related-party payment, any withholding tax imposed under chapter 3 (and any tax imposed under subpart A or B of this part) with respect to such payment may not be reduced under any treaty of the United States unless any such withholding tax would be reduced under a treaty of the United States if such payment were made directly to the foreign parent corporation.

“(2) DEDUCTIBLE RELATED-PARTY PAYMENT.—For purposes of this subsection, the term ‘deductible related-party payment’ means any payment made, directly or indirectly, by any person to any other person if the payment is allowable as a deduction under this chapter and both persons are members of the same foreign controlled group of entities.

“(3) FOREIGN CONTROLLED GROUP OF ENTITIES.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘foreign controlled group of entities’ means a controlled group of entities the common parent of which is a foreign corporation.

“(B) CONTROLLED GROUP OF ENTITIES.—The term ‘controlled group of entities’ means a controlled group of corporations as defined in section 1563(a)(1), except that—

“(i) ‘more than 50 percent’ shall be substituted for ‘at least 80 percent’ each place it appears therein, and

“(ii) the determination shall be made without regard to subsections (a)(4) and (b)(2) of section 1563.

A partnership or any other entity (other than a corporation) shall be treated as a member of a controlled group of entities if such entity is controlled (within the meaning of section 954(d)(3)) by members of such group (including any entity treated as a member of such group by reason of this sentence).

“(4) FOREIGN PARENT CORPORATION.—For purposes of this subsection, the term ‘foreign parent corporation’ means, with respect to any deductible related-party payment, the common parent of the foreign controlled group of entities referred to in paragraph (3)(A).

“(5) REGULATIONS.—The Secretary may prescribe such regulations or other guidance as are necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which provide for—

“(A) the treatment of two or more persons as members of a foreign controlled group of

entities if such persons would be the common parent of such group if treated as one corporation, and

“(B) the treatment of any member of a foreign controlled group of entities as the common parent of such group if such treatment is appropriate taking into account the economic relationships among such entities.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after the date of the enactment of this Act.

**SEC. 204. RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.**

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section: “**SEC. 6050W. RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.**

“(a) IN GENERAL.—Each payment settlement entity shall make a return for each calendar year setting forth—

“(1) the name, address, and TIN of each participating payee to whom one or more payments in settlement of reportable payment transactions are made, and

“(2) the gross amount of the reportable payment transactions with respect to each such participating payee.

Such return shall be made at such time and in such form and manner as the Secretary may require by regulations.

“(b) PAYMENT SETTLEMENT ENTITY.—For purposes of this section—

“(1) IN GENERAL.—The term ‘payment settlement entity’ means—

“(A) in the case of a payment card transaction, the merchant acquiring bank, and

“(B) in the case of a third party network transaction, the third party settlement organization.

“(2) MERCHANT ACQUIRING BANK.—The term ‘merchant acquiring bank’ means the bank or other organization which has the contractual obligation to make payment to participating payees in settlement of payment card transactions.

“(3) THIRD PARTY SETTLEMENT ORGANIZATION.—The term ‘third party settlement organization’ means the central organization which has the contractual obligation to make payment to participating payees of third party network transactions.

“(4) SPECIAL RULES RELATED TO INTERMEDIARIES.—For purposes of this section—

“(A) AGGREGATED PAYEES.—In any case where reportable payment transactions of more than one participating payee are settled through an intermediary—

“(i) such intermediary shall be treated as the participating payee for purposes of determining the reporting obligations of the payment settlement entity with respect to such transactions, and

“(ii) such intermediary shall be treated as the payment settlement entity with respect to the settlement of such transactions with the participating payees.

“(B) ELECTRONIC PAYMENT FACILITATORS.—In any case where an electronic payment facilitator or other third party makes payments in settlement of reportable payment transactions on behalf of the payment settlement entity, the return under subsection (a) shall be made by such electronic payment facilitator or other third party in lieu of the payment settlement entity.

“(c) REPORTABLE PAYMENT TRANSACTION.—For purposes of this section—

“(1) IN GENERAL.—The term ‘reportable payment transaction’ means any payment card transaction and any third party network transaction.

“(2) PAYMENT CARD TRANSACTION.—The term ‘payment card transaction’ means any

transaction in which a payment card is accepted as payment.

“(3) THIRD PARTY NETWORK TRANSACTION.—The term ‘third party network transaction’ means any transaction which is settled through a third party payment network.

“(d) OTHER DEFINITIONS.—For purposes of this section—

“(1) PARTICIPATING PAYEE.—

“(A) IN GENERAL.—The term ‘participating payee’ means—

“(i) in the case of a payment card transaction, any person who accepts a payment card as payment, and

“(ii) in the case of a third party network transaction, any person who accepts payment from a third party settlement organization in settlement of such transaction.

“(B) EXCLUSION OF FOREIGN PERSONS.—Except as provided by the Secretary in regulations or other guidance, such term shall not include any person with a foreign address.

“(C) INCLUSION OF GOVERNMENTAL UNITS.—The term ‘person’ includes any governmental unit (and any agency or instrumentality thereof).

“(2) PAYMENT CARD.—The term ‘payment card’ means any card which is issued pursuant to an agreement or arrangement which provides for—

“(A) one or more issuers of such cards,

“(B) a network of persons unrelated to each other, and to the issuer, who agree to accept such cards as payment, and

“(C) standards and mechanisms for settling the transactions between the merchant acquiring banks and the persons who agree to accept such cards as payment.

The acceptance as payment of any account number or other indicia associated with a payment card shall be treated for purposes of this section in the same manner as accepting such payment card as payment.

“(3) THIRD PARTY PAYMENT NETWORK.—The term ‘third party payment network’ means any agreement or arrangement—

“(A) which involves the establishment of accounts with a central organization for the purpose of settling transactions between persons who establish such accounts,

“(B) which provides for standards and mechanisms for settling such transactions,

“(C) which involves a substantial number of persons unrelated to such central organization who provide goods or services and who have agreed to settle transactions for the provision of such goods or services pursuant to such agreement or arrangement, and

“(D) which guarantees persons providing goods or services pursuant to such agreement or arrangement that such persons will be paid for providing such goods or services. Such term shall not include any agreement or arrangement which provides for the issuance of payment cards.

“(e) EXCEPTION FOR DE MINIMIS PAYMENTS BY THIRD PARTY SETTLEMENT ORGANIZATIONS.—A third party settlement organization shall be required to report any information under subsection (a) with respect to third party network transactions of any participating payee only if—

“(1) the amount which would otherwise be reported under subsection (a)(2) with respect to such transactions exceeds \$10,000, and

“(2) the aggregate number of such transactions exceeds 200.

“(f) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing—

“(1) the name, address, and phone number of the information contact of the person required to make such return, and

“(2) the gross amount of the reportable payment transactions with respect to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. Such statement may be furnished electronically.

“(g) REGULATIONS.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out this section, including rules to prevent the reporting of the same transaction more than once.”.

(b) PENALTY FOR FAILURE TO FILE.—

(1) RETURN.—Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking “and” at the end of clause (xx),

(B) by redesignating the clause (xix) that follows clause (xx) as clause (xxi),

(C) by striking “and” at the end of clause (xxi), as redesignated by subparagraph (B) and inserting “or”, and

(D) by adding at the end the following:

“(xxii) section 6050W (relating to returns to payments made in settlement of payment card transactions), and”.

(2) STATEMENT.—Paragraph (2) of section 6724(d) is amended by inserting a comma at the end of subparagraph (BB), by striking the period at the end of the subparagraph (CC) and inserting “, or”, and by inserting after subparagraph (CC) the following:

“(DD) section 6050W(c) (relating to returns relating to payments made in settlement of payment card transactions).”.

(c) APPLICATION OF BACKUP WITHHOLDING.—Paragraph (3) of section 3406(b) is amended by striking “or” at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting “, or”, and by adding at the end the following new subparagraph:

“(F) section 6050W (relating to returns relating to payments made in settlement of payment card transactions).”.

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050W the following:

“Sec. 6050W. Returns relating to payments made in settlement of payment card and third party network transactions.”.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to returns for calendar years beginning after December 31, 2010.

(2) APPLICATION OF BACKUP WITHHOLDING.—

(A) IN GENERAL.—The amendment made by subsection (c) shall apply to amounts paid after December 31, 2011.

(B) ELIGIBILITY FOR TIN MATCHING PROGRAM.—Solely for purposes of carrying out any TIN matching program established by the Secretary under section 3406(i) of the Internal Revenue Code of 1986—

(i) the amendments made this section shall be treated as taking effect on the date of the enactment of this Act, and

(ii) each person responsible for setting the standards and mechanisms referred to in section 6050W(d)(2)(C) of such Code, as added by this section, for settling transactions involving payment cards shall be treated in the same manner as a payment settlement entity.

**SEC. 205. APPLICATION OF CONTINUOUS LEVY TO PROPERTY SOLD OR LEASED TO THE FEDERAL GOVERNMENT.**

(a) IN GENERAL.—Paragraph (3) of section 6331(h) is amended by striking “goods” and inserting “property”.



(b) EFFECTIVE DATE.—The amendment made by this section shall apply to levies approved after the date of the enactment of this Act.

**SEC. 206. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

(a) REPEAL OF ADJUSTMENT FOR 2012.—Subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking the percentage contained therein and inserting “100 percent”.

(b) MODIFICATION OF ADJUSTMENT FOR 2013.—The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 59.5 percentage points.

The SPEAKER pro tempore. Pursuant to House Resolution 1297, the amendment in the nature of a substitute printed in the bill is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

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

**SECTION 1. SHORT TITLE, ETC.**

(a) SHORT TITLE.—This Act may be cited as the “Alternative Minimum Tax Relief Act of 2008”.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title, etc.

**TITLE I—INDIVIDUAL TAX RELIEF**

Sec. 101. Extension of increased alternative minimum tax exemption amount.

Sec. 102. Extension of alternative minimum tax relief for nonrefundable personal credits.

**TITLE II—REVENUE PROVISIONS**

Sec. 201. Income of partners for performing investment management services treated as ordinary income received for performance of services.

Sec. 202. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.

Sec. 203. Limitation on treaty benefits for certain deductible payments.

Sec. 204. Returns relating to payments made in settlement of payment card and third party network transactions.

Sec. 205. Application of continuous levy to property sold or leased to the Federal Government.

Sec. 206. Time for payment of corporate estimated taxes.

**TITLE I—INDIVIDUAL TAX RELIEF**

**SEC. 101. EXTENSION OF INCREASED ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNT.**

(a) IN GENERAL.—Paragraph (1) of section 55(d) is amended—

(1) by striking “(\$66,250 in the case of taxable years beginning in 2007)” in subparagraph (A) and inserting “(\$69,950 in the case of taxable years beginning in 2008)”, and

(2) by striking “(\$44,350 in the case of taxable years beginning in 2007)” in subparagraph (B) and inserting “(\$46,200 in the case of taxable years beginning in 2008)”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

**SEC. 102. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.**

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking “or 2007” and inserting “2007, or 2008”, and

(2) by striking “2007” in the heading thereof and inserting “2008”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

**TITLE II—REVENUE PROVISIONS**

**SEC. 201. INCOME OF PARTNERS FOR PERFORMING INVESTMENT MANAGEMENT SERVICES TREATED AS ORDINARY INCOME RECEIVED FOR PERFORMANCE OF SERVICES.**

(a) IN GENERAL.—Part I of subchapter K of chapter 1 is amended by adding at the end the following new section:

**“SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING INVESTMENT MANAGEMENT SERVICES TO PARTNERSHIP.**

“(a) TREATMENT OF DISTRIBUTIVE SHARE OF PARTNERSHIP ITEMS.—For purposes of this title, in the case of an investment services partnership interest—

“(1) IN GENERAL.—Notwithstanding section 702(b)—

“(A) any net income with respect to such interest for any partnership taxable year shall be treated as ordinary income for the performance of services, and

“(B) any net loss with respect to such interest for such year, to the extent not disallowed under paragraph (2) for such year, shall be treated as an ordinary loss.

All items of income, gain, deduction, and loss which are taken into account in computing net income or net loss shall be treated as ordinary income or ordinary loss (as the case may be).

“(2) TREATMENT OF LOSSES.—

“(A) LIMITATION.—Any net loss with respect to such interest shall be allowed for any partnership taxable year only to the extent that such loss does not exceed the excess (if any) of—

“(i) the aggregate net income with respect to such interest for all prior partnership taxable years, over

“(ii) the aggregate net loss with respect to such interest not disallowed under this subparagraph for all prior partnership taxable years.

“(B) CARRYFORWARD.—Any net loss for any partnership taxable year which is not allowed by reason of subparagraph (A) shall be treated as an item of loss with respect to such partnership interest for the succeeding partnership taxable year.

“(C) BASIS ADJUSTMENT.—No adjustment to the basis of a partnership interest shall be made on account of any net loss which is not allowed by reason of subparagraph (A).

“(D) EXCEPTION FOR BASIS ATTRIBUTABLE TO PURCHASE OF A PARTNERSHIP INTEREST.—In the case of an investment services partnership interest acquired by purchase, paragraph (1)(B) shall not apply to so much of any net loss with respect to such interest for any taxable year as does not exceed the excess of—

“(i) the basis of such interest immediately after such purchase, over

“(ii) the aggregate net loss with respect to such interest to which paragraph (1)(B) did not apply by reason of this subparagraph for all prior taxable years.

Any net loss to which paragraph (1)(B) does not apply by reason of this subparagraph shall not be taken into account under subparagraph (A).

“(E) PRIOR PARTNERSHIP YEARS.—Any reference in this paragraph to prior partnership taxable years shall only include prior partnership taxable years to which this section applies.

“(3) NET INCOME AND LOSS.—For purposes of this section—

“(A) NET INCOME.—The term ‘net income’ means, with respect to any investment services partnership interest, for any partnership taxable year, the excess (if any) of—

“(i) all items of income and gain taken into account by the holder of such interest under section 702 with respect to such interest for such year, over

“(ii) all items of deduction and loss so taken into account.

“(B) NET LOSS.—The term ‘net loss’ means with respect to such interest for such year, the excess (if any) of the amount described in subparagraph (A)(ii) over the amount described in subparagraph (A)(i).

“(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

“(1) GAIN.—Any gain on the disposition of an investment services partnership interest shall be treated as ordinary income for the performance of services.

“(2) LOSS.—Any loss on the disposition of an investment services partnership interest shall be treated as an ordinary loss to the extent of the excess (if any) of—

“(A) the aggregate net income with respect to such interest for all partnership taxable years, over

“(B) the aggregate net loss with respect to such interest allowed under subsection (a)(2) for all partnership taxable years.

“(3) DISPOSITION OF PORTION OF INTEREST.—In the case of any disposition of an investment services partnership interest, the amount of net loss which otherwise would have (but for subsection (a)(2)(C)) applied to reduce the basis of such interest shall be disregarded for purposes of this section for all succeeding partnership taxable years.

“(4) DISTRIBUTIONS OF PARTNERSHIP PROPERTY.—In the case of any distribution of property by a partnership with respect to any investment services partnership interest held by a partner—

“(A) the excess (if any) of—

“(i) the fair market value of such property at the time of such distribution, over

“(ii) the adjusted basis of such property in the hands of the partnership, shall be taken into account as an increase in such partner’s distributive share of the taxable income of the partnership (except to the extent such excess is otherwise taken into account in determining the taxable income of the partnership),

“(B) such property shall be treated for purposes of subpart B of part II as money distributed to such partner in an amount equal to such fair market value, and

“(C) the basis of such property in the hands of such partner shall be such fair market value. Subsection (b) of section 734 shall be applied without regard to the preceding sentence.

“(5) APPLICATION OF SECTION 751.—In applying section 751(a), an investment services partnership interest shall be treated as an inventory item.

“(c) INVESTMENT SERVICES PARTNERSHIP INTEREST.—For purposes of this section—

“(1) IN GENERAL.—The term ‘investment services partnership interest’ means any interest in a partnership which is held by any person if such person provides (directly or indirectly) a substantial quantity of any of the following services with respect to the assets of the partnership in the conduct of the trade or business of providing such services:

“(A) Advising as to the advisability of investing in, purchasing, or selling any specified asset.

“(B) Managing, acquiring, or disposing of any specified asset.

“(C) Arranging financing with respect to acquiring specified assets.

“(D) Any activity in support of any service described in subparagraphs (A) through (C). For purposes of this paragraph, the term ‘specified asset’ means securities (as defined in section 475(c)(2) without regard to the last sentence thereof), real estate, commodities (as defined in section 475(e)(2)), or options or derivative contracts with respect to securities (as so defined), real estate, or commodities (as so defined).

“(2) EXCEPTION FOR CERTAIN CAPITAL INTERESTS.—

“(A) IN GENERAL.—If—

“(i) a portion of an investment services partnership interest is acquired on account of a contribution of invested capital, and

“(ii) the partnership makes a reasonable allocation of partnership items between the portion of the distributive share that is with respect to invested capital and the portion of such distributive share that is not with respect to invested capital,

then subsection (a) shall not apply to the portion of the distributive share that is with respect to invested capital. An allocation will not be treated as reasonable for purposes of this subparagraph if such allocation would result in the partnership allocating a greater portion of income to invested capital than any other partner not providing services would have been allocated with respect to the same amount of invested capital.

“(B) SPECIAL RULE FOR DISPOSITIONS.—In any case to which subparagraph (A) applies, subsection (b) shall not apply to any gain or loss allocable to invested capital. The portion of any gain or loss attributable to invested capital is the proportion of such gain or loss which is based on the distributive share of gain or loss that would have been allocable to invested capital under subparagraph (A) if the partnership sold all of its assets immediately before the disposition.

“(C) INVESTED CAPITAL.—For purposes of this paragraph, the term ‘invested capital’ means, the fair market value at the time of contribution of any money or other property contributed to the partnership.

“(D) TREATMENT OF CERTAIN LOANS.—

“(i) PROCEEDS OF PARTNERSHIP LOANS NOT TREATED AS INVESTED CAPITAL OF SERVICE PROVIDING PARTNERS.—For purposes of this paragraph, an investment services partnership interest shall not be treated as acquired on account of a contribution of invested capital to the extent that such capital is attributable to the proceeds of any loan or other advance made or guaranteed, directly or indirectly, by any partner or the partnership.

“(ii) LOANS FROM NONSERVICE PROVIDING PARTNERS TO THE PARTNERSHIP TREATED AS INVESTED CAPITAL.—For purposes of this paragraph, any loan or other advance to the partnership made or guaranteed, directly or indirectly, by a partner not providing services to the partnership shall be treated as invested capital of such partner and amounts of income and loss treated as allocable to invested capital shall be adjusted accordingly.

“(d) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—

“(1) IN GENERAL.—If—

“(A) a person performs (directly or indirectly) investment management services for any entity,

“(B) such person holds a disqualified interest with respect to such entity, and

“(C) the value of such interest (or payments thereunder) is substantially related to the amount of income or gain (whether or not realized) from the assets with respect to which the investment management services are performed, any income or gain with respect to such interest shall be treated as ordinary income for the performance of services. Rules similar to the rules of subsection (c)(2) shall apply where such interest was acquired on account of invested capital in such entity.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) DISQUALIFIED INTEREST.—The term ‘disqualified interest’ means, with respect to any entity—

“(i) any interest in such entity other than indebtedness,

“(ii) convertible or contingent debt of such entity,

“(iii) any option or other right to acquire property described in clause (i) or (ii), and

“(iv) any derivative instrument entered into (directly or indirectly) with such entity or any investor in such entity.

Such term shall not include a partnership interest and shall not include stock in a taxable corporation.

“(B) TAXABLE CORPORATION.—The term ‘taxable corporation’ means—

“(i) a domestic C corporation, or

“(ii) a foreign corporation subject to a comprehensive foreign income tax.

“(C) INVESTMENT MANAGEMENT SERVICES.—The term ‘investment management services’ means a substantial quantity of any of the services described in subsection (c)(1) which are provided in the conduct of the trade or business of providing such services.

“(D) COMPREHENSIVE FOREIGN INCOME TAX.—The term ‘comprehensive foreign income tax’ means, with respect to any foreign corporation, the income tax of a foreign country if—

“(i) such corporation is eligible for the benefits of a comprehensive income tax treaty between such foreign country and the United States, or

“(ii) such corporation demonstrates to the satisfaction of the Secretary that such foreign country has a comprehensive income tax.

“(e) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary or appropriate to carry out the purposes of this section, including regulations to—

“(1) prevent the avoidance of the purposes of this section, and

“(2) coordinate this section with the other provisions of this subchapter.

“(f) CROSS REFERENCE.—For 40 percent no fault penalty on certain underpayments due to the avoidance of this section, see section 6662.”.

(b) APPLICATION TO REAL ESTATE INVESTMENT TRUSTS.—

(1) IN GENERAL.—Subsection (c) of section 856 is amended by adding at the end the following new paragraph:

“(9) EXCEPTION FROM RECHARACTERIZATION OF INCOME FROM INVESTMENT SERVICES PARTNERSHIP INTERESTS.—

“(A) IN GENERAL.—Paragraphs (2), (3), and (4) shall be applied without regard to section 710 (relating to special rules for partners providing investment management services to partnership).

“(B) SPECIAL RULE FOR PARTNERSHIPS OWNED BY REITS.—Section 7704 shall be applied without regard to section 710 in the case of a partnership which meets each of the following requirements:

“(i) Such partnership is treated as publicly traded under section 7704 solely by reason of interests in such partnership being convertible into interests in a real estate investment trust which is publicly traded.

“(ii) 50 percent or more of the capital and profits interests of such partnership are owned, directly or indirectly, at all times during the taxable year by such real estate investment trust (determined with the application of section 267(c)).

“(iii) Such partnership meets the requirements of paragraphs (2), (3), and (4) (applied without regard to section 710).”.

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 7704(d) is amended by inserting “(determined without regard to section 856(c)(8))” after “856(c)(2)”.

(c) IMPOSITION OF PENALTY ON UNDERPAYMENTS.—

(1) IN GENERAL.—Subsection (b) of section 6662 is amended by inserting after paragraph (5) the following new paragraph:

“(6) The application of subsection (d) of section 710 or the regulations prescribed under section 710(e) to prevent the avoidance of the purposes of section 710.”.

(2) AMOUNT OF PENALTY.—

(A) IN GENERAL.—Section 6662 is amended by adding at the end the following new subsection:

“(i) INCREASE IN PENALTY IN CASE OF PROPERTY TRANSFERRED FOR INVESTMENT MANAGEMENT SERVICES.—In the case of any portion of

an underpayment to which this section applies by reason of subsection (b)(6), subsection (a) shall be applied with respect to such portion by substituting ‘40 percent’ for ‘20 percent’.”.

(B) CONFORMING AMENDMENTS.—Subparagraph (B) of section 6662A(e)(2) is amended—

(i) by striking “section 6662(h)” and inserting “subsection (h) or (i) of section 6662”, and

(ii) by striking “GROSS VALUATION MISSTATEMENT PENALTY” in the heading and inserting “CERTAIN INCREASED UNDERPAYMENT PENALTIES”.

(3) REASONABLE CAUSE EXCEPTION NOT APPLICABLE.—Subsection (c) of section 6664 is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively,

(B) by striking “paragraph (2)” in paragraph (4), as so redesignated, and inserting “paragraph (3)”, and

(C) by inserting after paragraph (1) the following new paragraph:

“(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of an underpayment to which this section applies by reason of subsection (b)(6).”.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 731 is amended by inserting “section 710(b)(4) (relating to distributions of partnership property),” before “section 736”.

(2) Section 741 is amended by inserting “or section 710 (relating to special rules for partners providing investment management services to partnership)” before the period at the end.

(3) Paragraph (13) of section 1402(a) is amended—

(A) by striking “other than guaranteed” and inserting “other than—

“(A) guaranteed”,

(B) by striking the semicolon at the end and inserting “, and”, and

(C) by adding at the end the following new subparagraph:

“(B) any income treated as ordinary income under section 710 received by an individual who provides investment management services (as defined in section 710(d)(2)).”.

(4) Paragraph (12) of section 211(a) of the Social Security Act is amended—

(A) by striking “other than guaranteed” and inserting “other than—

“(A) guaranteed”,

(B) by striking the semicolon at the end and inserting “, and”, and

(C) by adding at the end the following new subparagraph:

“(B) any income treated as ordinary income under section 710 of the Internal Revenue Code of 1986 received by an individual who provides investment management services (as defined in section 710(d)(2) of such Code).”.

(5) The table of sections for part I of subchapter K of chapter 1 is amended by adding at the end the following new item:

“Sec. 710. Special rules for partners providing investment management services to partnership.”.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after June 18, 2008.

(2) PARTNERSHIP TAXABLE YEARS WHICH INCLUDE EFFECTIVE DATE.—In applying section 710(a) of the Internal Revenue Code of 1986 (as added by this section) in the case of any partnership taxable year which includes June 18, 2008, the amount of the net income referred to in such section shall be treated as being the lesser of the net income for the entire partnership taxable year or the net income determined by only taking into account items attributable to the portion of the partnership taxable year which is after such date.

(3) DISPOSITIONS OF PARTNERSHIP INTERESTS.—Section 710(b) of the Internal Revenue Code of

1986 (as added by this section) shall apply to dispositions and distributions after June 18, 2008.

(4) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—Section 710(d) of such Code (as added by this section) shall take effect on June 18, 2008.

(5) PUBLICLY TRADED PARTNERSHIPS.—For purposes of applying section 7704, the amendments made by this section shall apply to taxable years beginning after December 31, 2010.

**SEC. 202. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) (relating to exceptions) is amended by striking “or” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, or”, and by inserting after clause (iii) the following new clause:

“(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).”

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) is amended by adding at the end the following flush sentence:

“For purposes of clause (iv), the term ‘primary product’ has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.”

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

“(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

“(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

“(i) the oil related qualified production activities income of the taxpayer for the taxable year,

“(ii) the qualified production activities income of the taxpayer for the taxable year, or

“(iii) taxable income (determined without regard to this section).

“(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term ‘oil related qualified production activities income’ means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.”

(2) CONFORMING AMENDMENT.—Section 199(d)(2) (relating to application to individuals) is amended by striking “subsection (a)(1)(B)” and inserting “subsections (a)(1)(B) and (d)(9)(A)(iii)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

**SEC. 203. LIMITATION ON TREATY BENEFITS FOR CERTAIN DEDUCTIBLE PAYMENTS.**

(a) IN GENERAL.—Section 894 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

“(d) LIMITATION ON TREATY BENEFITS FOR CERTAIN DEDUCTIBLE PAYMENTS.—

“(1) IN GENERAL.—In the case of any deductible related-party payment, any withholding tax imposed under chapter 3 (and any tax imposed

under subpart A or B of this part) with respect to such payment may not be reduced under any treaty of the United States unless any such withholding tax would be reduced under a treaty of the United States if such payment were made directly to the foreign parent corporation.

“(2) DEDUCTIBLE RELATED-PARTY PAYMENT.—For purposes of this subsection, the term ‘deductible related-party payment’ means any payment made, directly or indirectly, by any person to any other person if the payment is allowable as a deduction under this chapter and both persons are members of the same foreign controlled group of entities.

“(3) FOREIGN CONTROLLED GROUP OF ENTITIES.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘foreign controlled group of entities’ means a controlled group of entities the common parent of which is a foreign corporation.

“(B) CONTROLLED GROUP OF ENTITIES.—The term ‘controlled group of corporations’ as defined in section 1563(a)(1), except that—

“(i) ‘more than 50 percent’ shall be substituted for ‘at least 80 percent’ each place it appears therein, and

“(ii) the determination shall be made without regard to subsections (a)(4) and (b)(2) of section 1563.

A partnership or any other entity (other than a corporation) shall be treated as a member of a controlled group of entities if such entity is controlled (within the meaning of section 954(d)(3)) by members of such group (including any entity treated as a member of such group by reason of this sentence).

“(4) FOREIGN PARENT CORPORATION.—For purposes of this subsection, the term ‘foreign parent corporation’ means, with respect to any deductible related-party payment, the common parent of the foreign controlled group of entities referred to in paragraph (3)(A).

“(5) REGULATIONS.—The Secretary may prescribe such regulations or other guidance as are necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which provide for—

“(A) the treatment of two or more persons as members of a foreign controlled group of entities if such persons would be the common parent of such group if treated as one corporation, and

“(B) the treatment of any member of a foreign controlled group of entities as the common parent of such group if such treatment is appropriate taking into account the economic relationships among such entities.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after the date of the enactment of this Act.

**SEC. 204. RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.**

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

**“SEC. 6050W. RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.**

“(a) IN GENERAL.—Each payment settlement entity shall make a return for each calendar year setting forth—

“(1) the name, address, and TIN of each participating payee to whom one or more payments in settlement of reportable payment transactions are made, and

“(2) the gross amount of the reportable payment transactions with respect to each such participating payee.

Such return shall be made at such time and in such form and manner as the Secretary may require by regulations.

“(b) PAYMENT SETTLEMENT ENTITY.—For purposes of this section—

“(1) IN GENERAL.—The term ‘payment settlement entity’ means—

“(A) in the case of a payment card transaction, the merchant acquiring bank, and

“(B) in the case of a third party network transaction, the third party settlement organization.

“(2) MERCHANT ACQUIRING BANK.—The term ‘merchant acquiring bank’ means the bank or other organization which has the contractual obligation to make payment to participating payees in settlement of payment card transactions.

“(3) THIRD PARTY SETTLEMENT ORGANIZATION.—The term ‘third party settlement organization’ means the central organization which has the contractual obligation to make payment to participating payees of third party network transactions.

“(4) SPECIAL RULES RELATED TO INTERMEDIARIES.—For purposes of this section—

“(A) AGGREGATED PAYEES.—In any case where reportable payment transactions of more than one participating payee are settled through an intermediary—

“(i) such intermediary shall be treated as the participating payee for purposes of determining the reporting obligations of the payment settlement entity with respect to such transactions, and

“(ii) such intermediary shall be treated as the payment settlement entity with respect to the settlement of such transactions with the participating payees.

“(B) ELECTRONIC PAYMENT FACILITATORS.—In any case where an electronic payment facilitator or other third party makes payments in settlement of reportable payment transactions on behalf of the payment settlement entity, the return under subsection (a) shall be made by such electronic payment facilitator or other third party in lieu of the payment settlement entity.

“(c) REPORTABLE PAYMENT TRANSACTION.—For purposes of this section—

“(1) IN GENERAL.—The term ‘reportable payment transaction’ means any payment card transaction and any third party network transaction.

“(2) PAYMENT CARD TRANSACTION.—The term ‘payment card transaction’ means any transaction in which a payment card is accepted as payment.

“(3) THIRD PARTY NETWORK TRANSACTION.—The term ‘third party network transaction’ means any transaction which is settled through a third party payment network.

“(d) OTHER DEFINITIONS.—For purposes of this section—

“(1) PARTICIPATING PAYEE.—

“(A) IN GENERAL.—The term ‘participating payee’ means—

“(i) in the case of a payment card transaction, any person who accepts a payment card as payment, and

“(ii) in the case of a third party network transaction, any person who accepts payment from a third party settlement organization in settlement of such transaction.

“(B) EXCLUSION OF FOREIGN PERSONS.—Except as provided by the Secretary in regulations or other guidance, such term shall not include any person with a foreign address.

“(C) INCLUSION OF GOVERNMENTAL UNITS.—The term ‘person’ includes any governmental unit (and any agency or instrumentality thereof).

“(2) PAYMENT CARD.—The term ‘payment card’ means any card which is issued pursuant to an agreement or arrangement which provides for—

“(A) one or more issuers of such cards,

“(B) a network of persons unrelated to each other, and to the issuer, who agree to accept such cards as payment, and

“(C) standards and mechanisms for settling the transactions between the merchant acquiring banks and the persons who agree to accept such cards as payment.

The acceptance as payment of any account number or other indicia associated with a payment card shall be treated for purposes of this

section in the same manner as accepting such payment card as payment.

“(3) **THIRD PARTY PAYMENT NETWORK.**—The term ‘third party payment network’ means any agreement or arrangement—

“(A) which involves the establishment of accounts with a central organization for the purpose of settling transactions between persons who establish such accounts,

“(B) which provides for standards and mechanisms for settling such transactions,

“(C) which involves a substantial number of persons unrelated to such central organization who provide goods or services and who have agreed to settle transactions for the provision of such goods or services pursuant to such agreement or arrangement, and

“(D) which guarantees persons providing goods or services pursuant to such agreement or arrangement that such persons will be paid for providing such goods or services.

Such term shall not include any agreement or arrangement which provides for the issuance of payment cards.

“(e) **EXCEPTION FOR DE MINIMIS PAYMENTS BY THIRD PARTY SETTLEMENT ORGANIZATIONS.**—A third party settlement organization shall be required to report any information under subsection (a) with respect to third party network transactions of any participating payee only if—

“(1) the amount which would otherwise be reported under subsection (a)(2) with respect to such transactions exceeds \$10,000, and

“(2) the aggregate number of such transactions exceeds 200.

“(f) **STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.**—Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing—

“(1) the name, address, and phone number of the information contact of the person required to make such return, and

“(2) the gross amount of the reportable payment transactions with respect to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. Such statement may be furnished electronically.

“(g) **REGULATIONS.**—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out this section, including rules to prevent the reporting of the same transaction more than once.”

(b) **PENALTY FOR FAILURE TO FILE.**—

(1) **RETURN.**—Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking “and” at the end of clause (xx),

(B) by redesignating the clause (xix) that follows clause (xx) as clause (xxi),

(C) by striking “and” at the end of clause (xxi), as redesignated by subparagraph (B) and inserting “or”, and

(D) by adding at the end the following:

“(xxii) section 6050W (relating to returns to payments made in settlement of payment card transactions), and”.

(2) **STATEMENT.**—Paragraph (2) of section 6724(d) is amended by inserting a comma at the end of subparagraph (BB), by striking the period at the end of the subparagraph (CC) and inserting “, or”, and by inserting after subparagraph (CC) the following:

“(DD) section 6050W(c) (relating to returns relating to payments made in settlement of payment card transactions).”.

(c) **APPLICATION OF BACKUP WITHHOLDING.**—Paragraph (3) of section 3406(b) is amended by striking “or” at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting “, or”, and by adding at the end the following new subparagraph:

“(F) section 6050W (relating to returns relating to payments made in settlement of payment card transactions).”.

(d) **CLERICAL AMENDMENT.**—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050V the following:

“Sec. 6050W. Returns relating to payments made in settlement of payment card and third party network transactions.”.

(e) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to returns for calendar years beginning after December 31, 2010.

(2) **APPLICATION OF BACKUP WITHHOLDING.**—

(A) **IN GENERAL.**—The amendment made by subsection (c) shall apply to amounts paid after December 31, 2011.

(B) **ELIGIBILITY FOR TIN MATCHING PROGRAM.**—Solely for purposes of carrying out any TIN matching program established by the Secretary under section 3406(i) of the Internal Revenue Code of 1986—

(i) the amendments made this section shall be treated as taking effect on the date of the enactment of this Act, and

(ii) each person responsible for setting the standards and mechanisms referred to in section 6050W(d)(2)(C) of such Code, as added by this section, for settling transactions involving payment cards shall be treated in the same manner as a payment settlement entity.

**SEC. 205. APPLICATION OF CONTINUOUS LEVY TO PROPERTY SOLD OR LEASED TO THE FEDERAL GOVERNMENT.**

(a) **IN GENERAL.**—Paragraph (3) of section 6331(h) is amended by striking “goods” and inserting “property”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to levies approved after the date of the enactment of this Act.

**SEC. 206. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

(a) **REPEAL OF ADJUSTMENT FOR 2012.**—Subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking the percentage contained therein and inserting “100 percent”.

(b) **MODIFICATION OF ADJUSTMENT FOR 2013.**—The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 59.5 percentage points.

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) and the gentleman from Louisiana (Mr. MCCRERY) each will control 30 minutes.

The Chair recognizes the gentleman from New York.

□ 1315

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

Mr. Speaker, some time ago, in an effort to make certain that 159 taxpayers who are very wealthy had some tax liability, the Congress at that time passed the alternative minimum tax. What they neglected to do was to index the tax structure for inflation, and as a result we find people making 30, 40, \$50,000 caught up as though they were wealthy taxpayers trying to avoid or evade their tax liability.

Now, the President should know, as other Presidents, that this is a very, very unfair tax. The truth of the matter is it should not even be in this structure. But in the close to 7 years that the President has been in office, he has not seen fit to give us a tax re-

form bill so that we can do what everyone in this House would want done, and that is to eliminate this fiscal threat from now some 25 million taxpayers.

So what do we have to do? Every year we have to come down and so-called “patch it” because, politically speaking, no one is going to go home and say that they did nothing about it.

So what is the difference between what we want to do in the majority and the other side? Well, if you listen carefully, you would see that the President has put this AMT in every budget except the one we have this year, which means that in the budget he never intends to remove it or have it removed. What does putting it in the budget mean? It means that you expect the money that would be coming from the alternative minimum tax to be there to spend. I can understand that, except that Congress says that we’re not going to collect that money. So what we would believe is that if we’re taking \$61 billion out of the economy that we shouldn’t go to China and Japan and ask them once again to bail us out but we should take a look at the Tax Code and to find out just what things in the Tax Code, what preferential treatment, what loopholes are there so that when we repair the AMT, at least for this year, we will be able to say we didn’t borrow the money and we didn’t put this burden on our children and our grandchildren.

So the four areas that we concentrated on to raise the money to get this bill passed is the carried interest. What is that? All it says is that if two groups of people, one a corporation and the other a partnership, are managing someone else’s money and if, indeed, they don’t put their own money in it, that the tax rate should be 35 percent. Somehow a group has manipulated the system, made themselves a partnership, said they didn’t put in their own money, but they still consider it a capital investment, and they are now taxed at the rate of 15 percent. We think it’s unequal, it’s wrong, and we correct it.

The other area that we have a concern about is people who use tax havens for money earned in the United States to avoid taxes. They put it overseas. In the area of credit cards, we have the major credit card holders that reimburse vendors, and all we ask the vendors to do is to report the money they’ve had for reimbursement. And then, of course, we have our oil industry that received tax credits that they were not entitled to, and certainly at the obscene profits they’re making, I hate to believe that someone believes that the government should further subsidize the moneys that they’re making.

So, Mr. Speaker, it’s going to be interesting to see how the other side explains as to why they don’t have to pay for this. Certainly, if indeed we do nothing, \$61 billion of tax burden is going to fall on 25 million good American taxpayers, and we want to fill that

gap of the \$61 billion. The other side says it doesn't exist, and so I can't wait to sit down so I can listen to their very interesting argument.

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

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

Today's bill, Mr. Speaker, represents a clear difference between the two parties in the House when it comes to tax policy. Republicans believe that Congress should not raise taxes on one group of taxpayers in order to prevent a tax increase on another set of taxpayers. To say that another way, we don't believe we ought to have to raise taxes to preserve something that's already in the Tax Code.

Now, we are certainly for continuing to patch the alternative minimum tax. That's been the practice for the last several years. The President, in his budget for the last several years, has had an AMT patch in his budget without increasing taxes on somebody else. So we are certainly for that. But we are not for imposing a tax increase in a like amount on another set of taxpayers. That just doesn't make sense to us.

Without this patch, another 21 million families would come under the AMT, and their average tax increase would be about \$2,400 per taxpayer. So we certainly want to prevent that. But in 2007, we had the patch in place; so we did not collect the AMT revenue from those 21 million taxpayers. And yet we collected, last year, in revenues to the Federal Government, about 18.7, 18.8 percent of gross domestic product. The historic average of revenues coming into the Federal Government for the last 40 years has been about 18.3 percent of GDP. So last year with the AMT patch in place, those 21 million taxpayers protected from the AMT, we brought in substantially more in revenues to the Federal Government than we have historically.

So why, then, should we be so intent on increasing taxes to prevent those 21 million taxpayers from paying \$2,400 apiece more in taxes in 2008? The only explanation is somebody just wants to get more revenue into the Federal Government. Now, they may say, well, we want to do that because the deficit is really high and we want to get the deficit down. Well, I wonder, if we took a poll across America, how many Americans would say, "Yes, I want to get the deficit down and I want to do it by raising taxes" and how many Americans would say, "Yes, I want to get the deficit down, but I want to do it by controlling spending"? My guess is more Americans would say, "I want to get the deficit down by controlling spending." But the PAYGO rules that are in effect, while they give us the opportunity to reduce spending to "pay for" all of these things, not once have we seen a cut in spending being offered by the majority to pay for any of these items. It's always a tax increase.

So, yes, if you want to get the deficit down to zero, you can do it by increas-

ing taxes, and under the PAYGO baseline, if we were to follow it, we would continue to increase the take of the Federal Government from American taxpayers until at the end of a 10-year window we'd be taking in 20.5 percent of GDP, an historic high, or pretty close to an historic high, and certainly only a couple times in our Nation's history have we even approached that level of revenues coming into the Federal Government.

Now, I think it's a legitimate question as to what is the appropriate level of GDP that we should bring in to the Federal Government, and Chairman RANGEL alluded to that in his statement by saying that, I believe he said, the President hasn't offered a tax reform plan. That's true, I guess, he hasn't. But you know what? Under the Constitution, the President can't even introduce a bill, much less pass one. That's the job of the Congress.

So if we want to do tax reform, which I think is appropriate, we ought to have this discussion about what is the appropriate level of revenue that we should bring in? What is the appropriate take of the Federal Government of everything that Americans make? Is it 18.3 percent, the historic average? Is it 18.7 percent, what we took in last year? Or is it 20.5 percent? I don't know what the magic number is, but that's a legitimate debate, and we ought to have that debate in the context of writing a new tax system for the United States that is more modern, more efficient, and more competitive. So I hope that the chairman will, in his constitutional prerogative as the chairman of the Ways and Means Committee, undertake that task, have that debate, so that we can solve this problem once and for all of the AMT, the complexity of the code, and the continuing diminution of competitiveness that we enjoy with our tax system, vis-a-vis our competitors around the world.

This bill employs some pay-fors, some tax increases, that I believe would be onerous and would add to the lack of competitiveness in our Tax Code. For example, there is a provision that would, for the first time, ignore tax treaties that we have entered into in good faith with other countries around the world and would impose upon companies doing business, foreign companies doing business, through a United States subsidiary in this country, creating jobs in this country, a 30 percent tax, despite the fact that we have a tax treaty that says that company would get a deduction for that income and would not have to pay that 30 percent tax because they'd be paying taxes in the country where we have a tax treaty.

Now, yes, they say, well, but the ultimate parent is somewhere where there's not a tax treaty, but that still violates the spirit of the tax treaty that we have with the country where the immediate parent of the United States subsidiary resides. That change in our Tax Code would discourage at

the margin that capital from coming to this country, being invested in this country, and creating jobs in this country.

Those companies that I'm talking about employ a substantial number of Americans; 5.3 million Americans are employed by those kinds of companies. Do we want to jeopardize those jobs? And 19 percent of all United States exports, helping us a little bit to get the balance of trade going our way, 19 percent of all exports come from companies like that. And just last year they reinvested nearly \$71 billion back into their United States operations. That's capital, that's investment that we should want here and not discourage through tax changes like the one in this bill.

So, Mr. Speaker, I would say to the Members of this body that we ought to reject the majority's offering that they put forward today to save 21 million taxpayers from coming under the AMT because they would impose a like amount of tax increase on another set of taxpayers. Let's not increase taxes on any set of taxpayers, certainly not in this fragile economy.

We will later offer a motion to recommit that corrects the error, that strips the bill of the pay-fors, and it would allow this body to vote on a clean AMT patch to save those 21 million taxpayers from the increased tax burden but not increase taxes on somebody else.

□ 1330

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

Mr. RANGEL. I have no further speakers, Mr. Speaker.

GENERAL LEAVE

Mr. RANGEL. I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 6275, as amended.

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

There was no objection.

Mr. MEEK of Florida. Mr. Speaker, I am pleased to be a cosponsor to this bill that will give Alternative Minimum Tax Relief to those families in my district and the entire State of Florida who will be unfairly hit with this tax in 2008.

While the AMT was not intended to burden our working families, now in 2008 it does. Initially, the AMT applied to fewer than 20,000 taxpayers. In 2007, it applied to 4.2 million taxpayers. By 2008, up to 26 million taxpayers are projected to be subject to the AMT. Moreover, it is the middle- to upper-middle-income taxpayers who are the targets of this tax. It is our married taxpayers and larger families that are especially going to fall under this tax.

An astounding increase in the number of working families in Florida will be hurt by the AMT in 2008 if something is not done. It is projected that over six times the number of working families will be hurt by the AMT in my State of Florida in 2008 than were hurt by this tax in 2005. In 2005, there were 161,000 AMT returns filed in the State of Florida. However,

in 2008, it is estimated that 956,000 AMT returns will be filed in Florida—a more than six times increase between 2005 and 2008.

In 2007, Florida ranked seventh in the number of returns that were caught with the Alternative Minimum Tax burden. However, in 2008, Florida is projected to rank fifth in the number of returns caught with the AMT. So even in the one year, 2007 to 2008, the number of working families in Florida caught with the AMT has increased tremendously.

Originally, the AMT was intended to cover only America's high-income taxpayers to ensure that they pay at least a minimum amount of federal taxes. But now, it is not this group that will be the most adversely affected by the AMT. It is our hard-working families—over 950,000 hard-working families in Florida alone that will be hit unintentionally and unfairly with this tax. This is not what the AMT was intended to do, and it is time for those families in Florida and elsewhere to get badly needed relief from this tax.

Mr. CONYERS. Mr. Speaker, the middle class is hurting. They are facing tough decisions over rising gas, food, and health care prices. Adding to their economic dilemma, the Alternative Minimum Tax, AMT, may reach many of them this coming year. Today, we will vote on H.R. 6275, the Alternative Minimum Tax Relief Act of 2008, which would provide relief to middle class taxpayers by avoiding the AMT.

The original intent behind the AMT was to guarantee that the wealthiest Americans paid their fair share of taxes. However, the AMT was not adjusted for inflation and hard-working Americans were lumped into this tax. Today, the Congress must act to prevent 25.6 million middle income Americans being liable for paying thousands of dollars in additional taxes.

Restructuring the tax code will more fairly distribute the tax burden. H.R. 6275 will tax private equity managers, who actually pay lower taxes on carried interest and repeal unnecessary Government subsidies for the big five oil companies reaping record profits and on multinational corporations who offshore their businesses for the express purpose of tax avoidance. It is unconscionable that our tax code allows these corporations to avoid taxes while hard-working Americans get hit with a stern tax and pay extremely high gas prices at the pump. This legislation closes these major tax loopholes.

H.R. 6275 restores America's tradition of giving a helping hand to those in need. We need to stop the giveaways to Big Oil and Wall Street brokers and begin to focus on the needs of average working Americans. This is a commonsense piece of legislation and I urge my colleagues to support the bill.

Mr. LEVIN. Mr. Speaker, I rise in strong support of the AMT Relief Act. Once again, we are considering a one-year "patch" for the AMT. This bill will protect over 25 million families who would otherwise be forced to pay higher taxes under the AMT through no fault of their own.

We all know that the AMT was never meant to apply to middle-class families, and I think we all agree that we need to find a permanent fix to this problem.

But once again, the minority wants to insist that we provide this tax relief in a fiscally irresponsible manner. Patching the AMT for 2008 without offsets would increase the deficit by \$61 billion. Our colleagues in the minority will

argue that because Congress never meant for this to happen, or that because it maintains the status quo for taxpayers, we don't have to pay for it.

The reality is that we pay for it one way or another. The minority would have us borrow the money and make our children pay for it.

Let me say a word about the offsets we've used here, because this bill is paid for with provisions that end basic inequities in our tax code.

The Joint Committee on Taxation's revenue estimate for the carried interest provision indicates that over \$150 billion in income will be taxed at capital gains rates rather than ordinary income rates if we do not make this change. This is a lot of income, and according to the Joint Committee, this is not going to "mom and pop" operations, a common reference by those arguing against this provision.

For anyone who thinks there are "mom and pop" private equity funds, or that this is essentially about "mom and pop" real estate developers, let me quote the Joint Committee on Taxation. In a memo to the Ways and Means Committee staff, the Joint Committee writes: "We assumed that nearly all recipients [of carried interest] would be at the highest marginal tax rate." The top tax bracket for married couples starts at \$357,000 in taxable income. Claims made that the carried interest issue is about "mom and pop" business owners just are not credible.

More generally though, treating carried interest as ordinary income is not about raising taxes, it's about fairness. Investment fund managers should not pay a lower tax rate on their compensation for services than other Americans. The only thing this does is say to the fund managers, if you're providing a service, in this case managing assets for your investors, you ought to be taxed on that compensation at the same rates as everyone else.

If they have their own money in the funds they manage, they will still get capital gains treatment on that portion of the profits. This is no different in concept than options for corporate executives. They are both incentive compensation to encourage performance, and carried interest should be taxed at ordinary rates like stock options.

The argument that this proposal will hurt economic growth or even pension plans is just disingenuous. If it will hurt growth, why have senior economic advisers to the last three Republican Presidents publicly supported this proposal? Real estate partnerships, including those that don't use carried interest at all, earn less than 10 percent of all income from real estate development and construction.

Regarding the oil and gas provisions, I think it's important to look at the history of how these companies got these subsidies in the first place. In 2004 we had to replace the FSC provisions of our tax code because of a WTO ruling. We replaced them with a deduction to encourage domestic manufacturing.

The minority, then in the majority, added the oil and gas industries to what was supposed to be a deduction for manufacturers, even though the FSC provisions we were replacing had nothing to do with oil and gas. This was an unjustified giveaway then, and it is only fair that we correct the situation, especially now that oil companies are earning record profits. ExxonMobil alone earned \$40.6 billion in 2007, a U.S. corporate record.

So, Mr. Speaker, this bill protects middle-class families from the AMT, it's fiscally re-

sponsible and it makes our tax code fairer. I urge all my colleagues to support it.

Mr. ETHERIDGE. Mr. Speaker, I rise in support of H.R. 6275, Alternative Minimum Tax Relief Act of 2008.

H.R. 6275 is critical to easing the burden on middle-class taxpayers. The Alternative Minimum Tax, AMT, was originally intended to make sure that the Nation's wealthiest citizens did not avoid paying taxes altogether. However, it was not indexed for inflation and the AMT now affects millions of middle income taxpayers across the country. H.R. 6275 would extend for 1 year AMT relief for nonrefundable personal credits and increases the AMT exemption amount to \$69,950 for joint filers and \$46,200 for individuals. At a time of economic uncertainty and rising gas and food prices, H.R. 6275 would provide over 25 million families with tax relief. In my district alone, over 33,000 families would be affected by the AMT this year.

As a member of the Budget Committee, I am also pleased that this bill includes offsets and is budget-neutral. Instead of adding to our national debt, H.R. 6275 responsibly pays for itself by closing a loophole that allows hedge fund managers to pay less taxes, encouraging tax compliance, repealing subsidies for the five biggest oil companies, and tightening tax laws on foreign-owned companies. I support H.R. 6275, Alternative Minimum Tax Relief Act of 2008, and I urge my colleagues to join me in voting for its passage.

Mr. PASCHELL. Mr. Speaker, one of the hallmarks of the Ways and Means Committee is that fairness is always the order of the day. Fairness in priorities. Fairness in legislation. H.R. 6275 exemplifies this fact.

Our bill will provide \$62 billion in AMT relief to more than 25 million families nationwide.

In my district alone, almost 80,000 people are on track to endure the significant tax increase of the AMT this year if we do not act now. That's up from 20,000 people in 2005.

Many of the people affected would be firefighters, cops and teachers—a far cry from the original intent of the AMT. Indeed, the middle class is being more and more affected—your constituents and mine. And it's only getting worse.

Unfortunately there are those on the other side of the aisle who will not vote today for the best interests of their constituents.

Instead, they will choose to cast their vote for the Kings of Wall Street who are already the richest people in the history of our Nation.

We pay for this bill, in part, by simply requiring that investment fund managers are taxed at the same income rates as every other American. After all, why should the very richest among us be taxed at 15 percent when a doctor or lawyer pays 35 percent? Or when a teacher or plumber, et cetera, is taxed at 25?

Yet because of this provision, many Republicans will be unable to vote for real tax relief for their constituents. I find this as inexplicable as I do sad.

This legislation is wise and it is fair. It will give tax relief to 25 million hard-working Americans while ensuring fairness in the tax code. So try to explain to the firefighters and cops in your district that you wanted to take care of investment fund managers instead.

Mrs. JONES of Ohio. Mr. Speaker, I rise today in support of H.R. 6275, the Alternative Minimum Tax Relief Act of 2008. I am pleased to see that once again you have presented a

responsible solution to the alternative minimum tax from a broad, policy-oriented perspective.

The alternative minimum tax is a critical issue for the American middle class taxpayer who does not get to take advantage of sophisticated tax planning and legal loopholes in the tax code. It is time that we addressed this issue once and for all to relieve the American taxpayer from the agony of dealing with the AMT. A permanent patch is what we really need, but today we have to plug the dike once again.

If you'll recall, in 1969 the public outcry was so loud about the original 155 families who owed no Federal income taxes that Congress received more letters from constituents about that than about the Vietnam war.

It is particularly ironic that a tax that was meant for 155 wealthy individuals has become the bane of existence for millions of American taxpayers. Indeed the AMT has become a menace. Over 31,000 hardworking, middle-class Ohioans in my district had the grim task of filing a return with AMT implications in the 2005 tax year.

Without this legislation that number would surely grow. Those are families with children, healthcare costs, unemployment issues, housing costs and the other money matters with which American taxpayers must cope, not to mention higher gas prices. Tax relief is due.

As I mentioned after the introduction of H.R. 2834, the carried interest legislation sponsored by my colleague, SANDER LEVIN, we must continue to laud the efforts of American capitalists and the strides that they make in enhancing and creating liquidity in our capital markets, and helping our economy grow into the dynamic force that it is today. I am also aware of the critical role that private equity firms play in our economy. We must be aware that this change in taxation can have a deleterious effect on some small venture capital and minority-owned firms. The color of money is green, but if you are smaller than Blackstone or Carlyle, your firm might be seeing red. But we must also have responsible budget offsets.

The tenets of sound tax policy begin with the notions of equity, efficiency and simplicity. Relying on that traditional framework I am sure that we have come to a rational consensus that will ensure 25 million more Americans will not be hit with the AMT.

"Taxes are what we pay to live in civilized society," but dealing with the AMT has become a bit uncivil.

Ms. SCHWARTZ. Mr. Speaker, I thank Chairman RANGEL for his leadership and I am proud of our work to protect 25 million American taxpayers—including half a million people in Southeastern Pennsylvania—from the pain of the Alternative Minimum Tax. True to their record of increasing debt, the Republicans continue to say, "there's no need to offset AMT relief because this tax was never intended to hit these people."

But in 2001 they knew that the Bush tax cuts would increase—by 127%—the number of AMT taxpayers this year. And they consistently used these taxpayers to mask the true cost of their failed fiscal policies.

We cannot ignore the consequences of these bad decisions. We are committed to reversing the Bush Administration's policy and fiscal failures. We are committed to enacting permanent—fiscally responsible—AMT relief for middle income taxpayers. And we are com-

mitted to act today to protect millions of Americans from the AMT this year without adding to the Nation's exploding debt.

Mr. Speaker—given the economic downturn and financial challenges facing our families and our Nation, our constituents have the right to expect fair and responsible tax policy. Today's proposal to provide tax relief to 25 million American families by closing loopholes that benefit only the wealthiest individuals is fair, it is responsible, and it deserves passage.

Mr. KIND. Mr. Speaker, I rise today in support of H.R. 6275, the Alternative Minimum Tax Relief Act of 2008. As a member of the Ways and Means Committee, I am proud to have helped craft this very important tax bill that will give much needed relief to millions of American taxpayers.

Unfortunately, over the last several years we have seen tax bills pushed through Congress and signed by the President under the guise of "relief" for the middle class and the poorest in the country. I think many in this chamber have now come to recognize that many of these measures presented as tax relief for the middle class were in fact more tax breaks for the richest in society. Today we finally have before us a bill that will give real relief to millions of taxpayers, many of whom are hardworking middle class families.

Specifically, H.R. 6275 provides for a 1-year patch for the Alternative Minimum Tax (AMT). The AMT was developed in the 1970s to ensure that America's wealthiest could not take advantage of the tax code in a way that would allow them to avoid paying taxes altogether. The AMT was not indexed for inflation, however, and without this legislation it will reach into the pocketbooks of middle-class families it was never intended to hit. In my district alone, the AMT could affect 50,000 additional western Wisconsin families this year, many of whom have no idea they face a tax increase. Without this legislation, it is estimated that the AMT will hit an additional 538,970 taxpayers in Wisconsin and 25 million nationally. It is hard for me to think of something more important than protecting 25 million Americans from a tax that was never intended for them.

Most importantly, this bill is fully offset and complies with pay-go rules that the Democratic majority restored at the beginning of this Congress. The legislation provides 1-year relief from the AMT without adding to the deficit by closing loopholes in the tax code, encouraging tax compliance, and repealing excessive government subsidies given to oil companies. These changes establish fairness in the tax code and show that we can provide tax relief without sending the debt on to our children. After years of fiscal recklessness—deficit-financed tax cuts for the wealthy and out-of-control government spending—this bill sets a precedent of fiscally responsible tax reform.

Finally, I would like to thank Chairman RANGEL for putting together this common sense bill that is not only fair but does the right thing by paying for the bill and fixing some inequities in the tax code. I look forward to working with him to reform the tax code and for once and for all put an end to the AMT and Congress having to do a yearly patch.

Again, Mr. Speaker, I am happy to support this sensible and fair tax bill before us today. Protecting millions of taxpayers from being caught by the AMT is of the utmost importance. I urge my colleagues to support H.R. 6275.

Mr. MANZULLO. Mr. Speaker, temporary tax relief should not be offset with permanent tax increases that will stifle foreign direct investment into this country.

The Alternative Minimum Tax is a mistaken tax policy. Originally designed to tax the super-rich, it now covers many in the middle class, particularly those with large families, because of inflation. Without relief, 19 million Americans will see a tax increase of \$2,000 next year.

However, to temporarily correct this error by permanently raising nearly \$7 billion from foreigners who invest in the United States simply makes a bad situation worse. We are finally attracting more foreign investment into the United States. In 2007, foreign direct investment rose to its highest levels in seven years, reaching over \$204 billion.

U.S. subsidiaries of companies headquartered abroad now employ 5.3 million Americans, of which 30 percent work in the manufacturing sector. Nineteen percent of all U.S. exports came from these firms and they reinvested nearly \$71 billion back into their U.S. operations.

In Illinois, U.S. subsidiaries of companies headquartered abroad employed over 226,000 workers, of which over 61,000 were in the manufacturing sector. In fact, there are over 30 U.S. subsidiaries of companies headquartered abroad that employ over 6,000 workers in the northern Illinois district that I am proud to represent.

The offset used to "pay for" part of this AMT bill will strongly discourage future foreign investment in the United States and will halt any future progress on negotiating tax treaties with other countries.

For example, Nissan USA, which is owned by Nissan headquartered in Japan, borrows money from their finance unit based in the Netherlands. Under our current tax treaty with the Netherlands, no tax is applied. However, under this bill a new 10 percent tax would be applied to this transaction. The Netherlands will then most likely view this as an abrogation of our tax treaty and will either seek renegotiation or outright annulment, thus hurting our overall trade with the Netherlands.

This is all a silly exercise. We all know how this will turn out because the Senate will not agree to these offsets. However, this bill sends a chilling message to our friends overseas that they will be subject to a higher tax next year because this is the second time that the Democratic Party has proposed this offset. Vote no on H.R. 6275 to preserve jobs in your district and to send a signal that the U.S. remains open to foreign direct investment.

Mr. HERGER. Mr. Speaker, we all know this bill is purely a political exercise. Congress will eventually pass an AMT patch that does not contain permanent tax increases. All we are doing today is postponing final action and risking a repeat of last year's delay that created major headaches for taxpayers.

I believe we shouldn't be expanding the federal government's share of the economy by pairing temporary extensions of tax relief with permanent tax increases. I've heard a number of concerns from small businesses about one of these offsets, a new reporting requirement for credit card transactions. Last week, when the Ways and Means Committee considered this bill, we were told by the Treasury Department that they have not done a cost-benefit analysis on this proposal. I fear we are going

down the same road as we did two years ago with the 3 percent withholding requirement, which we've now learned will cost the government far more than it will raise in revenue.

On top of that, this bill raises taxes on American energy producers. This does nothing to reduce gas prices—in fact, it will only make them higher. And there's simply no justification for a provision that penalizes U.S. producers but doesn't affect subsidiaries of foreign-owned firms. This legislation just doesn't make sense. I urge my colleagues to vote "no."

Mr. HOLT. Mr. Speaker, I rise in support of H.R. 6275, the Alternative Minimum Tax Relief Act of 2008.

Forty years ago the Alternative Minimum Tax (AMT) was originally enacted to ensure that wealthiest Americans—like everyone else—paid their fair share of taxes. Prior to the enactment of the AMT, the wealthiest Americans were exploiting loopholes in the tax code to circumvent their societal obligations. However this tax, which was intended for a few hundred of the wealthiest Americans has never been adjusted to account for inflation. Through inflation and tax-rate creep the AMT has become a middle class tax hike.

We have been unable to pass a permanent fix to the AMT to prevent middle class Americans from fearing that they will get hit by the AMT every year. More families in Central New Jersey are affected by the AMT than anywhere else in the country. Over 33,000 of my constituents already pay the AMT, under the current law, and an additional 88,000 of my constituents would be subject to the AMT if we do not act to prevent the patch from expiring. American families are already suffering from skyrocketing gas and food prices that they did not build into their family budgets. Compounding this financial burden with an unexpected and undeserved tax hike would hit New Jersey families hard. Yet, that is what will happen if we do not take action today.

Mr. Speaker, I have long been concerned with the growing debt that we are passing on to the next generation and have often called for a revision of the AMT that will not increase our national debt. The Alternative Minimum Tax Relief Act of 2008 makes good on our promise to the American people that we will not spend money that Congress does not have. This legislation will offer more than 25 million families relief from the AMT without adding to the deficit. This will be achieved by promoting tax compliance, removing inequities in the tax code, and decreasing government subsidies to oil companies.

While I support this legislation, we need a permanent fix to ensure that this tax intended for the wealthiest Americans is not passed down to middle income Americans and do so in a fiscally responsible way.

Mr. RANGEL. I yield back the balance of my time, and ask for a vote in favor of the amendment.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1297, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MCCRERY

Mr. MCCRERY. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MCCRERY. I am opposed to the bill in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. McCrery of Louisiana moves to recommit the bill H.R. 6275 to the Committee on Ways and Means with instructions to report the same back to the House promptly in the form to which perfected at the time of this motion, with the following amendments:

Page 4, after line 5, add the following new section:

**SEC. 103. CHARITABLE MILEAGE RATE TREATED THE SAME AS MEDICAL AND MOVING RATE.**

(a) IN GENERAL.—Subsection (i) of section 170 (relating to standard mileage rate for use of passenger automobile) is amended by striking "14 cents per mile" and inserting "the rate determined for purposes of sections 213 and 217".

(b) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to miles driven on or after July 1, 2008.

Page 4, strike line 6 and all that follows through line 2 on page 37 (all of title II).

Mr. MCCRERY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read.

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

There was no objection.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. MCCRERY. Thank you, Mr. Speaker.

The majority's use of PAYGO has really twisted the logic of this bumper-sticker-turned-budget-tool into a pretzel. In the last 2 weeks, when PAYGO stood in the way of more government spending, it was ignored or openly waived. But, today, the majority insists on new permanent tax increases in exchange for a 1-year extension of needed tax relief. That is not a good deal for anybody—a permanent tax increase to pay for a temporary tax relief.

The motion that we have before us would save us from that fate. It would remove the tax increases in the bill, including the particularly misguided higher taxes on energy production that would discourage production here at home, that would further increase our energy insecurity, that would reduce our energy supplies, and that would increase prices.

Is that what we want to do? Do we want to increase the price of gasoline? That is what the effect of this would be. This is a tax increase on oil and gas companies—the companies that produce the oil, the gasoline that we buy. Do we think that, if we increase taxes on them, they are just going to absorb that? Of course not. They will pass it through to the consumer, which will mean higher gasoline prices.

This is a terribly misguided part of this bill. The motion to recommit would get rid of that ill-advised tax increase. So we get rid of all the pay-fors in the bill. That's the first thing that the motion to recommit does.

The second thing we do is we do provide some relief in this bill from high gasoline prices to volunteers who use their vehicles to help charities carry out their work. A lot of charities are telling us that they are losing volunteers because of the high price of gasoline.

Now, the IRS has some authority to modify the tax deduction that people can get from using gasoline in certain situations. So the IRS did, this week in fact, implement a midyear increase in the standard mileage deduction rates, increasing to 58½ cents the allowable deduction for expenses incurred in operating a vehicle while carrying on a trade or business, and raising to 27 cents per mile the deduction for gasoline costs associated with transportation primarily for and essential to receiving medical care and for travel while moving.

But the IRS could not raise the deduction that can be claimed by individuals who use their car for charitable purposes, such as for delivering Meals on Wheels. That has to be done legislatively. So our motion to recommit would do just that. We would set the allowable deduction for gasoline expenses for charitable purposes at the same rate for medical care and for travel while moving, 27 cents per mile.

Meals on Wheels is one of those charities that has told us that they are losing volunteers because of gas prices. Nearly half indicated that increases in gas prices had forced them to eliminate meal delivery routes or to consolidate their meal services.

Mr. Speaker, these high gasoline prices are, in fact, having a very deleterious effect on charities and on Meals on Wheels in particular. I won't go into some of the details that we have been given by Meals on Wheels about the state of some of our seniors, but needless to say, it's not a pretty picture.

So this would give those charities some relief, Mr. Speaker, and it would allow them, we think, to get some of those volunteers back in active service to relieve some of these problems that we have.

So, Mr. Speaker, our motion to recommit does two things. It takes out the tax increases in this bill, leaving in place the AMT patch to give tax relief to those taxpayers who would otherwise be subjected to a \$2,400-apiece increase in taxes, and number two, it increases the deduction, the mileage deduction, for vehicle use for charitable purposes.

Mr. Speaker, I urge its adoption.

Mr. RANGEL. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from New York is recognized for 5 minutes.

Mr. RANGEL. Certainly, the gentleman from Louisiana knows that we would be willing to work on the charitable deduction as it relates to the changes that were made by the administration, but basically, what he is saying is that, as to the \$61 billion in tax



loopholes that we have raised, they would rather borrow the money than fill the gap that relieving the people of this tax burden would have.

So we both agree that 25 million people shouldn't suffer with this \$61 billion tax increase, but he would have you believe that, if you take this out, you wouldn't have to put anything in. Well, what you're putting in is the future of our children and of our grandchildren.

I ask that this motion to recommit be rejected.

I yield back the balance of my time. The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on passage of H.R. 6275, and the motion to suspend the rules on H.R. 3546.

The vote was taken by electronic device, and there were—yeas 199, nays 222, not voting 13, as follows:

[Roll No. 454]

YEAS—199

Aderholt	Doolittle	Knollenberg
Akin	Drake	Kuhl (NY)
Alexander	Dreier	LaHood
Bachmann	Duncan	Lamborn
Bachus	Ehlers	Latham
Barrett (SC)	Emerson	LaTourette
Barrow	English (PA)	Latta
Bartlett (MD)	Everett	Lewis (CA)
Barton (TX)	Fallin	Lewis (KY)
Bean	Feeney	Linder
Biggart	Ferguson	LoBiondo
Billbray	Flake	Lucas
Bilirakis	Forbes	Lungren, Daniel
Bishop (UT)	Fortenberry	E.
Blackburn	Fossella	Mack
Blunt	Fox	Manzullo
Boehner	Franks (AZ)	Marchant
Bonner	Frelinghuysen	Marshall
Bono Mack	Gallely	McCarthy (CA)
Boozman	Garrett (NJ)	McCaul (TX)
Boustany	Gerlach	McCotter
Brady (TX)	Gilchrest	McCreery
Brown (GA)	Gingrey	McHenry
Brown (SC)	Gohmert	McHugh
Brown-Waite,	Goode	McIntyre
Ginny	Goodlatte	McKeon
Buchanan	Granger	McMorris
Burgess	Graves	Rodgers
Burton (IN)	Hall (TX)	Mica
Buyer	Hastings (WA)	Miller (FL)
Calvert	Hayes	Miller (MI)
Camp (MI)	Heller	Miller, Gary
Campbell (CA)	Hensarling	Mitchell
Cantor	Herger	Moran (KS)
Capito	Hobson	Murphy, Tim
Carter	Hoekstra	Musgrave
Castle	Hulshof	Myrick
Chabot	Hunter	Neugebauer
Coble	Inglis (SC)	Nunes
Cole (OK)	Issa	Paul
Conaway	Johnson (IL)	Pearce
Crenshaw	Johnson, Sam	Pence
Culberson	Jones (NC)	Peterson (PA)
Davis (KY)	Jordan	Petri
Davis, David	Keller	Pickering
Davis, Tom	King (IA)	Pitts
Deal (GA)	King (NY)	Platts
Dent	Kingston	Poe
Diaz-Balart, L.	Kirk	Porter
Diaz-Balart, M.	Kline (MN)	Price (GA)

Radanovich	Sensenbrenner	Turner
Ramstad	Sessions	Upton
Regula	Shadegg	Walberg
Rehberg	Shays	Walden (OR)
Reichert	Shimkus	Walsh (NY)
Renzi	Shuster	Wamp
Reynolds	Simpson	Weldon (FL)
Rogers (AL)	Smith (NE)	Weller
Rogers (KY)	Smith (NJ)	Westmoreland
Rogers (MI)	Smith (TX)	Whitfield (KY)
Rohrabacher	Souder	Wilson (NM)
Roskam	Stearns	Wilson (SC)
Royce	Sullivan	Wittman (VA)
Ryan (WI)	Tancredo	Wolf
Sali	Terry	Young (AK)
Saxton	Thornberry	Young (FL)
Scalise	Tiahrt	
Schmidt	Tiberi	

NAYS—222

Abercrombie	Gillibrand	Napolitano
Ackerman	Gonzalez	Neal (MA)
Allen	Gordon	Oberstar
Altmire	Green, Al	Obey
Andrews	Green, Gene	Olver
Arcuri	Grijalva	Ortiz
Baca	Gutierrez	Pallone
Baird	Hall (NY)	Pascrell
Baldwin	Hare	Pastor
Becerra	Harman	Payne
Berkley	Hastings (FL)	Perlmutter
Berman	Herseth Sandlin	Peterson (MN)
Berry	Higgins	Pomeroy
Bishop (GA)	Hill	Price (NC)
Bishop (NY)	Hinche	Rahall
Blumenauer	Hinojosa	Rangel
Boren	Hirono	Reyes
Boswell	Hodes	Richardson
Boucher	Holden	Rodriguez
Boyd (FL)	Holt	Ros-Lehtinen
Boyd (KS)	Honda	Ross
Brady (PA)	Hooley	Rothman
Bralley (IA)	Hoyer	Roybal-Allard
Brown, Corrine	Inslee	Ruppersberger
Butterfield	Israel	Ryan (OH)
Capps	Jackson (IL)	Salazar
Capuano	Jackson-Lee	Sánchez, Linda
Cardoza	(TX)	T.
Carnahan	Jefferson	Sanchez, Loretta
Carney	Johnson (GA)	Sarbanes
Carson	Johnson, E. B.	Schakowsky
Castor	Jones (OH)	Schiff
Cazayoux	Kagen	Schwartz
Chandler	Kanjorski	Scott (GA)
Childers	Kaptur	Scott (VA)
Clarke	Kennedy	Serrano
Clay	Kildee	Sestak
Cleaver	Kilpatrick	Shea-Porter
Clyburn	Kind	Sherman
Cohen	Klein (FL)	Shuler
Conyers	Kucinich	Sires
Cooper	Langevin	Skelton
Costa	Larsen (WA)	Slaughter
Costello	Larson (CT)	Smith (WA)
Courtney	Lee	Solis
Cramer	Levin	Space
Crowley	Lewis (GA)	Spratt
Cuellar	Lipinski	Stark
Davis (AL)	Loebsack	Stupak
Davis (CA)	Lofgren, Zoe	Sutton
Davis (IL)	Lowe	Tanner
Davis, Lincoln	Lynch	Tauscher
DeFazio	Maloney (NY)	Taylor
DeGette	Markey	Thompson (CA)
Delahunt	Matheson	Thompson (MS)
DeLauro	Matsui	Tierney
Dicks	McCarthy (NY)	Towns
Dingell	McCollum (MN)	Udall (CO)
Doggett	McDermott	Udall (NM)
Donnelly	McGovern	Van Hollen
Doyle	McNerney	Velázquez
Edwards (MD)	McNulty	Visclosky
Edwards (TX)	Meek (FL)	Walz (MN)
Ellison	Meeks (NY)	Wasserman
Ellsworth	Melancon	Schultz
Emanuel	Michaud	Waters
Engel	Miller (NC)	Watt
Eshoo	Miller, George	Waxman
Etheridge	Mollohan	Weiner
Farr	Moore (KS)	Welch (VT)
Fattah	Moran (VA)	Wexler
Filner	Murphy (CT)	Wilson (OH)
Foster	Murphy, Patrick	Woolsey
Frank (MA)	Murtha	Wu
Giffords	Nadler	Yarmuth

NOT VOTING—13

Cannon	Cummings	Mahoney (FL)
Cubin	Lampson	Moore (WI)

Pryce (OH)	Snyder	Watson
Putnam	Speier	
Rush	Tsongas	

□ 1402

Messrs. JACKSON of Illinois, THOMPSON of Mississippi, MELANCON, Ms. SUTTON, Messrs. TIERNEY, COHEN, Ms. JACKSON-LEE of Texas, Messrs. BAIRD, BERRY, Ms. CLARKE, Mr. LINCOLN DAVIS of Tennessee, and Ms. ROS-LEHTINEN changed their vote from "yea" to "nay."

Mr. MILLER of Florida, Mrs. MUSGRAVE, and Messrs. ENGLISH of Pennsylvania and BROUN of Georgia changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CAMP of Michigan. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 233, noes 189, not voting 12, as follows:

[Roll No. 455]

AYES—233

Abercrombie	Cummings	Honda
Ackerman	Davis (AL)	Hooley
Allen	Davis (CA)	Hoyer
Altmire	Davis (IL)	Inslee
Andrews	Davis, Lincoln	Israel
Arcuri	DeFazio	Jackson (IL)
Baca	DeGette	Jackson-Lee
Baird	Delahunt	(TX)
Baldwin	DeLauro	Jefferson
Barrow	Dicks	Johnson (GA)
Becerra	Dingell	Johnson (IL)
Berkley	Doggett	Johnson, E. B.
Berman	Donnelly	Jones (NC)
Berry	Doyle	Jones (OH)
Bilbray	Edwards (MD)	Kagen
Bishop (GA)	Edwards (TX)	Kanjorski
Bishop (NY)	Ellison	Kaptur
Blumenauer	Ellsworth	Kennedy
Boswell	Emanuel	Kildee
Boucher	Engel	Kilpatrick
Boyd (FL)	Eshoo	Kind
Boyd (KS)	Etheridge	Kirk
Brady (PA)	Farr	Kucinich
Bralley (IA)	Fattah	LaHood
Brown, Corrine	Filner	Langevin
Butterfield	Foster	Larsen (WA)
Capps	Frank (MA)	Larson (CT)
Capuano	Giffords	Lee
Cardoza	Gilchrest	Levin
Carnahan	Gillibrand	Lewis (GA)
Carney	Gonzalez	Lipinski
Carson	Gordon	Loebsack
Castor	Green, Al	Lofgren, Zoe
Cazayoux	Grijalva	Lowe
Chandler	Gutierrez	Lynch
Childers	Hall (NY)	Maloney (NY)
Clarke	Hare	Markey
Clay	Harman	Marshall
Cleaver	Hastings (FL)	Matheson
Clyburn	Hayes	Matsui
Cohen	Herseth Sandlin	McCarthy (NY)
Conyers	Higgins	McCollum (MN)
Cooper	Hill	McDermott
Costa	Hinche	McGovern
Costello	Hinojosa	McIntyre
Courtney	Hirono	McNerney
Cramer	Hodes	McNulty
Crowley	Holden	Meek (FL)
Cuellar	Holt	Meeks (NY)

Melancon  
 Michaud  
 Miller (NC)  
 Miller, George  
 Mollohan  
 Moore (KS)  
 Moore (WI)  
 Moran (VA)  
 Murphy (CT)  
 Murphy, Patrick  
 Murtha  
 Nadler  
 Napolitano  
 Neal (MA)  
 Oberstar  
 Obey  
 Oliver  
 Ortiz  
 Pallone  
 Pascarell  
 Pastor  
 Payne  
 Perlmutter  
 Peterson (MN)  
 Pomeroy  
 Price (NC)  
 Rahall  
 Rangel  
 Reyes  
 Richardson

Rodriguez  
 Rogers (AL)  
 Ros-Lehtinen  
 Ross  
 Rothman  
 Roybal-Allard  
 Ruppertsberger  
 Ryan (OH)  
 Salazar  
 Sánchez, Linda  
 T.  
 Sanchez, Loretta  
 Sarbanes  
 Schakowsky  
 Schiff  
 Schwartz  
 Scott (GA)  
 Scott (VA)  
 Serrano  
 Sestak  
 Shea-Porter  
 Sherman  
 Shuler  
 Sires  
 Skelton  
 Slaughter  
 Smith (NJ)  
 Smith (WA)  
 Solis  
 Space

Spratt  
 Stark  
 Stupak  
 Sutton  
 Tanner  
 Tauscher  
 Taylor  
 Thompson (CA)  
 Thompson (MS)  
 Tierney  
 Towns  
 Tsongas  
 Udall (CO)  
 Udall (NM)  
 Van Hollen  
 Velázquez  
 Vislosky  
 Walz (MN)  
 Wasserman  
 Schultz  
 Waters  
 Watt  
 Waxman  
 Weiner  
 Welch (VT)  
 Wilson (OH)  
 Woolsey  
 Wu  
 Yarmuth

Cannon  
 Mahoney (FL)  
 Pryce (OH)  
 Putnam  
 Radanovich  
 Rush  
 Snyder  
 Speier  
 Watson

NOT VOTING—12

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
 The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1409

So the bill was passed.  
 The result of the vote was announced as above recorded.  
 A motion to reconsider was laid on the table.

EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM AUTHORIZATION

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 3546, as amended, on which the yeas and nays were ordered.

The Clerk reads the title of the bill.  
 The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the bill, H.R. 3546, as amended.

This will be a 5-minute vote.  
 The vote was taken by electronic device, and there were—yeas 406, nays 11, not voting 17, as follows:

[Roll No. 456]

YEAS—406

NOES—189

Aderholt  
 Akin  
 Alexander  
 Bachmann  
 Bachus  
 Barrett (SC)  
 Bartlett (MD)  
 Barton (TX)  
 Bean  
 Biggert  
 Bilirakis  
 Bishop (UT)  
 Blackburn  
 Blunt  
 Boehner  
 Bonner  
 Bono Mack  
 Boozman  
 Boren  
 Boustany  
 Brady (TX)  
 Brown (GA)  
 Brown (SC)  
 Brown-Waite,  
 Ginny  
 Buchanan  
 Burgess  
 Burton (IN)  
 Buyer  
 Calvert  
 Camp (MI)  
 Campbell (CA)  
 Cantor  
 Capito  
 Carter  
 Castle  
 Chabot  
 Coble  
 Cole (OK)  
 Conaway  
 Crenshaw  
 Culberson  
 Davis (KY)  
 Davis, David  
 Davis, Tom  
 Deal (GA)  
 Dent  
 Diaz-Balart, L.  
 Diaz-Balart, M.  
 Doolittle  
 Drake  
 Dreier  
 Duncan  
 Ehlers  
 Emerson  
 English (PA)  
 Everett  
 Fallin  
 Feeney  
 Ferguson  
 Flake  
 Forbes  
 Fortenberry  
 Fossella

Foxx  
 Franks (AZ)  
 Frelinghuysen  
 Gallegly  
 Garrett (NJ)  
 Gerlach  
 Gingrey  
 Gohmert  
 Goode  
 Goodlatte  
 Granger  
 Graves  
 Green, Gene  
 Hall (TX)  
 Hastings (WA)  
 Heller  
 Hensarling  
 Herger  
 Hobson  
 Hoekstra  
 Hulshof  
 Hunter  
 Inglis (SC)  
 Issa  
 Johnson, Sam  
 Jordan  
 Keller  
 King (NY)  
 Kingston  
 Klein (FL)  
 Kline (MN)  
 Knollenberg  
 Kuhl (NY)  
 Lamborn  
 Latham  
 LaTourette  
 Latta  
 Lewis (CA)  
 Lewis (KY)  
 Linder  
 LoBiondo  
 Lucas  
 Lungren, Daniel  
 E.  
 Mack  
 Manzullo  
 Marchant  
 McCarthy (CA)  
 McCaul (TX)  
 McCotter  
 McCrery  
 McHenry  
 McHugh  
 McKeon  
 McMorris  
 Rodgers  
 Mica  
 Miller (FL)  
 Miller (MI)  
 Miller, Gary  
 Mitchell  
 Moran (KS)  
 Murphy, Tim  
 Musgrave

Abercrombie  
 Ackerman  
 Aderholt  
 Akin  
 Alexander  
 Allen  
 Altmire  
 Andrews  
 Arcuri  
 Baca  
 Bachmann  
 Bachus  
 Baird  
 Baldwin  
 Barrett (SC)  
 Barrow  
 Bartlett (MD)  
 Barton (TX)  
 Bean  
 Becerra  
 Berkeley  
 Berman  
 Berry  
 Biggert  
 Bilbray  
 Bilirakis  
 Bishop (GA)  
 Bishop (NY)  
 Bishop (UT)  
 Blackburn  
 Blumenauer  
 Blunt  
 Boehner  
 Bonner  
 Bono Mack  
 Boozman  
 Boren  
 Boswell  
 Boucher  
 Boustany  
 Boyd (FL)  
 Brady (PA)  
 Brady (TX)  
 Braley (IA)  
 Brown (SC)  
 Brown, Corrine  
 Brown-Waite,  
 Ginny  
 Buchanan

Burgess  
 Burton (IN)  
 Butterfield  
 Buyer  
 Calvert  
 Camp (MI)  
 Cantor  
 Capito  
 Capps  
 Capuano  
 Cardoza  
 Carnahan  
 Carney  
 Carson  
 Carter  
 Castle  
 Castor  
 Cazayoux  
 Chabot  
 Chandler  
 Childers  
 Berman  
 Clarke  
 Clay  
 Cleaver  
 Clyburn  
 Coble  
 Cohen  
 Cole (OK)  
 Conaway  
 Conyers  
 Cooper  
 Costa  
 Costello  
 Courtney  
 Cramer  
 Crenshaw  
 Crowley  
 Cuellar  
 Culberson  
 Cummings  
 Davis (AL)  
 Davis (CA)  
 Davis (IL)  
 Davis (KY)  
 Davis, David  
 Davis, Lincoln  
 Davis, Tom  
 Deal (GA)  
 DeFazio

DeGette  
 Delahunt  
 DeLauro  
 Dent  
 Diaz-Balart, L.  
 Diaz-Balart, M.  
 Dicks  
 Dingell  
 Doggett  
 Donnelly  
 Doolittle  
 Doyle  
 Drake  
 Dreier  
 Duncan  
 Edwards (MD)  
 Edwards (TX)  
 Ehlers  
 Ellison  
 Ellsworth  
 Emanuel  
 Emerson  
 Engel  
 English (PA)  
 Eshoo  
 Etheridge  
 Everett  
 Fallin  
 Farr  
 Fattah  
 Feeney  
 Ferguson  
 Filner  
 Forbes  
 Fortenberry  
 Fossella  
 Foster  
 Foxx  
 Frank (MA)  
 Frelinghuysen  
 Gallegly  
 Garrett (NJ)  
 Gerlach  
 Giffords  
 Gilchrest  
 Gillibrand  
 Gingrey  
 Gohmert  
 Gonzalez

Goode  
 Goodlatte  
 Gordon  
 Granger  
 Graves  
 Green, Al  
 Green, Gene  
 Grijalva  
 Gutierrez  
 Hall (NY)  
 Hare  
 Harman  
 Hastings (FL)  
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 Hayes  
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 Hooley  
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 Hulshof  
 Hunter  
 Inslee  
 Israel  
 Issa  
 Jackson (IL)  
 Jackson-Lee  
 (TX)  
 Johnson (GA)  
 Johnson (IL)  
 Johnson, E. B.  
 Johnson, Sam  
 Jones (NC)  
 Jones (OH)  
 Jordan  
 Kagen  
 Kanjorski  
 Kaptur  
 Keller  
 Kennedy  
 Kildee  
 Kilpatrick  
 King (IA)  
 King (NY)  
 Kingston  
 Kirk  
 Kline (MN)  
 Knollenberg  
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 Kuhl (NY)  
 LaHood  
 Lamborn  
 Langevin  
 Larsen (WA)  
 Larson (CT)  
 Latham  
 LaTourette  
 Latta  
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 Levin  
 Lewis (CA)  
 Lewis (GA)  
 Lewis (KY)  
 Linder  
 Lipinski  
 LoBiondo  
 Loeb sack  
 Lofgren, Zoe  
 Lowey  
 Lucas  
 Lungren, Daniel  
 E.  
 Lynch  
 Mack  
 Maloney (NY)  
 Manzullo  
 Markey  
 Marshall  
 Matheson

Matsui  
 McCarthy (CA)  
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 Meek (FL)  
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 Melancon  
 Mica  
 Michaud  
 Miller (FL)  
 Miller (MI)  
 Miller (NC)  
 Miller, Gary  
 Miller, George  
 Mitchell  
 Mollohan  
 Moore (KS)  
 Moore (WI)  
 Moran (KS)  
 Moran (VA)  
 Murphy (CT)  
 Murphy, Patrick  
 Solis  
 Murphy, Tim  
 Murtha  
 Musgrave  
 Myrick  
 Nadler  
 Napolitano  
 Neal (MA)  
 Nunes  
 Oberstar  
 Obey  
 Oliver  
 Ortiz  
 Pallone  
 Pascarell  
 Pastor  
 Payne  
 Pearce  
 Pence  
 Perlmutter  
 Peterson (MN)  
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 Petri  
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 Pitts  
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 Porter  
 Price (GA)  
 Ramstad  
 Regula  
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 Reichert  
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 Reyes  
 Reynolds  
 Richardson  
 Rodriguez  
 Rogers (AL)  
 Rogers (KY)  
 Rogers (MI)  
 Rohrabacher  
 Ros-Lehtinen  
 Roskam  
 Ross  
 Rothman  
 Roybal-Allard  
 Royce  
 Ruppertsberger  
 Ryan (OH)  
 Ryan (WI)  
 Salazar

NAYS—11

Broun (GA)  
 Campbell (CA)  
 Flake  
 Franks (AZ)

Hensarling  
 Inglis (SC)  
 Marchant  
 Neugebauer

Sali  
 Sánchez, Linda  
 T.  
 Sanchez, Loretta  
 Sarbanes  
 Saxton  
 Scalise  
 Schakowsky  
 Schiff  
 Schmidt  
 Schwartz  
 Scott (GA)  
 Scott (VA)  
 Sensenbrenner  
 Serrano  
 Sessions  
 Sestak  
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 Shea-Porter  
 Sherman  
 Shimkus  
 Shuler  
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 Welch (VT)  
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 Westmoreland  
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 Whitfield (KY)  
 Wilson (NM)  
 Wilson (OH)  
 Wilson (SC)  
 Wittman (VA)  
 Wolf  
 Woolsey  
 Wu  
 Yarmuth  
 Young (AK)  
 Young (FL)

NOT VOTING—17

Boyd (KS)  
 Cannon  
 Hall (TX)

Paul  
 Poe  
 Tancred

Kind	McCotter	Snyder
Klein (FL)	Pryce (OH)	Speier
Lampson	Putnam	Watson
Mahoney (FL)	Rush	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
 The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining.

□ 1417

Messrs. TANCREDO and INGLIS of South Carolina changed their vote from “yea” to “nay.”

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

**BAY MILLS INDIAN COMMUNITY LAND CLAIMS SETTLEMENT**

Mr. RAHALL. Mr. Speaker, pursuant to House Resolution 1298, I call up the bill (H.R. 2176) to provide for and approve the settlement of certain land claims of the Bay Mills Indian Community, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2176

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

**SECTION 1. DEFINITIONS.**

For the purposes of this Act, the following definitions apply:

(1) ALTERNATIVE LANDS.—The term “alternative lands” means those lands identified as alternative lands in the Settlement of Land Claim.

(2) CHARLOTTE BEACH LANDS.—The term “Charlotte Beach lands” means those lands in the Charlotte Beach area of Michigan and described as follows: Government Lots 1, 2, 3, and 4 of Section 7, T45N, R2E, and Lot 1 of Section 18, T45N, R2E, Chippewa County, State of Michigan.

(3) COMMUNITY.—The term “Community” means the Bay Mills Indian Community, a federally recognized Indian tribe.

(4) SETTLEMENT OF LAND CLAIM.—The term “Settlement of Land Claim” means the agreement between the Community and the Governor of the State of Michigan executed on August 23, 2002, and filed with the Office of Secretary of State of the State of Michigan.

(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

**SEC. 2. ACCEPTANCE OF ALTERNATIVE LANDS AND EXTINGUISHMENT OF CLAIMS.**

(a) LAND INTO TRUST; PART OF RESERVATION.—Upon the date of enactment of this Act—

(1) the Secretary shall take the alternative lands into trust for the benefit of the Community within 30 days of receiving a title insurance policy for the alternative lands which shows that the alternative lands are not subject to mortgages, liens, deeds of trust, options to purchase, or other security interests; and

(2) the alternative lands shall become part of the Community’s reservation immediately upon attaining trust status.

(b) GAMING.—The alternative lands shall be taken into trust as provided in this section as part of the settlement and extinguishment of the Community’s Charlotte Beach

land claims, and so shall be deemed lands obtained in settlement of a land claim within the meaning of section 20(b)(1)(B)(i) of the Indian Gaming Regulatory Act (25 U.S.C. 2719; Public Law 100-497).

(c) EXTINGUISHMENT OF CLAIMS.—Upon the date of enactment of this Act, any and all claims by the Community to the Charlotte Beach lands or against the United States, the State of Michigan or any subdivision thereof, the Governor of the State of Michigan, or any other person or entity by the Community based on or relating to claims to the Charlotte Beach lands (including without limitation, claims for trespass damages, use, or occupancy), whether based on aboriginal or recognized title, are hereby extinguished. The extinguishment of these claims is in consideration for the benefits to the Community under this Act.

**SEC. 3. EFFECTUATION AND RATIFICATION OF AGREEMENT.**

(a) RATIFICATION.—The United States approves and ratifies the Settlement of Land Claim, except that the last sentence in section 10 of the Settlement of Land Claim is hereby deleted.

(b) NOT PRECEDENT.—The provisions contained in the Settlement of Land Claim are unique and shall not be considered precedent for any future agreement between any tribe and State.

(c) ENFORCEMENT.—The Settlement of Land Claim shall be enforceable by either the Community or the Governor according to its terms. Exclusive jurisdiction over any enforcement action is vested in the United States District Court for the Western District of Michigan.

The SPEAKER pro tempore (Mr. ROSS). Pursuant to House Resolution 1298, in lieu of the amendment recommended by the Committee on Natural Resources, printed in the bill, the amendment in the nature of a substitute printed in House Report 110-732 is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

**TITLE I—BAY MILLS INDIAN COMMUNITY**

**SEC. 101. DEFINITIONS.**

For the purposes of this title, the following definitions apply:

(1) ALTERNATIVE LANDS.—The term “alternative lands” means those lands identified as alternative lands in the Settlement of Land Claim.

(2) CHARLOTTE BEACH LANDS.—The term “Charlotte Beach lands” means those lands in the Charlotte Beach area of Michigan and described as follows: Government Lots 1, 2, 3, and 4 of Section 7, T45N, R2E, and Lot 1 of Section 18, T45N, R2E, Chippewa County, State of Michigan.

(3) COMMUNITY.—The term “Community” means the Bay Mills Indian Community, a federally recognized Indian tribe.

(4) SETTLEMENT OF LAND CLAIM.—The term “Settlement of Land Claim” means the agreement between the Community and the Governor of the State of Michigan executed on August 23, 2002, and filed with the Office of Secretary of State of the State of Michigan, including the document titled “Addendum to Settlement of Land Claim”, executed by the parties on November 13, 2007.

(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

**SEC. 102. ACCEPTANCE OF ALTERNATIVE LANDS AND EXTINGUISHMENT OF CLAIMS.**

(a) LAND INTO TRUST; PART OF RESERVATION.—

(1) LAND INTO TRUST.—The Secretary shall take the alternative lands into trust for the

benefit of the Community not later than 30 days after both of the following have occurred:

(A) The Secretary has received a title insurance policy for the alternative lands that shows that the alternative lands are not subject to mortgages, liens, deeds of trust, options to purchase, or other security interests.

(B) The Secretary has confirmed that the National Environmental Policy Act of 1969 has been complied with regarding the trust acquisition of the property.

(2) PART OF RESERVATION.—The alternative lands shall become part of the Community’s reservation immediately upon attaining trust status.

(b) GAMING.—The alternative lands shall be taken into trust as provided in this section as part of the settlement and extinguishment of the Community’s Charlotte Beach land claims, and so shall be deemed lands obtained in settlement of a land claim within the meaning of section 20(b)(1)(B)(i) of the Indian Gaming Regulatory Act (25 U.S.C. 2719; Public Law 100-497).

(c) EXTINGUISHMENT OF CLAIMS.—Concurrent with the Secretary taking the alternative lands into trust under subsection (a), any and all claims by the Community to the Charlotte Beach lands or against the United States, the State of Michigan or any subdivision thereof, the Governor of the State of Michigan, or any other person or entity by the Community based on or relating to claims to the Charlotte Beach lands (including without limitation, claims for trespass damages, use, or occupancy), whether based on aboriginal or recognized title, are hereby extinguished. The extinguishment of these claims is in consideration for the benefits to the Community under this Act.

**SEC. 103. EFFECTUATION AND RATIFICATION OF AGREEMENT.**

(a) RATIFICATION.—The United States approves and ratifies the Settlement of Land Claim, except that the last sentence in section 10 of the Settlement of Land Claim is hereby deleted.

(b) NOT PRECEDENT.—The provisions contained in the Settlement of Land Claim are unique and shall not be considered precedent for any future agreement between any tribe and State.

(c) ENFORCEMENT.—The Settlement of Land Claim shall be enforceable by either the Community or the Governor according to its terms. Exclusive jurisdiction over any enforcement action is vested in the United States District Court for the Western District of Michigan.

**TITLE II—SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS**

**SEC. 201. ACCEPTANCE OF ALTERNATIVE LANDS AND EXTINGUISHMENT OF CLAIMS.**

(a) DEFINITIONS.—For the purposes of this title, the following definitions apply:

(1) ALTERNATIVE LANDS.—The term “alternative lands” means those lands identified as alternative lands in the Settlement of Land Claim.

(2) CHARLOTTE BEACH LANDS.—The term “Charlotte Beach lands” means those lands in the Charlotte Beach area of Michigan and described as follows: Government Lots 1, 2, 3, and 4 of Section 7, T45N, R2E, and Lot 1 of Section 18, T45N, R2E, Chippewa County, State of Michigan.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(4) SETTLEMENT OF LAND CLAIM.—The term “Settlement of Land Claim” means the agreement between the Tribe and the Governor of the State of Michigan executed on December 30, 2002, and filed with the Office of Secretary of State of the State of Michigan, including the document titled “Addendum to

Settlement of Land Claim", executed by the parties on November 14, 2007.

(5) **TRIBE.**—The term "Tribe" means the Sault Ste. Marie Tribe of Chippewa Indians, a federally recognized Indian tribe.

(b) **LAND INTO TRUST; PART OF RESERVATION.**—

(1) **LAND INTO TRUST.**—The Secretary shall take the alternative lands into trust for the benefit of the Tribe not later than 30 days after both of the following have occurred:

(A) The Secretary has received a title insurance policy for the alternative lands that shows that the alternative lands are not subject to mortgages, liens, deeds of trust, options to purchase, or other security interests.

(B) The Secretary has confirmed that the National Environmental Policy Act of 1969 has been complied with regarding the trust acquisition of the property.

(2) **PART OF RESERVATION.**—The alternative lands shall become part of the Tribe's reservation immediately upon attaining trust status.

(c) **GAMING.**—The alternative lands shall be taken into trust as provided in this section as part of the settlement and extinguishment of the Tribe's Charlotte Beach land claims, and so shall be deemed lands obtained in settlement of a land claim within the meaning of section 20(b)(1)(B)(i) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)(1)(B)(i)).

(d) **EXTINGUISHMENT OF CLAIMS.**—In consideration for the benefits to the Tribe under this Act, any and all claims by the Tribe to the Charlotte Beach lands or against the United States, the State of Michigan or any subdivision thereof, the Governor of the State of Michigan, or any other person or entity by the Tribe based on or relating to claims to the Charlotte Beach lands (including without limitation, claims for trespass damages, use, or occupancy), whether based on aboriginal or recognized title, are extinguished upon completion of the following:

(1) The Secretary having taken the alternative lands into trust for the benefit of the Tribe under subsection (b).

(2) Congressional acceptance of the extinguishment of any and all such claims to the Charlotte Beach lands by the Bay Mills Indian Community.

(e) **EFFECTUATION AND RATIFICATION OF AGREEMENT.**—

(1) **RATIFICATION.**—The United States approves and ratifies the Settlement of Land Claim.

(2) **NOT PRECEDENT.**—The provisions contained in the Settlement of Land Claim are unique and shall not be considered precedent for any future agreement between any Indian tribe and State.

(3) **ENFORCEMENT.**—The Settlement of Land Claim shall be enforceable by either the Tribe or the Governor according to its terms. Exclusive jurisdiction over any enforcement action is vested in the United States District Court for the Western District of Michigan.

The **SPEAKER** pro tempore. Debate shall not exceed 1 hour, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources, and 20 minutes equally divided and controlled by the chairman and ranking member of the Committee on the Judiciary.

The gentleman from West Virginia (Mr. **RAHALL**) and the gentleman from Alaska (Mr. **YOUNG**) each will control 20 minutes, and the gentleman from Michigan (Mr. **CONYERS**) and the gentleman from Iowa (Mr. **KING**) each will control 10 minutes.

The Chair recognizes the gentleman from West Virginia.

GENERAL LEAVE

Mr. **RAHALL**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 2176.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

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

Today, the Committee on Natural Resources is continuing our effort to bring justice to Indian country. Last year, the committee brought to the full House legislation to finally provide Federal recognition to the long suffering Lumbee Tribe in the State of North Carolina.

We also brought to the floor legislation to grant Federal recognition to six Virginia tribes 400 years after the founding of the Jamestown settlement. These were the very tribes that greeted the English settlers when they landed on our shores.

Today, we are considering legislation to end a 153-year odyssey involving two federally recognized tribes in the State of Michigan—the Bay Mills Indian Community and the Sault Ste. Marie Tribe of Chippewa Indians.

This bill seeks to settle legitimate land claims of these two Indian tribes. I would note that the resolution of Indian land claims is something that is vested with the Congress, and Congress has taken this type of action on numerous occasions. No precedent is being set by these bills.

The genesis of the pending legislation dates back to 1807 when the Chippewa ceded much of what is now the State of Michigan in a treaty with the Governor of the Michigan Territory. Subsequent treaties ensued in 1817, 1820, 1836, and in 1855.

In the case of both the Bay Mills and the Sault Ste. Marie, the 1855 Treaty of Detroit set aside land, in what is now known as Charlotte Beach, for their exclusive use. However, shortly after the treaty was concluded, that very land was sold to non-Indian speculators.

This is hardly the first time something like this was done to Native Americans, but it is another indictment in the long and sad chapter of their past treatment by those with wealth and power.

At present, some 100 non-Indian landowners reside on the Charlotte Beach land, under a clouded title, due to the legitimate land claims filed by the Bay Mills and the Sault Ste. Marie. This makes it impossible for the residents of Charlotte Beach to receive title insurance—depressing land values and making it difficult to obtain mortgages, among other issues.

The Interior Department has testified to the legitimacy of the land claims in question. Their legitimacy has also been recognized by two Governors of the State of Michigan—Re-

publican John Engler and current Democratic Governor Jennifer Granholm.

Indeed, Jennifer Granholm stated in a letter addressed to me: "The Federal courts have held that both the Bay Mills Tribe and the Sault Ste. Marie Tribe trace their ancestry to the two Chippewa bands named in the deed to the disputed Charlotte Beach lands and that both tribes, accordingly, share in any potential claim based on those lands."

To be clear then, that is what is at issue with the pending legislation—the settlement of these land claims. There is no administrative process available to accomplish this. It is something that is solely vested with the Congress.

The pending measure would implement a settlement agreement entered into by the Governor of Michigan, the Bay Mills and the Sault, and in doing so, it would clear the land title cloud that has hung over the residents of the Charlotte Beach area.

Under an agreement reached with the Bay Mills and with the Sault Ste. Marie Tribe, initially with Governor Engler and subsequently with Governor Granholm, the tribes would relinquish their land claims at Charlotte Beach, and instead, would be able to take into trust land at, in the case of the Bay Mills, Port Huron, Michigan, and in the case of the Sault Ste. Marie, either Flint, Monroe or Romulus, Michigan.

Under this settlement agreement, gaming is authorized on the new reservation lands at Port Huron and at either Flint, Monroe or Romulus.

However, in my view, the primary concern of Congress is the settlement of the land claims. What then occurs is a matter that is up to the State of Michigan, its political subdivisions, and the affected tribes.

Finally, Mr. Speaker, I would note that all Representatives of the House of Representatives whose congressional districts contain either the lands where the existing land claims rest or the areas where the new reservation lands would be created support these two bills—the dean of our House, Chairman **JOHN DINGELL**; Representative **BART STUPAK**; Representative **DALE KILDEE**, and Representative **CANDICE MILLER**. I would also note that the municipalities involved support this settlement.

I have set out the facts, Mr. Speaker, the historical record regarding these two tribes and their Charlotte Beach land claims. I do believe that the deliverance of justice is on the side of these two tribes and of the legislation we are considering today.

I reserve the balance of my time.

Mr. **YOUNG** of Alaska. Mr. Speaker, I yield myself such time as I may consume.

(Mr. **YOUNG** of Alaska asked and was given permission to revise and extend his remarks.)

Mr. **YOUNG** of Alaska. Mr. Speaker, Chairman **RAHALL** has summarized the settlement history of the Bay Mills land claim as well as the related and

commingled claim of the Sault Ste. Marie Tribe. Therefore, I will limit my remarks to why I believe this amended bill, which is championed by my good friends from Michigan, Chairman JOHN DINGELL, Chairman BART STUPAK, and CANDICE MILLER, deserves the support of the Members of this House.

Before the House today are two bills combined to resolve a problem affecting two tribes in the Upper Peninsula of Michigan and a number of non-Indian landowners in an area of Michigan known as Charlotte Beach.

Let me point out the support for this bill in the districts that are affected by them. The Members representing Bay Mills and the Sault Ste. Marie Tribes support the bill. The two Members representing districts where lands will be placed in trust support the bill.

Finally—and this is very important—this settlement deal was negotiated by former Governor John Engler and is supported by Governor Granholm.

It has been my practice—and I hope most of you understand—to defer to the Members whose districts are affected by legislation because that Member best represents the views of his constituents and knows his district best. Of course, I can only wish that others would respect this practice when it comes to Alaska. If so, we would be enjoying 42 million gallons of oil a day from ANWR. Instead, we have Members whose districts are thousands of miles away and who are encasing this key to American oil independence and lower gas prices in crystal by declaring it a wilderness. That is something that even President Jimmy Carter, in his cardigan sweaters, refused to do during the height of our gas crisis.

Getting back to H.R. 2176, this bill settles two Indian land claims without costing any Federal or State dollars and without imposing taxes or fees on anyone. In fact, under the settlement deals, the tribes are going to share revenues with the State of Michigan and with local communities.

The bills are consistent with the compact agreed to by the tribes and by the Governors pursuant to the Indian Gaming Regulatory Act.

In this Congress, we have passed bills that recognize some tribes on the condition that such tribes forego gaming. We made this condition a part of their recognition of the bills. This breaks with long-standing precedent and with treating Indian tribes on an equal footing with one another. But we did it out of deference to the Members who represent the tribes, out of deference to the Governors of the States affected, and out of deference to the wishes of local communities.

If we want to remain consistent in this policy, then we should agree to the request of the Members and of the Governors and of the local communities of Port Huron and Romulus.

I understand there is opposition to this bill. By the way, Mr. Speaker, I probably shouldn't say, but this bill

should never have gone to Judiciary. Mr. Speaker, it should never have gone to Judiciary. This is not your jurisdiction. This is the jurisdiction of Natural Resources only, and for some reason, somebody tried to placate somebody and send it over to Judiciary. Judiciary has no jurisdiction over this bill. IGRA is under the jurisdiction of the Resources Committee.

I understand the opposition. On the one hand, we must defer to Governors and to Members who don't want gaming, but on the other hand, we are hearing we must not defer to Governors and to Members when they want to permit and to regulate gaming. This is confusing.

Most of the opponents of these bills don't live in the area affected by the legislation. I note that none of the amendments filed to this bill were from the Michigan delegation.

So why are they opposed? I believe it is fear of competition. The tribes whose lands are settled by H.R. 2176, as amended, have every right under the law to provide economically to their members. That they choose to do so by operating casinos is their choice, as well as that of the Governor of Michigan. These enterprises will supply jobs to the area, will provide funds for health care, and will provide better education for Native Americans, and they will do so by engaging the oldest American economic policies—good old-fashioned, competitive capitalism.

□ 1430

This is not the first time that Congress has taken lands into trust for tribes outside traditional reservation boundaries and has allowed the tribes the full economic benefit of these lands. As one example, I point to the Omnibus Indian Advancement Act from the 106th Congress. That law directed the Secretary of the Interior to take land into trust for two tribes—the Lytton Rancheria and the Graton Rancheria—which may not have been part of the tribes' historical ranges. In each case, just like the bill being considered today, gaming was not barred. Certainly, this is a common result whenever Congress or the administration recognizes a landless tribe or restores land to a tribe.

In the meantime, the property owners in Charlotte Beach have watched the value of their property plummet, something like 90 percent in some cases. The cloud on the title to their land, resulting from the land claims, has made it nearly impossible for them to sell or to secure a mortgage. This isn't right, and it isn't right to leave them hanging when the Governors of Michigan, the legislature, the affected communities, and their Representatives want to move these settlements forward.

This bill will end this ordeal that they're all facing.

Once again, I do urge support of H.R. 2176, as amended, and urge passage.

I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, could I bring the temperature down somewhat from the speakers by pointing out to my good friend from Alaska that this matter is within the Judiciary Committee because the Parliamentarian said so? So for the gentleman to make this assertion that we have no claim of jurisdiction here is one of the errors that he has made in his presentation.

Now, ladies and gentlemen, I'm so proud that nobody has mentioned casinos yet, because that means the casinos are not an issue, of course, in this matter. Or you mentioned gaming. Okay. Chairman RAHALL concedes that he did mention gaming.

Well, let me tell you something. This is just like H.L. Mencken. When they say this is not about money, Mencken says that means it's about money.

Now, it just so happens that, on three occasions, these tribes have tried to get the Department of Interior, which is where this goes—and as for this business about its being in the exclusive jurisdiction of the Congress, we don't sit around here, ruling on this business. We can override the established procedures if we want to, and here, we want to because the Department of Interior has turned down these claims three different times—in 1982, 1983, and 1992. They said "no." The reason was they weren't meritorious.

And then an enterprising member of the bar—and I hate to tell you that that was his profession—said, Ah, I've got an idea. Wait until you see the charts that show how far Sault Ste. Marie and Bay Mills are from where they want to locate the casinos.

I said it was 350 miles away. It's 348 miles away. I'm sorry. So let's come clean, okay?

Now, the lady I supported for Governor, Governor Granholm, overrode the State legislature to send you that letter, and it's not going by the Indian Gaming Regulatory Commission rules or her own State's rules. The people in Michigan have voted down casinos already. And, the former Governor Engler, wow. He tried to stick it in bills coming over here. He never would have done what we are doing here today but for the same reasons of concern that those proponents of the bill have reason to be concerned right now.

So that's the story, folks. If you want to start a run on forum shopping for casinos, this is going to be the first bill that does it.

It is no joy for me to be before you opposing legislation reported by the Natural Resources Committee and my friend NICK RAHALL, and supported so strongly by my friends JOHN DINGELL and BART STUPAK.

But this is bad legislation. I regret that the House is having to consider it. And I must strongly oppose it.

Those pushing this legislation on the House do not always like to emphasize the fact that it is about legalizing casino gambling where it would not otherwise be legal—pure and simple.

And not just in two corners of Michigan. This is not a local Michigan issue—leaving

aside that the Michigan delegation is sharply divided itself.

This would create a national blueprint for casino forum shopping, where no corner of the country would be safe from the designs of any developer or casino operator, working in league with any far-off Indian tribe.

They say it does not set a precedent—says so right in the bill: “don’t look for a precedent here.” Who are they trying to kid?

This legislation is highly controversial, and with good reason. Earlier today I discussed the dubious origins of this supposed Indian land claim. Let me now turn to other major flaws in this proposal.

To begin with, it spurns every single procedure Congress established under the Indian Gaming Regulatory Act to balance the sovereign rights of Indian tribes to conduct their own affairs, on their own lands, with the legitimate concerns many of our citizens have with the potential spread of casino gaming into their communities.

It simply declares the process to be completed, and the two tribes to have succeeded.

The bill’s proponents will tell you that the bill complies fully with the process set out in IGRA. But it does not; it simply jumps to the finish line and arbitrarily deems the process to be satisfied.

Section 102(a)(1) orders the Interior Department to take the lands into trust.

Section 102(a)(2) directs that the lands become part of the tribe’s reservation.

Section 102(b) declares that the process complies fully with all the requirements of the Indian Gaming Regulatory Act for purposes of legalizing a casino on the new lands.

What could be simpler? Or more manipulative?

Let’s not kid ourselves. That’s not complying with process; that’s doing a preemptive end run around it.

This bill shows absolutely no regard for the established process.

No regard for the usual review in the Interior Department, who opposes this bill.

Don’t be fooled by rumors of some high-level private go-ahead. The Interior Department has testified against this legislation—publicly—twice in the last 5 months—before the Resources Committee, and before the Judiciary Committee.

No regard for Michigan voters, who passed a referendum in 2004 restricting the expansion of casino gambling in their State. The bill does an end run around that process as well.

The proponents claim that there is an exemption in the referendum for casinos on Tribal lands.

Well, of course there is. That’s required by tribal sovereignty under Federal law. That would be the case whether the referendum said so or not.

But no one in their wildest dreams ever imagined that someone would try to twist the common-sense concept of “Tribal lands” to sweep in lands 350 miles from the Tribe’s ancestral homelands.

This bill does not honor the referendum. It blows a gaping hole through it, and utterly violates the spirit of the voters’ decision to limit the spread of casinos in their State.

No regard for the other Indian tribes in Michigan, all of whom signed compacts in 1994 solemnly pledging, as a means of curbing the impulse to build new casinos far and wide, that revenues from any off-reserva-

tion casino any of them built would be shared among them all.

This bill simply blesses a superseding compact for these two tribes that lets them off the hook, without going through any of the established process for negotiating and approving a new compact.

The Indian Gaming Regulatory Act rightly disfavors off-reservation casino gaming.

And as set forth in greater detail in the Interior Department guidelines, the greater the distance involved, the greater the risk of harm to tribal welfare, and the more tenuous the benefits.

The distance involved here—350 miles from the reservation—is a whole new order of magnitude. And the tribes involved have no known historical connection whatsoever to the lands they would acquire.

The proponents say there is a precedent. But what they are referring to is no precedent at all.

The Torres-Martinez case was brought by the Interior Department on behalf of the tribe, for reservation land that an irrigation district had placed under water.

Under the settlement, the tribe was allowed to acquire land in trust within 10 miles of its existing reservation—that land also had to be within its historical territory.

The tribe has not built a casino on that land, and has no plans to.

Furthermore, the land claims here being enlisted in the service of obtaining these off-reservation casinos have already been rejected by the courts.

And they are not even claims involving the United States. They are strictly private claims, against the State of Michigan, bearing no relation whatsoever to the kind of claims that could legally be settled under the Indian Gaming Regulatory Act.

This legislation is supported by exactly two tribes in Michigan—the two who expect to get off-reservation casinos they could not hope to obtain under established legal process.

It is opposed by other Michigan tribes, who are joined by over 60 tribes across the country.

Not because they oppose Indian gaming. They all have their own interest in preserving their rights to build casinos on their own lands.

What they are opposed to is the free-for-all that would predictably ensue if this unprecedented effort to circumvent the law—a law they have all lived under for 20 years—were to pass.

This legislation is also opposed by the NAACP because of its lack of basic procedural fairness, due process, or any respect for voters in communities across the country who may understandably have concerns about casinos being built in their neighborhoods.

Let me also say a word about the view of organized labor. And I say this as someone who has a labor voting record in Congress, over almost 44 years, that is second to no one’s.

This bill is supported by some in labor; it is opposed by others.

Labor is not united. And why would they be? If this legislation has any direct effect on jobs, it will be only to move them from one casino in Michigan to another.

For these and other reasons, the House Judiciary Committee, which received a sequential referral of this legislation, voted unanimously to oppose it.

By passing legislation favoring the narrow interests of the Bay Mills and Sault Ste. Marie tribes and their private-sector allies, Congress would set a dangerous precedent for sidestepping the established review process for land claims, and create a shortcut for spreading casino gambling into every corner of the country.

We should not start down that path. The tribes should pursue whatever claims they may have through the normal procedures—and succeed or fail on the merits.

And so I strongly oppose this bill, and urge everyone else in this body to do likewise.

I reserve the balance of my time.

Mr. KING of Iowa. I yield myself so much time as I may consume.

Mr. Speaker, I rise in opposition to this bill, H.R. 2176. In unanimity and purpose and philosophical intent with the chairman of the full Judiciary Committee and, by the way, in consistency with all of the folks who voted on this bill out of the Judiciary Committee, regardless of the assertions of who had actual jurisdiction, that’s where it was directed.

I’m interested in this bill for a number of reasons. First of all, when you have a reservation where they comply with regulations and go through the Indian Gaming Act and get the authority to establish a gaming facility, that’s on the reservation. But I would submit, Mr. Speaker, that 350 miles away is off the reservation. And I think the motive of this thing is way off the reservation.

In fact, the precedent that would be set by this bill would be a precedent, and I understand there’s language in the bill that says it doesn’t set a precedent. My comment is, Yeah, right. Everything we do around here sets a precedent. In fact, it sets a pattern for the rest of the reservations in the country.

We’ve got to say “no” at this point. If not, we will be back here. The chairman of the Judiciary Committee’s comment is well taken. It sets a pattern that all of the reservations and the tribes in the country will look at, and they will say how can we also go off the reservation and establish a gaming facility.

For those reasons, I oppose this bill, H.R. 2176.

I reserve the balance of my time.

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

Mr. YOUNG of Alaska. Mr. Speaker, I reserve.

Mr. CONYERS. Mr. Speaker, I would yield 3 minutes to the gentlewoman from Las Vegas (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, I rise once again in strong opposition to H.R. 2176. I believe this bill will lead to an unprecedented expansion of off-reservation Indian gaming by offering a blueprint to any Indian tribe that wants to circumvent the laws regulating Indian gaming in order to build a casino outside the boundaries of its sovereign territory.

This debate is not about the right of American communities and Indian

tribes to participate in gaming. I have no problem with other communities trying to replicate Las Vegas' experience, which has been so very successful, and I support the rights of tribes to participate in gaming on their reservations as both of these tribes already do. But the bill we are considering today is an attempt to circumvent the Indian Gaming Regulatory Act by using a bogus land claim, a bogus land claim that has already been tossed out of both Federal and State courts.

Now, our proponents say that we are here because we want to improve a legitimate land claim and want to have justice for our Indian friends. Well, justice has already been served. This bogus claim has been thrown out of Federal court and State court.

The result, if this bill passes, will be two new off-reservation casinos more than 350 miles from the lands of these two tribes. And 350 miles is a very substantial amount. It is from Washington, D.C. to Cleveland, Ohio. And beyond that, if this bill becomes law, any one of the more than 500 recognized Native American tribes can argue that they have the right to sue private landowners in an attempt to bargain for gaming off their reservations. Let's circumvent the Indian gaming laws, come directly to Congress, and Congress can end up spending all of our time approving Indian gaming casinos on every street corner in every American city.

How do we know this land claim is bogus? Because the chairman of the Sault Ste. Marie Tribe called it shady, suspicious, and a scam until he joined with the other tribe and switched his position.

More than 660 tribes are opposed to this legislation in which Congress, for the first time, will allow a tribe to expand its reservation into the ancestral lands of another tribe for the express purpose of gaming. This bill is opposed by the Department of the Interior, the NAACP, UNITE HERE, more than 60 tribes across the United States, and by a unanimous vote of the Judiciary Committee.

To sum up this issue, Congress is being asked to pass special interest legislation benefiting only two tribes, each of which already has gaming.

The SPEAKER pro tempore. The time of the gentlewoman from Nevada has expired.

Mr. CONYERS. I yield the gentlelady 15 more seconds.

Ms. BERKLEY. This, remember, is based on a suspect land claim that has already been thrown out of the State and Federal courts so that they can open up a casino hundreds of miles from their ancestral lands and in direct competition with existing facilities.

I urge a "no" vote on this very bad piece of legislation.

Mr. KING of Iowa. Mr. Speaker, I reserve.

Mr. RAHALL. Mr. Speaker, would you tell us how much time is left for all Members.

The SPEAKER pro tempore. The gentleman from West Virginia has 15 minutes remaining; the gentleman from Alaska, 14½; the gentleman from Michigan, 3 minutes; and the gentleman from Iowa, 8½.

Mr. RAHALL. Mr. Speaker, I am very happy to yield 3 minutes to the distinguished member of our Committee on Natural Resources, a member of my class as well, and from the State of Michigan, Mr. DALE KILDEE.

Mr. KILDEE. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the land claim settlement legislation relating to the Bay Mills Indian Community and the Sault Ste. Marie Tribe of Michigan. I have considered several factors that, when taken together, would move me to speak strongly in favor of final passage.

First, the legislation before us has bipartisan gubernatorial support. In 2002, then-Republican Michigan Governor John Engler signed two separate agreements between the Sault Ste. Marie Tribe and the Bay Mills Indian Community in order to settle the disputed, and still disputed, land claims in the Charlotte Beach area of Michigan. And, in November of 2007, the present Democratic Governor, Jennifer Granholm, amended and reaffirmed these agreements, and she strongly supports those bills.

Second, my own hometown of Flint, Michigan, supports bringing an Indian casino to the city. Flint Mayor Don Williamson gave testimony through the Natural Resources Committee this year, expressing his strong support for these proposals. And the City Council of Flint passed a resolution supporting similar legislation that was followed by the people of Flint voting in a city-wide referendum in support of bringing an Indian casino to Flint.

Mr. Speaker, faced with Flint's economic difficulties and the need to settle these Indian land claims, I strongly support this bill.

Under the settlement agreement, the Bay Mills Indian Community would acquire one parcel of land in Port Huron, Michigan, while the Sault Ste. Marie Tribe would acquire one parcel of land, the location to be determined by the tribe with the approval of the local governing body. That site would be limited to the County of Monroe or to the City of Romulus or to the City of Flint.

Finally, as has been spoken before, only Congress has the legal authority to extinguish the land claims of Indian tribes, and it has done so on several occasions, and that is why this bill is before us today. And that law dates back to the first Congress of the United States.

To summarize, two Governors of Michigan have signed compacts with these two tribes to accomplish this. The three cities that would be affected have voted to welcome these tribes, and the three Members of Congress representing those cities are strongly in

support of this bill. This bill will bring justice to these Indian tribes, and it will help the economy of the cities involved.

I strongly urge my colleagues to support this legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I have listened very intently to this debate. The thing that bothers me the most is that this is about competition. That's all it is. Let's face it. It's competition.

□ 1445

I'm a little disturbed that the casinos in Detroit that are owned by Indian tribes now are objecting to their brethren, because it's about competition.

We have been over this time and time again. This is not a new bill. This is an attempt to settle a land claim by those who own land and who no longer have title of it because of a court ruling. This is not just about casinos.

And by the way, to the chairman of the Judiciary, I did mention "casinos" in my statement. It's there, I want you people to understand, and I did mention "gaming," but I did say "casinos," too. I'm not trying to hide anything. This is their prerogative under IGRA to have the title to this land.

This land was not voluntarily given away. This land was taken. The State of Michigan said it was taken. The courts have said it was taken. These tribes have a legal title to this land. And, until they get that land, the people who now have homes, who have stores that have been inherited from their parents, that title is not theirs.

But we have those in Detroit and those interests from outside of Michigan that don't want any more competition. Competition, apparently, is bad for the American way. I think it's good.

Again, let's go back to those people who represent the area. And the Governor and the community all support this bill.

I reserve my time.

POINT OF ORDER

Mr. CONYERS. Mr. Speaker, point of order.

Can you ask that gentleman to sit down and to shut up up there? I don't care who he is.

The SPEAKER pro tempore. Occupants of the galleries will be in order.

Mr. CONYERS. I'm pleased now, Mr. Speaker, to recognize the chairperson of the Congressional Black Caucus, CAROLYN CHEEKS KILPATRICK from Michigan, and I would yield her 1½ minutes and would ask the ranking member of the Judiciary to do the same.

Mr. KING of Iowa. I'm happy to yield 1 minute to the gentlelady from Michigan.

Ms. KILPATRICK. Mr. Speaker, I thank the chairman for yielding, as well as the gentleman from Iowa for yielding me my time.

This is about the law. This is about the law. This is about Michigan's law. In 1993, after 20 years of trying, the

Michigan legislature—I, a member at that time, and others—passed a law that, after many referendums in the City of Detroit, a referenda would be held throughout the State of Michigan that said who could have casinos. We were allowed that after 20 years of working on that.

In 1994, back to the people of the State of Michigan, there was a referenda that said if you are to have a casino you must come back to the people. This law circumvents that. There are 18 Native American tribes in Michigan. All but two who are getting this casino deal do not support this legislation, mainly because, in the Michigan compact, Native Americans share in the net profits. This bill would not allow the other 16 tribes to share in the profits, thereby putting their own reservation casinos in jeopardy, while at the same time rewarding 2 and not the other 16 sharing the profits.

There's a way to fix this. Go back to the ballot box, which is what the Michigan law says. Let the people of Michigan speak on this. Casinos are regulated by States, as IGRA gives them that authority, not by the Federal Government.

Much has already been said, and I will tell you who opposes this: The Bureau of Indian Affairs, the U.S. Department of Interior, the National Indian Gaming Association, UNITE HERE, AFSCME, NAACP. We can fix this, but go through what everybody else went through to get gaming and casinos in their community.

The Native Americans asked for it. Over 60 tribes across this country oppose this legislation. Why must we circumvent them and come here? It's not about competition, as Americans love competition, and we support that. Go through the process. Respect the law.

Native American tribes deserve better, and we want to see that happen.

Mr. Speaker, thank you for your kind consideration and care when, in December of 2007, you agreed with me that both of these bills should not be brought to the floor without being considered under regular order. The House Natural Resources Committee and the House Judiciary Committee both had hearings on these bills, and while the Natural Resources Committee reported the bill favorably by a 21 to 5 vote, the House Judiciary Committee reported the bill unfavorably by a zero to 29 vote. Since that vote, both of these bills are opposed by 16 of the 18 tribes that are in the State of Michigan; and opposed by over 60 Native American tribes across the country; by both Michigan's AFSCME and the NAACP; and finally, the U.S. Department of Interior not only opposes the bills but questions the validity of the land claim that they purport to forward.

In essence, both of these bills will allow two Native American tribes located in Michigan's Upper Peninsula to build casinos 350 miles from their reservations and near the city of Detroit and in Port Huron, Michigan. I vehemently oppose both of these bills.

My reasons for opposing these bills, which will allow land to be taken into trust for gambling purposes for the settlement of proposed

land claims, are actually very simple. These bills set a dangerous precedent for Congress; they contravene Michigan State law; they are very controversial among the tribes in Michigan and throughout Indian Country; it is not clear that these land swaps are valid; and finally, Congress has not had a comprehensive review of the Indian Gaming Regulatory Act, IGRA, in nearly two decades. Furthermore, it is important to note that these land claims have never been validated by the U.S. Government or any court of law. In fact, the courts have ruled against the Bay Mills Tribe on their claim on two separate occasions.

The people of Michigan have spoken at the ballot box about gaming expansion in our State. In 1994, they voted to allow three casinos in the city of Detroit. In 2004, the people voted to limit any more expansion of gaming unless there was a statewide referendum. In addition, the Michigan Gaming Compact specifically prohibits off-reservation gaming unless all of the tribes in Michigan agree to a revenue-sharing plan. These two bills are simply an attempt to circumvent both the will of the people of Michigan and the compact the Michigan State Legislature has made with the tribes in Michigan.

Instead, these bills would have Congress mandate not one, but two off-site reservation casinos located over 350 miles away from the reservations of these tribes. Moreover, the disputed land is located near the two tribes reservations in the Upper Peninsula but yet the land they want for a "settlement" is located 350 miles away near the city of Detroit. If these bills were to become law, what would prevent other tribes from seeking a land claim anywhere in the United States for off-site reservation gaming? Is this the real intent of the Indian Gaming Regulatory Act?

It is indeed ironic that in the 109th Congress, the House Resources Committee, on a bipartisan basis, passed legislation by an overwhelming margin to restrict off-site reservation gaming. Yet today, it now seeks to expand Native American gaming in an unprecedented manner.

Congress passed the Indian Gaming Regulatory Act in 1988 that allows tribes to conduct gaming on lands acquired before October 17, 1988. In 1993, former Governor John Engler negotiated a gaming compact with the seven federally-recognized tribes in Michigan, including the Bay Mills and Sault Ste. Marie Tribes.

In order to prevent a proliferation of Indian gaming across the State, a provision was added to the compact that required any revenue generated by off-reservation gaming be shared among the tribes who signed the compact. This provision has worked well for over 15 years. The two bills before Congress today would simply nullify this critically important provision of the Michigan Gaming Compact. Both of these bills would allow the tribes to; (1) settle a land claim that has never been validated and is located near their reservations in the Upper Peninsula of Michigan and (2) acquire lands 350 miles from their reservation to build casinos. Furthermore, these bills actually include gaming compacts in them that were never approved by the Michigan State Legislature who has approved every other gaming compact. It is important to note that Congress has never passed a gaming compact in the history of Indian gaming. IGRA specifically grants that authority to the States.

In 2004, the voters of Michigan spoke again in a statewide referendum and overwhelmingly

approved a ballot initiative that would restrict the expansion of gaming in the State of Michigan. This referendum would require local and statewide approvals for any private expansion of gaming in Michigan.

The people and the elected officials of Michigan already have a solution to this matter—the ballot box. There is nothing in the referendum that would prevent the two tribes and their non-Indian developers from initiating a statewide referendum to get casinos in Port Huron and in Romulus. In fact, both of those cities have already passed local referendums. But the tribes and their developers decided to short-circuit the vote of the Michigan people and come to Congress to get a casino on a proposed land claim that is located near the tribes' reservation lands in the upper peninsula of Michigan.

I am aware that the Governor of Michigan has sent the House Natural Resources Committee a letter supporting these bills. You should know that there is no legal basis for the State to support these agreements because, in fact, the State has already won this case in the Michigan Court of Claims and the Bay Mills Tribe appealed it all the way to the U.S. Supreme Court. The Supreme Court subsequently declined to hear the case.

The Governor ignored the fact that the city of Detroit will be the main victim of the State's largess in these casino deals. The city of Detroit will lose hundreds of millions of dollars as a result of the competition of these new casinos and that will cause irreparable harm. Harm to whom? Harm to the current investors of the casinos in the city of Detroit, who have invested more than \$1.5 billion in the construction of the three casinos in the city of Detroit. Harm to the thousands of jobs that have been created and the tax revenue that those jobs generate for the city of Detroit and the State of Michigan. Ultimately, this will harm the State. When compared to their private counterparts, Native American gaming sites, because they are sovereign nations and must share their revenue with other Native American tribes, do not bring in the tax revenue of private investors.

In the end, these two tribes are seeking to do an end-run around two statewide referendums and the Michigan Gaming Compact of 1993. Rarely have voters in any State in this country spoken so clearly on gaming issues. In light of all of this, it would be a travesty for Congress to mandate two off-site reservation gaming casinos that would have such a negative impact on the people in Michigan.

But, for the moment, let us ignore the impact that these bills will have on the city of Detroit. Let us ignore the precedent that these bills will set, allowing any Native American tribe to claim any piece of land hundreds of miles away, as their native tribal land. Let us ignore the fact that IGRA has not been reauthorized in more than two decades, and clearly needs to be revisited and revised by Congress. What I cannot ignore is the strong possibility that the very integrity of Congress is in jeopardy.

On October 10, 2002, in testimony before the Senate Committee on Indian Affairs, the chairman of the Sault Ste. Marie Tribe, Bernard Boushor, said "the Bay Mills case was a scam from the start." In testimony and information provided to the House Natural Resources Committee in February of this year, Saginaw Chippewa Chief Fred Cantu cited



Chairman Boush's testimony, stating that the original lawsuit on the land claim was a collusive lawsuit.

The proponents of this legislation have repeatedly stated that these bills are simply to address the aggrieved landowners in Charlotte Beach. But according to the Sault Ste. Marie Tribe "the Charlotte Beach claim did not originate with Bay Mills. It was a product of a Detroit area attorney who developed it specifically as a vehicle to obtain an IGRA casino . . . the goal was never to recover the Charlotte Beach lands."

How was this originally a collusive lawsuit? The Bay Mills Tribe sued Mr. James Hadley on October 18, 1996 who entered into a settlement in which he gave land to the Bay Mills Tribe 300 miles from their reservation to build a casino in Auburn Hills, Michigan. That plan was rejected by the Department of the Interior. The point is that Mr. Hadley was not an aggrieved landowner, he was an active participant in what the Sault Tribe described as "a collusive lawsuit" and "a scam."

I strongly encourage all of you to read the testimony of the former Sault Ste. Marie chairman before the Senate Committee on Indian Affairs, the testimony of the Saginaw Chippewa Chief Fred Cantu, and review the documents Chief Cantu provided to the Committee, which was provided to the House Natural Resources Committee at its hearing in February and to the House Judiciary Committee at its subsequent hearing.

There is a way to save the integrity of Congress. The Saginaw Chippewa Tribe has requested that the U.S. Department of the Interior investigate the land claims made by these tribes, and determine whether they are valid claims, worthy of Federal resolution. It is my understanding that the Department of the Interior is reviewing the validity of these land claims. I would urge the Committee to wait until this investigation is complete until it rushes into passing legislation that mandates off-reservation gaming.

Congress should not be in the business of handing out off-site reservation gaming casinos. It is my hope that the wisdom of Congress is the rejection of both of these bills for the following reasons:

These bills set a dangerous precedent for Congress by approving a compact which is a State, not a Federal, responsibility;

They contravene Michigan State law;

They are controversial among the Native American tribes in Michigan; indeed, nine out of Michigan's 12 tribes oppose these bills;

The city of Detroit would lose thousands of jobs and hundreds of millions of dollars in the investments made by the three casinos currently operating in Detroit;

The Bureau of Indian Affairs has already rejected a similar application for gaming in Romulus, Michigan;

These bills would involve the removal of valuable land from the tax rolls of the State of Michigan, resulting in the potential loss of even more revenue;

It is uncertain that these land swaps are legitimate, possibly jeopardizing the integrity of the U.S. Congress;

The Committee should allow the Department of the Interior the time to do their due diligence to determine if these are valid land claims; and

Congress needs to revisit, revise and reauthorize the IGRA, which has not had a comprehensive review in nearly two decades.

Let me state for the record, once again, that I am not opposed to more gaming in the State of Michigan. I am also not opposed to off-site reservation gaming. I have been opposed, am currently opposed, and will always be opposed to any measure, any bill, any regulation that says that the will of the people does not matter. The will of the people is tantamount. It is my hope that the wisdom of Congress prevails and that the voice of the people matters in rejecting these bills on the floor today.

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

Mr. YOUNG of Alaska. I reserve.

Mr. CONYERS. I've got to reserve. I've only got 1 minute left, Chairman RAHALL.

Mr. RAHALL. Mr. Speaker, I'll be glad to yield to the distinguished dean of the House of Representatives—the gentleman from Michigan, a dear friend to all of us regardless of our position on this issue—Chairman JOHN DINGELL, 5 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. I want to commend and thank my good friend from West Virginia and my good friend from Alaska for their gracious kindness in this matter.

This is a cry for justice from Indians who have had their land unjustly and improperly taken from them. It is not a violation of Indian gambling law, and this is the only place in which those Indians can get justice. They asked for justice.

Now, you've just heard a lot of things, and there are a lot of people on this floor who are entitled to their own view, but they are not entitled to their own facts.

What are the facts? Under Michigan law, this is legal. Here's a copy of the vote and the ballot that was put before the people of Michigan. It specifically excludes this kind of transaction, and it says that it will "not apply to Indian tribal gaming" and then goes on to say "or gambling in up to three casinos located in the City of Detroit." It doesn't apply. That's hokey.

Now, let's take a look. The claim is legitimate. The land was stolen from the Indians in an improper tax sale, and until this matter is resolved, there will be no peace in the area. The Indians will be denied justice, and land titles and land settlements in the northern part of Michigan will be clouded for years to come.

This came out of the committee 22-5. It has been heard many times.

Now, the legislation follows—it does not set—congressional precedent in dealing with Indian land claim settlements. In fact, the Congress, as mentioned by the gentleman from Michigan, has the sole power to extinguish land claims, since the very first of the Congress, and it follows precedents set by Torres Martinez, the Timbisha Shoshone, the Mohegan Tribe, the Seneca Nation of New York, and the Mashantucket Pequot Tribe in 1983.

This is drastically different than off-reservation gambling. In that scenario,

the tribe purchases land and then the Secretary lets them go down there and gamble. This is not so. As mentioned, it fully complies with the requirements of the Indian gambling law.

The land was not selected by the Indians. It was selected by the Governor of the State of Michigan, John Engler, and it was ratified by the Michigan legislature and by our current Governor, with a change in the law.

The votes of the people of the communities have supported the fact that if gambling is to occur in these communities it will occur. The people of the State of Michigan, the people of the cities involved have come out and have said they want this to take place.

Let us give justice to the Indians. The bill does not, I repeat, violate the will of the people of the State of Michigan.

And the legislation is going to bring desperately needed jobs to southeast Michigan, some 4,000 in my district, some 1,000 in that of the distinguished gentlewoman from Michigan (Mrs. MILLER). It is supported by unions that believe that this will bring good union jobs to Michigan and that it will help the Indians.

As repeated, there are two groups here who oppose this legislation. One group is of those who legitimately oppose gambling. That's a matter of concern to them, and I respect their judgment. The rest are those good-hearted folk who seek an unfair advantage. They want to protect and preserve their outrageous monopoly on gambling. That's what's at stake. That's all that's involved here; a bunch of good-hearted people are seeking special preference for themselves.

A Member came over to me, and he talked about Abramoff. I remember Abramoff, a very unsavory individual, and the interesting thing is that Abramoff was hired at a high price to oppose the legislation we are discussing today. So, if you're concerned about voting with Jack Abramoff, don't vote against the bill; vote for the bill. The Abramoff vote is a "no" vote. The right vote is an "aye" vote.

Vote to give justice to the Native American people. The citizens of the communities in which these facilities will be located legally, legitimately and properly are, in my district, in one city, 100 percent African American and, in the other, 50 percent African American. There is no racial question here. If you are looking to do racial justice, support the legislation. Take care of the Native Americans, and take care of the African Americans who will benefit from these jobs.

I urge my colleagues to support the legislation.

Mr. KING of Iowa. Mr. Speaker, I'd be happy to yield 2 minutes to the gentleman from Pennsylvania (Mr. DENT).

(Mr. DENT asked and was given permission to revise and extend his remarks.)

Mr. DENT. Mr. Speaker, I rise today in opposition to this legislation, H.R.

2176, which consolidates two bills that promote off-reservation tribal gambling.

Why is a guy from Pennsylvania talking about this issue today? Well, this bill sends a signal that reservation shopping, under the Indian Gaming Regulatory Act, IGRA, is okay. Well, it's not okay, and it is out of control.

The bill before us today would create Indian governmental entities, tribal casinos, on lands that are more than 300 miles from the homelands of these tribes. Creating a far-flung string of casinos on lands with no connection to the tribe's heritage was not the intent of IGRA.

Establishing these off-reservation casinos has absolutely nothing to do with the preservation of Indian culture. It is about money, pure and simple. Twenty years ago, before IGRA, there were no tribal casinos in this country. Now there are more than 400, and tribal gambling is currently a \$19 billion a year business.

That is precisely the reason why I introduced H.R. 2562, the Limitation of Tribal Gambling to Existing Tribal Lands Act of 2007, which would preclude new casino development on lands that are taken into trust as part of a settlement of a land claim. That bill was inspired by efforts of a tribe, located more than 900 miles from Pennsylvania, to force homeowners and business owners in my district off their properties, just so yet another tribal casino could be built, all based on a 1737 land conveyance, all designed to displace 25 homeowners, a crayon factory—Crayola crayon, we all know the product—and many other businesses.

And, with respect to the Abramoff comments that I have heard, I'll be the first to acknowledge that, as to Mr. Abramoff's actions, he did take advantage of the tribes, but it was the tribal gambling issue that was the source of the corruption.

And I think the proper vote is a "no" vote on this legislation.

Again, for those of us who have had to deal with these off-reservation shopping issues, it's very painful for the homeowners, as much as when the Supreme Court went along. Defeat the bill.

Mr. RAHALL. May I have the time that is left?

The SPEAKER pro tempore. The gentleman from West Virginia has 7 minutes remaining. The gentleman from Alaska has 13. The gentleman from Michigan has 1½ minutes, and the gentleman from Iowa has 5½ minutes remaining.

Mr. RAHALL. Mr. Speaker, I yield 4 minutes to a dear colleague of ours from Michigan as well, to a gentleman who has been very tenacious for many, many years in seeing this bill to its fruition, the gentleman from Michigan (Mr. STUPAK).

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Mr. STUPAK. I thank the gentleman for yielding.

Much has been said about this legislation, my legislation. I want to thank Chairman RAHALL and Mr. YOUNG for their leadership in helping me correct a grave injustice, not just for the Native Americans, but also for the non-Native Americans, my constituents.

I encourage my colleagues to support this bill, H.R. 2176, which is a commonsense fix of a very serious matter. The bill would provide for the settlement of certain land claims of the Bay Mills Indian Community and of the Sault Ste. Marie Tribe in Michigan.

I have been working on this problem for over 10 years, and I first introduced legislation in 1999 in an effort to resolve this issue. I became involved in this land claim dispute at the request of the property owners at Charlotte Beach, not of the Native American tribes. Tribal claims to the land have created a cloud on their title, owned by my constituents in Charlotte Beach.

As a result, local assessors have reduced the property values of the Charlotte Beach land owners by 90 percent because of the valid clouded title created by the Indian land claim dispute.

The tribes' claim to the land in question dates back to 1855, when the U.S. Government signed the Treaty of Detroit, deeding the land to the tribes. However, the land was later sold to non-native land speculators without the Native Americans' consent, eventually resulting in an eviction of the tribal members.

In order to finally resolve this land claim dispute, a settlement agreement was reached in 2002 between former Governor John Engler and the tribes. The settlement agreement has been reaffirmed by Michigan's current Governor, Governor Jennifer Granholm.

After years of extensive negotiations between the parties, this bill represents a straightforward solution to this localized problem in my district.

In order to implement this agreement, Congress must approve the negotiated land settlement. Unfortunately, incumbent casino gaming interests are opposed to this commonsense solution, and they have circulated misleading information in an attempt to derail this legislation. So let me take the opportunity to set the record straight on my legislation.

First, this bill has nothing to do with "off-reservation gaming acquisitions." It is a land claim settlement. Off-reservation gaming occurs when a tribe purchases private land and petitions the Secretary of Interior to place the land into trust for gaming purposes. This legislation ratifies a land claim settlement negotiated by the State of Michigan. This was done under the authority granted in IGRA's land claim exception clause.

Second. In regards to the argument against the location of these lands, the selected lands were chosen by Governor John Engler in consultation with local communities, not with the tribes. The sites were selected for economic development. Local support had been ex-

pressed through a local referendum and through unanimous resolutions by the cities and counties, and it has an existing gaming market on the Canadian side of the border where U.S. dollars are being spent.

Our legislation follows, rather than sets, congressional precedent for settling land claim disputes. Congress has passed over a dozen settlement acts on which replacement lands are eligible for gaming, including two that specifically state that the land is eligible for gaming, most recently that of the Torres Martinez Tribe of California and that of the Timbisha Shoshone Tribe, in 2000.

Our legislation does not violate the wishes of Michigan voters. Opponents have attempted to confuse Members about the wishes of Michigan voters on this issue by citing passage of the 2004 referendum, which seeks to limit the expansion of private gaming in our State. The actual wording of the referendum states, "A voter approval requirement does not apply to Indian tribal gaming."

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. RAHALL. Mr. Speaker, I yield the gentleman 15 seconds.

Mr. YOUNG of Alaska. Mr. Speaker, I will yield the gentleman 15 seconds, too.

The SPEAKER pro tempore. The gentleman from Alaska also recognizes the gentleman from Michigan for 15 seconds, so the gentleman from Michigan is now recognized for a total of 30 seconds, of which none have been yet exhausted.

Mr. STUPAK. So the actual wording of the referendum states, "A voter approval requirement does not apply to Indiana tribal gaming."

By passing H.R. 2176, Congress will bring about a final resolution to this land claim dispute that has been going on for more than 100 years. Without congressional approval, the land exchange cannot be completed, and the residents of Charlotte Beach, my constituents, will continue to face clouded land titles and economic hardships.

I urge my colleagues on both sides of the aisle to ignore the rhetoric from those attempting to protect casinos.

Support this land claim settlement. Support H.R. 2176.

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

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

Mr. KING of Iowa. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, I'm listening with great interest to this debate that we have here on this floor, and it's interesting the unique way that the Michigan delegation doesn't agree on this.

As I've listened to the presentation made by the gentleman, Mr. DINGELL, and to the intensity with which he speaks, certainly, I've listened to the argument, but I'll say this: The situation with this legislation is that the

land in question becomes part of the reservation, and when it becomes part of the reservation, we all know it's going to be turned into a gaming casino. So to argue that this only settles a land claim—the courts had their opportunity to settle the land claim, both the State court of Michigan and the U.S. Federal court, and that's why we're here.

The people who are pressing this claim on the floor of this Congress didn't get the resolution that they had asked for. They weren't able to prevail in court, so now they come to Congress and say, set a precedent so that we can, essentially, confer this land title on the Native Americans. When they take that title, it comes in trust. The Governor then takes the land in trust, but as soon as it goes in trust, it says that any and all claims are hereby extinguished to that land. So we're abrogating decisions made by the Federal court here and by the State court.

Mr. STUPAK. Would the gentleman yield on that point?

Mr. KING of Iowa. I would yield briefly.

Mr. STUPAK. On the Federal claim brought forth by Bay Mills, the Sault tribe was not part of that action, and the Federal court said, your cousins—the Chippewas of the Sault Ste. Marie Tribe—must be joined. Go back and get joined and come back later. In the meantime, they started negotiations in the State court. The State court said, you have a valid land claim, but we cannot give you economic damages because the 6-year statute of limitations has run. This claim should have been brought 100 years ago.

So that's the injustice we're trying to correct; they could not be given money damages because more than 6 years had lapsed. The statute of limitations had run.

Mr. KING of Iowa. Reclaiming my time, though, did not the two tribes then join together and go back to Federal court?

Mr. STUPAK. No.

Mr. KING of Iowa. I would yield to the gentleman if he could tell me why not.

Mr. STUPAK. Because they began the negotiation under IGRA, as required under section 20, to begin a negotiation with the Governor, and they had to make a settlement with the Governor, who can do it. So, instead of going back to court, they used the legislature and the Governor's office to work out a settlement to avoid further litigation.

Mr. KING of Iowa. Reclaiming my time, I thank the gentleman. I think that does add clarity to this debate. The option to go to the Governor and to the legislature and the option of the other things we've heard about was better than going back to court under those circumstances.

Mr. STUPAK. I thank the gentleman for his courtesy.

Mr. KING of Iowa. In any case, this legislation simply says that any claims

now would be resolved if this legislation passes, "any and all claims, whether based on aboriginal or recognized title, are hereby extinguished." That's what this legislation does.

Then it says also "these are unique claims and shall not be considered precedent." We know, again, that everything that happens in this Congress sets a precedent and creates an idea and an avenue.

I'm faced with a situation that, I think, could be multiplied in its difficulty because of the actions this Congress may take today, Mr. Speaker. Perhaps I'll take that up in my closing remarks.

Mr. Speaker, at this point, I'll reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, who has the right to close?

The SPEAKER pro tempore. The gentleman from West Virginia has the right to close.

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

Mr. YOUNG of Alaska. At this time, I yield 8 minutes to the good lady of the district that's represented, not from California, not from any other area such as Nevada and California, again, that oppose this legislation. She represents this area, and we ought to listen to her as to why she is for this bill.

Mrs. MILLER of Michigan. I thank the gentleman, my distinguished colleague from Alaska, for yielding and for his complimentary remarks.

Mr. Speaker, this issue has been waiting for a congressional vote for many, many years but not for as long as our Nation's history of sometimes mistreating Native Americans.

This case settles a land claim from over 100 years ago, at a time when our country treated Native Americans terribly and at a time when the State of Michigan, as has been said, literally stole this land from the Indians.

Throughout the decades that followed, Native Americans sought justice. Finally, former Michigan Governor John Engler negotiated a settlement that was agreed to by everyone involved. Let me just read briefly a section from his letter.

"As Governor of Michigan, it was my duty to negotiate the land settlement agreements between the State of Michigan and Bay Mills and the Sault Tribe in 2002 . . . I am proud that every concerned party involved in this settlement supports this agreement. This is a true example of a State and the tribes promoting cooperation rather than conflict."

This land claim settlement is unique to Michigan, and it does not impact any other congressional district other than the three congressional districts of the people who are supporting it here who have spoken today, as have been mentioned. That is myself, Mr. STUPAK, and Mr. DINGELL. I would point out that, in a time of hyper partisanship, this is a wonderful example, I believe, of bipartisanship.

I would note that much of the opposition to this bill comes from Members of Congress who already have gaming in their districts, districts like Las Vegas or like the city of Detroit, and that their opposition is not based on ideology but on, rather, their not wanting any honest competition. I reject this on its face because I believe in the free market, and I believe in free market principles.

Some have said that this is stuffing a tribal land claim down the throat of a community that doesn't welcome it. Actually, the opposite is true. This legislation is supported by every elected official who represents the city of Port Huron in any capacity and at any level of government. As has been mentioned, there is the former Governor, John Engler; the current Governor, Jennifer Granholm; both United States Senators; myself, as a Member in the U.S. House here; the State senator; the State representatives; the county commissioners, and the entire city council.

Additionally, it has the support of civic groups, of business groups like the Chamber of Commerce, of educational leaders, and of labor unions like the UAW.

For those who might be concerned about what law enforcement thinks, we have letters here of support from the county sheriff, from the county prosecutor and from all of the police chiefs. Most importantly, it has the support of the citizens of the city, as evidenced by a citywide referendum vote in support.

The opponents of this legislation have said, first of all, that they don't want any competition. Therefore, they hope this bill will die. They have said, even though their communities and their districts have economic development, they need to protect that and that the citizens—the good Americans of a community like mine—cannot have fairness or economic opportunity.

Mr. Speaker, this is un-American, and I would hope that my fair-minded colleagues would reject that out of hand.

The opponents of this have also stated several outright untruths about this bill. They say that this bill will set a precedent, and that is false. In fact, in section 3(b) of this bill, it states the following: "The provisions contained in the Settlement of Land Claim are unique and shall not be considered precedent for any future agreement between any tribe and State."

The opponents also say that this bill will allow for off-reservation gaming. This is also false. In fact, section 2(a)(2) of the bill states the following: "The alternative lands shall become part of the community's reservation immediately upon attaining trust status."

In fact, this site was not reservation shopping, as Mr. STUPAK has pointed out. It was specifically chosen because it is the only community with an international border crossing where there is already casino gaming on one side and not on the U.S. side.

They have also said that this legislation violates the process under the National Environmental Policy Act, also known as NEPA. Yet the legislation makes it very, very clear that the land cannot be taken into trust until it is determined that the land complies with NEPA.

They also say that this bill would violate the will of the people of Michigan because of a referendum that was passed in 2004, which required statewide voter approval for any expansion of gaming. This is completely false. As a former Secretary of State, I know a little bit about ballot language, and this is what the ballot language actually says: "Specify that voter approval requirement does not apply to Indian tribal gaming," which is exactly what this bill does.

I would offer as proof of this that, since the referendum passed in Michigan, several tribal casinos that are operated by some of the richest tribal opponents of this bill have actually opened facilities. Now, apparently, they didn't violate the will of the voters as long as they could make money. Yet they want to stop our communities, again, from fair competition. I would say please spare me the righteous indignation.

Mr. Speaker, it is no secret that my beautiful State of Michigan, that our beautiful State of Michigan, is suffering terrible, terrible economic challenges. We have the highest unemployment in the Nation. We have the lowest personal income growth in the Nation. We have the highest foreclosure rate in the Nation. We have the largest exodus of our young people. Our population is moving to other States to seek economic opportunity.

The city of Port Huron, that I represent, actually has one of the highest unemployment rates, not only in the State but in the entire Nation.

□ 1515

By the best estimates right now, it's anywhere from 14 to 16 percent. Some have said it could be even higher. And yet we try to pay our taxes. We educate our children. We always legitimately think of ourselves as patriotic Americans. We are proud, and we have never asked for a handout, and today we are only asking for Congress to ratify the compacts of our Governors so that we can help ourselves.

For those who think that a vote today against this bill will stop gaming in this community, let me just point out this photo here behind me, which is of a Canadian casino, which is about 282 yards away. Now, a good golfer, not me, but a good golfer could hit this Canadian casino. It's right across the St. Clair River, a short trip over the Blue Water Bridge, and about 80 percent of all of their revenues comes from American citizens. Mr. Speaker, I would say that those dollars should be spent in an American facility to help Americans get jobs.

This bill is all about fairness and opportunity, and I would urge my col-

leagues to vote "yes"; "yes" for private property rights, "yes" for the rights of States to negotiate in good faith and for the good of their State, and "yes" for Americans to have fairness and opportunity to compete with our wonderful Canadian neighbors for jobs in a community where the jobs are desperately needed.

And I would just close on a note: I have heard that there is a number of family values-type groups who are opposed to this. Let me just show you an example of a recent mailing ostensibly from a group called Michigan Family Alert.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. YOUNG of Alaska. Mr. Speaker, I yield an additional 30 seconds to the gentleman.

Mrs. MILLER of Michigan. This is a so-called Michigan Family Alert, and, of course, it's saying that they are opposed to these casinos, and, if you're a family values person, you had better to be opposed too. And yet from Business Week what they have said is: "As it turns out, Gambling Watch is a tiny operation financed by MGM Mirage, one of the world's largest gaming companies, locked in a bitter dispute with two Native American Indian tribes that hope to open casinos in Michigan. The Las Vegas company inaugurated a new \$800 million casino in downtown Detroit in October and is not in the mood for any competition."

And I close on that note.

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

Mr. KING of Iowa. Mr. Speaker, I would be pleased to yield 45 seconds to the gentleman from California (Mr. ISSA).

Mr. CONYERS. Mr. Speaker, I yield the gentleman 15 additional seconds.

(Mr. ISSA asked and was given permission to revise and extend his remarks.)

Mr. ISSA. Mr. Speaker, I thank you all for this moment and this minute.

I represent a great many tribes in California, none of whom will be adversely affected if this casino goes in or doesn't go in. I come to the floor as a supporter of tribal and historic rights and their gaming rights. I have absolute support for Native Americans having gaming on their tribal lands. I also have absolute support for private property. As the gentleman from Michigan would like to have private property respected, then the State of Michigan can license a casino on that site to anyone they want, including those Indians on lands that are not in trust.

We, as Federal officers, are being asked to put land in trust for purposes of a casino which has no historic link to the tribes receiving it. We should insist that tribal land be given appropriately in Michigan as close to as possible their historic land or in areas that are for some purpose other than manipulating and distorting the intent of our laws to create a casino.

Mr. RAHALL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Missouri (Mr. CLAY).

Mr. CLAY. I thank the chairman from West Virginia for yielding.

Mr. Speaker, I rise today in strong support of H.R. 2176, legislation that would ratify a longstanding tribal land claim in the State of Michigan.

The Bay Mills Indian community and the Sault Ste. Marie Tribe have worked for over a decade to achieve an agreement with the State of Michigan that would reinstate land rights that these tribes lost shortly after signing a treaty with the Federal Government in the 1850s.

In an effort to achieve justice for these tribes, who have sought to reclaim their lands for over 100 years and to protect the homes of over 100 families who currently reside on the disputed land in Charlotte Beach, the State of Michigan negotiated a land-swap settlement. That agreement would give the Bay Mills Indian community 20 acres of land in Port Huron and give the Sault Tribe up to 40 acres in Romulus or Flint. Under Federal law, the new lands provided to the tribes would be eligible for gambling casinos, just as the Charlotte Beach land would be eligible. The purpose of the land claim agreement is to give alternative land that has the same property rights as the land that was stolen from these tribes.

Mr. Speaker, two Governors from the State of Michigan and those Members of Congress whose districts are most affected have all endorsed the land-swap agreement that would give these tribes new lands in exchange for the 110 acres of land they lost in the 19th century.

There is no authentic argument against this bill. The legislation before us does not expand gaming, as some opponents have erroneously charged. This legislation simply restores justice to Native Americans in the State of Michigan and provides these Indians there an opportunity to raise badly needed revenues.

I urge adoption of the bill.

PARLIAMENTARY INQUIRY

Mr. YOUNG of Alaska. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Alaska will state his parliamentary inquiry.

Mr. YOUNG of Alaska. How much time is left totally, Mr. Speaker? How much time does the Judiciary have, the majority and minority?

The SPEAKER pro tempore. The gentleman from West Virginia has  $\frac{3}{4}$  of 1 minute remaining; the gentleman from Alaska has  $\frac{4}{4}$  minutes remaining; the gentleman from Michigan has  $\frac{1}{4}$  minutes remaining; and the gentleman from Iowa has  $\frac{1}{4}$  minutes remaining.

Mr. YOUNG of Alaska. Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Alaska will state his parliamentary inquiry.

Mr. YOUNG of Alaska. Who has the right to close?

The SPEAKER pro tempore. The gentleman from West Virginia.

Mr. YOUNG of Alaska. Mr. Speaker, I yield the gentleman, not for closing, but I will yield him 2 minutes of my time.

The SPEAKER pro tempore. The gentleman from West Virginia now has 2¾ minutes.

Mr. RAHALL. Mr. Speaker, I plan to close with that time; so I reserve the balance of my time.

The SPEAKER pro tempore. Without objection, the gentleman from West Virginia will control 2¾ minutes.

There was no objection.

Mr. YOUNG of Alaska. Mr. Speaker, with my remaining time, I hope everybody recognizes again that what this is about is competition. That's all it is. In the meantime, there are two Native tribes, American Indians, that have a right under IGRA to, in fact, have these lands that they negotiated with the Governors, the State legislature, the communities, and reached a deal; yet this is the last body that has the ability and the responsibility of settling disputes on lands owned by or not owned by American Natives. Not the courts, no one else. And that's why we are here today.

It does disturb me, when I see other tribes that actually have the backing of other institutions outside the State of Michigan, the city of Detroit, that oppose their brethren from achieving the same goals they did. I'm also disturbed because we have those that are non-Native that have their title in question that will never, in fact, unless we act, have that title cleared up. And that's our responsibility in this body.

There is justice, there should be justice, for American Indians. And, by the way, I believe I am the last one on that committee that voted for the original gaming legislation for American Natives. Chairman UDALL and I passed that legislation. I believe Mr. DINGELL probably voted for it, and maybe Mr. CONYERS voted for it at that time because we thought there was an opportunity there to improve the economic base of the American Indian, and we approved correctly.

Now, those that oppose gaming, I understand that. I don't gamble. That's not my thing. But I also will tell you I don't disrespect those who do gamble. And as the gentlewoman from Michigan (Mrs. MILLER) said, I could even hit a golf ball across that river to that gaming place in Canada, and I want some of that Canadian money to come down to America instead of its going from America to Canada.

In the fairness of this bill, we should vote "yes." In fairness to the American Indians, we should vote "yes." This legislation should become a reality. The State of Michigan Senators support it. The Governors support it. The legislature supports it. The communities support it. The police officers support it. And only those that oppose it have another interest.

I urge a "yes" vote.

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

Mr. KING of Iowa. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this is an interesting debate, and some things come to mind that I don't believe have been adequately answered. I'm going to ask the question and hope that someone answers it with the time they have left rather than asking me to yield them time.

What is the claim the two tribes have on this land and the distinction between it and all the rest of the State of Michigan? I think that's a good question.

When I look at this situation, I apply it to the district that I represent. And I have represented two reservations, two tribes, and two gaming casinos for the last 11½ years. Now I have an outside tribe that has just been created within the last generation that has come in and bought land within my district in order to set up a health care clinic, and now the bait and switch takes place and it's going to be a casino instead. They get some of their problems cleared by this bill, 2176, if it passes today because, regardless of whether the bill says it's a precedent, it's a precedent. If it's not about money, it's about money, as we heard the chairman say. Where could a tribe not establish a casino if they determine to do so? Any land that they could buy for whatever purpose, whether it was a bait and switch or whatever, this opens up the door. As the gentlewoman from Las Vegas said, we could end up with casinos everywhere.

But we need to stand on some principle, and I don't see that the land is a consistent principle that can be defended in this case, Mr. Speaker. I oppose 2176. I urge that it be defeated.

Mr. CONYERS. Mr. Speaker, I yield to the gentlewoman from Las Vegas 25 seconds.

Ms. BERKLEY. I thank the gentleman for yielding.

Mr. Speaker, I just want to end this myth about competition.

How can anybody claim that the gaming casinos are afraid of competition and the free market when the tribes are playing by a different set of rules? Talk about unfair competition, the Indians don't pay taxes on their casinos, and that's why they are so successful. So I don't want to hear any nonsense about competition and fear of competition. That's a lie.

Mr. CONYERS. Mr. Speaker and members of the committee, the only reason we are here today, and I admire all of the devoted people to the cause of our Native Americans, is that these two casinos are located not 5 miles or 10 miles away but 345 miles and 348 miles away. That's why we are here. And by rationalizing that, guess what's going to happen? We are going to have the biggest casino forum shopping this country has ever known because we will have done it here listening to people explain to me about Abramoff's role and how important this is, so compelling.

So, please, vote "no."

□ 1530

Mr. RAHALL. Mr. Speaker, as we conclude this debate, I would like to take this opportunity to implore the other body to act upon the Lumbee and the Virginia Tribe bills that this body had sent over for its consideration last year. The magnitude of injustice that has befallen these Indian people is almost beyond comprehension.

To the matter at hand. One hundred fifty-three years ago, ladies and gentlemen, that is when these tribes were robbed of their land. The historic record shows they were swindled out of their promised land. This has been their version, their own version of the Trail of Tears. We must not continue to condone that.

We have a higher calling in this body. This is a matter about rising above the petty differences, it's about making restitution and making the tribes involved whole, making the tribes involved whole, and as well clearing title to land where the good people of Charlotte Beach reside.

So I would say to those of my colleagues with concerns over this measure, look into your souls. There, it is my hope, that you will find justice to this cause, to this land claim settlement. The pending legislation, I might add, is supported by the United Auto Workers, the International Union of Operating Engineers, and the International Union of Machinists.

As I conclude, let me say again that it is time we move on so that we can address other issues of importance to Indian country, such as the Indian Health Care Improvement Act, reported out of the Committee on Natural Resources; self-governance issues; other land and economic development issues, such as with the Catawba in South Carolina.

There are many other Indian tribes in Indian country around our country that have many injustices yet to be addressed by the Congress of the United States. We have to look into our souls and decide that it is time to move above these petty differences, to realize that it is incumbent upon us in the Congress to address these issues when others will not.

So I implore my colleagues to support the pending legislation as well as ending many other injustices to our first Americans, our native Indians.

I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1298, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. HENSARLING

Mr. HENSARLING. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HENSARLING. Yes, Mr. Speaker, in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Hensarling of Texas moves to recommit the bill H.R. 2176 to the Committee on Natural Resources, with instructions to report the same back to the House forthwith, with the following amendment:

At the end of the bill, insert the following:

**TITLE III—REPEAL OF ALTERNATIVE FUEL PROCUREMENT REQUIREMENT FOR FEDERAL AGENCIES**

**SEC. 301. REPEAL OF ALTERNATIVE FUEL PROCUREMENT REQUIREMENT FOR FEDERAL AGENCIES.**

Section 526 of the Energy Independence and Security Act of 2007 (Public Law 110-140; 42 U.S.C. 17142) is repealed.

Mr. RAHALL. Mr. Speaker, I reserve a point of order.

The SPEAKER pro tempore. The gentleman from West Virginia reserves a point of order.

The gentleman from Texas is recognized for 5 minutes.

Mr. HENSARLING. Thank you, Mr. Speaker.

As I listened very carefully to this debate, it is clear that the majority of the speakers feel very passionately that this is a debate about economic development for the region, a distressed region of Michigan. It's about economic development for a Native American tribe. Someone would have to be totally out of touch with their constituency not to realize that the number-one challenge to the economic well-being of our citizens is the high cost of energy.

So, Mr. Speaker, this motion to recommit is very simple. It removes a provision in last year's "non-energy" energy bill that would prevent the government from using its purchasing power to spur the growth of American energy resources, such as coal-to-liquids technology, oil shale, and tar sands.

This is especially important since we know that right north of the border, right north of Michigan, that our neighbor to the north, Canada, is rich in these resources. Particularly, so much of their energy and many of their exports come from tar sands.

The real estate that we are talking about in question could be greatly impacted should the section 526 not be repealed. Because as most people know who have studied the issue, Mr. Speaker, the United States Air Force wishes to enter into long-term contracts in order to help develop these promising new alternative energy alternatives. Yet in the Democrat "non-energy" energy bill, they would be effectively prevented from doing so. That will clearly have an adverse impact upon the economic growth, the economic well-being of the Native American tribe in question, not to mention the real estate in question as well.

So, again, Mr. Speaker, when we look at energy, energy now has become a

health care issue. It has become an education issue. It is certainly a Native American issue. It is an economic growth issue as well. What has happened is we have seen that the Democrat majority simply wants to bring us bills that somehow believe that if we beg OPEC, we can bring down the price of energy at the pump. Maybe if we sue OPEC, we can bring down the price of energy at the pump. Maybe if we somehow berate oil companies, that will cause prices to go down at the pump. Maybe we should tax them. Well, they will take those taxes and put it right back in their price.

But what the Democrat majority hasn't decided to do is to produce American energy in America and bring down the cost of energy that way. Not only have they decided not to do it, Mr. Speaker, they are moving in the complete opposite direction with this section 526, which prevents the Federal Government from contracting in order to spur the growth of these promising alternative fuel sources, like coal-to-liquid technology, like oil shale, like tar sands. They are moving in the complete opposite direction.

Mr. Speaker, not unlike probably yourself and many of my other colleagues on the floor on both sides of the aisle, we hear from our constituents. I have heard from a constituent that says the high cost of energy now is preventing them from having three meals a day. The high cost of energy has caused them to have their adult children to have to move back in with them. Yet our Democrat majority will not bring a bill to the floor that actually produces American energy.

What Republicans want to do on this side of the aisle is, number one, continue to develop our renewable energy resources. Mr. Speaker, before coming to Congress I was an officer in a green energy company. Those technologies are promising. But, Mr. Speaker, until they are technologically and economically viable will be years to come. In the meantime, people have to take their children to school every day. People have to go to work every day. Many have to go and see their physicians.

And so we need to bring down the cost of this energy now. We know that we haven't built a refinery in America in almost 30 years. Our capacity is down. We are having to import not just crude but we are having to import refined gasoline as well. Yet, the Democrat majority does nothing, does nothing to help build more refineries.

We need diversification. We need nuclear energy. We sit here and talk to the American people about the threat of global warming, yet we know nuclear energy has no greenhouse emissions whatsoever.

It's imperative that we pass this motion to recommit and get more American energy today.

POINT OF ORDER

Mr. RAHALL. Mr. Speaker, I insist on my point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. RAHALL. Mr. Speaker, certainly after listening to the gentleman's diatribe, or whatever it was he was talking about, it's certainly not related to the pending legislation. Never once did I hear the word "Indian." It's a further example of the petty politics the minority is trying to play with the serious problems confronting the American people.

I insist on my point of order, and I raise a point of order that the motion to recommit contains nongermane instructions, in violation of clause 7 of rule XVI. The instructions in the motion to recommit address an unrelated matter to the pending legislation.

The SPEAKER pro tempore. Does any other Member wish to be heard on the point of order?

Mr. HENSARLING. Mr. Speaker, I wish to be heard.

Again, Mr. Speaker, I don't know how, when you can have speaker after speaker come to the floor and say essentially this is a bill having to do with the economic well-being of a distressed area of Michigan, the economic well-being of a Native American tribe, and not believe that somehow the cost of energy factors into the economic well-being.

We are talking also about a piece of real estate. We are talking about the value of underlying minerals in this piece of real estate that will be greatly impacted on whether or not this section 526 is repealed or not.

I would just simply ask the Speaker, when is it germane to bring a motion to produce American energy in America and bring down the high cost of energy for the American people? If not now, when, Mr. Speaker? When will the Democrat majority allow these motions to be voted on?

The SPEAKER pro tempore. The Chair is prepared to rule.

The bill, as amended, addresses settling certain land claims of two tribal communities in the State of Michigan. The instructions in the motion to recommit address an entirely different subject matter; namely, alternative fuel procurement. Accordingly, the instructions are not germane. The point of order is sustained. The motion is not in order.

Mr. HENSARLING. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is, Shall the decision of the Chair stand as the judgment of the House?

MOTION TO TABLE OFFERED BY MR. RAHALL

Mr. RAHALL. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion to table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HENSARLING. Mr. Speaker, I object to the vote on the grounds that

a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, this 15-minute vote on the motion to table will be followed by a 5-minute vote on the passage of the bill if no further proceedings in recommittal intervene.

The vote was taken by electronic device, and there were—yeas 226, nays 189, not voting 19, as follows:

[Roll No. 457]

YEAS—226

Abercrombie	Gonzalez	Murtha
Ackerman	Gordon	Nadler
Allen	Green, Al	Napolitano
Altmire	Green, Gene	Neal (MA)
Andrews	Grijalva	Oberstar
Arcuri	Gutierrez	Obey
Baca	Hall (NY)	Olver
Baird	Hare	Ortiz
Baldwin	Harman	Pallone
Barrow	Hastings (FL)	Pascarell
Bean	Herseth Sandlin	Pastor
Becerra	Higgins	Payne
Berkley	Hill	Perlmutter
Berman	Hinchev	Peterson (MN)
Berry	Hinojosa	Pomeroy
Bishop (GA)	Hirono	Price (NC)
Bishop (NY)	Hodes	Rahall
Blumenauer	Holden	Rangel
Boren	Holt	Reyes
Boswell	Honda	Richardson
Boucher	Hooley	Rodriguez
Boyd (FL)	Hoyer	Ross
Boyda (KS)	Inslee	Rothman
Brady (PA)	Israel	Roybal-Allard
Braley (IA)	Jackson (IL)	Ruppersberger
Brown, Corrine	Jackson-Lee	Ryan (OH)
Butterfield	(TX)	Sánchez, Linda
Capps	Jefferson	T.
Capuano	Johnson (GA)	Sanchez, Loretta
Cardoza	Johnson, E. B.	Sarbanes
Carnahan	Jones (OH)	Schakowsky
Carney	Kagen	Schiff
Carson	Kanjorski	Schwartz
Castor	Kaptur	Scott (GA)
Cazayoux	Kennedy	Scott (VA)
Chandler	Kildee	Serrano
Childers	Kilpatrick	Sestak
Clarke	Kind	Shea-Porter
Clay	Klein (FL)	Sherman
Cleaver	Kucinich	Shuler
Clyburn	LaHood	Sires
Cohen	Langevin	Larsen (WA)
Conyers	Larsen (CT)	Skelton
Cooper	Lee	Slaughter
Costa	Levin	Smith (WA)
Costello	Lewis (GA)	Solis
Courtney	Lipinski	Space
Cramer	Loeb sack	Spratt
Crowley	Lofgren, Zoe	Stark
Cuellar	Lowe y	Stupak
Davis (AL)	Lynch	Tanner
Davis (CA)	Maloney (NY)	Tauscher
Davis (IL)	Markey	Taylor
Davis, Lincoln	Marshall	Thompson (CA)
DeFazio	Matheson	Thompson (MS)
DeGette	Matsui	Tierney
DeLauro	McCarthy (NY)	Towns
Dicks	McCollum (MN)	Tsongas
Dingell	McDermott	Udall (CO)
Doggett	McGovern	Udall (NM)
Donnelly	McIntyre	Van Hollen
Doyle	McNerney	Velázquez
Edwards (MD)	McNulty	Visclosky
Edwards (TX)	Meek (FL)	Walz (MN)
Ellison	Meeks (NY)	Wasserman
Ellsworth	Melancon	Schultz
Emanuel	Michaud	Waters
Engel	Miller (NC)	Watson
Eshoo	Miller, George	Watt
Etheridge	Mitchell	Waxman
Farr	Mollohan	Weiner
Fattah	Moore (KS)	Welch (VT)
Filner	Moore (WI)	Wexler
Foster	Moran (VA)	Wilson (OH)
Frank (MA)	Murphy (CT)	Woolsey
Giffords	Murphy, Patrick	Wu
Gillibrand		

NAYS—189

Aderholt	Gallegly	Nunes
Akin	Garrett (NJ)	Paul
Alexander	Gerlach	Pearce
Bachmann	Gilchrest	Pence
Bachus	Gingrey	Petri
Barrett (SC)	Goode	Pickering
Bartlett (MD)	Goodlatte	Pitts
Barton (TX)	Granger	Platts
Biggart	Graves	Poe
Bilbray	Hall (TX)	Porter
Bilirakis	Hastings (WA)	Price (GA)
Bishop (UT)	Hayes	Pryce (OH)
Blackburn	Heller	Radanovich
Blunt	Hensarling	Ramstad
Boehner	Herger	Regula
Bonner	Hobson	Rehberg
Bono Mack	Hoekstra	Reichert
Boozman	Hulshof	Renzi
Boustany	Hunter	Reynolds
Brady (TX)	Inglis (SC)	Rogers (AL)
Broun (GA)	Issa	Rogers (KY)
Brown (SC)	Johnson (IL)	Rogers (MI)
Brown-Waite,	Johnson, Sam	Rohrabacher
Ginny	Jones (NC)	Ros-Lehtinen
Buchanan	Jordan	Roskam
Burgess	Keller	Royce
Burton (IN)	King (IA)	Ryan (WI)
Buyer	King (NY)	Sali
Calvert	Kingston	Saxton
Camp (MI)	Kirk	Scalise
Campbell (CA)	Kline (MN)	Schmidt
Capito	Knollenberg	Sensenbrenner
Carter	Kuhl (NY)	Sessions
Castle	Lamborn	Shadegg
Chabot	Latham	Shays
Coble	LaTourrette	Shimkus
Cole (OK)	Latta	Shuster
Conaway	Lewis (CA)	Simpson
Crenshaw	Lewis (KY)	Smith (NE)
Culberson	Linder	Smith (NJ)
Davis (KY)	LoBiondo	Smith (TX)
Davis, David	Lucas	Souder
Davis, Tom	Lungren, Daniel	Stearns
Deal (GA)	E.	Tancredo
Dent	Mack	Terry
Diaz-Balart, L.	Manzullo	Thornberry
Diaz-Balart, M.	Marchant	Tiahrt
Doolittle	McCarthy (CA)	Tiberi
Drake	McCaul (TX)	Turner
Dreier	McCrery	Upton
Duncan	McHenry	Walberg
Ehlers	McHugh	Walden (OR)
Emerson	McKeon	Walsh (NY)
English (PA)	McMorris	Wamp
Everett	Rodgers	Weldon (FL)
Fallin	Mica	Weller
Feeney	Miller (FL)	Westmoreland
Ferguson	Miller (MI)	Whitfield (KY)
Flake	Miller, Gary	Wilson (NM)
Forbes	Moran (KS)	Wilson (SC)
Fortenberry	Murphy, Tim	Wittman (VA)
Fox	Musgrave	Wolf
Franks (AZ)	Myrick	Young (AK)
Frelinghuysen	Neugebauer	Young (FL)

NOT VOTING—19

Cannon	Lampson	Snyder
Cantor	Mahoney (FL)	Speier
Cubin	McCotter	Sullivan
Cummings	Peterson (PA)	Sutton
Delahunt	Putnam	Yarmuth
Fossella	Rush	
Gohmert	Salazar	

□ 1605

Mrs. CAPITO and Mr. BURTON of Indiana changed their vote from “yea” to “nay.”

Messrs. CROWLEY, UDALL of New Mexico, ABERCROMBIE, LYNCH, and ROTHMAN changed their vote from “nay” to “yea.”

So the motion to table was agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mrs. JONES of Ohio). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 121, nays 298, not voting 15, as follows:

[Roll No. 458]

YEAS—121

Abercrombie	Gonzalez	Mollohan
Allen	Gordon	Moore (KS)
Andrews	Green, Gene	Murphy (CT)
Arcuri	Grijalva	Murphy, Patrick
Baldwin	Hall (TX)	Olver
Barrow	Harman	Ortiz
Barton (TX)	Hastings (FL)	Pallone
Bean	Herseth Sandlin	Pastor
Berman	Higgins	Paul
Berry	Hill	Pomeroy
Bilbray	Hirono	Price (NC)
Bishop (UT)	Hodes	Rahall
Blumenauer	Holden	Rangel
Boswell	Holt	Reichert
Boucher	Inslee	Renzi
Boyd (FL)	Jackson (IL)	Reyes
Brady (PA)	Kagen	Reynolds
Braley (IA)	Kanjorski	Rodriguez
Butterfield	Kennedy	Rohrabacher
Capps	Kildee	Ross
Capuano	Kind	Rothman
Carney	King (NY)	Schakowsky
Castor	Kuhl (NY)	Serrano
Clay	LaTourrette	Sires
Clyburn	Levin	Smith (WA)
Cole (OK)	Lipinski	Solis
Cramer	Loeb sack	Space
Davis, Tom	Lowe y	Stupak
DeGette	Lungren, Daniel	Tanner
Diaz-Balart, L.	E.	Tierney
Diaz-Balart, M.	Lynch	Towns
Dingell	Maloney (NY)	Udall (CO)
Doyle	Matsui	Velázquez
Ellsworth	McCrery	Walsh (NY)
Engel	McHugh	Wasserman
English (PA)	McKeon	Schultz
Foster	McNulty	Watson
Frank (MA)	Melancon	Welch (VT)
Giffords	Michaud	Wilson (OH)
Gilchrest	Miller (MI)	Wu
Gillibrand	Miller, George	Young (AK)

NAYS—298

Ackerman	Carson	Emerson
Aderholt	Carter	Eshoo
Akin	Castle	Etheridge
Alexander	Cazayoux	Everett
Altmire	Chabot	Fallin
Baca	Chandler	Farr
Bachmann	Childers	Fattah
Bachus	Clarke	Feeney
Baird	Cleaver	Ferguson
Barrett (SC)	Coble	Filner
Bartlett (MD)	Cohen	Flake
Becerra	Conaway	Forbes
Berkley	Conyers	Fortenberry
Biggart	Cooper	Fox
Bilirakis	Costa	Franks (AZ)
Bishop (GA)	Costello	Frelinghuysen
Bishop (NY)	Courtney	Gallegly
Blackburn	Crenshaw	Garrett (NJ)
Blunt	Crowley	Gerlach
Boehner	Cuellar	Gingrey
Bonner	Culberson	Gohmert
Bono Mack	Davis (AL)	Goode
Boozman	Davis (CA)	Goodlatte
Boren	Davis (IL)	Granger
Boustany	Davis (KY)	Graves
Boyda (KS)	Davis, David	Green, Al
Brady (TX)	Davis, Lincoln	Gutierrez
Broun (GA)	Deal (GA)	Hall (NY)
Brown (SC)	DeFazio	Hare
Brown, Corrine	DeLauro	Hastings (WA)
Brown-Waite,	Dent	Hayes
Ginny	Dicks	Heller
Buchanan	Doggett	Hensarling
Burgess	Donnelly	Herger
Burton (IN)	Doolittle	Hinchev
Buyer	Drake	Hinojosa
Calvert	Dreier	Hobson
Camp (MI)	Duncan	Hoekstra
Campbell (CA)	Edwards (MD)	Honda
Cantor	Edwards (TX)	Hooley
Capito	Ehlers	Hoyer
Cardoza	Ellison	Hulshof
Carnahan	Emanuel	Hunter

Inglis (SC)	Miller (FL)	Scott (VA)
Israel	Miller (NC)	Sensenbrenner
Issa	Miller, Gary	Sessions
Jackson-Lee	Mitchell	Sestak
(TX)	Moore (WI)	Shadegg
Jefferson	Moran (KS)	Shays
Johnson (GA)	Moran (VA)	Shea-Porter
Johnson (IL)	Murphy, Tim	Sherman
Johnson, E. B.	Murtha	Shimkus
Johnson, Sam	Musgrave	Shuler
Jones (NC)	Myrick	Shuster
Jones (OH)	Nadler	Simpson
Jordan	Napolitano	Skelton
Kaptur	Neal (MA)	Slaughter
Keller	Neugebauer	Smith (NE)
Kilpatrick	Nunes	Smith (NJ)
King (IA)	Oberstar	Smith (TX)
Kingston	Obey	Souder
Kirk	Pascarell	Spratt
Klein (FL)	Payne	Stark
Kline (MN)	Pearce	Stearns
Knollenberg	Pence	Sullivan
Kucinich	Perlmutter	Tancredo
LaHood	Peterson (MN)	Tauscher
Lamborn	Petri	Taylor
Langevin	Pickering	Terry
Larsen (WA)	Pitts	Thompson (CA)
Larson (CT)	Platts	Thompson (MS)
Latham	Poe	Thornberry
Latta	Porter	Tiahrt
Lee	Price (GA)	Tiberi
Lewis (CA)	Pryce (OH)	Tsongas
Lewis (GA)	Radanovich	Turner
Lewis (KY)	Ramstad	Udall (NM)
Linder	Regula	Upton
LoBiondo	Rehberg	Van Hollen
Lofgren, Zoe	Richardson	Visclosky
Lucas	Rogers (AL)	Walberg
Mack	Rogers (KY)	Walden (OR)
Manzullo	Rogers (MI)	Walz (MN)
Marchant	Roskam	Wamp
Markey	Roybal-Allard	Waters
Marshall	Royce	Watt
Matheson	Ruppersberger	Waxman
McCarthy (CA)	Ryan (OH)	Weiner
McCarthy (NY)	Ryan (WI)	Weldon (FL)
McCaul (TX)	Salazar	Weller
McCollum (MN)	Sali	Westmoreland
McDermott	Sánchez, Linda	Wexler
McGovern	T.	Whitfield (KY)
McHenry	Sánchez, Loretta	Wilson (NM)
McIntyre	Sarbanes	Wilson (SC)
McMorris	Saxton	Wittman (VA)
Rodgers	Scalise	Wolf
McNerney	Schiff	Woolsey
Meek (FL)	Schmidt	Yarmuth
Meeks (NY)	Schwartz	Young (FL)
Mica	Scott (GA)	

## NOT VOTING—15

Cannon	Lampson	Ros-Lehtinen
Cubin	Mahoney (FL)	Rush
Cummings	McCotter	Snyder
Delahunt	Peterson (PA)	Speier
Fossella	Putnam	Sutton

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on this vote.

□ 1614

Ms. GINNY BROWN-WAITE of Florida and Mr. PAYNE changed their vote from “yea” to “nay.”

Mr. BUTTERFIELD changed his vote from “nay” to “yea.”

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1615

## ADA AMENDMENTS ACT OF 2008

Mr. GEORGE MILLER of California. Madam Speaker, pursuant to H. Res. 1299, I call up the bill (H.R. 3195) to restore the intent and protections of the Americans with Disabilities Act of 1990, and ask for its immediate consideration.

The Clerk read the title of the bill.  
The text of the bill is as follows:

H.R. 3195

*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 “ADA Restoration Act of 2007”.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) in enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act “establish a clear and comprehensive prohibition of discrimination on the basis of disability,” and provide broad coverage and vigorous and effective remedies without unnecessary and obstructive defenses;

(2) decisions and opinions of the Supreme Court have unduly narrowed the broad scope of protection afforded in the ADA, eliminating protection for a broad range of individuals who Congress intended to protect;

(3) in enacting the ADA, Congress recognized that physical and mental impairments are natural parts of the human experience that in no way diminish a person’s right to fully participate in all aspects of society, but Congress also recognized that people with physical or mental impairments having the talent, skills, abilities, and desire to participate in society are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;

(4) Congress modeled the ADA definition of disability on that of section 504 of the Rehabilitation Act of 1973, which, through the time of the ADA’s enactment, had been construed broadly to encompass both actual and perceived limitations, and limitations imposed by society;

(5) the broad conception of the definition had been underscored by the Supreme Court’s statement in its decision in *School Board of Nassau County v. Arline*, 480 U.S. 273, 284 (1987), that the section 504 definition “acknowledged that society’s accumulated myths and fears about disability and disease are as handicapping as are the physical limitations that flow from actual impairment”;

(6) in adopting the section 504 concept of disability in the ADA, Congress understood that adverse action based on a person’s physical or mental impairment is often unrelated to the limitations caused by the impairment itself;

(7) instead of following congressional expectations that disability would be interpreted broadly in the ADA, the Supreme Court has ruled, in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184, 197 (2002), that the elements of the definition “need to be interpreted strictly to create a demanding standard for qualifying as disabled,” and, consistent with that view, has narrowed the application of the definition in various ways; and

(8) contrary to explicit congressional intent expressed in the ADA committee reports, the Supreme Court has eliminated from the Act’s coverage individuals who have mitigated the effects of their impairments through the use of such measures as medication and assistive devices.

(b) PURPOSE.—The purposes of this Act are—

(1) to effect the ADA’s objectives of providing “a clear and comprehensive national mandate for the elimination of discrimination” and “clear, strong, consistent, enforceable standards addressing discrimination” by restoring the broad scope of protection available under the ADA;

(2) to respond to certain decisions of the Supreme Court, including *Sutton v. United*

*Airlines, Inc.*, 527 U.S. 471 (1999), *Murphy v. United Parcel Service, Inc.*, 527 U.S. 516 (1999), *Albertson’s, Inc. v. Kirkingburg*, 527 U.S. 555 (1999), and *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002), that have narrowed the class of people who can invoke the protection from discrimination the ADA provides; and

(3) to reinstate original congressional intent regarding the definition of disability by clarifying that ADA protection is available for all individuals who are subjected to adverse treatment based on actual or perceived impairment, or record of impairment, or are adversely affected by prejudiced attitudes, such as myths, fears, ignorance, or stereotypes concerning disability or particular disabilities, or by the failure to remove societal and institutional barriers, including communication, transportation, and architectural barriers, and the failure to provide reasonable modifications to policies, practices, and procedures, reasonable accommodations, and auxiliary aids and services.

**SEC. 3. CODIFIED FINDINGS.**

Section 2(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) physical or mental disabilities are natural parts of the human experience that in no way diminish a person’s right to fully participate in all aspects of society, yet people with physical or mental disabilities having the talent, skills, abilities, and desires to participate in society frequently are precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;”.

(2) by amending paragraph (7) to read as follows:

“(7) individuals with disabilities have been subject to a history of purposeful unequal treatment, have had restrictions and limitations imposed upon them because of their disabilities, and have been relegated to positions of political powerlessness in society; classifications and selection criteria that exclude persons with disabilities should be strongly disfavored, subjected to skeptical and meticulous examination, and permitted only for highly compelling reasons, and never on the basis of prejudice, ignorance, myths, irrational fears, or stereotypes about disability;”.

**SEC. 4. DISABILITY DEFINED.**

Section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102) is amended—

(1) by amending paragraph (2) to read as follows:

“(2) DISABILITY.—

“(A) IN GENERAL.—The term ‘disability’ means, with respect to an individual—

“(i) a physical or mental impairment;

“(ii) a record of a physical or mental impairment; or

“(iii) being regarded as having a physical or mental impairment.

“(B) RULE OF CONSTRUCTION.—

“(i) The determination of whether an individual has a physical or mental impairment shall be made without considering the impact of any mitigating measures the individual may or may not be using or whether or not any manifestations of an impairment are episodic, in remission, or latent.

“(ii) The term ‘mitigating measures’ means any treatment, medication, device, or other measure used to eliminate, mitigate, or compensate for the effect of an impairment, and includes prescription and other medications, personal aids and devices (including assistive technology devices and services), reasonable accommodations, or auxiliary aids and services.



“(iii) Actions taken by a covered entity with respect to an individual because of that individual’s use of a mitigating measure or because of a side effect or other consequence of the use of such a measure shall be considered actions taken on the basis of a disability under this Act.”.

(2) by redesignating paragraph (3) as paragraph (7) and inserting after paragraph (2) the following:

“(3) **PHYSICAL IMPAIRMENT.**—The term ‘physical impairment’ means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine.

“(4) **MENTAL IMPAIRMENT.**—The term ‘mental impairment’ means any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities.

“(5) **RECORD OF PHYSICAL OR MENTAL IMPAIRMENT.**—The term ‘record of physical or mental impairment’ means having a history of, or having been misclassified as having, a physical or mental impairment.

“(6) **REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT.**—The term ‘regarded as having a physical or mental impairment’ means being perceived or treated as having a physical or mental impairment whether or not the individual has an impairment.”.

#### **SEC. 5. DISCRIMINATION ON THE BASIS OF DISABILITY.**

Section 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112) is amended—

(1) in subsection (a), by striking “against a qualified individual with a disability because of the disability of such individual” and inserting “against an individual on the basis of disability”; and

(2) in subsection (b), in the matter preceding paragraph (1), by striking “discriminate” and inserting “discriminate against an individual on the basis of disability”.

#### **SEC. 6. QUALIFIED INDIVIDUAL.**

Section 103(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12113(a)) is amended by striking “that an alleged application” and inserting “that—

“(1) the individual alleging discrimination under this title is not a qualified individual with a disability; or

“(2) an alleged application”.

#### **SEC. 7. RULE OF CONSTRUCTION.**

Section 501 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201) is amended by adding at the end the following:

“(e) **BROAD CONSTRUCTION.**—In order to ensure that this Act achieves its purpose of providing a comprehensive prohibition of discrimination on the basis of disability, the provisions of this Act shall be broadly construed to advance their remedial purpose.

“(f) **REGULATIONS.**—In order to provide for consistent and effective standards among the agencies responsible for enforcing this Act, the Attorney General shall promulgate regulations and guidance in alternate accessible formats implementing the provisions herein. The Equal Employment Opportunity Commission and Secretary of Transportation shall then issue appropriate implementing directives, whether in the nature of regulations or policy guidance, consistent with the requirements prescribed by the Attorney General.

“(g) **DEFERENCE TO REGULATIONS AND GUIDANCE.**—Duly issued Federal regulations and guidance for the implementation of this Act, including provisions implementing and in-

terpreting the definition of disability, shall be entitled to deference by administrative bodies or officers and courts hearing any action brought under this Act.”.

The **SPEAKER pro tempore.** Pursuant to House Resolution 1299, the amendment in the nature of a substitute recommended by the Committee on Education and Labor, printed in the bill is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 3195

*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 “ADA Amendments Act of 2008”.*

#### **SEC. 2. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—Congress finds that—  
(1) in enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” and provide broad coverage;

(2) in enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person’s right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;

(3) while Congress expected that the definition of disability under the ADA would be interpreted consistently with how courts had applied the definition of handicap under the Rehabilitation Act of 1973, that expectation has not been fulfilled;

(4) the holdings of the Supreme Court in *Sutton v. United Airlines, Inc.*, 527 U.S. 471 (1999) and its companion cases, and in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002) have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect; and

(5) as a result of these Supreme Court cases, lower courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities.

(b) **PURPOSES.**—The purposes of this Act are—

(1) to carry out the ADA’s objectives of providing “a clear and comprehensive national mandate for the elimination of discrimination” and “clear, strong, consistent, enforceable standards addressing discrimination” by reinstating a broad scope of protection to be available under the ADA;

(2) to reject the requirement enunciated by the Supreme Court in *Sutton v. United Airlines, Inc.*, 527 U.S. 471 (1999) and its companion cases that whether an impairment substantially limits a major life activity is to be determined with reference to the ameliorative effects of mitigating measures;

(3) to reject the Supreme Court’s reasoning in *Sutton v. United Airlines, Inc.*, 527 U.S. 471 (1999) with regard to coverage under the third prong of the definition of disability and to reinstate the reasoning of the Supreme Court in *School Board of Nassau County v. Arline*, 480 U.S. 273 (1987) which set forth a broad view of the third prong of the definition of handicap under the Rehabilitation Act of 1973;

(4) to reject the standards enunciated by the Supreme Court in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002), that the terms “substantially” and “major” in the definition of disability under the ADA “need to be interpreted strictly to create a de-

manding standard for qualifying as disabled,” and that to be substantially limited in performing a major life activity under the ADA “an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people’s daily lives”; and

(5) to provide a new definition of “substantially limits” to indicate that Congress intends to depart from the strict and demanding standard applied by the Supreme Court in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams* and by numerous lower courts.

#### **SEC. 3. CODIFIED FINDINGS.**

Section 2(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) physical or mental disabilities in no way diminish a person’s right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;”;

(2) by striking paragraph (7).

#### **SEC. 4. DISABILITY DEFINED AND RULES OF CONSTRUCTION.**

(a) **DEFINITION OF DISABILITY.**—Section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102) is amended to read as follows:

##### **“SEC. 3. DEFINITION OF DISABILITY.**

“As used in this Act:

“(1) **DISABILITY.**—The term ‘disability’ means, with respect to an individual—

“(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

“(B) a record of such an impairment; or

“(C) being regarded as having such an impairment (as described in paragraph (4)).

“(2) **SUBSTANTIALLY LIMITS.**—The term ‘substantially limits’ means materially restricts.

“(3) **MAJOR LIFE ACTIVITIES.**—

“(A) **IN GENERAL.**—For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.

“(B) **MAJOR BODILY FUNCTIONS.**—For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

“(4) **REGARDED AS HAVING SUCH AN IMPAIRMENT.**—For purposes of paragraph (1)(C):

“(A) An individual meets the requirement of ‘being regarded as having such an impairment’ if the individual establishes that he or she has been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

“(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

“(5) **RULES OF CONSTRUCTION REGARDING THE DEFINITION OF DISABILITY.**—The definition of ‘disability’ in paragraph (1) shall be construed in accordance with the following:

“(A) To achieve the remedial purposes of this Act, the definition of ‘disability’ in paragraph (1) shall be construed broadly.

“(B) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

“(C) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

“(D)(i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as—

“(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

“(II) use of assistive technology;

“(III) reasonable accommodations or auxiliary aids or services; or

“(IV) learned behavioral or adaptive neuro-motifical modifications.

“(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

“(iii) As used in this subparagraph—

“(I) the term ‘ordinary eyeglasses or contact lenses’ means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

“(II) the term ‘low-vision devices’ means devices that magnify, enhance, or otherwise augment a visual image.”

(b) **CONFORMING AMENDMENT.**—The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) is further amended by adding after section 3 the following:

**“SEC. 4. ADDITIONAL DEFINITIONS.**

“As used in this Act:

“(1) **AUXILIARY AIDS AND SERVICES.**—The term ‘auxiliary aids and services’ includes—

“(A) qualified interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments;

“(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

“(C) acquisition or modification of equipment or devices; and

“(D) other similar services and actions.

“(2) **STATE.**—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.”

(c) **AMENDMENT TO THE TABLE OF CONTENTS.**—The table of contents contained in section 1(b) of the Americans with Disabilities Act of 1990 is amended by striking the item relating to section 3 and inserting the following items:

“Sec. 3. Definition of disability.

“Sec. 4. Additional definitions.”

**SEC. 5. DISCRIMINATION ON THE BASIS OF DISABILITY.**

(a) **ON THE BASIS OF DISABILITY.**—Section 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112) is amended—

(1) in subsection (a), by striking “with a disability because of the disability of such individual” and inserting “on the basis of disability”; and

(2) in subsection (b) in the matter preceding paragraph (1), by striking “discriminate” and inserting “discriminate against a qualified individual on the basis of disability”.

(b) **QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.**—Section 103 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12113) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and inserting after subsection (b) the following new subsection:

“(c) **QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.**—Notwithstanding section 3(5)(D)(ii), a covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual’s uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in

question and consistent with business necessity.”

(c) **CONFORMING AMENDMENT.**—Section 101(B) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(B)) is amended—

(1) in the paragraph heading, by striking “WITH A DISABILITY”; and

(2) by striking “with a disability” after “individual” both places it appears.

**SEC. 6. RULES OF CONSTRUCTION.**

Title V of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201) is amended—

(1) by adding at the end of section 501 the following:

“(e) **BENEFITS UNDER STATE WORKER’S COMPENSATION LAWS.**—Nothing in this Act alters the standards for determining eligibility for benefits under State worker’s compensation laws or under State and Federal disability benefit programs.

“(f) **CLAIMS OF NO DISABILITY.**—Nothing in this Act shall provide the basis for a claim by a person without a disability that he or she was subject to discrimination because of his or her lack of disability.

“(g) **REASONABLE ACCOMMODATIONS AND MODIFICATIONS.**—A covered entity under title I, a public entity under title II, and any person who owns, leases (or leases to), or operates a place of public accommodation under title III, need not provide a reasonable accommodation or a reasonable modification to policies, practices, or procedures to an individual who meets the definition of disability in section 3(1) solely under subparagraph (C).”

(2) by redesignating section 506 through 514 as sections 507 through 515, respectively, and adding after section 505 the following:

**“SEC. 506. RULE OF CONSTRUCTION REGARDING REGULATORY AUTHORITY.**

“The authority to issue regulations granted to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation under this Act includes the authority to issue regulations implementing the definitions contained in sections 3 and 4.”; and

(3) in the table of contents contained in section 1(b), by redesignating the items relating to sections 506 through 514 as sections 507 through 515, respectively, and by inserting after the item relating to section 505 the following new item:

“Sec. 506. Rule of construction regarding regulatory authority.”

**SEC. 7. CONFORMING AMENDMENTS.**

Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended—

(1) in paragraph (9)(B), by striking “a physical” and all that follows through “major life activities”, and inserting “the meaning given it in section 3 of the Americans with Disabilities Act of 1990”; and

(2) in paragraph (20)(B), by striking “any person who” and all that follows through the period at the end, and inserting “any person who has a disability as defined in section 3 of the Americans with Disabilities Act of 1990.”

**SEC. 8. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall become effective on January 1, 2009.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “ADA Amendments Act of 2008”.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—Congress finds that—

(1) in enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” and provide broad coverage;

(2) in enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person’s right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;

(3) while Congress expected that the definition of disability under the ADA would be interpreted consistently with how courts had applied the definition of handicap under the Rehabilitation Act of 1973, that expectation has not been fulfilled;

(4) the holdings of the Supreme Court in *Sutton v. United Airlines, Inc.*, 527 U.S. 471 (1999) and its companion cases, and in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002) have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect; and

(5) as a result of these Supreme Court cases, lower courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities.

(b) **PURPOSES.**—The purposes of this Act are—

(1) to carry out the ADA’s objectives of providing “a clear and comprehensive national mandate for the elimination of discrimination” and “clear, strong, consistent, enforceable standards addressing discrimination” by reinstating a broad scope of protection to be available under the ADA;

(2) to reject the requirement enunciated by the Supreme Court in *Sutton v. United Airlines, Inc.*, 527 U.S. 471 (1999) and its companion cases that whether an impairment substantially limits a major life activity is to be determined with reference to the ameliorative effects of mitigating measures;

(3) to reject the Supreme Court’s reasoning in *Sutton v. United Airlines, Inc.*, 527 U.S. 471 (1999) with regard to coverage under the third prong of the definition of disability and to reinstate the reasoning of the Supreme Court in *School Board of Nassau County v. Arline*, 480 U.S. 273 (1987) which set forth a broad view of the third prong of the definition of handicap under the Rehabilitation Act of 1973;

(4) to reject the standards enunciated by the Supreme Court in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002), that the terms “substantially” and “major” in the definition of disability under the ADA “need to be interpreted strictly to create a demanding standard for qualifying as disabled,” and that to be substantially limited in performing a major life activity under the ADA “an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people’s daily lives”; and

(5) to provide a new definition of “substantially limits” to indicate that Congress intends to depart from the strict and demanding standard applied by the Supreme Court in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams* and by numerous lower courts.

**SEC. 3. CODIFIED FINDINGS.**

Section 2(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) physical or mental disabilities in no way diminish a person’s right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;” and

(2) by striking paragraph (7).

SEC. 4. DISABILITY DEFINED AND RULES OF CONSTRUCTION.

(a) DEFINITION OF DISABILITY.—Section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102) is amended to read as follows:

“SEC. 3. DEFINITION OF DISABILITY.

“As used in this Act:

“(1) DISABILITY.—The term ‘disability’ means, with respect to an individual—

“(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

“(B) a record of such an impairment; or

“(C) being regarded as having such an impairment (as described in paragraph (4)).

“(2) SUBSTANTIALLY LIMITS.—The term ‘substantially limits’ means materially restricts.

“(3) MAJOR LIFE ACTIVITIES.—

“(A) IN GENERAL.—For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.

“(B) MAJOR BODILY FUNCTIONS.—For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

“(4) REGARDED AS HAVING SUCH AN IMPAIRMENT.—For purposes of paragraph (1)(C):

“(A) An individual meets the requirement of ‘being regarded as having such an impairment’ if the individual establishes that he or she has been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

“(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

“(5) RULES OF CONSTRUCTION REGARDING THE DEFINITION OF DISABILITY.—The definition of ‘disability’ in paragraph (1) shall be construed in accordance with the following:

“(A) To achieve the remedial purposes of this Act, the definition of ‘disability’ in paragraph (1) shall be construed broadly.

“(B) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

“(C) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

“(D)(i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as—

“(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

“(II) use of assistive technology;

“(III) reasonable accommodations or auxiliary aids or services; or

“(IV) learned behavioral or adaptive neurologic modifications.

“(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

“(iii) As used in this subparagraph—

“(I) the term ‘ordinary eyeglasses or contact lenses’ means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

“(II) the term ‘low-vision devices’ means devices that magnify, enhance, or otherwise augment a visual image.”.

(b) CONFORMING AMENDMENT.—The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) is further amended by adding after section 3 the following:

“SEC. 4. ADDITIONAL DEFINITIONS.

“As used in this Act:

“(1) AUXILIARY AIDS AND SERVICES.—The term ‘auxiliary aids and services’ includes—

“(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

“(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

“(C) acquisition or modification of equipment or devices; and

“(D) other similar services and actions.

“(2) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.”.

(c) AMENDMENT TO THE TABLE OF CONTENTS.—The table of contents contained in section 1(b) of the Americans with Disabilities Act of 1990 is amended by striking the item relating to section 3 and inserting the following items:

“Sec. 3. Definition of disability.

“Sec. 4. Additional definitions.”.

SEC. 5. DISCRIMINATION ON THE BASIS OF DISABILITY.

(a) ON THE BASIS OF DISABILITY.—Section 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112) is amended—

(1) in subsection (a), by striking “with a disability because of the disability of such individual” and inserting “on the basis of disability”; and

(2) in subsection (b) in the matter preceding paragraph (1), by striking “discriminate” and inserting “discriminate against a qualified individual on the basis of disability”.

(b) QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.—Section 103 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12113) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and inserting after subsection (b) the following new subsection:

“(c) QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.—Notwithstanding section 3(5)(D)(ii), a covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual’s uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity.”.

(c) CONFORMING AMENDMENT.—Section 101(8) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(8)) is amended—

(1) in the paragraph heading, by striking “WITH A DISABILITY”; and

(2) by striking “with a disability” after “individual” both places it appears.

SEC. 6. RULES OF CONSTRUCTION.

Title V of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201) is amended—

(1) by adding at the end of section 501 the following:

“(e) BENEFITS UNDER STATE WORKER’S COMPENSATION LAWS.—Nothing in this Act alters the standards for determining eligibility for

benefits under State worker’s compensation laws or under State and Federal disability benefit programs.

“(f) CLAIMS OF NO DISABILITY.—Nothing in this Act shall provide the basis for a claim by a person without a disability that he or she was subject to discrimination because of his or her lack of disability.

“(g) REASONABLE ACCOMMODATIONS AND MODIFICATIONS.—A covered entity under title I, a public entity under title II, and any person who owns, leases (or leases to), or operates a place of public accommodation under title III, need not provide a reasonable accommodation or a reasonable modification to policies, practices, or procedures to an individual who meets the definition of disability in section 3(1) solely under subparagraph (C).”;.

(2) by redesignating sections 506 through 514 as sections 507 through 515, respectively, and adding after section 505 the following:

“SEC. 506. RULE OF CONSTRUCTION REGARDING REGULATORY AUTHORITY.

“The authority to issue regulations granted to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation under this Act includes the authority to issue regulations implementing the definitions contained in sections 3 and 4.”; and

(3) in the table of contents contained in section 1(b), by redesignating the items relating to sections 506 through 514 as sections 507 through 515, respectively, and by inserting after the item relating to section 505 the following new item:

“Sec. 506. Rule of construction regarding regulatory authority.”.

SEC. 7. CONFORMING AMENDMENTS.

Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended—

(1) in paragraph (9)(B), by striking “a physical” and all that follows through “major life activities”, and inserting “the meaning given it in section 3 of the Americans with Disabilities Act of 1990”; and

(2) in paragraph (20)(B), by striking “any person who” and all that follows through the period at the end, and inserting “any person who has a disability as defined in section 3 of the Americans with Disabilities Act of 1990.”.

SEC. 8. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on January 1, 2009.

The SPEAKER pro tempore. Debate shall not exceed 1 hour, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The gentleman from California (Mr. GEORGE MILLER) and the gentleman from California (Mr. MCKEON) each will control 20 minutes, and the gentleman from Michigan (Mr. CONYERS) and the gentleman from Wisconsin (Mr. SENBRENNER) each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

GENERAL LEAVE

Mr. GEORGE MILLER of California. Madam Speaker, I ask unanimous consent for all Members to have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 3195.

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

There was no objection.

Mr. GEORGE MILLER of California. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H.R. 3195, the Americans with Disabilities Act Amendments Act of 2008.

Since 1990, the Americans with Disabilities Act has made it possible for millions of productive, hardworking Americans to participate in our Nation's economy. Among other rights, the law guaranteed that workers with disabilities would be judged on their merits, not on their employer's prejudices.

But since the ADA's enactment, several Supreme Court rulings have dramatically reduced the number of workers with disabilities who are protected from discrimination under the law. Workers with diabetes, cancer, epilepsy, the very workers for whom the Americans with Disabilities Act was intended to protect, can be legally fired or passed over for promotion just because of their disability.

In January, the Education and Labor Committee heard testimony from Carey McClure. Although he was diagnosed with muscular dystrophy at age 15, Carey had been working as an electrician for more than 20 years. Like so many other Americans with disabilities, Carey was able to find his way to successfully perform his job and all of life's daily tasks despite his disability.

Carey received an initial job offer from General Motors pending a physical. During the physical, the doctor asked Carey to hold his arms above his head. Carey could not. The doctor asked how he would perform his job if it required reaching over his head. Carey gave a commonsense answer: he would use a ladder. When General Motors learned that Carey had a disability, it rescinded the job offer. Carey challenged General Motors' decision because he thought the Americans with Disabilities Act would protect him. He was wrong. The court ruled that, since Carey had adapted to his condition by modifying the way he performed everyday tasks, like washing his hair, he was not disabled; and, therefore, was not protected by the Americans with Disabilities Act.

Because of Supreme Court rulings, Carey and many others are now caught in a legal Catch-22. The court has determined that, for individuals whose disabilities do not "prevent or severely restrict" major life activities and for those who mitigate their impairments through means such as hearings aids or with medications, they should not be considered disabled.

In other words, an employer could fire or refuse to hire a fully qualified worker simply on the basis of his or her disability, while maintaining in court that the worker was not "disabled enough" to qualify for protection under the law.

H.R. 3195, the legislation before us today, a bipartisan legislation, was in-

troduced by Majority Leader HOYER and Congressman JIM SENSENBRENNER, and it remedies this problem. The bill reverses the flawed court decision and restores the original congressional intent of the Americans with Disabilities Act.

H.R. 3195 clarifies the definition of a "disability," ensuring that anyone with a physical or with a mental impairment that materially restricts a major life activity is covered under ADA.

In 2004, workers with disabilities lost 97 percent of the employment cases that went to trial. There has been no balance in the courts, putting workers at a distinct disadvantage. Too often, these cases have turned solely on the question of whether someone is an individual with a disability; too rarely have courts considered the merits of the discrimination claim itself.

H.R. 3195 stops the erosion of civil rights protections for people with disabilities while maintaining a reasonable solution supported by the business community.

The U.S. Chamber of Commerce states that H.R. 3195 "represents a balanced approach to ensure appropriate coverage under ADA."

The Human Resource Policy Association, whose members employ 12 percent of the U.S. private-sector workforce, also supports the bill. The organization says that the ADA amendment "would maintain the functionality of the workplace while providing important protections to individuals with disabilities."

H.R. 3195 makes it clear that the Americans with Disabilities Act protects anyone who faces discrimination on the basis of disability and that Congress intended the law to be constructed broadly.

Many of our Nation's injured veterans returning from the battlefield will also need the protections guaranteed by the ADA. When injured soldiers return to civilian life, whether they go back to a job or to school, they should not be subject to discrimination. This legislation will ensure that they will not have to fight another battle, this time for their economic livelihood.

The Supreme Court rulings have also reduced protections for students with disabilities. The ADA Amendments Act ensures that students with physical and mental impairments will be free from discrimination and that they will have access to the accommodations and to the modifications they need to successfully pursue an education.

This legislation has broad support: Democrats and Republicans, businesses and advocates for individuals with disabilities. I am pleased we were able to work together to get to this point.

It is time to restore the original intent of the ADA and to ensure that the tens of millions of Americans with disabilities who want to work and to attend school and to participate in our communities will have the chance to do so. I urge my colleagues to support this legislation.

Again, I would like to give a special thanks to Majority Leader HOYER of Maryland and to Representative JIM SENSENBRENNER of Wisconsin for their outstanding efforts on behalf of the Members of this House during these negotiations, to bring those negotiations between the civil rights community, the disabilities community, and the employer community to a successful conclusion, which is embodied in this legislation today.

I reserve the balance of my time.

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

I want to associate myself with the remarks that Chairman MILLER just made of thanking Leader HOYER and Mr. SENSENBRENNER for the work that they began in the last Congress and persevered to bring us to this point today.

The Americans with Disabilities Act was enacted in 1990 with broad bipartisan support. Among the bill's most important purposes was the protecting of individuals with disabilities from discrimination in the workplace.

By many measures, the law has been a success. I firmly believe that the employer community has taken the ADA to heart with businesses adopting policies specifically aimed at providing meaningful opportunities to individuals with disabilities.

However, despite the law's many success stories, it is clear today that, for some, the ADA is failing to live up to its promise. For example, the Education and Labor Committee heard testimony earlier this year from individuals who, I would stipulate, were intended to be covered under the original ADA. But in a perverse fashion, someone who was able to treat the effects of his or her disability through medication or technology was left without protection because they weren't "disabled" enough.

I don't think that is what the authors of the original ADA intended. I don't believe it is what we intend today, and I am glad that the bill before us addresses and corrects this issue.

Madam Speaker, we are here today because some individuals have been left outside the scope of the act's protections by court cases and by narrow interpretations of the law. Still, others have sought to massively expand the law's protections, an equally dangerous proposition.

Our task with this legislation is to focus relief where it is needed, while still maintaining the delicate balance embodied in the original ADA.

In the months since this bill was first introduced, I am pleased to say we were able to do so. Because the ADA extends its protections to so many facets of American life, there were four separate committees with the responsibility for moving the process forward. Equally important, this compromise was forged with representatives of many of the stakeholders who will be

affected by this bill. It was truly a process of give-and-take.

For instance, even as we work to ensure the law's protections are extended to some who are currently excluded, such as those I mentioned earlier who were wrongly considered to be not "disabled enough," we define that expansion cautiously. Through the carefully crafted language of the bill, we will ensure, for example, that someone is not "disabled" under the ADA simply because he or she wears eyeglasses or contact lenses. That's an important limitation, and it is necessary to maintaining the intent and integrity of the ADA.

Also importantly, this version of the legislation maintains a requirement of the ADA, which is that, to be considered a disability, a physical or a mental impairment must "substantially limit" an individual.

As introduced, H.R. 3195 threatened to gut any meaningful limitation on the ADA by simply calling any impairment, no matter how trivial or minor, a disability. That was not the intent of Congress in 1990, nor should it be today.

Madam Speaker, I support this bill, not because I think it is perfect but because I think it represents our best efforts to ensure that meaningful relief will be extended to those most in need, while the ADA's careful balance is maintained as fully as possible.

In recognition of that achievement, let me simply thank my colleagues on both sides of the aisle for honoring our shared commitment to work together on this issue that has the potential to touch the lives of millions of Americans. And I also want to thank all of the people who worked so hard—the members of the community most affected by this—and thank them for their efforts and patience in working with us.

I reserve the balance of my time.

Mr. GEORGE MILLER of California. Madam Speaker, I yield 3 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

(Mr. LANGEVIN asked and was given permission to revise and extend his remarks.)

Mr. LANGEVIN. Madam Speaker, I rise in strong support of the ADA Amendments Act, and I thank the gentleman for yielding. I want to recognize the fact that this act is championed by my good friend and colleague from Maryland, Majority Leader STENY HOYER.

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This crucial legislation would not have been possible without his leadership and that of Mr. SENSENBRENNER and so many of my other colleagues, and I thank all of them for their tireless efforts to ensure the continued inclusion and protection of people with disabilities in our society.

I would also like to extend my gratitude to all of the advocates of disability and business communities who

have united behind this important cause and worked diligently with Members of Congress to ensure a fair and strong compromise.

The American Disabilities Act, or ADA, was truly one of the most significant pieces of civil rights legislation of the 20th century. As someone who has lived with the challenges of a disability both before and after the ADA's enactment in 1990, I have experienced firsthand the profound transformation this law has created in our society.

I remember well what it was like before the passage of the ADA and where accommodations were seen as personal courtesies or privileges as opposed to a civil right. I can remember what it was like coming down to Washington as a young intern for Senator Pell from Rhode Island and how challenging it was to find good, reasonable public accommodations. And I remember what it was like in Rhode Island before the ADA was passed in terms of voting, and I was not able to vote independently on my own. I had to have help in the voting machine. And it wasn't until after the ADA was passed and I became Secretary of State and changed our election system that it was truly possible to vote independently on my own.

The ADA has broken down countless barriers and helped millions of Americans to flourish in their personal and professional lives. It has also served as a vital tool against discrimination in the workplace and in public life. Unfortunately, a number of court decisions over the years have diluted the definition of what constitutes a disability, effectively limiting the ADA's coverage and excluding from its protections people with diabetes, epilepsy, muscular dystrophy, and various developmental disabilities.

The bill before us today reaffirms the protections of the ADA and renews our promise of equality for every American. The ADA has as its fundamental goal the inclusion of people in all aspects of society, and I am very pleased to say that the ADA Amendments Act brings us one step closer to that goal.

I urge my colleagues to support this bill and send a strong message that discrimination in any form will never be tolerated in this great Nation.

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

Mr. GEORGE MILLER of California. I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. I would like to thank the chairman for the time and for this legislation that is bipartisan.

When Congress passed the Americans with Disabilities Act nearly two decades ago, we did so to ensure that persons with disabilities can learn, work, and live their lives just like everyone else. People with disabilities just want the same opportunities as everyone else. And if their disabilities can be reasonably accommodated, we must make it possible and make sure that they are given the chance to do so.

By saying that people with disabilities who use medication or prosthetics

to manage their disabilities are no longer considered disabled under the ADA Act, the courts have prevented many with disabilities from receiving the protections Congress intended for them.

H.R. 3195, the ADA Amendments Act, would ensure that the ADA protects all people with disabilities from workplace discrimination by clarifying the definition of discrimination. This bill further clarifies that individuals who are able to manage their disabilities enough to participate in major life activities, like holding a job, should still be entitled to protections from discrimination.

The ADA was passed to ensure that all people with disabilities have equal access and opportunities, and it's time that we bring back its original intent. Today we can do that. It's a matter of doing what is right.

I urge my colleagues to support H.R. 3195, the ADA Amendments Act of 2008.

Mr. MCKEON. Madam Speaker, I continue to reserve.

Mr. GEORGE MILLER of California. Madam Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS), a member of the committee.

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. I thank my chairman for yielding.

I would like to thank and congratulate him and Mr. MCKEON and Mr. SENSENBRENNER and others for their hard work on this. Mr. HOYER in particular.

Words have meaning. And when the original Americans with Disabilities Act was enacted, the word "disability" had a commonsense meaning. It meant if someone had a substantial impairment, mentally or physically, that would interfere with their ability to do something important, that was a disability. I think a hundred of Americans, if you stopped them on the street and asked them if they agreed with that, they would say "yes." Unfortunately, not enough of those Americans served on the United States Supreme Court, and we wound up with a tortured rendition of the definition of "disability" where people that we clearly would think were disabled were excluded from the protections of this law.

The authors of this bill worked long and hard to clear up that confusion and strike the right balance between the opportunities of Americans with disabilities and a fair set of ground rules for employers and other institutions in our society. I believe this legislation clearly strikes the right balance.

Something else is very important, too. It liberates the talents of people who have been heretofore kept out of the workplace and out of other institutions: the person in a wheelchair who might be the best computer programmer, the blind person who might be the best financial analyst, the person with tuberculosis who might be the best financial planner or health care technician. The talents of these individuals have too often been kept out of the fray.

This bill will put them back in the fray, put them back on the playing field and help not only Americans with a disability but all of us who will benefit from the liberation of their talent.

I congratulate the authors and urge a "yes" vote on this necessary and important piece of legislation.

Mr. MCKEON. Madam Speaker, I am happy to yield at this time to the Republican whip, who was so important in getting this bill here to the floor, such time as he may consume, the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Madam Speaker, I am grateful to the gentleman for yielding me the time and the hard work he and Mr. SENSENBRENNER have done to bring this bill to this point.

Certainly, this bill does a lot to restore the original intention of the Congress as to what the Congress had hoped at the time that the Americans with Disabilities Act would be. I am pleased to be a cosponsor of the bill that's on the floor today. I think it strikes the right balance between protection for individuals with disabilities and the obligations of the requirements of employers themselves.

Ultimately, that partnership is the partnership that makes the most of people in the workplace and the skills they bring to the workplace. This ensures that people with disabilities, whom the Congress intended to cover by the original Americans with Disabilities Act long before I came to Congress, are now covered, as I understand it, by these changes, and that's important. It is better when there is a conflict between the courts and the Congress for the Congress to come back and say, "No, that's not what we meant. This is what we meant, and this is what we hope to happen in the country."

This prohibits consideration of mitigating circumstances in the determination of whether an individual has a disability. Of course, it continues to allow the normal eyeglasses and contacts and things like that as an exception in those circumstances.

Most of all, Madam Speaker, this bill puts people to work. This bill creates opportunity. This bill creates a workplace where the skills people can bring to the workplace are maximized, not minimized, where what they add to the total product of America makes America a more productive country and for them establishes a totally different set of goals, a set of aspirations, a set of ways that they look at the world every day and brings their skills in new ways to the workplace.

Madam Speaker, I am pleased to support this bill. I urge my colleagues to do the same and think that the approach we've taken here of the Congress itself going back and trying to clarify what the Congress meant is certainly better than letting the court determine perpetually what the Congress intended to do.

The SPEAKER pro tempore. The gentleman from California (Mr. GEORGE MILLER) has 7 minutes remaining.

Mr. GEORGE MILLER of California. Madam Chairman, does the gentleman from California have any further speakers?

Mr. MCKEON. We have one more. They're not here yet. I reserve my time.

Mr. GEORGE MILLER of California. If we can reserve our time and let Judiciary go ahead and start using their time.

The SPEAKER pro tempore. The gentleman from California (Mr. MCKEON) continues to reserve, and the gentleman from California (Mr. GEORGE MILLER) continues to reserve.

The Chair recognizes the gentleman from Michigan.

Mr. CONYERS. Thank you, Madam Speaker.

It is a pleasure to join the Education and Labor Committee. I would like to begin by recognizing the chairman of the Constitution Committee on Judiciary which held the hearings on the bill in the Judiciary Committee. I yield, therefore, to the gentleman from New York, JERRY NADLER, for 3 minutes.

Mr. NADLER. I thank the gentleman.

Madam Speaker, I want to commend the distinguished majority leader and the gentleman from Wisconsin (Mr. SENSENBRENNER) as well as the chairman of the Judiciary Committee and the chairman of the Education and Labor Committee for their leadership on this important legislation.

This bill would help to restore the Americans with Disabilities Act to its rightful place among this Nation's great civil rights laws.

This legislation is long overdue. Countless Americans with disabilities have already been deprived of the opportunity to prove that they have been victims of discrimination, that they are qualified for a job, or that a reasonable accommodation would afford them an opportunity to participate fully at work and in community life.

This bill fixes the absurd Catch-22 created by the Supreme Court in which an individual can face discrimination on the basis of an actual past or perceived disability and yet not be considered sufficiently disabled to be protected against that discrimination by the ADA. That was never Congress' intent, and this bill cures this problem.

Some of my colleagues from across the aisle have raised concerns that this bill might cover minor or trivial conditions. They worry about covering stomachaches, the common cold, mild seasonal allergies, or even a hangnail. I have yet to see a case where the ADA covered an individual with a hangnail. But I have seen scores of cases where the ADA was construed not to cover individuals with cancer, epilepsy, diabetes, severe intellectual impairment, HIV, muscular dystrophy, and multiple sclerosis.

These people have too often been excluded because their impairment, however serious or debilitating, was mischaracterized by the courts as temporary or its impact considered too short-lived and not permanent enough.

That's what happened to Mary Ann Pimental, a nurse with breast cancer who challenged her employer's failure to rehire her into her position when she returned from treatment. Ms. Pimental was told by the court that her cancer was not a disability and that she was not covered by the ADA. The court recognized that "there is no question that her cancer has dramatically affected her life, and that the associated impairment has been real and extraordinarily difficult for her and her family." Yet the court still denied her coverage because it characterized the impact of her cancer "short-lived"—meaning that it "did not have a substantial lasting effect" on her.

Mary Ann Pimental died as a result of her breast cancer 4 months after the court issued its decision. I am sure that her husband and two children disagreed with the court that her cancer was short-lived and not sufficiently permanent.

This bill ensures that individuals like Mary Ann Pimental are covered by the law when they need it. The bill requires the courts—and the Federal agencies providing expert guidance—to lower the burden for obtaining coverage under this landmark civil rights law. This new standard is not onerous and is meant to reduce needless litigation over the threshold question of coverage.

It is our sincere hope that, with the passage of this bill, we will finally be able to focus on the important questions: Is an individual qualified? Might a reasonable accommodation afford that person the same opportunities that his or her neighbors enjoy?

I therefore urge my colleagues to join me in voting for passage of H.R. 3195 as reported unanimously by the Judiciary Committee. I thank everyone associated with its passage.

Madam Speaker, I want to commend the distinguished majority leader and gentleman from Wisconsin, Mr. SENSENBRENNER, for their leadership on this important legislation.

H.R. 3195 would help to restore the Americans with Disabilities Act to its rightful place among this Nation's great civil rights laws.

This legislation is necessary to correct Supreme Court decisions that have created an absurd Catch-22 in which an individual can face discrimination on the basis of an actual, past, or perceived disability and yet not be considered sufficiently disabled to be protected against that discrimination by the ADA. That was never Congress's intent, and H.R. 3195 cures this problem.

H.R. 3195 lowers the burden of proving that one is disabled enough to qualify for coverage. It does this by directing courts to read the definition broadly, as is appropriate for remedial civil rights legislation. It also redefines the term "substantially limits," which was restrictively interpreted by the courts to set a demanding standard for qualifying as disabled. An individual now must show that his or her impairment "materially restricts" performance of major life activities. While the impact of the impairment must still be important, it need not severely or significantly restrict one's ability to engage in those activities central to most people's daily lives, including working.

Under this new standard, for example, it should be considered a material restriction if an individual is disqualified from his or her job of choice because of an impairment. An individual should not need to prove that he or she is unable to perform a broad class or range of jobs. We fully expect that the courts, and the Federal agencies providing expert guidance, will revisit prior rulings and guidance and adjust the burden of proving the requisite "material" limitation to qualify for coverage.

This legislation is long overdue. Countless Americans with disabilities have already been deprived of the opportunity to prove that they have been victims of discrimination, that they are qualified for a job, or that a reasonable accommodation would afford them an opportunity to participate fully at work and in community life.

Some of my colleagues from across the aisle have raised concerns that this bill would cover "minor" or "trivial" conditions. They worry about covering "stomach aches, the common cold, mild seasonal allergies, or even a hangnail."

I have yet to see a case where the ADA covered an individual with a hangnail. But I have seen scores of cases where the ADA was construed not to cover individuals with cancer, epilepsy, diabetes, severe intellectual impairment, HIV, muscular dystrophy, and multiple sclerosis.

These people have too often been excluded because their impairment, however serious or debilitating, was mis-characterized by the courts as temporary, or its impact considered too short-lived and not permanent enough—although it was serious enough to cost them the job.

That's what happened to Mary Ann Pimental, a nurse who was diagnosed with breast cancer after being promoted at her job. Mrs. Pimental had a mastectomy and underwent chemotherapy and radiation therapy. She suffered radiation burns and premature menopause. She had difficulty concentrating, and experienced extreme fatigue and shortness of breath. And when she felt well enough to return to work, she discovered that her job was gone and the only position available for her was part-time, with reduced benefits.

When Ms. Pimental challenged her employer's failure to rehire her into a better position, the court told her that her breast cancer was not a disability and that she was not covered by the ADA. The court recognized the "terrible effect the cancer had upon" her and even said that "there is no question that her cancer has dramatically affected her life, and that the associated impairment has been real and extraordinarily difficult for her and her family."

Yet the court still denied her coverage under the ADA because it characterized the impact of her cancer as "short-lived"—meaning that it "did not have a substantial and lasting effect" on her.

Mary Ann Pimental died as a result of her breast cancer 4 months after the court issued its decision. I am sure that her husband and two children disagree with the court's characterization of her cancer as "short-lived," and not sufficiently permanent.

This House should also disagree—and does—as is shown by the broad bipartisan support for H.R. 3195.

H.R. 3195 ensures that individuals like Mary Ann Pimental are covered by the law when they need it. It directs the courts to interpret

the definition of disability broadly, as is appropriate for remedial civil rights legislation. H.R. 3195 requires the courts—and the Federal agencies providing expert guidance—to lower the burden for obtaining coverage under this landmark civil rights law. This new standard is not onerous, and is meant to reduce needless litigation over the threshold question of coverage.

It is our sincere hope that, with less battling over who is or is not disabled, we will finally be able to focus on the important questions—is an individual qualified? And might a reasonable accommodation afford that person the same opportunities that his or her neighbors enjoy.

I urge my colleagues to join me in voting for passage of H.R. 3195, as reported unanimously by the House Judiciary Committee.

□ 1645

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

Madam Speaker, 18 years have passed since President George H.W. Bush signed the Americans with Disabilities Act into law. While that bill struck down many barriers affecting disabled Americans, its potential has yet to be realized. This is due to a number of Supreme Court decisions that have restricted ADA coverage for people suffering from illnesses such as diabetes, epilepsy, and cancer, to name a few. Today, this House takes the first step to finally secure the full promise of the original bill.

The bill that the House is voting on this afternoon has undergone a number of changes since I first introduced it in the 109th Congress. Today's ADA Amendments Act of 2008 is a compromise that has the support of a broad and balanced coalition. Business groups such as the U.S. Chamber of Commerce, the HR Policy Association, and the National Association of Manufacturers all back this bill. In addition, advocates for the disability community, including the American Association of People with Disabilities, the Epilepsy Foundation, and the National Disability Rights Network, join in support.

Majority Leader HOYER and I introduced the ADA Restoration Act last summer. We did so to enable disabled Americans utilizing the ADA to focus on the discrimination that they have experienced rather than having to first prove that they fall within the scope of the ADA's protection. Today's bill makes it clear that Congress intended the ADA's coverage to be broad and to cover anyone who faces unfair discrimination because of a disability. To that end, we are submitting for the RECORD a statement outlining our legal intent and analysis of the new definition, as changed by the ADA Amendments Act of 2008.

The ADA Amendments Act makes changes to the original ADA, the primary one being that it will be easier for people with disabilities to qualify for protection under the ADA. This is done by establishing that the defini-

tion of disability is to be interpreted broadly. Another important change clarifies that the ameliorative efforts of mitigating measures are not to be considered in determining whether a person has a disability. This provision eliminates the Catch-22 that currently exists, as described by the gentleman from New York (Mr. NADLER), where individuals subjected to discrimination on the basis of their disabilities are unable to invoke the ADA's protections because they are not considered people with disabilities when the effects of their medication or other interventions are considered.

It is important to note that this bill is not one-sided. It is a fair product that is workable for employers and businesses. The bill contains the requirement that an impairment be defined as one that substantially limits a major life activity in order to be considered a disability. There is also an exception in the mitigating measures provision for ordinary eyeglasses and contact lenses. Further, the bill excludes from coverage impairments that are transitory and minor.

The ADA has been one of the most effective civil rights laws passed by Congress. Its continued effectiveness is paramount to ensuring that the transformation that our Nation has undergone and continues in the future and that the guarantees and promises on which this country was established continue to be recognized on behalf of all of its citizens.

I appreciate Majority Leader HOYER's efforts to bring the ADA Amendments Act to the floor, and I encourage my colleagues to vote in favor of it.

Finally, I'd like to pay tribute to my wife, Cheryl, who is the national chairman of the board of the American Association for People with Disabilities. Her tireless efforts have really spread the word amongst many Members of this House and a few of the other body that this legislation is necessary so that people like her do not have barriers in terms of seeking employment. And I appreciate, also, my colleagues on both sides of the aisle listening to her, even when they didn't have a choice.

I reserve the balance of my time.

Mr. CONYERS. Madam Speaker, I am pleased to recognize the distinguished majority leader, who was an original sponsor of the bill some 18 years ago, for 1 minute.

Mr. HOYER. I thank the distinguished chairman of the Judiciary Committee for yielding, and I thank him for his efforts.

I want to thank his staff, as well, who have been extraordinary. Heather, in particular, has had her virtues regaled by Dr. Abouchar of my staff, and I thank her.

I want to thank JIM SENSENBRENNER. I want to thank Cheryl, as well, who has been an extraordinary help on the Americans with Disabilities Act and with this Restoration Act. She has been a giant in her leadership. And I

want to thank JIM SENSENBRENNER, with whom I've worked now for many years on this issue, and he has been, of course, a giant, as chairman of the Judiciary Committee in years past and one of the senior Members of this House, extraordinarily helpful and a partner in this effort.

I also want to thank BUCK MCKEON, the ranking member. At the time we testified, he said, you know, we want to see this pass but we want to work together and make sure we can all be for it. And I assured him that we would do that, and I was pleased today that he said, in fact, we had done that. And I think the result that we will see in the vote will show that clearly. And I thank him for his work and effort and good faith in working towards a bill that we could all support.

I want to thank GEORGE MILLER, the chairman of the Education and Labor Committee, whose committee had primary jurisdiction over this bill, for his efforts in assuring that this bill moves forward.

Madam Speaker, I would like to submit for the RECORD a list of people, particularly in the disabilities community and also in the business community, who spent countless hours, days, weeks and, yes, even months trying to come to an agreement on a bill that both the business community and the disability community would feel comfortable with. We have accomplished that, but it was the work of these people as well who did that, and I would submit this at this time in the RECORD to thank them for their efforts and their success which they are so responsible for today.

#### PEOPLE TO RECOGNIZE

Chai Feldblum, Georgetown University; Former U.S. Rep. Tony Coelho; Former U.S. Rep. Steve Bartlett; Sandy Finucane, Epilepsy Foundation; Andy Imparato, American Association of People with Disabilities; Randy Johnson, Mike Eastman, U.S. Chamber of Commerce; John Lancaster, National Council on Independent Living; Mike Peterson, HR Policy Association; Curt Decker, National Disability Rights Network;

Jeri Gillespie, Ryan Modlin, National Association of Manufacturers; Nancy Zirkin, Lisa Borenstein, Leadership Conference on Civil Rights; Mike Aitken, Mike Layman, Society for Human Resource Management; Abby Bownas, American Diabetes Association; Jennifer Mathis, Bazelon Center for Mental Health Law; Kevin Barry, Georgetown University; Jim Flug, Georgetown University; Claudia Center, Employment Law Center; Shereen Arent, American Diabetes Association; Brian East, Advocacy Inc.

Madam Speaker, 18 years ago next month, the first President Bush signed into law one of the most consequential pieces of civil rights legislation in recent memory, in over a quarter of a century in fact. In the ceremony on the south lawn of the White House President Bush said this:

"With today's signing of the landmark Americans with Disabilities Act, every man, woman, and child with a disability can now pass through once-closed doors into a bright new era of equality, independence, and freedom."

In large measure, President Bush was right. Those doors have, in fact, come open. Tens of millions of Americans with disabilities now enjoy rights the rest of us have long taken for granted: The right to use the same streets, theaters, restrooms, or offices; the right to prove themselves in the workplace, to succeed on their talent and drive alone.

We all understand why there are cuts in the sidewalk at every street corner, kneeling buses on our city streets, elevators on the Metro, ramps at movie theaters, and accessible restrooms and handicapped parking almost everywhere. By now, they have become part of our lives' fabric. And we wouldn't have it, I think, any other way, because each one is the sign of a pledge, the promise of an America that excludes none of its people from our shared life and opportunities.

That was the promise of the ADA. That was the promise of the ADA that President George Bush signed on July 26, 1990. But looking back 18 years, the hard truth is that we were, in some ways, perhaps too optimistic.

The door President Bush spoke of is still not entirely open, and every year, millions of us are caught on the wrong side. In interpreting the law over these 18 years, the courts have consistently chipped away at Congress' very clear intent, and I know what the intent was because I was there as so many of you were.

I know that many of my colleagues were as well, and I know that they share my disappointment in a series of narrow rulings that have had the effect of excluding millions of Americans from the law's protection for no good reason. We said we wanted broad coverage for people with disabilities and people regarded as disabled, but the courts narrowed that coverage with a "strict and demanding standard," a severely restrictive measure that virtually excluded entire classes of people, even though we had specifically mentioned their impairments as objects of the law's protections.

Civil rights acts have historically been urged to be interpreted liberally to accomplish their objective of protecting the rights of individuals. Unfortunately, in this instance, the courts did not follow that premise.

We never expected that people with disabilities who worked to mitigate their conditions would have their efforts held against them. Imagine, somebody with epilepsy who takes medication to preclude seizures would be told that we're not going to hire you because you have epilepsy, but then be told by the court that that was not discrimination because prescription drugs mitigated the ability or the disability that you had. No one on this floor would have thought in their wildest assertions that that would be an interpretation.

The courts did exactly that, however, throwing their cases out on the grounds that they were no longer disabled enough to suffer discrimination.

The discrimination, of course, was determining that somebody had epilepsy, and notwithstanding their ability to perform the job in question, that they would not be hired. That is the essence of discrimination.

That is what we sought to preclude, and I want to again congratulate the business community and the disabilities community for coming together on legislation that will right that misinterpretation because none of what has been held was our intent.

We are here today because a truly wide coalition—members of the disability community ready to claim their equal share, Members of both parties who were tired of seeing constituents shut out, and business groups eager to unlock new pools of talent—an alliance as broad as the one that joined forces to pass the original ADA, has come together to help the courts get this right. I know some of them are watching, and I want to thank them, through my colleagues and through the Speaker, for their efforts.

With the ADA Amendments Act, we make it clear today that a cramped reading of disability rights will be replaced with a definition that is broad and fair—fair to the disability community and fair to the business community—that those who manage to mitigate their disabilities are still subject to discrimination and still entitled to redress, and that those regarded as having disability are equally at risk and deserve to be equally protected.

I am proud, Madam Speaker, to have worked for so long with my colleague JIM SENSENBRENNER, as I said earlier. He has been a leader in advancing this legislation, and we've joined together to submit for the RECORD a legal analysis of the bill that we've worked so hard to bring to fruition.

And I want to thank my good friend, former Congressman Tony Coelho for originally enlisting me in this effort. Very frankly, Tony is one of my very close friends, and when he left the Congress, the ADA had not yet been accomplished. But it was his leadership that got it to the point where, in fact, we could proceed, and he gave me the responsibility of ensuring its passage. Working with GEORGE MILLER and JOHN CONYERS and JIM OBERSTAR and so many others, we were able to accomplish that objective. But Tony Coelho was our leader on this effort, and very frankly, Madam Speaker, our former whip remains our leader today.

Finally, it is my honor to dedicate this bill to the late Justin Dart, the pioneering disability advocate and inspiration behind the ADA, as well as to his wife, Yoshiko Dart.

Madam Speaker, few kinds of discrimination, in all of our history, have been more widespread than the exclusion of those with disabilities. But it was America, America that passed a pioneering law to help end that exclusion. We were the first in the world to do so.



□ 1700

We were the world's model on this central challenge to human rights. Eighteen years later, we cannot afford to fall behind.

Let us pass this bill and bring us one step closer to the days when the fruits of life in America are at last available to all.

Mr. GEORGE MILLER of California. Will the gentleman yield?

Mr. HOYER. I will yield to my friend.

Mr. GEORGE MILLER of California. I thank the gentleman for yielding, and certainly thank him for all his leadership on this bill. But I want to thank him on behalf of the Chairs and the ranking members of the two committees, you and Mr. SENSENBRENNER, for the leadership that you both provided throughout these difficult and visionary negotiations to restore this act to the place that it should be. I just want to publicly, on behalf, I think, of everybody in the Congress, thank you and Mr. SENSENBRENNER for your leadership on this.

Mr. HOYER. I thank the chairman on behalf of Mr. SENSENBRENNER and myself, and for all those who have been involved in this effort.

JOINT STATEMENT OF REPRESENTATIVES HOYER AND SENSENBRENNER ON THE ORIGINS OF THE ADA RESTORATION ACT OF 2008, H.R. 3195

On September 29, 2006, we introduced H.R. 6258, entitled the Americans with Disabilities Act Restoration Act of 2006. This bill was a response to decisions of the Supreme Court and lower courts narrowing the group of people whom Congress had intended to protect under the Americans with Disabilities Act (ADA). The Supreme Court had interpreted the ADA to impose a "demanding" standard for coverage. It had also held that the ameliorative effects of "mitigating measures" that people use to control the effects of their disabilities must be considered in determining whether a person has an impairment that substantially limits a major life activity and is protected by the ADA. This holding was contrary to Congress's stated intent in several committee reports.

We introduced H.R. 6258, which was designed to reverse these holdings, at the end of the 2006 legislative session. We intended this bill to serve as a marker of our intent to introduce future legislation to address this issue. On July 26, 2007, we introduced similar legislation, H.R. 3195, the ADA Restoration Act of 2007, which ultimately garnered over 240 cosponsors. A nearly identical bill, S. 1881, was introduced in the Senate on the same day by Senators Harkin and Specter.

H.R. 3195 as introduced would have amended the ADA to provide protection for any individual who had a physical or mental impairment or a record of such an impairment, or who was treated as having such an impairment. The purpose of this legislation was to restore the intent of Congress to cover a broad group of individuals with disabilities under the ADA and to eliminate the problem of courts focusing too heavily on whether individuals were covered by the law rather than on whether discrimination occurred. The bill as introduced, however, was seen by

many as extending the protections of the ADA beyond those that Congress originally intended to provide.

In order to craft a more balanced bill with broad support, we urged that representatives of the disability and business communities enter into negotiations to try to reach an acceptable compromise. We maintained contact with these communities over the course of their negotiations and supported them in their efforts to understand the needs and concerns of each community. After several months of intensive discussions, negotiators for the two communities reached consensus on a set of protections for people with disabilities that garnered broad support from both communities. These protections would significantly expand the group of individuals protected by the ADA beyond what the courts have held, while at the same time ensuring that the expansion does not extend beyond the original intent of the ADA.

This compromise formed the basis of the amendment in the nature of a substitute for H.R. 3195 that was voted out of the House Education and Labor and Judiciary Committees with overwhelming support on June 18, 2008. The substitute bill was reported out of the Education and Labor Committee by a vote of 43-1, and out of the Judiciary Committee by a vote of 27-0.

THE PROVISIONS OF THE COMMITTEE  
SUBSTITUTE TO H.R. 3195

The primary purpose of H.R. 3195, as amended by the committee substitute, is to make it easier for people with disabilities to qualify for protection under the ADA. The bill does this in several ways. First, it establishes that the definition of disability must be interpreted broadly to achieve the remedial purposes of the ADA. The bill rejects the Supreme Court's holdings that the ADA's definition of disability must be read "strictly to create a demanding standard for qualifying as disabled," and that an individual must have an impairment that "prevents or severely restricts the individual from doing activities that are of central importance to most people's daily lives" in order to qualify for protection. The bill also provides a new definition of "substantially limits" to make clear Congress's intent to depart from the standard applied by the Supreme Court in *Toyota Motor Mfg. of Kentucky, Inc. v. Williams*, 534 U.S. 184, 197 (2002), and to apply a lower standard.

Second, the bill provides that the ameliorative effects of mitigating measures are not to be considered in determining whether a person has a disability. This provision is intended to eliminate the catch-22 that exists under current law, where individuals who are subjected to discrimination on the basis of their disabilities are frequently unable to invoke the ADA's protections because they are not considered people with disabilities when the effects of their medication, medical supplies, behavioral adaptations, or other interventions are considered. The one exception to the rule about mitigating measures is that ordinary eyeglasses and contact lenses are to be considered in determining whether a person has a disability. The rationale behind this exclusion is that the use of ordinary eyeglasses or contact lenses, without more, is not significant enough to warrant protection under the ADA.

Third, the bill provides that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. This provi-

sion is intended to reject the reasoning of court decisions concluding that certain individuals with certain conditions—such as epilepsy or post traumatic stress disorder—were not protected by the ADA because their conditions were episodic or intermittent.

Fourth, the bill provides for broad coverage under the "regarded as" prong of the definition of disability. It clarifies that an individual can establish coverage under the "regarded as" prong by establishing that he or she was subjected to an action prohibited by the ADA because of an actual or perceived impairment, whether or not the impairment limits or is perceived to limit a major life activity. This provision does not apply to impairments that are both transitory (lasting six months or less) and minor.

The purpose of the broad "regarded as" provision is to reject court decisions that had required an individual to establish that a covered entity perceived him or her to have an impairment that substantially limited a major life activity. This provision is designed to restore Congress's intent to allow individuals to establish coverage under the "regarded as" prong by showing that they were treated adversely because of an impairment, without having to establish the covered entity's beliefs concerning the severity of the impairment.

Impairments that are transitory and minor are excluded from coverage in order to provide some limit on the reach of the "regarded as" prong. The intent of this exception is to prevent litigation over minor illnesses and injuries, such as the common cold, that were never meant to be covered by the ADA.

A similar exception is not necessary for the first two prongs of the definition of disability as the functional limitation requirement adequately prevents claims by individuals with ailments that do not materially restrict a major life activity. In other words, there is no need for the transitory and minor exception under the first two prongs because it is clear from the statute and the legislative history that a person can only bring a claim if the impairment substantially limits one or more major life activities or the individual has a record of an impairment that substantially limits one or more major life activities.

The bill also provides that a covered entity has no obligation to provide reasonable accommodations, or reasonable modifications to policies, practices or procedures, for an individual who qualifies as a person with a disability solely under the "regarded as" prong. Under current law, a number of courts have required employers to provide reasonable accommodations for individuals who are covered solely under the "regarded as" prong.

Fifth, the bill modifies the ADA to conform to the structure of Title VII and other civil rights laws by requiring an individual to demonstrate discrimination "on the basis of disability" rather than discrimination "against an individual with a disability" because of the individual's disability. We hope this will be an important signal to both lawyers and courts to spend less time and energy on the minutia of an individual's impairment, and more time and energy on the merits of the case—including whether discrimination occurred because of the disability, whether an individual was qualified for a job or eligible for a service, and whether a reasonable accommodation or modification was called for under the law.

In exchange for the enhanced coverage afforded by these provisions, the bill contains important limitations that will make the bill workable from the perspective of businesses that are governed by the law. We have already noted some of these limitations: there is an exception in the mitigating measures provision for ordinary eyeglasses and contact lenses, and the "regarded as" provision includes two important limitations, as described above.

Of key importance, the bill retains the requirement that a person's impairment must substantially limit a major life activity in order to be considered a disability. "Substantially limits" has been defined as "materially restricts" in order to communicate to the courts that we believe that their interpretation of "significantly limits" was stricter than we had intended. On the severity spectrum, "materially restricts" is meant to be less than "severely restricts," and less than "significantly restricts," but more serious than a moderate impairment which would be in the middle of the spectrum.

The key point in establishing this standard is that we expect this prong of the definition to be used only by people who are affirmatively seeking reasonable accommodations or modifications. Any individual who has been discriminated against because of an impairment—short of being granted a reasonable accommodation or modification—should be bringing a claim under the third prong of the definition which will require no showing with regard to the severity of his or her impairment. However, for an individual who is asking an employer or a business to make a reasonable accommodation or modification, the bill appropriately requires that the individual demonstrate a level of seriousness of the impairment—that is, that it materially restricts a major life activity.

The bill also retains the requirement in Title I of the ADA that an individual must be "qualified" for the position in question. The original version of H.R. 3195 contained language which could have been interpreted to alter the burden-shifting analysis concerning whether an individual is "qualified" under the ADA. The substitute bill makes clear that there was no intent to place a greater burden on the employer and that the burdens remain the same as under current law.

#### ADDITIONAL LEGAL ISSUES

We would like to clarify the intent of the bill with respect to particular legal issues. First, some higher education trade associations have raised questions about whether the bill will eviscerate academic standards. This bill will have absolutely no effect on the ability of higher education institutions to set academic standards. It addresses only the standards for determining who qualifies as an individual with disability, and not the standards for determining whether an accommodation or modification is required in a particular setting or context. It has always been, and it remains the law today under this bill, that an academic institution need not make modifications that would fundamentally alter the essential requirements of a program of study. The particular concerns of educational institutions in ensuring that students meet appropriate academic standards are, of course, relevant in determining whether a requested modification is reasonable in an educational setting.

There have been particular concerns with the way that specific learning disabilities have been treated in the academic context, and that individuals are not receiving appropriate accommodations. The Education and Labor Committee Report's discussion of specific learning disabilities is specifically tar-

geted toward the academic setting and not the employment sector.

Second, a concern has been raised about whether the bill changes current law with respect to the duration that is required for an impairment to substantially limit a major life activity. The bill makes no change to current law with respect to this issue. The duration of an impairment is one factor that is relevant in determining whether the impairment substantially limits a major life activity. Impairments that last only for a short period of time are typically not covered, although they may be covered if sufficiently severe.

Third, some have raised questions about whether the bill's provisions relating to mitigating measures would require employers to provide certain mitigating measures as accommodations. This bill's provisions are intended to clarify the definition of disability, not to alter current rules on provision of reasonable accommodations.

Fourth, the bill's language requiring that qualification standards, employment tests, or other selection criteria based on uncorrected vision must be job related for the position in question and consistent with business necessity is not intended to change current interpretations of whether a qualification standard based on a government requirement or regulation is job related for the position in question and consistent with business necessity.

Passage of the ADA Amendments Act is a great moment in this country's history. We would like to thank all the individuals who worked so hard on these negotiations, and to thank the thousands of individuals and businesses who care about making this country a fair and equitable place for people with disabilities.

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

Mr. GEORGE MILLER of California. Madam Speaker, I reserve the balance of my time.

Mr. MCKEON. Madam Speaker, might I inquire of the time that we each have remaining.

The SPEAKER pro tempore. The gentleman from California (Mr. MCKEON) has 13 minutes. The gentleman from California (Mr. GEORGE MILLER) has 7 minutes. The gentleman from Michigan (Mr. CONYERS) has 6 minutes. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 5½ minutes.

Mr. CONYERS. Madam Speaker, I yield myself as much time as I may consume.

This measure raises some very interesting questions from the point of view of the Judiciary Committee. I begin by noting that the chairman emeritus of the Judiciary Committee, JIM SENSENBRENNER, had always had a very abiding interest in this matter. But we have a curious problem. Somebody is going to ask, how could a United States Supreme Court—a bill passed overwhelmingly bipartisan in 1990—and then in 1999 simultaneously give not one or two, but three decisions slamming some very fundamental interests that we had when the bill was passed? There wasn't anything complicated or ambiguous about the bill that was passed in this Congress in 1990. And we are now here fixing the three problems that these decisions brought forward.

"We prohibit the consideration of measures that might lessen the impact of an impairment—medication, insulin, a hearing aid."

What kind of persons are on the Supreme Court of the United States that have some difficulty understanding that if you have to use a hearing aid, that does not lessen the nature of the disability? That's earlier than first year law school. I mean, what was going on in the majority of the members' minds?

Second, "substantially limits" they've transferred to mean "materially restricts" and instructs the court that these words must be interpreted broadly and not restrictively.

Now the history of civil rights and voter rights law in this Congress in the 20th and 21st century deals with the understood directive that the law in these cases is to be interpreted generally and liberally, and here they did just the opposite. This disability law is essentially a civil rights matter, and they chose to ignore that. And so we had to correct it. We had to say, Supreme Court, your attention, please. This is civil rights law, and so it's not to be interpreted as narrowly as you can, but as liberally as you can.

And then the third thing we chose to correct was the entire notion that the disability law covers anyone who either experiences discrimination because someone believes them to be disabled, whether they are not or whether they actually are. It doesn't make any difference. In other words, it is to be liberally interpreted.

And so we go into a very challenging period of American history with an election coming up, and we've got a Supreme Court that we have to constantly remind how to interpret civil rights laws. This is not a comforting circumstance for your chairman of Judiciary—I don't think for the ranking member of Judiciary either, if I might add.

There are those writing about the Supreme Court these days, and one such commentator, Professor Rosen of Georgetown—"Today, however, there are no economic populists on the Court, even on the liberal wing. Ever since John Roberts was appointed Chief Justice in 2005, the Court has seemed only more receptive to business concerns. Forty percent of the cases the Court heard last term involved business interests, up from around 30 percent in recent years."

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. GEORGE MILLER of California. I yield the gentleman an additional 1 minute.

Mr. CONYERS. I thank the chairman of Education and Labor.

The closing example: "While the Rehnquist Court heard less than one antitrust decision a year on average, the Roberts Court has heard seven antitrust cases in the first two terms, and all of them were decided in favor of the corporate defendants."

Now, look. They must know that some people over here read and review their decisions. It means that we have to be even more alert on the questions that have brought this measure before the House today for its disposal.

I'm very proud of the bipartisan aspect. I don't want to give too much praise to the chairman emeritus of the committee, but he did a very good job in this regard.

Mr. MCKEON. Madam Speaker, I am happy to yield now to the gentleman from Delaware, ranking member of the K-12 Education Subcommittee, such time as he may consume, Mr. CASTLE.

Mr. CASTLE. I thank the distinguished gentleman from California for yielding. I do rise today in support of the ADA Amendments Act entitled H.R. 3195.

Since 1990, the landmark civil rights legislation, the Americans With Disabilities Act—ADA as we know it—has provided numerous benefits. Over the last decade, however, people with serious health conditions, including diabetes, have faced serious difficulties meeting the definition of “disability” following the Supreme Court's decision that disability must be determined in light of the mitigating measures, like insulin, that a person uses.

These decisions have created a situation where people with serious health conditions who use medications and other devices in order to work are not considered “disabled enough” to be protected by the ADA even when they are explicitly denied employment opportunities because of that health condition.

Just briefly, I would like to mention Stephen Orr, a pharmacist from Rapid City, South Dakota, who was fired by his employer for taking lunch breaks to eat and manage his diabetes. After Stephen lost his job, he decided to file a claim under the ADA. The employer responded that Stephen did not have a disability because he was able to manage his diabetes with insulin and diet. The courts agreed. And this, I'm afraid, is only one example.

H.R. 3195 will remedy this problem. Passage will secure the promise of the original ADA and make clear that Congress intended the ADA's coverage to be broad, to cover anyone who faces unfair discrimination because of a disability. At the same time, it strikes an appropriate balance between the needs of individuals with disabilities and those of employers.

I am pleased that H.R. 3195 enjoys the backing of a broad coalition of supporters from both the employer and the disability communities. I am also proud it has bipartisan support here, and I thank and congratulate all those that had anything to do with putting this together.

I urge my colleagues on both sides of the aisle to support the measure.

Mr. MCKEON. Mr. Speaker, I recognize now the gentleman from Kansas (Mr. MORAN) for such time as he may consume.

Mr. MORAN of Kansas. Madam Speaker, I thank the gentleman from California (Mr. MCKEON) for yielding me time today, and I rise in support of H.R. 3195.

In my world, in the way I look at life, all human beings, because we're created by the same God, are entitled to respect and dignity. In our framework in our country, our Constitution provides that we are entitled to certain rights. One of those, as I see it, is the right to an opportunity to succeed.

So I'm pleased that our country, in 1990, this Congress and the Senate came together with the passage of the Americans With Disabilities Act. And I'm pleased today that we are here to restore certain of those rights that were believed to be there under the ADA passed in 1990. What this law will do is to require the courts to interpret this law in a fair manner.

We know that all of us are entitled to an opportunity to succeed. And I think all of us, as we look at our lives, look just for the chance to be judged based upon our own performance. We don't want special rights. We all just want to be gauged by people who judge us by what we do and how we do it and how well we do it. And so the original law and the Restoration Act today, as I see it, establishes that premise that we're all entitled to be judged based upon how we perform our tasks.

I support this legislation and am pleased by what I've heard on the floor this afternoon by the way it came about. And I appreciate being here to hear the gentleman from Maryland, the distinguished majority leader, speak about his sponsorship and authorship of the Americans with Disabilities Act.

One of my predecessors, Bob Dole, served in that similar capacity. I'd like to quote my predecessor when he spoke about the ADA and indicate that I believe that what he said then should be the words of today as well:

“This historic civil rights legislation seeks to end the unjustified segregation and exclusion of persons with disabilities from the mainstream of American life. The ADA is fair and balanced legislation that carefully blends the rights of people with disabilities with the legitimate needs of the American business community.”

Madam Speaker, I believe that's what the legislation before us does today, and again confirms the right that we all have to be judged based upon our ability to perform.

Mr. MCKEON. Madam Speaker, I yield myself the balance of my time.

There are so many individuals who deserve credit for bringing us to this point today. I want to recognize Chairman MILLER, the leaders of the Judiciary, Transportation and Infrastructure, Energy and Commerce Committees, and all of our staffs on all of those committees on both sides of the aisle and the membership of the leadership on both sides of the aisle, and again especially Leader HOYER and Mr. SENSENBRENNER for this open, inclusive process.

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The bill is better for it.

I also want to recognize the stakeholders who came to the negotiating table and helped us to reach consensus. It's often said that true compromise leaves no one with exactly what they wanted. I expect that is the case today. There are those who fear we have expanded the reach of the ADA too far, and there are others who would have preferred us to go further. But on the whole, we have found common ground that will allow us to extend strong, meaningful protection to individuals with disabilities without dramatically expanding the law, increasing its burdens, or diluting its effectiveness.

I urge passage of the ADA Amendments Act.

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

Mr. GEORGE MILLER of California. Madam Speaker, I want to certainly thank the staffs of our committees on both sides of the aisle for all of their work. They put in a tremendous amount of time and intellectual power behind the amendments to the ADA and to put it back in the place that it should have after the court decisions damaged the intent and the purposes of this act. I certainly want to thank Sharon Lewis of the Committee on Education and Labor and Brian Kennedy and Thomas Webb, who is with us as an intern, for all of their work.

I am very proud to be a Member of Congress today and certainly of the House of Representatives as we pass this legislation. I was brought to the issues around the disability community when I first came to Congress, or perhaps a little before that when I was working in the State legislature in California by a hardy crew from California who were deeply involved in pursuing the civil rights of those with disabilities and the constitutional rights of those with disabilities and their place in the legislative process, and I want to thank them. And that is Judy Heuman from California and known to many; and Ed Roberts, a great champion of disability rights, a magnificent person; and Hale Zukor, who still resides in Berkeley and continues the battle; and Jim Donald, who is a wonderful attorney on behalf of many in the disability community; and so many others.

In my time in Congress, I have watched the Rehabilitation Act of 1973 and the battle over the 504 regulations; IDEA, at that time Education for All Handicapped Children, now IDEA; and the ADA; and today the restoration of the ADA to its proper position and power within the law. And I think it's a tribute to this Congress. While in many instances we have had very controversial fights and there have been eruptions over the implementation of these laws, we have continued to march forward and ensure the rights of the disabled, for their participation in American society. I think so many Members now and so many people in

our society recognize all that the members of the disability community have accomplished, all that they are accomplishing, and all that they will accomplish.

So today when we look at a young child seeking to be enrolled in school and to have an opportunity at the content and the curriculum that others have and to have the chance to participate in that school in a meaningful way and not be put off and sidestepped or in segregated classes; when we look at individuals who want to pursue a career, an activity, in our society and not be discriminated against; and when we now see employers recognizing the talents and the abilities and the contributions to be made by individuals with disabilities, we as a Nation are far better off, far richer, and far more understanding than we were prior to the struggles over these laws. And I hope that all Members will share the pride that I do when later on we will be able to vote to restore the ADA after the damage done by the court decisions.

And with that I thank all of my colleagues for their participation in this debate.

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

Mr. SENSENBRENNER. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I think that we have seen in the last hour how the framers of the Constitution intended this Congress to work.

There was a problem. There was a problem that was created by court decisions misinterpreting the original intent of Congress when it passed the ADA almost 18 years ago. And people who came from diverse viewpoints, whether they were in the private sector, citizens with disabilities and their advocacy groups, Members of Congress on both sides of the aisle have proven in this legislation that they can work together and come up with something that is acceptable and beneficial to all of the stakeholders. I wish we could do more of that here, and maybe this will set a good example to show that the system does work.

I am going to ask for a rollcall on this legislation, and I hope that if this is not a unanimous vote in favor of the bill, it will be so overwhelming that people not only on the other side of this Capitol building but around the country and around the world will see that American democracy and the American legislative process worked for the benefit of people.

Mr. HOLT. Madam Speaker, I want to thank Majority Leader HOYER and Representative SENSENBRENNER for introducing the ADA Restoration Act last summer. "I am a cosponsor of this bill and I am pleased that the House is considering this important legislation.

This July will mark the 18th anniversary of the Americans with Disabilities Act, ADA. Unfortunately, as testimony before the House Committee on Education and Labor made clear in recent years, the Supreme Court has narrowed the scope of this law and created a

new set of barriers for Americans with disabilities. Under this narrow interpretation, individuals with diabetes, heart conditions, epilepsy, mental retardation, cancer, and many other conditions have been denied their rights under the ADA because they are labeled as "too functional" to be considered "disabled."

This legislation would restore protections for disabled Americans under the ADA and I am pleased that the bill we are considering today is supported by the disability community as well as the business community. This bill will reaffirm the ADA's mandate for the elimination of discrimination on the basis of disability and allow the ADA to reclaim its place among our Nation most important civil rights laws.

I am proud that my home State of New Jersey has enacted our own strong protections against employment discrimination or individuals with disabilities. My State's experience belies the claims made by some of the bill's opponents that this legislation is overprotective of individuals with disabilities.

In March, I hosted a roundtable discussion in New Jersey with representatives of disability organizations and individuals with disabilities and with representatives from corporate human resources departments. From that discussion, I drew information indicating that the Federal legislation is needed and that it could be implemented effectively.

At that discussion I heard from Jack, an employer in my district who was hesitant when approached by the ARC of New Jersey about hiring individuals with disabilities. Yet, today he now says they are some of his best employees.

Our Nation has come a long way since the passage of the ADA, from when the halls of Congress were not even accessible to disabled members. But, we have much progress yet to make to ensure that the American dream is truly accessible and available to all Americans.

Mr. EMANUEL. Madam Speaker, I rise today in honor of the passage of the Americans with Disabilities Act of 1990 and to express my support for the ADA Amendments Act of 2008.

As a member of the 110th Congress, I am proud to be a cosponsor of H.R. 3195, the ADA Amendments Act and to continue the fight to ensure equal rights for all disabled citizens. This vital legislation amends the Americans with Disabilities Act of 1990 to restore the original intent of the ADA by clarifying that anyone with impairment, regardless of his or her successful use of treatments to manage the impairment, has the right to seek reasonable accommodation in their place of work.

The ADA Amendments Act of 2008 amends the definition of disability so that those who were originally intended to be protected from discrimination are covered under the Americans with Disabilities Act. This prevents courts from considering the use of treatment, or other accommodations, when deciding whether an individual qualifies for protection under the ADA and focuses on whether individuals can demonstrate that they were treated less favorably on the basis of disability.

I am proud of the continuing work that is being done for Americans with Disabilities and of the strong support that Chicagoans have shown for this issue. On July 26, the eighteenth anniversary of its passage, the Americans with Disabilities Act is being commemorated by Chicago's fifth annual Disability Pride

Parade. This display of support demonstrates that Chicagoans recognize that passage of the ADA Amendments Act of 2008, will allow Americans with disabilities to enjoy the freedom and equality that they are guaranteed by the Constitution.

Madam Speaker, I am honored to commemorate the passage of the Americans with Disabilities Act of 1990 and urge my colleagues to vote in favor of the ADA Amendments Act of 2008.

Mr. SCOTT. Madam Speaker, I rise in support of H.R. 3195, the Americans with Disabilities Amendments Act.

In the early 1980's, 64 disability organizations formed a coalition known as INVEST, In-sure Virginians Equal Status Today, to pass a State statute in Virginia to protect individuals with disabilities from discrimination. The landmark "Virginians with Disabilities Act" was the Commonwealth's commitment to encourage persons with disabilities to participate fully in the social and economic life of the Commonwealth. It preceded the Federal Americans with Disabilities Act, ADA, by 5 years, and many of the key concepts in the Virginia statute formed the basis of the ADA.

Signed in 1985 by former Governor Charles S. Robb, the Virginians with Disabilities Act today protects nearly one million State residents. This Act acknowledged that "it is the policy of the Commonwealth to encourage and enable persons with disabilities to participate fully and equally in the social and economic life . . ." and it protects Virginians with disabilities from discrimination in employment, education, housing, voting, and places of public accommodation.

Five years later, the Americans with Disabilities Act of 1990 was enacted to protect all Americans against discrimination on the basis of disability. When Congress passed the ADA, Congress adopted the definition of disability from section 504 of the Rehabilitation Act of 1973, a statute that was well litigated and understood.

Congress expected that under the ADA—just as under the Rehabilitation Act—individuals with health conditions that were commonly understood to be disabilities would be entitled to protection from discrimination. But a series of U.S. Supreme Court decisions interpreted the ADA in ways that Congress never intended, and over the years these decisions have eroded the protections of the statute.

First, the Court held in 1999 that mitigating measures—including prosthetics, medication, and other assistive devices—must be taken into account when determining if a person is disabled. Then, in 2002, the Court held that a "demanding standard" should be applied to determining whether a person has a disability. As a result, millions of people Congress intended to protect under the ADA—such as those with diabetes, epilepsy, intellectual disabilities, multiple sclerosis, muscular dystrophy, amputation, cancer and many other impairments—are not protected as intended.

The ADA Amendments Act will restore the ADA to Congress' original intent by clarifying that coverage under the ADA is broad and covers anyone who faces unfair discrimination because of a disability. The ADA Amendments Act:

Retains the requirement that an individual's impairment substantially limits a major life activity in order to be considered a disability, and further that an individual must demonstrate that he or she is qualified for the job.

Would overturn several court decisions to provide that people with disabilities not lose their coverage under the ADA simply because their condition is treatable with medication or can be addressed with the help of assistive technology.

Includes a "regarded as" prong as part of the definition of disability which covers situations where an employee is discriminated against based on either an actual or perceived impairment. Moreover, the proposal makes it clear that accommodations do not need to be made to someone who is disabled solely because he or she is "regarded as" disabled.

Madam Speaker, the bill before us today is the direct result of agreements between the business and disability communities to rectify the problem created by the courts, and I applaud the determination and hard work, that went into this compromise. The ADA Amendments Act will enable individuals with disabilities to secure and maintain employment without fear of being discriminated against because of their disability. Congress clearly intended to prohibit discrimination against all people with disabilities and we will do that by passing H.R. 3195.

Madam Speaker, I urge my colleagues to support this bill.

Mr. VAN HOLLEN. Madam Speaker, I rise in strong support of H.R. 3195, the ADA Amendments Act of 2008, which would restore the original intent of the Americans with Disabilities Act, ADA.

The ADA has transformed this country since its enactment in 1990, helping millions of Americans with disabilities succeed in the workplace, and making essential services such as transportation, housing, buildings, and other daily needs more accessible to individuals with disabilities. It has been one of the most defining and effective civil rights laws passed by Congress.

Unfortunately, the Federal courts in recent years have slowly chipped away at the broad protections of the ADA which has created a new set of barriers for many Americans with disabilities. The court rulings have narrowed the interpretation of disability by excluding people with serious conditions such as epilepsy, diabetes, muscular dystrophy, cancer, and cerebral palsy from the protections of the ADA. The ADA Amendments Act of 2008 will reestablish these protections and make it absolutely clear that the ADA is intended to provide broad coverage to protect anyone who faces discrimination on the basis of disability.

Madam Speaker, this bill is an important step towards restoring the original intent of the ADA and helps ensure that all Americans with disabilities live as independent, self-sufficient members of our society. I urge my colleagues to support this much-needed legislation.

Mr. ISSA. Madam Speaker, today I rise in support of H.R. 3195, ADA Amendments Act of 2008.

The ADA Amendments Act is a needed step in addressing improper judicial interpretation of the original Americans with Disabilities Act. Courts interpreted the Act more narrowly than Congress had intended resulting in decreased protection under the Act. It is especially gratifying that in crafting the legislation before us today the disability community was able to come to an agreement with private industry on appropriate legislative language.

More specifically than the legislation at hand, I bring attention to the lack of Ameri-

cans with Disability Act, ADA, compliance in the historic Capitol complex, specifically the use of door handles within personal House offices.

The purpose the ADA is to ensure non-discrimination for persons with disabilities including but not limited to public accommodations. The ADA specifically states the use of lever operated mechanisms, push-type mechanisms, or U-shaped handles are acceptable designs for all to operate.

Enacted in 1990, I believe it is the responsibility of Congress to every extent reasonable, to install appropriate usable hardware by all those that wish to access the halls of Congress.

Beginning with my first term in office in 2000, I have made requests to have my personal House office located in the Cannon building outfitted with ADA appropriate door handles. It is unfortunate that 8 years after my initial request and 18 years following the enactment of the ADA, Congress has chosen to remain out of compliance with the ADA.

Congress must lead by example by making these buildings accessible to all Americans, regardless of disability. I urge you to read my attached most recent correspondence requesting this appropriate and necessary change.

HOUSE OF REPRESENTATIVES,

Washington, DC, May 20, 2008.

HON. NANCY PELOSI,  
Speaker, House of Representatives,  
Washington, DC.

DEAR MADAM SPEAKER: I wanted to make you aware of a request that I submitted to the Committee on House Administration for the installation of Americans with Disabilities Act, ADA, compliant lever-style door handles in my office, room 211 in the Cannon House Office Building, and throughout the House campus.

I am concerned that nearly 18 years after the passage of the Act, Congress remains significantly out of compliance. I have attached a copy of my letter to Chairman Robert Brady and Ranking Member Vern Ehlers for your review.

Thank you for your attention to this important request.

Sincerely,

DARRELL ISSA,  
Member of Congress.

Enclosure.

HOUSE OF REPRESENTATIVES,

Washington, DC, May 20, 2008.

HON. ROBERT A. BRADY,  
Chairman, Committee on House Administration,  
House of Representatives, Washington, DC.

HON. VERNON J. EHLERS,  
Ranking Member, Committee on House Administration, House of Representatives, Washington, DC.

DEAR CHAIRMAN BRADY AND RANKING MEMBER EHLERS: I am writing to request the installation of Americans with Disabilities Act, ADA-compliant lever-style door handles throughout my office, which is 211 Cannon House Office Building. Furthermore, I respectfully request that the committee direct that ADA compliant lever-style door handles be made available to any Member or committee that requests their installation, and that the committee develops a plan to complete the installation of ADA compliant lever-style door handles campus-wide as soon as practicable.

Enacted by Congress in 1990, and signed into law by President George H.W. Bush, the ADA is historic legislation whose purpose is to ensure nondiscrimination for persons with disabilities in access to employment, public services, public accommodations and tele-

communications. According to the Department of Justice publication, ADA Standards for Accessible Design, CFR 28, Part 36, Appendix A, Section 4.13.2, "Handles, pulls, latches, locks and other operable devices on doors shall have a shape that is easy to grasp with one hand and does not require tight grasping, tight pinching, or twisting of the wrist to operate. Lever-operated mechanisms, push-type mechanisms, and U-shaped handles are acceptable designs."

It is a travesty that nearly 18 years after its enactment, the Congress remains significantly out of compliance with the ADA. Door handles throughout the House campus remain predominantly twisting; knob-style handles which clearly do not meet the standards outlined by the Act. We set a terrible example by exempting ourselves just because compliance is inconvenient or expensive, when we have compelled the American people by force of law to bear these same expenses and comply with the Act.

The Capitol is the nation's most prominent public space, with tens of thousands of Americans visiting, and many more thousands working here each day. Making it accessible to all Americans, regardless of disability, should be a priority. I urge the committee to grant my request for the installation of ADA compliant lever-style door handles in my congressional office, to make them available to all Members and committees upon request, and to act with all practicable speed to install lever-style compliant door handles campus-wide.

Thank you for your consideration of this request.

Sincerely,

DARRELL ISSA,  
Member of Congress.

Mr. RAMSTAD. Madam Speaker, as chair of the Bipartisan Disabilities Caucus, I rise in strong support of the bill before us, the ADA Amendments Act.

It is a matter of basic justice for every American to have access to public accommodations and businesses. And every American deserves the opportunity to hold a job, contribute their talents and live with dignity and independence.

That's what the Americans with Disabilities Act, ADA, of 1990 was all about—creating access and equal opportunity for millions of Americans with disabilities.

And that's why the recent court cases that have chipped away at the protections of the ADA have been so alarming. This important bill will stop the erosion and clarify that people who use adaptive technology to cope with their disability still deserve the protection of the ADA.

People with disabilities have to overcome obstacles every day. It's time to remove the legal obstacles to their basic civil rights.

It's time to tear down the barriers that keep people with disabilities from fully participating and sharing their gifts. It's time to restore basic justice.

I urge my colleagues to support this important bill.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today in support of H.R. 3195, the "ADA Restoration Act of 2007." I wholeheartedly support this bill and urge my colleagues to support it also. The changes embodied by this Act, that restore the with Disabilities Act of 1990, "ADA", to its original purpose, are long overdue. This is a civil rights bill and the rights of the disabled must be restored.

H.R. 3195, the "ADA Restoration Act of 2007," amends the definition of "disability" in

the ADA in response to the Supreme Court's narrow interpretation of the definition, which has made it extremely difficult for individuals with serious health conditions—epilepsy, diabetes, cancer, muscular dystrophy, multiple sclerosis and severe intellectual impairments—to prove that they qualify for protection under the ADA. The Supreme Court has narrowed the definition in two ways: (1) by ruling that mitigating measures that help control an impairment like medicine, hearing aids, or any other treatment must be considered in determining whether an impairment is disabling enough to qualify as a disability; and (2) by ruling that the elements of the definition must be interpreted “strictly to create a demanding standard for qualifying as disabled.” The Court's treatment of the ADA is at odds with judicial treatment of other civil rights statutes, which usually are interpreted broadly to achieve their remedial purposes. It is also inconsistent with Congress's intent.

The committee will consider a substitute that represents the consensus view of disability rights groups and the business community. That substitute restores congressional intent by, among other things: disallowing consideration of mitigating measures other than corrective lenses, ordinary eyeglasses or contacts, when determining whether an impairment is sufficiently limiting to qualify as a disability; maintaining the requirement that an individual qualifying as disabled under the first of the three-prong definition of “disability” show that an impairment “substantially limits” a major life activity but defining “substantially limits” as a less burdensome “materially restricts; clarifying that anyone who is discriminated against because of an impairment, whether or not the impairment limits the performance of any major life activities, has been “regarded as” disabled and is entitled to the ADA's protection.

#### BACKGROUND ON LEGISLATION

Eighteen years ago, President George H.W. Bush, with overwhelming bipartisan support from the Congress, signed into law the ADA. The act was intended to provide a “clear and comprehensive mandate,” with “strong, consistent, enforceable standards,” for eliminating disability-based discrimination. Through this broad mandate, Congress sought to protect anyone who is treated less favorably because of a current, past, or perceived disability. Congress did not intend for the courts to seize on the definition of disability as a means of excluding individuals with serious health conditions from protection; yet this is exactly what has happened. A legislative action is now needed to restore congressional intent, and ensure broad protection against disability-based discrimination.

#### COURT RULINGS HAVE NARROWED ADA PROTECTION, RESULTING IN THE EXCLUSION OF INDIVIDUALS THAT CONGRESS CLEARLY INTENDED TO PROTECT

Through a series of decisions interpreting the ADA's definition of “disability,” however, the Supreme Court has narrowed the ADA in ways never intended by Congress. First, in three cases decided on the same day, the Supreme Court ruled that the determination of “disability” under the first prong of the definition—i.e., whether an individual has a substantially limiting impairment—should be made after considering whether mitigating measures had reduced the impact of the impairment. In all three cases, the undisputed reason for the adverse action was the employee's medical

condition, yet all three employers argued—and the Supreme Court agreed—that the plaintiffs were not protected by the ADA because their impairments, when considered in a mitigated state, were not limiting enough to qualify as disabilities under the ADA.

Three years later, the Supreme Court revisited the definition of “disability” in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*. In that case, the plaintiff alleged that her employer discriminated against her by failing to accommodate her disabilities, which included carpal tunnel syndrome, myotendinitis, and thoracic outlet compression. While her employer previously had adjusted her job duties, making it possible for her to perform well despite these conditions, Williams was not able to resume certain job duties when requested by Toyota and ultimately lost her job. She challenged the termination, also alleging that Toyota's refusal to continue accommodating her violated the ADA. Looking to the definition of “disability,” the Court noted that an individual “must initially prove that he or she has a physical or mental impairment,” and then demonstrate that the impairment “substantially limits” a “major life activity.” Identifying the critical questions to be whether a limitation is “substantial” and whether a life activity is “major,” the court stated that “these terms need to be interpreted strictly to create a demanding standard for qualifying as disabled.” The Court then concluded that “substantial” requires a showing that an individual has an impairment “that prevents or, “severely restricts the individual; and “major” life activities, requires a showing that the individual is restricted from performing tasks that are “of central importance to most people's daily lives.”

In the wake of these rulings, disabilities that had been covered under the Rehabilitation Act and that Congress intended to include under the ADA—serious health conditions like epilepsy, diabetes, cancer, cerebral palsy, multiple sclerosis—have been excluded. Either, the courts say, the person is not impaired enough to substantially limit a major life activity, or the impairment substantially limits something—like liver function—that the courts do not consider a major life activity. Courts even deny protection when the employer admits that it took adverse action based on the individual's impairment, allowing employers to take the position that an employee is too disabled to do a job but not disabled enough to be protected by the law.

On October 4, 2007, the Subcommittee on the Constitution, Civil Rights, and Civil Liberties held a legislative hearing on H.R. 3195, the “ADA Restoration Act of 2007.” Witnesses at the hearing included Majority Leader STENY H. HOYER; Cheryl Sensenbrenner, chair, American Association of People with Disabilities; Stephen C. Orr, pharmacist and plaintiff in *Orr v. Wal-Mart Stores, Inc.*; Michael C. Collins, executive director, National Council on Disability; Lawrence Z. Lorber, U.S. Chamber of Commerce; and Chai R. Feldblum, professor, Georgetown University Law Center.

The hearing provided an opportunity for the Constitution Subcommittee to examine how the Supreme Court's decisions regarding the definition of “disability” have affected ADA protection for individuals with disabilities and to consider the need for legislative action. Representative HOYER, one of the lead sponsors of the original act and, along with Rep-

resentative SENSENBRENNER, lead House co-sponsor of the ADA Restoration Act, explained the need to respond to court decisions “that have sharply restricted the class of people who can invoke protection under the law and [reinstate] the original congressional intent when the ADA passed.” Explaining Congress's choice to adopt the definition of “disability” from the Rehabilitation Act because it had been interpreted generously by the courts, Representative HOYER testified that Congress had never anticipated or intended that the courts would interpret that definition so narrowly:

[W]e could not have fathomed that people with diabetes, epilepsy, heart conditions, cancer, mental illnesses and other disabilities would have their ADA claims denied because they would be considered too functional to meet the definition of disabled. Nor could we have fathomed a situation where the individual may be considered too disabled by an employer to get a job, but not disabled enough by the courts to be protected by the ADA from discrimination. What a contradictory position that would have been for Congress to take.

Representative HOYER, joined by all of the witnesses except Mr. Lorber, urged Congress to respond by passing H.R. 3195 to amend the definition of “disability.” Mr. Lorber, appearing on behalf of the Chamber of Commerce, opposed H.R. 3195 as an overly broad response to court decisions that accurately reflected statutory language and congressional intent.

Since the subcommittee's hearing, several changes have been made to the bill, which are reflected in the substitute that will likely be considered by the committee. The substitute, described section-by-section below, represents the consensus of the disability rights and business groups and is supported by, among others, the Chamber of Commerce.

Importantly, section 4 of the bill, amends the definition of “disability” and provides standards for applying the amended definition. While retaining the requirement that a disability “substantially limits” a “major” life activity under prongs 1 and 2 of the definition of disability, section 4 redefines “substantially limits” as “materially restricts” to indicate a less stringent standard. Thus, while the limitation imposed by an impairment must be important, it need not rise to the level of preventing or severely restricting the performance of major life activities in order to qualify as a disability. Section 4 provides an illustrative list of life activities that should be considered “major,” and clarifies that an individual has been “regarded as” disabled, and is entitled to protection under the ADA, if discriminated against because of an impairment, whether or not the impairment limits the performance of any major life activities. Section 4 requires broad construction of the definition and prohibits consideration of mitigating measures, with the exception of ordinary glasses or contact lenses, in determining whether an impairment substantially limits a major life activity.

I support this bill and I urge my colleagues to support it also.

Ms. HIRONO. Madam Speaker, I rise today in strong support of H.R. 3195, the ADA Restoration Act of 2007. I would like to thank the chief sponsor of the bill, Majority Leader STENY HOYER, and the chairman of the Education and Labor Committee, GEORGE MILLER, for their leadership and work on disability rights.

Congress passed the Americans with Disabilities Act, ADA, 18 years ago with overwhelming support from both parties and President George H.W. Bush. The intent of Congress was clear: to make this great Nation's promise of equality and freedom a reality for Americans with disabilities.

Standing together, leaders from both parties described the law as "historic," "landmark," an "emancipation proclamation for people with disabilities." These were not timid or hollow words. The congressional mandate was ambitious: prohibit unfair discrimination and require changes in workplaces, public transportation systems, businesses, and other programs or services.

Through this broad mandate, Congress intended to protect anyone who is treated less favorably because of a current, past, or perceived disability. As with other civil rights laws, Congress wanted to focus on whether an individual could prove that he or she had been treated less favorably because of a physical or mental impairment. Congress never intended for the courts to seize on the definition of "disability" as a means of excluding individuals with serious health conditions like epilepsy, diabetes, cancer, HIV, muscular dystrophy, and multiple sclerosis from protection under the law.

Yet this is exactly what has happened. Through a series of decisions interpreting the definition of "disability" narrowly, the U.S. Supreme Court has inappropriately shifted the focus away from an employer's alleged misconduct onto whether an individual can first meet a "demanding standard for qualifying as disabled."

Millions of Americans who experience disability-based discrimination have been or will be denied protection under ADA and barred from challenging discriminatory conduct. By passing H.R. 3195, the Congress will be able to correct these decisions made by the courts.

H.R. 3195 would do this by: amending the definition of "disability" so that individuals who Congress originally intended to protect from discrimination are covered under the ADA; preventing the courts from considering "mitigating measures" when deciding whether an individual qualifies for protection under the law; and keeping the focus in employment cases on the reason for the adverse action. The appropriate question is whether someone can show that he or she was treated less favorably "on the basis of disability" and not whether an individual has revealed enough private and highly personal facts about how he or she is limited by an impairment. The bill reminds the courts that—as with any other civil rights law—the ADA must be interpreted fairly, and as Congress intended.

As an original cosponsor of H.R. 3195, I believe that it rightfully will restore protections for disabled Americans under the landmark ADA, one of our Nation's most important civil rights laws.

I would like to share with you just a few examples of how ADA has made a positive impact for individuals with disabilities in my home State of Hawaii:

An 85 year old Honolulu woman, who is both deaf and blind, is able to access the public transportation system to visit her husband who resides in a long-term care facility far from her home.

The first "chirping" traffic light on the island of Kauai was installed at a busy intersection

thanks to the work of an advocate for the blind.

The annual Maui County Fair has a special day set aside for people with disabilities to participate in the rides and games.

A Kauai bakery installed a blinking light system on their ovens so that a hearing-impaired employee would be notified when her baking was complete, thus allowing her to work independently.

Each year, the Hawaii State Vocational Rehabilitation and Services for the Blind Division of the Department of Human Services recognizes outstanding clients from the districts they serve. I would like to recognize the following 2007 Rehabilitants of the Year: Deanna DeLeon of the Big Island, Rogie Yasay Pagatpatan of Maui, Serafin Palomares of Kauai, and Tauloa "Mona" Pouso'o of Oahu. I would like to include in the CONGRESSIONAL RECORD their stories of success, as each of these individuals leads a life of inspiration.

I urge my colleagues to join me in voting for H.R. 3195 so we can continue to build on the successes of the Americans with Disabilities Act. Mahalo (thank you).

HAWAII BRANCH 2007 REHABILITANT OF THE YEAR, NOMINATED BY ELLEN OKIMOTO, VOCATIONAL REHABILITATION SPECIALIST

Deanna DeLeon came to VR in March 2006 looking for a way to change her life. Deanna faced many challenges in her life. Her past history of abuse led her to the Big Island Drug Court Program. Through this program and with the support of the Division of Vocational Rehabilitation, Deanna set a goal of becoming successfully employed.

The combination of her past work experience in the hotel industry and as an administrative assistant qualified her for a position as a tour receptionist with Wyndham Vacation Resorts in June 2006. Deanna's supervisor, Patsy Mecca, stated that Deanna brings positive energy and a bright smile to the team. Deanna has since been promoted to a Gifting Supervisor and continues to work in a job that she so loves.

Go Forward To Work. Congratulations, Deanna for a job well done.

MAUI BRANCH 2007 REHABILITANT OF THE YEAR, NOMINATED BY LYDIA SHEETS, VOCATIONAL REHABILITATION SPECIALIST

Having a disability never stopped Rogie Yasay Pagatpatan from working for long periods of time. Rogie requires assistance in completing applications and interviewing. Each time he needs to look for a new job, he has enlisted the help of his Vocational Rehabilitation Specialist, Lydia Sheets in the Maui Branch Office. Rogie and Lydia have been a successful team for many years. Lydia knows Rogie so well that she has collaborated with employers to help Rogie find and keep jobs.

Most recently, Lydia helped Rogie obtain a position with the Maui Disposal Company, Inc. He was hired as a sorter at the company's material Recover Facility—a processing plant for recyclable products including plastic, glass, aluminum, and mixed paper. Rogie works with other processors and several supervisors. He has a job that requires teamwork, cooperation, conscientiousness, and tolerance of waste products, outdoor work, environmental factors, and working around moving machinery. Rogie has proven that he can handle the job. With the help of supervisors West Paul and Wendell Parker, Rogie has become a valued employee.

Rogie's persistence is admirable, and his commitment has impressed his supervisors. He was honored as the "Employee of the

Month' in June 2007. Rogie's success is due in part to his supportive and patient supervisors, who look at his abilities rather than his limitations.

KAUAI BRANCH 2007 REHABILITANT OF THE YEAR, NOMINATED BY DEBRA MATSUMOTO, EMPLOYMENT SERVICE SPECIALIST

"Everyone is telling me what I cannot do", stated Serafin Palomares when we first met in 2001. This made him even more determined to prove "everyone" wrong, and together, we proceeded to do just that. After recovering from a stroke, Serafin's goal was to return to his previous employment in the Food & Beverage field. We realized that due to his limitations, he would not be able to perform some of the duties required in a restaurant setting. He could be successful however, if the work environment was modified.

Serafin enrolled at Kauai Community College and worked toward a degree in culinary arts. School became a lengthy process, involving a lot of creative collaboration between the Instructors, college counselor, and VR. The biggest hurdle was finding an appropriate practicum site. It soon became clear that Serafin would do best working independently at his own pace, building a workstation, and creating a system that would meet his specific needs. When the Piikoi Building Vending Stand in the County Civic Center became available as a practicum site, Serafin leapt at the chance to give it a try . . . and Serafin has never left.

Upon earning an AS degree in 2005, he decided to make the leap to self-employment. Serafin has managed to create a popular, thriving Vending Stand in the heart of Lihue town. He is renowned for his specialty sandwiches and salads, and the sky's the limit as far as how big he could build his business. Yet, Serafin prefers to keep things small and simple, because for him, it's not about the money as much as it is having a joyful purpose for waking up each day. You can see that he truly enjoys what he does by the bright smile he wears when he greets his customers . . . and that's really what keeps the regulars coming back day after day. Congratulations to Serafin Palomares. Kauai's Outstanding Rehabilitant of the Year.

OAHU BRANCH DEAF SERVICES SECTION 2007 REHABILITANT OF THE YEAR, NOMINATED BY AMANDA CHRISTIAN, VOCATIONAL REHABILITATION SPECIALIST

Deaf Services Section is proud to nominate known to his friends and family as "Mona", as this year's Outstanding Rehabilitant of the Year. Mona is a deaf person with significant developmental delays and minimal language skills. He is extremely shy; however, he has a heart of gold and a terrific work ethic.

After graduating from the Hawaii Center for the Deaf and Blind, Mona received kitchen training from Lanakila Rehabilitation Center (LRC) from 2002 until 2006 where he learned food preparation and dishwashing skills. At that time, it was a common belief that Mona would need extended support services in order to maintain competitive employment. With the assistance of LRC, Mona was placed at Red Lobster in November 2006. He received on-the-job training from November 2006 until February 2007 with specialized job coaches.

Mona eventually became comfortable with his work environment and began to make friends with co-workers. He is now confident with his tasks and will help others with their work at any time he sees that they need help. Mona's job duties initially were limited

to cleaning the restrooms, bagging linguini and rice, and washing dishes. Mona later proved he was capable of much more and now helps staff with tasks such as mopping the bar area, food prep work, and helping in the storage room. He often arrives at work early and at times, has to be persuaded to leave work at the end of his shift. Upon leaving work, he makes sure to say "goodbye" to each one of his co-workers at least once; sometimes twice. Mona's supervisors and co-workers report how cherished Mona is and how well he is doing.

Deaf Services Section is honored and humbled to be able to recognize Mona Pouso's hard work and outstanding achievements. He has been an inspiration to us all and will continue to stand out in our minds as the definition of a successfully rehabilitated individual.

Mr. NADLER. Madam Speaker, I want to commend the distinguished majority leader and gentleman from Wisconsin, Mr. SENSENBRENNER, for their leadership on this important legislation.

H.R. 3195 would help to restore the Americans with Disabilities Act to its rightful place among this Nation's great civil rights laws.

This legislation is necessary to correct Supreme Court decisions that have created an absurd catch-22 in which an individual can face discrimination on the basis of an actual, past, or perceived disability and yet not be considered sufficiently disabled to be protected against that discrimination by the ADA. That was never Congress's intent, and H.R. 3195 cures this problem.

H.R. 3195 lowers the burden of proving that one is disabled enough to qualify for coverage. It does this by directing courts to read the definition broadly, as is appropriate for remedial civil rights legislation. It also redefines the term "substantially limits," which was restrictively interpreted by the courts to set a demanding standard for qualifying as disabled. An individual now must show that his or her impairment "materially restricts" performance of major life activities. While the impact of the impairment must still be important, it need not severely or significantly restrict one's ability to engage in those activities central to most people's daily lives, including working.

Under this new standard, for example, it should be considered a material restriction if an individual is disqualified from his or her job of choice because of an impairment. An individual should not need to prove that he or she is unable to perform a broad class or range of jobs. We fully expect that the courts, and the federal agencies providing expert guidance, will revisit prior rulings and guidance and adjust the burden of proving the requisite "material" limitation to qualify for coverage.

This legislation is long overdue. Countless Americans with disabilities have already been deprived of the opportunity to prove that they have been victims of discrimination, that they are qualified for a job, or that a reasonable accommodation would afford them an opportunity to participate fully at work and in community life.

Some of my colleagues from across the aisle have raised concerns that this bill would cover "minor" or "trivial" conditions. They worry about covering "stomach aches, the common cold, mild seasonal allergies, or even a hangnail."

I have yet to see a case where the ADA covered an individual with a hangnail. But I have seen scores of cases where the ADA

was construed not to cover individuals with cancer, epilepsy, diabetes, severe intellectual impairment, HIV, muscular dystrophy, and multiple sclerosis.

These people have too often been excluded because their impairment, however serious or debilitating, was mis-characterized by the courts as temporary, or its impact considered too short-lived and not permanent enough—although it was serious enough to cost them the job.

That's what happened to Mary Ann Pimental, a nurse who was diagnosed with breast cancer after being promoted at her job. Mrs. Pimental had a mastectomy and underwent chemotherapy and radiation therapy. She suffered radiation burns and premature menopause. She had difficulty concentrating, and experienced extreme fatigue and shortness of breath. And when she felt well enough to return to work, she discovered that her job was gone and the only position available for her was part-time, with reduced benefits.

When Ms. Pimental challenged her employer's failure to rehire her into a better position, the court told her that her breast cancer was not a disability and that she was not covered by the ADA. The court recognized the "terrible effect the cancer had upon" her and even said that "there is no question that her cancer has dramatically affected her life, and that the associated impairment has been real and extraordinarily difficult for her and her family."

Yet the court still denied her coverage under the ADA because it characterized the impact of her cancer as "short-lived"—meaning that it "did not have a substantial and lasting effect" on her.

Mary Ann Pimental died as a result of her breast cancer 4 months after the court issued its decision. I am sure that her husband and two children disagree with the court's characterization of her cancer as "short-lived," and not sufficiently permanent.

This House should also disagree—and does—as is shown by the broad bipartisan support for H.R. 3195.

H.R. 3195 ensures that individuals like Mary Ann Pimental are covered by the law when they need it. It directs the courts to interpret the definition of disability broadly, as is appropriate for remedial civil rights to legislation. H.R. 3195 requires the courts—and the federal agencies providing expert guidance—to lower the burden for obtaining coverage under this landmark civil rights law. This new standard is not onerous, and is meant to reduce needless litigation over the threshold question of coverage.

It is our sincere hope that, with less battling over who is or is not disabled, we will finally be able to focus on the important questions—is an individual qualified? And might a reasonable accommodation afford that person the same opportunities that his or her neighbors enjoy.

I urge my colleagues to join me in voting for passage of H.R. 3195, as reported unanimously by the House Judiciary Committee.

Mr. SMITH of Texas. Madam Speaker, the Americans with Disabilities Act, enacted almost 18 years ago, removed many physical barriers disabled people faced in their daily lives. It also helped remove the mental barriers that often prevented non-disabled Americans from looking beyond wheel chairs and walking canes and seeing disabled Americans as the friends and coworkers they are.

When the ADA was originally enacted in 1990, it was the result of bipartisan efforts in Congress. So I am pleased that various interested parties have been able to reach agreement on statutory language amending the ADA.

I support the compromise and believe it was reached in good faith. However, I do have some concerns regarding how the courts will interpret the legislative language we will consider today.

So let me express what I believe to be the nature and import of this legislation.

First, the common understanding in Congress is that this legislation would simply restore the original intent of the ADA by bringing the statutory text in line with the legislative history of the original ADA.

That legislative history from both the House Education and Labor and the Senate committee reports provided that "[p]ersons with minor, trivial impairments such as a simple infected finger are not impaired in a major life activity," and consequently those who had such minor and trivial impairments would not be covered by the ADA.

I believe that understanding is entirely appropriate, and I would expect the courts to agree with and apply that interpretation. If that interpretation were not to hold but were to be broadened improperly the judiciary, an employer would be under a Federal obligation to accommodate people with stomach aches, a common cold, mild seasonal allergies, or even a hangnail.

So, I want to make clear that I believe that the drafters and supporters of this legislation, including me, intend to exclude minor and trivial impairments from coverage under the ADA, as they have always been excluded.

Second, the Supreme Court in *Toyota Motor Manufacturing v. Williams* held that under the original ADA, "[t]he impairment's impact must also be permanent or long term."

The findings in the language before us today state that the purpose of the legislation is "to provide a new definition of 'substantially limits' to indicate that Congress intends to depart from the strict and demanding standard applied by the Supreme Court in *Toyota Motor Manufacturing*."

I understand that this finding is not meant to express disagreement with or to overturn the Court's determination that the ADA apply only to individuals with impairments that are permanent or long term in impact.

If these understandings of the language before us today do not prevail, the courts may be flooded with frivolous cases brought by those who were not intended to be protected under the original ADA.

If that happens, those who would have been clearly covered under the original ADA, such as paralyzed veterans or the blind, will be forced to wait in line behind thousands of others filing cases regarding minor or trivial impairments. I don't believe anyone supporting this new language wants that to happen, and I want to make that clear for the record.

With the understandings I have expressed, I support the Americans with Disabilities Act Restoration Act.

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

The SPEAKER pro tempore. Pursuant to House Resolution 1299, the previous question is ordered on the bill, as amended.



The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. SENSENBRENNER. Madam 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, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

EXTENSION OF PROGRAMS UNDER THE HIGHER EDUCATION ACT OF 1965

Mr. GEORGE MILLER of California. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 3180) to temporarily extend the programs under the Higher Education Act of 1965.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

S. 3180

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

SECTION 1. EXTENSION OF HIGHER EDUCATION PROGRAMS.

(a) EXTENSION OF PROGRAMS.—Section 2(a) of the Higher Education Extension Act of 2005 (Public Law 109-81; 20 U.S.C. 1001 note) is amended by striking “June 30, 2008” and inserting “July 31, 2008”.

(b) RULE OF CONSTRUCTION.—Nothing in this section, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109-171), by the College Cost Reduction and Access Act (Public Law 110-84), or by the Ensuring Continued Access to Student Loans Act of 2008 (Public Law 110-227) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from California (Mr. MCKEON) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Madam Speaker, I rise in support of S.

3180, a bill to temporarily extend programs under the Higher Education Act of 1965.

At the beginning of February, the House took steps to reauthorize the Higher Education Act in passing H.R. 4137, the College Opportunity and Affordability Act. We now find ourselves in the near final phase of completing the reauthorization of the Higher Education Act as we work toward a compromise bill with the Senate to ensure that the doors of college are truly open to all qualified students.

It is our goal to ensure that a final bill encompasses the major issues addressed in H.R. 4137, including skyrocketing college prices, a needlessly complicated student aid application process, and predatory tactics by student lenders.

The bill under consideration today, S. 3180, will extend the programs under the Higher Education Act until July 31, 2008, to allow sufficient time for final deliberations on the two bills reported out of the respective Chambers.

It has been nearly 10 years since the Higher Education Act was last reauthorized, and I believe the Members on both sides of the aisle and in both Chambers are anxious to complete the work on this bill in this Congress. We believe it can happen.

I look forward to joining my colleagues on the committees in both the House and the Senate in completing our work on behalf of this Nation's hardworking families and students.

Madam Speaker, I reserve the balance of my time.

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

I rise in support of S. 3180, a bill to temporarily extend the Higher Education Act of 1965. This bill will provide a clean extension of the Higher Education Act for 1 more month as we continue to work with our Senate colleagues to hammer out a conference agreement.

The underlying reauthorization of the Higher Education Act is long overdue. Since 2003 Congress has passed twelve extensions, two reconciliation bills, an emergency student loan bill, and the House has passed two reauthorization bills. In the reauthorization bill passed by this Congress, we strengthened Pell Grants, improved the Perkins Loan program, and expanded access to college for millions of American students. The reauthorization bills also included important reforms that will provide more transparency to American families on the cost of college. A recent report found that since 1983, the cost of keeping colleges running has outpaced the consumer price index by 48 percent. The average total for tuition fees, room and board, for an in-State student at a public 4-year college is \$13,589. It jumps to \$32,307 for a student attending a private 4-year college. Tuition and fees have increased by an average of 4.4 percent per year over the past decade, and that's after adjusting

for inflation. Students and families need to be able to plan for these increases, and that's exactly what we are proposing, through greater sunshine and transparency. We need to complete the reauthorization process to make those proposals a reality.

Madam Speaker, this is a clean extension bill that will allow the current programs of the Higher Education Act to continue past their current June 30, 2008, expiration date until July 31, 2008. Programs like Pell Grants and Perkins Loans are the passports out of poverty for millions of American students. We must complete our work on the conference agreement prior to the August recess.

I urge my colleagues to vote “yes” on S. 3180.

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

Mr. GEORGE MILLER of California. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. GEORGE MILLER) that the House suspend the rules and pass the Senate bill, S. 3180.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

STOP CHILD ABUSE IN RESIDENTIAL PROGRAMS FOR TEENS ACT OF 2008

Mr. GEORGE MILLER of California. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 6358) to require certain standards and enforcement provisions to prevent child abuse and neglect in residential programs, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6358

*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 “Stop Child Abuse in Residential Programs for Teens Act of 2008”.

SEC. 2. DEFINITIONS.

In this Act:

(1) ASSISTANT SECRETARY.—The term “Assistant Secretary” means the Assistant Secretary for Children and Families of the Department of Health and Human Services.

(2) CHILD.—The term “child” means an individual who has not attained the age of 18.

(3) CHILD ABUSE AND NEGLECT.—The term “child abuse and neglect” has the meaning given such term in section 111 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106g).

(4) COVERED PROGRAM.—

(A) IN GENERAL.—The term “covered program” means each location of a program operated by a public or private entity that, with respect to one or more children who are unrelated to the owner or operator of the program—

(i) provides a residential environment, such as—

(I) a program with a wilderness or outdoor experience, expedition, or intervention;

(II) a boot camp experience or other experience designed to simulate characteristics of basic military training or correctional regimes;

(III) a therapeutic boarding school; or

(IV) a behavioral modification program; and

(ii) operates with a focus on serving children with—

(I) emotional, behavioral, or mental health problems or disorders; or

(II) problems with alcohol or substance abuse.

(B) EXCLUSION.—The term “covered program” does not include—

(i) a hospital licensed by the State; or

(ii) a foster family home that provides 24-hour substitute care for children placed away from their parents or guardians and for whom the State child welfare services agency has placement and care responsibility and that is licensed and regulated by the State as a foster family home.

(5) PROTECTION AND ADVOCACY SYSTEM.—The term “protection and advocacy system” means a protection and advocacy system established under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043).

(6) STATE.—The term “State” has the meaning given such term in section 111 of the Child Abuse Prevention and Treatment Act.

### SEC. 3. STANDARDS AND ENFORCEMENT.

(a) MINIMUM STANDARDS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary for Children and Families of the Department of Health and Human Services shall require each location of a covered program that individually or together with other locations has an effect on interstate commerce, in order to provide for the basic health and safety of children at such a program, to meet the following minimum standards:

(A) Child abuse and neglect shall be prohibited.

(B) Disciplinary techniques or other practices that involve the withholding of essential food, water, clothing, shelter, or medical care necessary to maintain physical health, mental health, and general safety, shall be prohibited.

(C) The protection and promotion of the right of each child at such a program to be free from physical and mechanical restraints and seclusion (as such terms are defined in section 595 of the Public Health Service Act (42 U.S.C. 290jj)) to the same extent and in the same manner as a non-medical, community-based facility for children and youth is required to protect and promote the right of its residents to be free from such restraints and seclusion under such section 595, including the prohibitions and limitations described in subsection (b)(3) of such section.

(D) Acts of physical or mental abuse designed to humiliate, degrade, or undermine a child's self-respect shall be prohibited.

(E) Each child at such a program shall have reasonable access to a telephone, and be informed of their right to such access, for making and receiving phone calls with as much privacy as possible, and shall have access to the appropriate State or local child abuse reporting hotline number, and the national hotline number referred to in subsection (c)(2).

(F) Each staff member, including volunteers, at such a program shall be required, as a condition of employment, to become familiar with what constitutes child abuse and neglect, as defined by State law.

(G) Each staff member, including volunteers, at such a program shall be required, as

a condition of employment, to become familiar with the requirements, including with State law relating to mandated reporters, and procedures for reporting child abuse and neglect in the State in which such a program is located.

(H) Full disclosure, in writing, of staff qualifications and their roles and responsibilities at such program, including medical, emergency response, and mental health training, to parents or legal guardians of children at such a program, including providing information on any staff changes, including changes to any staff member's qualifications, roles, or responsibilities, not later than 10 days after such changes occur.

(I) Each staff member at a covered program described in subclause (I) or (II) of section 2(4)(A)(i) shall be required, as a condition of employment, to be familiar with the signs, symptoms, and appropriate responses associated with heatstroke, dehydration, and hypothermia.

(J) Each staff member, including volunteers, shall be required, as a condition of employment, to submit to a criminal history check, including a name-based search of the National Sex Offender Registry established pursuant to the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248; 42 U.S.C. 16901 et seq.), a search of the State criminal registry or repository in the State in which the covered program is operating, and a Federal Bureau of Investigation fingerprint check. An individual shall be ineligible to serve in a position with any contact with children at a covered program if any such record check reveals a felony conviction for child abuse or neglect, spousal abuse, a crime against children (including child pornography), or a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery.

(K) Policies and procedures for the provision of emergency medical care, including policies for staff protocols for implementing emergency responses.

(L) All promotional and informational materials produced by such a program shall include a hyperlink to or the URL address of the website created by the Assistant Secretary pursuant to subsection (c)(1)(A).

(M) Policies to require parents or legal guardians of a child attending such a program—

(i) to notify, in writing, such program of any medication the child is taking;

(ii) to be notified within 24 hours of any changes to the child's medical treatment and the reason for such change; and

(iii) to be notified within 24 hours of any missed dosage of prescribed medication.

(N) Procedures for notifying immediately, to the maximum extent practicable, but not later than within 48 hours, parents or legal guardians with children at such a program of any—

(i) on-site investigation of a report of child abuse and neglect;

(ii) violation of the health and safety standards described in this paragraph; and

(iii) violation of State licensing standards developed pursuant to section 114(b)(1) of the Child Abuse Prevention and Treatment Act, as added by section 7 of this Act.

(O) Other standards the Assistant Secretary determines appropriate to provide for the basic health and safety of children at such a program.

(2) REGULATIONS.—

(A) INTERIM REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary shall promulgate and enforce interim regulations to carry out paragraph (1).

(B) PUBLIC COMMENT.—The Assistant Secretary shall, for a 90-day period beginning on

the date of the promulgation of interim regulations under subparagraph (A) of this paragraph, solicit and accept public comment concerning such regulations. Such public comment shall be submitted in written form.

(C) FINAL REGULATIONS.—Not later than 90 days after the conclusion of the 90-day period referred to in subparagraph (B) of this paragraph, the Assistant Secretary shall promulgate and enforce final regulations to carry out paragraph (1).

(b) MONITORING AND ENFORCEMENT.—

(1) ON-GOING REVIEW PROCESS.—Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary shall implement an on-going review process for investigating and evaluating reports of child abuse and neglect at covered programs received by the Assistant Secretary from the appropriate State, in accordance with section 114(b)(3) of the Child Abuse Prevention and Treatment Act, as added by section 7 of this Act. Such review process shall—

(A) include an investigation to determine if a violation of the standards required under subsection (a)(1) has occurred;

(B) include an assessment of the State's performance with respect to appropriateness of response to and investigation of reports of child abuse and neglect at covered programs and appropriateness of legal action against responsible parties in such cases;

(C) be completed not later than 60 days after receipt by the Assistant Secretary of such a report;

(D) not interfere with an investigation by the State or a subdivision thereof; and

(E) be implemented in each State in which a covered program operates until such time as each such State has satisfied the requirements under section 114(c) of the Child Abuse Prevention and Treatment Act, as added by section 7 of this Act, as determined by the Assistant Secretary, or two years has elapsed from the date that such review process is implemented, whichever is later.

(2) CIVIL PENALTIES.—Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary shall promulgate regulations establishing civil penalties for violations of the standards required under subsection (a)(1). The regulations establishing such penalties shall incorporate the following:

(A) Any owner or operator of a covered program at which the Assistant Secretary has found a violation of the standards required under subsection (a)(1) may be assessed a civil penalty not to exceed \$50,000 per violation.

(B) All penalties collected under this subsection shall be deposited in the appropriate account of the Treasury of the United States.

(c) DISSEMINATION OF INFORMATION.—The Assistant Secretary shall establish, maintain, and disseminate information about the following:

(1) Websites made available to the public that contain, at a minimum, the following:

(A) The name and each location of each covered program, and the name of each owner and operator of each such program, operating in each State, and information regarding—

(i) each such program's history of violations of—

(I) regulations promulgated pursuant to subsection (a); and

(II) section 114(b)(1) of the Child Abuse Prevention and Treatment Act, as added by section 7 of this Act;

(ii) each such program's current status with the State licensing requirements under section 114(b)(1) of the Child Abuse Prevention and Treatment Act, as added by section 7 of this Act;

(iii) any deaths that occurred to a child while under the care of such a program, including any such deaths that occurred in the five year period immediately preceding the date of the enactment of this Act, and including the cause of each such death;

(iv) owners or operators of a covered program that was found to be in violation of the standards required under subsection (a)(1), or a violation of the licensing standards developed pursuant to section 114(b)(1) of the Child Abuse Prevention and Treatment Act, as added by section 7 of this Act, and who subsequently own or operate another covered program; and

(v) any penalties levied under subsection (b)(2) and any other penalties levied by the State, against each such program.

(B) Information on best practices for helping adolescents with mental health disorders, conditions, behavioral challenges, or alcohol or substance abuse, including information to help families access effective resources in their communities.

(2) A national toll-free telephone hotline to receive complaints of child abuse and neglect at covered programs and violations of the standards required under subsection (a)(1).

(d) ACTION.—The Assistant Secretary shall establish a process to—

(1) ensure complaints of child abuse and neglect received by the hotline established pursuant to subsection (c)(2) are promptly reviewed by persons with expertise in evaluating such types of complaints;

(2) immediately notify the State, appropriate local law enforcement, and the appropriate protection and advocacy system of any credible complaint of child abuse and neglect at a covered program received by the hotline;

(3) investigate any such credible complaint not later than 30 days after receiving such complaint to determine if a violation of the standards required under subsection (a)(1) has occurred; and

(4) ensure the collaboration and cooperation of the hotline established pursuant to subsection (c)(2) with other appropriate National, State, and regional hotlines, and, as appropriate and practicable, with other hotlines that might receive calls about child abuse and neglect at covered programs.

#### SEC. 4. ENFORCEMENT BY THE ATTORNEY GENERAL.

If the Assistant Secretary determines that a violation of subsection (a)(1) of section 3 has not been remedied through the enforcement process described in subsection (b)(2) of such section, the Assistant Secretary shall refer such violation to the Attorney General for appropriate action. Regardless of whether such a referral has been made, the Attorney General may, *sua sponte*, file a complaint in any court of competent jurisdiction seeking equitable relief or any other relief authorized by this Act for such violation.

#### SEC. 5. REPORT.

Not later than one year after the date of the enactment of this Act and annually thereafter, the Secretary of Health and Human Services, in coordination with the Attorney General shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, a report on the activities carried out by the Assistant Secretary and the Attorney General under this Act, including—

(1) a summary of findings from on-going reviews conducted by the Assistant Secretary pursuant to section 3(b)(1), including a description of the number and types of covered programs investigated by the Assistant Secretary pursuant to such section;

(2) a description of types of violations of health and safety standards found by the Assistant Secretary and any penalties assessed;

(3) a summary of State progress in meeting the requirements of this Act, including the requirements under section 114 of the Child Abuse Prevention and Treatment Act, as added by section 7 of this Act;

(4) a summary of the Secretary's oversight activities and findings conducted pursuant to subsection (d) of such section 114; and

(5) a description of the activities undertaken by the national toll-free telephone hotline established pursuant to section 3(c)(2).

#### SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary of Health and Human Services \$15,000,000 for each of fiscal years 2009 through 2013 to carry out this Act (excluding the amendment made by section 7 of this Act and section 8 of this Act).

#### SEC. 7. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR GRANTS TO STATES TO PREVENT CHILD ABUSE AND NEGLECT AT RESIDENTIAL PROGRAMS.

(a) IN GENERAL.—Title I of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended by adding at the end the following new section:

#### “SEC. 114. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR GRANTS TO STATES TO PREVENT CHILD ABUSE AND NEGLECT AT RESIDENTIAL PROGRAMS.

“(a) DEFINITIONS.—In this section:

“(1) CHILD.—The term ‘child’ means an individual who has not attained the age of 18.

“(2) COVERED PROGRAM.—

“(A) IN GENERAL.—The term ‘covered program’ means each location of a program operated by a public or private entity that, with respect to one or more children who are unrelated to the owner or operator of the program—

“(i) provides a residential environment, such as—

“(I) a program with a wilderness or outdoor experience, expedition, or intervention;

“(II) a boot camp experience or other experience designed to simulate characteristics of basic military training or correctional regimes;

“(III) a therapeutic boarding school; or

“(IV) a behavioral modification program; and

“(ii) operates with a focus on serving children with—

“(I) emotional, behavioral, or mental health problems or disorders; or

“(II) problems with alcohol or substance abuse.

“(B) EXCLUSION.—The term ‘covered program’ does not include—

“(i) a hospital licensed by the State; or

“(ii) a foster family home that provides 24-hour substitute care for children placed away from their parents or guardians and for whom the State child welfare services agency has placement and care responsibility and that is licensed and regulated by the State as a foster family home.

“(3) PROTECTION AND ADVOCACY SYSTEM.—The term ‘protection and advocacy system’ means a protection and advocacy system established under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043).

“(b) ELIGIBILITY REQUIREMENTS.—To be eligible to receive a grant under section 106, a State shall—

“(1) not later than three years after the date of the enactment of this section, develop policies and procedures to prevent child abuse and neglect at covered programs operating in such State, including having in effect health and safety licensing requirements applicable to and necessary for the operation of each location of such covered programs that include, at a minimum—

“(A) standards that meet or exceed the standards required under section 3(a)(1) of

the Stop Child Abuse in Residential Programs for Teens Act of 2008;

“(B) the provision of essential food, water, clothing, shelter, and medical care necessary to maintain physical health, mental health, and general safety of children at such programs;

“(C) policies for emergency medical care preparedness and response, including minimum staff training and qualifications for such responses; and

“(D) notification to appropriate staff at covered programs if their position of employment meets the definition of mandated reporter, as defined by the State;

“(2) develop policies and procedures to monitor and enforce compliance with the licensing requirements developed in accordance with paragraph (1), including—

“(A) designating an agency to be responsible, in collaboration and consultation with State agencies providing human services (including child protective services, and services to children with emotional, psychological, developmental, or behavioral dysfunctions, impairments, disorders, or alcohol or substance abuse), State law enforcement officials, the appropriate protection and advocacy system, and courts of competent jurisdiction, for monitoring and enforcing such compliance;

“(B) establishing a State licensing application process through which any individual seeking to operate a covered program would be required to disclose all previous substantiated reports of child abuse and neglect and all child deaths at any businesses previously or currently owned or operated by such individual, except that substantiated reports of child abuse and neglect may remain confidential and all reports shall not contain any personally identifiable information relating to the identity of individuals who were the victims of such child abuse and neglect;

“(C) conducting unannounced site inspections not less often than once every two years at each location of a covered program;

“(D) creating a non-public database, to be integrated with the annual State data reports required under section 106(d), of reports of child abuse and neglect at covered programs operating in the State, except that such reports shall not contain any personally identifiable information relating to the identity of individuals who were the victims of such child abuse and neglect; and

“(E) implementing a policy of graduated sanctions, including fines and suspension and revocation of licences, against covered programs operating in the State that are out of compliance with such health and safety licensing requirements;

“(3) if the State is not yet satisfying the requirements of this subsection, in accordance with a determination made pursuant to subsection (c), develop policies and procedures for notifying the Secretary and the appropriate protection and advocacy system of any report of child abuse and neglect at a covered program operating in the State not later than 30 days after the appropriate State entity, or subdivision thereof, determines such report should be investigated and not later than 48 hours in the event of a fatality;

“(4) if the Secretary determines that the State is satisfying the requirements of this subsection, in accordance with a determination made pursuant to subsection (c), develop policies and procedures for notifying the Secretary if—

“(A) the State determines there is evidence of a pattern of violations of the standards required under paragraph (1) at a covered program operating in the State or by an owner or operator of such a program; or

“(B) there is a child fatality at a covered program operating in the State;

“(5) develop policies and procedures for establishing and maintaining a publicly available database of all covered programs operating in the State, including the name and each location of each such program and the name of the owner and operator of each such program, information on reports of substantiated child abuse and neglect at such programs (except that such reports shall not contain any personally identifiable information relating to the identity of individuals who were the victims of such child abuse and neglect and that such database shall include and provide the definition of ‘substantiated’ used in compiling the data in cases that have not been finally adjudicated), violations of standards required under paragraph (1), and all penalties levied against such programs;

“(6) annually submit to the Secretary a report that includes—

“(A) the name and each location of all covered programs, including the names of the owners and operators of such programs, operating in the State, and any violations of State licensing requirements developed pursuant to subsection (b)(1); and

“(B) a description of State activities to monitor and enforce such State licensing requirements, including the names of owners and operators of each covered program that underwent a site inspection by the State, and a summary of the results and any actions taken; and

“(7) if the Secretary determines that the State is satisfying the requirements of this subsection, in accordance with a determination made pursuant to subsection (c), develop policies and procedures to report to the appropriate protection and advocacy system any case of the death of an individual under the control or supervision of a covered program not later than 48 hours after the State is informed of such death.

“(c) SECRETARIAL DETERMINATION.—The Secretary shall not determine that a State’s licensing requirements, monitoring, and enforcement of covered programs operating in the State satisfy the requirements of this subsection (b) unless—

“(1) the State implements licensing requirements for such covered programs that meet or exceed the standards required under subsection (b)(1);

“(2) the State designates an agency to be responsible for monitoring and enforcing compliance with such licensing requirements;

“(3) the State conducts unannounced site inspections of each location of such covered programs not less often than once every two years;

“(4) the State creates a non-public database of such covered programs, to include information on reports of child abuse and neglect at such programs (except that such reports shall not contain any personally identifiable information relating to the identity of individuals who were the victims of such child abuse and neglect);

“(5) the State implements a policy of graduated sanctions, including fines and suspension and revocation of licenses against such covered programs that are out of compliance with the health and safety licensing requirements under subsection (b)(1); and

“(6) after a review of assessments conducted under section 3(b)(2)(B) of the Stop Child Abuse in Residential Programs for Teens Act of 2008, the Secretary determines the State is appropriately investigating and responding to allegations of child abuse and neglect at such covered programs.

“(d) OVERSIGHT.—

“(1) IN GENERAL.—Beginning two years after the date of the enactment of the Stop Child Abuse in Residential Programs for

Teens Act of 2008, the Secretary shall implement a process for continued monitoring of each State that is determined to be satisfying the licensing, monitoring, and enforcement requirements of subsection (b), in accordance with a determination made pursuant to subsection (c), with respect to the performance of each such State regarding—

“(A) preventing child abuse and neglect at covered programs operating in each such State; and

“(B) enforcing the licensing standards described in subsection (b)(1).

“(2) EVALUATIONS.—The process required under paragraph (1) shall include in each State, at a minimum—

“(A) an investigation not later than 60 days after receipt by the Secretary of a report from a State, or a subdivision thereof, of child abuse and neglect at a covered program operating in the State, and submission of findings to appropriate law enforcement or other local entity where necessary, if the report indicates—

“(i) a child fatality at such program; or

“(ii) there is evidence of a pattern of violations of the standards required under subsection (b)(1) at such program or by an owner or operator of such program;

“(B) an annual review by the Secretary of cases of reports of child abuse and neglect investigated at covered programs operating in the State to assess the State’s performance with respect to the appropriateness of response to and investigation of reports of child abuse and neglect at covered programs and the appropriateness of legal actions taken against responsible parties in such cases; and

“(C) unannounced site inspections of covered programs operating in the State to monitor compliance with the standards required under section 3(a) of the Stop Child Abuse in Residential Programs for Teens Act of 2008.

“(3) ENFORCEMENT.—If the Secretary determines, pursuant to an evaluation under this subsection, that a State is not adequately implementing, monitoring, and enforcing the licensing requirements of subsection (b)(1), the Secretary shall require, for a period of not less than one year, that—

“(A) the State shall inform the Secretary of each instance there is a report to be investigated of child abuse and neglect at a covered program operating in the State; and

“(B) the Secretary and the appropriate local agency shall jointly investigate such report.”

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 112(a)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)(1)) is amended by inserting before the period at the end the following: “, and \$235,000,000 for each of fiscal years 2009 through 2013”.

(c) CONFORMING AMENDMENTS.—

(1) COORDINATION WITH AVAILABLE RESOURCES.—Section 103(c)(1)(D) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104(c)(1)(D)) is amended by inserting after “specific” the following: “(including reports of child abuse and neglect occurring at covered programs (except that such reports shall not contain any personally identifiable information relating to the identity of individuals who were the victims of such child abuse and neglect), as such term is defined in section 114)”.

(2) FURTHER REQUIREMENT.—Section 106(b)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(b)(1)) is amended by adding at the end the following new subparagraph:

“(C) FURTHER REQUIREMENT.—To be eligible to receive a grant under this section, a State shall comply with the requirements under section 114(b) and shall include in the State

plan submitted pursuant to subparagraph (A) a description of the activities the State will carry out to comply with the requirements under such section 114(b).”.

(3) ANNUAL STATE DATA REPORTS.—Section 106(d) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(d)) is amended—

(A) in paragraph (1), by inserting before the period at the end the following: “(including reports of child abuse and neglect occurring at covered programs (except that such reports shall not contain any personally identifiable information relating to the identity of individuals who were the victims of such child abuse and neglect), as such term is defined in section 114)”;

(B) in paragraph (6), by inserting before the period at the end the following: “or who were in the care of a covered program, as such term is defined in section 114”.

(d) CLERICAL AMENDMENT.—Section 1(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended by inserting after the item relating to section 113 the following new item:

“Sec. 114. Additional eligibility requirements for grants to States to prevent child abuse and neglect at residential programs.”.

#### SEC. 8. STUDY AND REPORT ON OUTCOMES IN COVERED PROGRAMS.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study, in consultation with relevant agencies and experts, to examine the outcomes for children in both private and public covered programs under this Act encompassing a broad representation of treatment facilities and geographic regions.

(b) REPORT.—The Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that contains the results of the study conducted under subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Pennsylvania (Mr. PLATTS) each will control 20 minutes.

The Chair recognizes the gentleman from California.

Mr. GEORGE MILLER of California. Madam Speaker, I yield myself such time as I may consume.

I rise in strong support of H.R. 6358, the Stop Child Abuse in Residential Programs for Teens Act of 2008.

This legislation incorporates the bipartisan compromise amendment to H.R. 5876 that this House debated yesterday and supported by a vote of 422 in a recorded vote that was taken on the substitute amendments.

The ranking member, Mr. McKEON, and I worked together to develop this compromise legislation because we both agree that children’s health and safety should never be a partisan issue.

The Government Accountability Office has found thousands of cases and allegations of child abuse and neglect, stretching back decades, to teen residential programs, including boot camps, wilderness camps, and therapeutic boarding schools.

The Education and Labor Committee has closely reviewed dozens of serious neglect and abuse cases, including cases that resulted in the death of a child. We have heard from parents of

children who died of preventable causes at the hands of untrained, uncaring staff members. We have heard from adults who attended these programs as teens. They too were the victims of physical and emotional abuse and witnessed other children being abused. These abuses have been allowed to go on because of the weak State and Federal rules governing teen residential programs.

An 18-month study by the Government Accountability Office showed that State licensing may exclude certain types of teen residential programs and thus place children at higher risk of abuse and neglect. In some States inconsistent licensing enables programs to define themselves out of the licensing altogether. According to GAO, in Texas a program that calls itself a residential treatment center would be required to obtain a license, but if that same program simply called itself a boarding school, it would not be required to have that license, and that's why this legislation is terribly important.

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Parents send their children to these programs because they feel they have exhausted their alternatives. Their children may be abusing drugs or alcohol, attempting to run away or physically harm themselves, or otherwise acting out. They turn to these programs because the promise of staff members that will help their children straighten out their lives. And surely there are many cases in which programs do provide families the help they need. These parents are desperate and their children are in deep trouble.

But in far too many cases, when parents turn to those programs, they find they are getting conflicted information by people who have conflicts of interest in recommending the care for their children, financial conflicts of interest, ownership issues, and relationship issues that conflict that kind of advice.

We also know that we see programs that violate the trust that must be established between the parent and these programs and the programs and the children. It's very difficult for these parents to find good programs and to find accurate information, since the reporting requirements are so thin or nonexistent in so many States.

This legislation requires the Department of Health and Human Services to establish minimum standards for residential programs, and to enforce them. Ultimately, however, the States will have primary responsibility for carrying out the work of this bill.

The legislation calls upon the States within 3 years to take up the role of setting standards and enforcing them at all programs, public and private. The Health and Human Services and the State standards would include prohibitions on physical, sexual, and mental abuse of children. The standards would require the programs to provide children with adequate food, water, and medical care.

They would require that programs have plans in place to handle medical emergencies. They would also include new training requirements for program staff, including the training on how to identify and report child abuse.

The legislation requires Health and Human Services to set up a toll-free hotline for people to call to report abuse in these programs. It also requires Health and Human Services to create a Web site for information about each program so that parents can look and see if substantiated cases of child abuse or a child fatality has occurred at the program that they are considering for their children.

Finally, the legislation requires programs to disclose to parents the qualifications, roles, and responsibilities of all current staff members, and requires programs to notify parents of substantiated child abuse or violations of health and safety laws.

Madam Speaker, we have the responsibility to keep children safe, no matter what setting they are in. Today, we are taking an important step to finally ending the horrific abuses that have gone on in these residential programs for teens.

I want to thank again Congresswoman MCCARTHY of New York for all of her help and work on this legislation, and Congressman MCKEON for all of his work on this legislation. His suggestions as the bill left the committee made this a better piece of legislation, and I encourage my colleagues to support the bipartisan legislation.

I reserve the balance of my time.

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

I rise today in support of H.R. 6358, the Stop Child Abuse in Residential Programs for Teens Act. H.R. 6358 puts protections in place to guard against abuse, neglect, and death at residential treatment programs. These residential treatment programs help seriously troubled teens with drug addiction or behavioral or emotional problems. For many parents, they are a last resort when no other treatments or interventions have worked.

Members on both sides of the aisle share a commitment to protect young people enrolled in residential treatment programs. Even one instance of abuse, neglect, or death is one too many.

The bill we are considering today has been developed in an effort to reach a bipartisan consensus. It's important to note that the provisions in the version of this bill that the Education and Labor Committee reported in May have been revised or edited, including the requirement for the Department of Health and Human Services to establish a new bureaucracy to inspect every private residential treatment program in every State, and the requirement creating a new private right of action for lawsuits.

This legislation ensures that the standards required in the bill apply to

both public and private residential treatment programs. The language also contains strong background check requirements that ensure that before coming into contact with children, potential employees are thoroughly scrutinized with tools, including the National Sex Offender Registry and an FBI fingerprint check.

Stopping child abuse is a necessary and essential function of State and local government. It is clear to me that the most effective and appropriate way to protect those enrolled in these programs is to require States to establish a system of standards, licensure, and regulation to ensure that States are working to stop instances of abuse and neglect at residential treatment programs. The Federal role is to ensure that States live up to their vital responsibilities in stopping abuse in these facilities.

In this bill, the responsibility for licensing and inspecting these programs rests with the States and is tied to their receipt of funds under the Child Abuse Prevention and Treatment Act. The role of the Federal Government relates to establishing minimum standards and investigating instances of abuse and neglect upon a referral from a State.

I think Members on both sides of the aisle can agree that there's still more work to be done. Just yesterday, Congresswoman BACHMANN offered a proposal to strengthen parental notification and consent requirements regarding prescription medications given to teens at residential treatment facilities. Hopefully, this important issue will be further addressed as this legislation moves through the legislative process.

In closing, it's important to acknowledge the great progress that has already been made to strike a bipartisan consensus. I especially want to commend Chairman MILLER, Subcommittee Chairwoman MCCARTHY and Ranking Member MCKEON, along with their staffs, for working together to strengthen this important effort to protect our nation's teens against abuse and neglect in residential treatment facilities. I stand in strong support of this important legislation and encourage my colleagues to also support it.

I yield back the balance of my time.

Mr. GEORGE MILLER of California. I want to thank Congressman PLATTS for his support of this legislation.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today in strong support of H.R. 6358, "Stop the Child Abuse in Residential Programs for Teens". I would like to thank my colleagues on the Committee on Education and Labor for bringing this very important legislation to the floor.

On Capitol Hill we often debate matters that can address varying viewpoints. I believe that this legislation can only be looked at from two angles—right and wrong. I do believe that this bill must restore the spot check visits by HHS which have been deleted—the agencies in Texas are guilty of many abuses and these visits can save children's lives.

They are everybody's children, and nobody's children. They are the forgotten children in the Texas foster care and residential care system. Black, White, Hispanic, and Asian—they all need the love of a mother, the nurturing of a family, and the support of their community. Some of them find homes with caring foster parents or in treatment centers with experienced and caring providers. And some do not.

This legislation allows us to keep our children safe with:

New national standards for private and public residential programs:

Prohibit programs from physically, mentally, or sexually abusing children in their care;

Prohibit programs from denying children essential water, food, clothing, shelter, or medical care—whether as a form of punishment or for any other reason;

Require that programs only physically restrain children if it is necessary for their safety or the safety of others, and to do so in a way that is consistent with existing Federal law on the use of restraints;

Require programs to provide children with reasonable access to a telephone and inform children of their right to use the phone;

Require programs to train staff in understanding what constitutes child abuse and neglect and how to report it; and

Require programs to have plans in place to provide emergency medical care.

Prevent deceptive marketing by residential programs for teens:

Require programs to disclose to parents the qualifications, roles, and responsibilities of all current staff members;

Require programs to notify parents of substantiated reports of child abuse or violations of health and safety laws; and

Require programs to include a link or Web address for the Web site of the U.S. Department of Health and Human Services, which will carry information on residential programs.

Hold teen residential programs accountable for violating the law:

Require States to inform the U.S. Department of Health and Human Services of reports of child abuse and neglect at covered programs and require HHS to conduct investigations of such programs to determine if a violation of the national standards has occurred; and

Give HHS the authority to assess civil penalties of up to \$50,000 against programs for every violation of the law.

Ask States to step in to protect teens in residential programs: Three years after enactment, the legislation would provide certain Federal grant money to States only if they develop their own licensing standards (that are at least as strong as national standards) for public and private residential programs for teens and implement a monitoring and enforcement system, including conducting unannounced site inspections of all programs at least once every 2 years. The Department of Health and Human Services would continue to inspect programs where a child fatality has occurred or where a pattern of violations has emerged.

This legislation seeks to protect the unprotected—our children—from abuse, neglect and exploitation. Many of these children are not safe, and their futures are uncertain. The groups serving children and adolescents with mental health or substance use conditions

need better regulation. The youth boot camps and other “alternative placement facilities” should be forced to provide greater transparency as to the policies and practices of their programs.

This legislation is a welcomed and needed response to numerous studies documenting the ineffectiveness of these programs and, in several instances, the tragic deaths as a result of child abuse and neglect as reported by the GAO in October 2007. Too many families struggle mightily in nearly every State to find placements, when appropriate, for their children that will address their complex mental health needs.

These facilities flourish, in part, because parents lack the necessary information about the operation and practices of these programs. The promise of help cannot be allowed to obscure the fact that these kinds of programs are not science-based and have not been forthcoming about the incidence of neglect or abuse.

This addresses the challenges facing many families. It seeks relief from these risks by (1) establishing standards for these programs that are consistent with current child protection laws; (2) ensuring that personnel are qualified; (3) shifting these programs to be family-centered, as well as culturally and developmentally appropriate; (4) creating mechanisms for the monitoring and enforcement of these goals; (5) calling for greater transparency and accessibility to the compliance of these standards; and (6) providing grants to States for the prevention of child abuse and neglect and for the treatment of children's mental health or substance use conditions.

Additionally, the annual report to Congress is an effective tool in ensuring that these critical issues emerge from the shadows and see the light of day. I share the vision and commitment of Chairman MILLER and the Education and Labor Committee in protecting our youth from such predators.

I urge my colleagues to vote for our children, vote for our families, and vote for H.R. 6358.

Mr. GEORGE MILLER of California. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. GEORGE MILLER) that the House suspend the rules and pass the bill, H.R. 6358.

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. PLATTS. Madam 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 motion will be postponed.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6052, SAVING ENERGY THROUGH PUBLIC TRANSPORTATION ACT OF 2008

Mr. MCGOVERN, from the Committee on Rules, submitted a privileged report (Rept. No. 110-734) on the

resolution (H. Res. 1304) providing for consideration of the bill (H.R. 6052) to promote increased public transportation use, to promote increased use of alternative fuels in providing public transportation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order: motion to suspend with respect to H.R. 6358; passage of H.R. 3195; and motion to instruct on H.R. 4040.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

#### STOP CHILD ABUSE IN RESIDENTIAL PROGRAMS FOR TEENS ACT OF 2008

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 6358, on which the yeas and nays were ordered.

The Clerk read the title of the bill. The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. GEORGE MILLER) that the House suspend the rules and pass the bill, H.R. 6358.

The vote was taken by electronic device, and there were—yeas 318, nays 103, not voting 13, as follows:

[Roll No. 459]

YEAS—318

Abercrombie	Calvert	Diaz-Balart, L.
Ackerman	Capito	Diaz-Balart, M.
Alexander	Capps	Dicks
Allen	Capuano	Dingell
Altmire	Cardoza	Doggett
Andrews	Carnahan	Donnelly
Arcuri	Carney	Doyle
Baca	Carson	Dreier
Bachus	Castle	Edwards (MD)
Baird	Castor	Edwards (TX)
Baldwin	Caza,youx	Ehlers
Barrow	Chandler	Ellison
Bartlett (MD)	Childers	Ellsworth
Bean	Clarke	Emanuel
Becerra	Clay	Emerson
Berkley	Cleaver	Engel
Berman	Clyburn	English (PA)
Berry	Cohen	Eshoo
Biggert	Conaway	Etheridge
Bilirakis	Conyers	Fallin
Bishop (GA)	Cooper	Farr
Bishop (NY)	Costa	Fattah
Blumenauer	Costello	Ferguson
Boren	Courtney	Flner
Boswell	Cramer	Fortenberry
Boucher	Crowley	Foster
Boustany	Cuellar	Frank (MA)
Boyd (FL)	Culberson	Frelinghuysen
Boyda (KS)	Cummings	Galleghy
Brady (PA)	Davis (AL)	Gerlach
Braley (IA)	Davis (CA)	Giffords
Brown (SC)	Davis (IL)	Gillibrand
Brown, Corrine	Davis, Lincoln	Gonzalez
Brown-Waite,	Davis, Tom	Gordon
Ginny	DeFazio	Graves
Buchanan	DeGette	Green, Al
Burgess	Delahunt	Green, Gene
Butterfield	DeLauro	Grijalva
Buyer	Dent	Gutierrez

Hall (NY) McCollum (MN) Sánchez, Linda  
 Hare McDermott T.  
 Harman McGovern Sanchez, Loretta  
 Hastings (FL) McHugh Sarbanes  
 Hayes McIntyre Sessions  
 Heller McKeon Scalise  
 Herseht Sandlin McNerney Schakowsky  
 Higgins McNulty Schiff  
 Hill Meek (FL) Schwartz  
 Hinchey Meeks (NY) Scott (GA)  
 Hinojosa Melancon Scott (VA)  
 Hirono Michaud Serrano  
 Hobson Miller (MI) Sestak  
 Hodes Miller (NC) Shays  
 Holden Miller, Gary Shea-Porter  
 Holt Miller, George Sherman  
 Honda Mitchell Shimkus  
 Hooley Mollohan Shuler  
 Hoyer Moore (KS) Simpson  
 Hulshof Moore (WI) Sires  
 Insole Moran (KS) Skelton  
 Israel Moran (VA) Slaughter  
 Issa Murphy (CT) Smith (NJ)  
 Jackson (IL) Murphy, Patrick Smith (WA)  
 Jackson-Lee (TX) Murphy, Tim Solis  
 Jefferson Murtha Space  
 Johnson (IL) Nadler Spratt  
 Johnson, E. B. Napolitano Stark  
 Jones (NC) Neal (MA) Stupak  
 Jones (OH) Nunes Sullivan  
 Kagen Oberstar Sutton  
 Kanjorski Obey Tanner  
 Kaptur Olver Tauscher  
 Keller Ortiz Taylor  
 Kennedy Pallone Terry  
 Kildee Pascrell Thompson (CA)  
 Kilpatrick Pastor Thompson (MS)  
 Kind Payne Tiahrt  
 King (NY) Pearce Tiberi  
 Kirk Perlmutter Tierney  
 Klein (FL) Peterson (MN) Towns  
 Knollenberg Petri Tsongas  
 Kucinich Pickering Udall (CO)  
 Kuhl (NY) Platts Udall (NM)  
 LaHood Pomeroy Upton  
 Langevin Porter Van Hollen  
 Larsen (WA) Price (NC) Velázquez  
 Larson (CT) Pryce (OH) Visclosky  
 Latham Rahall Walberg  
 LaTourette Ramstad Walden (OR)  
 Lee Rangel Walsh (NY)  
 Levin Regula Walz (MN)  
 Lewis (CA) Rehberg Wasserman  
 Lewis (GA) Reichert Schultz  
 Lipinski Renzi Waters  
 LoBiondo Reyes Watson  
 Loeb sack Reynolds Watt  
 Lofgren, Zoe Richardson Waxman  
 Lowey Rodriguez Weiner  
 Lucas Rogers (KY) Welch (VT)  
 Lynch Ros-Lehtinen Wexler  
 Maloney (NY) Roskam Whitfield (KY)  
 Markey Ross Wilson (OH)  
 Marshall Rothman Woolsey  
 Matheson Roybal-Allard Wu  
 Matsui Ruppertsberger Yarmuth  
 McCarthy (CA) Ryan (OH) Young (AK)  
 McCarthy (NY) Salazar Young (FL)

Ryan (WI) Smith (NE) Wamp  
 Sali Smith (TX) Weldon (FL)  
 Schmidt Souder Westmoreland  
 Sensenbrenner Stearns Wilson (NM)  
 Sessions Tancredo Wilson (SC)  
 Shadegg Thornberry Wittman (VA)  
 Shuster Turner Wolf

NOT VOTING—13

Cannon Lampson Snyder  
 Cubin Mahoney (FL) Speier  
 Fossella McCotter Weller  
 Gilchrest Putnam  
 Johnson (GA) Rush

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that less than 2 minutes remain on this vote.

□ 1803

Messrs. EVERETT, WITTMAN of Virginia, BOOZMAN, Mrs. SCHMIDT, Messrs. MICA and SMITH of Texas, and Mrs. MUSGRAVE changed their vote from “yea” to “nay.”

Messrs. KUCINICH, BOUSTANY, GALLEGLY, CULBERSON, WALBERG, Ms. FALLIN, Messrs. LEWIS of California, MORAN of Kansas, and Mr. ISSA changed their vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ADA AMENDMENTS ACT OF 2008

The SPEAKER pro tempore. The unfinished business is the vote on the passage of the bill, H.R. 3195, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 402, nays 17, not voting 15, as follows:

[Roll No. 460]

YEAS—402

NAYS—103  
 Aderholt Drake Lewis (KY)  
 Akin Duncan Lungren, Daniel  
 Bachmann Everett E.  
 Barrett (SC) Feeney Mack  
 Barton (TX) Flake Manzullo  
 Bilbray Forbes Marchant  
 Bishop (UT) Foxx McCaul (TX)  
 Blackburn Franks (AZ) McCrery  
 Blunt Garrett (NJ) McHenry  
 Boehner Gohmert McMorris  
 Bonner Goohe Rodgers  
 Bono Mack Goodlatte  
 Boozman Granger Miller (FL)  
 Brady (TX) Hall (TX) Musgrave  
 Broun (GA) Hastings (WA) Myrick  
 Burton (IN) Camp (MI) Neugebauer  
 Camp (MI) Hensarling Paul  
 Campbell (CA) Herger Pence  
 Cantor Hoekstra Peterson (PA)  
 Carter Hunter Inglis (SC)  
 Chabot Inglis (SC) Johnson, Sam  
 Coble Jordan King (IA)  
 Cole (OK) King (IA) Kingston  
 Crenshaw Davis (KY) Kline (MN)  
 Davis, David Kline (MN) Lamborn  
 Deal (GA) Lamborn Latta  
 Doolittle Latta

Abercrombie Blunt Carney  
 Ackerman Boehner Carson  
 Aderholt Bonner Carter  
 Akin Bono Mack Castle  
 Alexander Boozman Castor  
 Allen Boren Cazayoux  
 Altmire Boswell Chabot  
 Andrews Boucher Chandler  
 Arcuri Boustany Childers  
 Baca Boyd (FL) Clarke  
 Bachmann Boyda (KS) Clay  
 Bachus Brady (PA) Cleaver  
 Baird Brady (TX) Clyburn  
 Baldwin Braley (IA) Coble  
 Barrett (SC) Brown (SC) Cohen  
 Barrow Brown, Corrine Cole (OK)  
 Bartlett (MD) Brown-Waite, Conaway  
 Barton (TX) Ginny Conyers  
 Bean Buchanan Cooper  
 Becerra Burgess Costa  
 Berkeley Burton (IN) Costello  
 Berman Butterfield Courtney  
 Berry Buyer Cramer  
 Biggert Calvert Crenshaw  
 Bilbray Camp (MI) Crowley  
 Bilirakis Cantor Cuellar  
 Bishop (GA) Capito Culberson  
 Bishop (NY) Capps Cummings  
 Blunt Capuano Davis (AL)  
 Blackburn Cardoza Davis (CA)  
 Blumenauer Carnahan Davis (IL)

Davis (KY) Kanjorski Petri  
 Davis, David Kaptur Pickering  
 Davis, Lincoln Keller Pitts  
 Davis, Tom Kennedy Platts  
 Deal (GA) Kildee Pomeroy  
 DeFazio Kilpatrick Porter  
 DeGette Kind Price (NC)  
 Delahunt King (IA) Pryce (OH)  
 DeLauro King (NY) Radanovich  
 Dent Kirk Rahall  
 Diaz-Balart, L. Klein (FL) Ramstad  
 Diaz-Balart, M. Kline (MN) Rangel  
 Dicks Knollenberg Regula  
 Dingell Kucinich Rehberg  
 Doggett Kuhl (NY) Reichert  
 Donnelly LaHood Renzi  
 Doyle Lamborn Reyes  
 Drake Langevin Reynolds  
 Dreier Larsen (WA) Richardson  
 Edwards (MD) Larson (CT) Rodriguez  
 Edwards (TX) Latham Rogers (AL)  
 Ehlers LaTourette Rogers (KY)  
 Ellison Latta Rogers (MI)  
 Ellsworth Lee Rohrabacher  
 Emanuel Levin Ros-Lehtinen  
 Emerson Lewis (CA) Roskam  
 Engel Lewis (GA) Ross  
 English (PA) Lewis (KY) Rothman  
 Eshoo Lipinski Roybal-Allard  
 Etheridge LoBiondo Royce  
 Everett Loeb sack Ruppertsberger  
 Fallin Lofgren, Zoe Ryan (OH)  
 Farr Lowey Ryan (WI)  
 Fattah Lucas Salazar  
 Feeney Lungren, Daniel Sali  
 Ferguson E. Sánchez, Linda  
 Filner Lynch T.  
 Forbes Mack Sanchez, Loretta  
 Fortenberry Maloney (NY) Sarbanes  
 Foster Manzullo Saxton  
 Foxx Markey Scalise  
 Frank (MA) Marshall Schakowsky  
 Franks (AZ) Matheson Schiff  
 Frelinghuysen Matsui Schmidt  
 Gallegly McCarthy (CA) Schwartz  
 Gerlach McCarthy (NY) Scott (GA)  
 Giffords McCaul (TX) Scott (VA)  
 Gillibrand McCollum (MN) Sensenbrenner  
 Gingrey McCrery Serrano  
 Gonzalez McDermott Sessions  
 Goode McGovern Sestak  
 Goodlatte McHenry Shadegg  
 Gordon McHugh Shays  
 Granger McIntyre Shea-Porter  
 Graves McKeon Sherman  
 Green, Al McMorris Shimkus  
 Green, Gene Rodgers Shuler  
 Grijalva Grijalva McNerney Shuster  
 Gutierrez Gutierrez McNulty Simpson  
 Hall (NY) Meek (FL) Sires  
 Hall (TX) Meeks (NY) Skelton  
 Hare Melancon Smith (NE)  
 Harman Mica Smith (NJ)  
 Hastings (FL) Michaud Smith (TX)  
 Hastings (WA) Miller (FL) Smith (WA)  
 Hayes Miller (MI) Solis  
 Heller Miller (NC) Space  
 Herger Miller, Gary Spratt  
 Herseht Sandlin Miller, George Stark  
 Higgins Mitchell Stearns  
 Hill Mollohan Stupak  
 Hinchey Moore (KS) Sullivan  
 Hinojosa Moore (WI) Sutton  
 Hirono Moran (VA) Tanner  
 Hobson Moran (KS) Tauscher  
 Hodes Murphy (CT) Taylor  
 Hoekstra Murphy, Patrick Terry  
 Holden Murphy, Tim Thompson (CA)  
 Holt Murtha Thompson (MS)  
 Honda Musgrave Thornberry  
 Hooley Myrick Tiahrt  
 Hoyer Nadler Tiberi  
 Hulshof Napolitano Tierney  
 Hunter Neal (MA) Towns  
 Inglis (SC) Neugebauer Tsongas  
 Insole Nunes Turner  
 Israel Oberstar Udall (CO)  
 Issa Obey Udall (NM)  
 Jackson (IL) Olver Upton  
 Jackson-Lee (TX) Ortiz Van Hollen  
 Jefferson Pascrell Velázquez  
 Johnson (IL) Pastor Visclosky  
 Johnson, E. B. Payne Walberg  
 Johnson, Sam Pearce Walden (OR)  
 Jones (NC) Pence Walsh (NY)  
 Jones (OH) Perlmutter Walz (MN)  
 Jordan Peterson (MN) Wamp  
 Kagen Peterson (PA) Wasserman  
 Kagan Peterson (PA) Schultz

Waters	Wexler	Wolf
Watson	Whitfield (KY)	Woolsey
Watt	Wilson (NM)	Wu
Waxman	Wilson (OH)	Yarmuth
Weiner	Wilson (SC)	Young (AK)
Welch (VT)	Wittman (VA)	Young (FL)

## NAYS—17

Broun (GA)	Gohmert	Poe
Campbell (CA)	Hensarling	Price (GA)
Doolittle	Kingston	Tancredo
Duncan	Linder	Weldon (FL)
Flake	Marchant	Westmoreland
Garrett (NJ)	Paul	

## NOT VOTING—15

Cannon	Lampson	Slaughter
Cubin	Mahoney (FL)	Snyder
Fossella	McCotter	Souder
Gilchrest	Putnam	Speier
Johnson (GA)	Rush	Weller

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are less than 2 minutes remaining in this vote.

□ 1811

Mr. RYAN of Wisconsin changed his vote from “nay” to “yea.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. WELLER of Illinois. Madam Speaker, on rollcall Nos. 459 and 460, I was detained in traffic. Had I been present, I would have voted “yea.”

## MOTION TO INSTRUCT CONFEREES ON H.R. 4040, CONSUMER PRODUCT SAFETY MODERNIZATION ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to instruct on H.R. 4040 offered by the gentleman from Illinois (Mr. KIRK) on which the yeas and nays were ordered.

The Clerk will redesignate the motion.

The Clerk redesignated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 19, as follows:

[Roll No. 461]

## YEAS—415

Abercrombie	Berkley	Boyd (FL)
Ackerman	Berman	Boyda (KS)
Aderholt	Berry	Brady (PA)
Akin	Biggart	Brady (TX)
Alexander	Bilbray	Braleigh (IA)
Allen	Bilirakis	Broun (GA)
Altmire	Bishop (GA)	Brown (SC)
Andrews	Bishop (NY)	Brown, Corrine
Arcuri	Bishop (UT)	Brown-Waite,
Baca	Blackburn	Ginny
Bachmann	Blumenauer	Buchanan
Bachus	Blunt	Burgess
Baird	Boehner	Burton (IN)
Baldwin	Bonner	Butterfield
Barrett (SC)	Bono Mack	Buyer
Barrow	Boozman	Calvert
Bartlett (MD)	Boren	Camp (MI)
Barton (TX)	Boswell	Campbell (CA)
Bean	Boucher	Cantor
Becerra	Boustany	Capito

Capps	Hall (NY)	Meek (FL)
Capuano	Hall (TX)	Meeks (NY)
Cardoza	Hare	Melancon
Carnahan	Harman	Mica
Carney	Hastings (FL)	Michaud
Carson	Hastings (WA)	Miller (FL)
Carter	Hayes	Miller (MI)
Castle	Heller	Miller (NC)
Castor	Hensarling	Miller, Gary
Cazayoux	Herger	Miller, George
Chabot	Hersteth Sandlin	Mitchell
Chandler	Higgins	Mollohan
Childers	Hill	Moore (KS)
Clarke	Hinchee	Moore (WI)
Clay	Hinojosa	Moran (KS)
Cleaver	Hirono	Moran (VA)
Clyburn	Hobson	Murphy (CT)
Coble	Hodes	Murphy, Patrick
Cohen	Hoekstra	Murphy, Tim
Cole (OK)	Holden	Murtha
Conaway	Holt	Musgrave
Conyers	Honda	Myrick
Cooper	Hooley	Nadler
Costa	Hoyer	Napolitano
Costello	Hulshof	Neal (MA)
Courtney	Hunter	Neugebauer
Cramer	Ingraham	Nunes
Crenshaw	Inslee	Oberstar
Crowley	Israel	Obey
Cuellar	Issa	Olver
Culberson	Jackson (IL)	Ortiz
Cummings	Jackson-Lee	Pallone
Davis (AL)	(TX)	Pascarella
Davis (CA)	Johnson (IL)	Pastor
Davis (IL)	Johnson, E. B.	Paul
Davis (KY)	Johnson, Sam	Payne
Davis, David	Jones (NC)	Pearce
Davis, Lincoln	Jones (OH)	Pence
Davis, Tom	Jordan	Perlmutter
Deal (GA)	Kagen	Peterson (MN)
DeFazio	Kanjorski	Peterson (PA)
DeGette	Keller	Petri
DeLahunt	Kennedy	Pickering
DeLauro	Kildee	Pitts
Dent	Kilpatrick	Platts
Diaz-Balart, L.	Kind	Poe
Diaz-Balart, M.	King (IA)	Pomeroy
Dicks	King (NY)	Porter
Dingell	Kingston	Price (GA)
Doggett	Kirk	Price (NC)
Donnelly	Klein (FL)	Pryce (OH)
Doolittle	Kline (MN)	Radanovich
Doyle	Knollenberg	Rahall
Drake	Kucinich	Ramstad
Dreier	Kuhl (NY)	Rangel
Duncan	LaHood	Regula
Edwards (MD)	Lamborn	Rehberg
Edwards (TX)	Langevin	Reichert
Ehlers	Larsen (WA)	Renzi
Ellison	Larson (CT)	Reyes
Ellsworth	Latham	Reynolds
Emanuel	LaTourette	Richardson
Emanuel	Latta	Rodriguez
Engel	Lee	Rogers (AL)
English (PA)	Levin	Rogers (KY)
Eshoo	Lewis (CA)	Rogers (MI)
Etheridge	Lewis (GA)	Rohrabacher
Everett	Lewis (KY)	Ros-Lehtinen
Fallin	Linder	Roskam
Farr	Lipinski	Ross
Fattah	LoBiondo	Rothman
Feeney	Lofgren, Zoe	Roybal-Allard
Ferguson	Lowe	Royce
Filner	Lucas	Ruppersberger
Flake	Lucun, Daniel	Ryan (OH)
Forbes	E.	Ryan (WI)
Fortenberry	Lynch	Salazar
Foster	Mack	Sali
Fox	Maloney (NY)	Sánchez, Linda
Frank (MA)	Manzullo	T.
Franks (AZ)	Markey	Sanchez, Loretta
Frelinghuysen	Marshall	Sarbanes
Galleghy	Matheson	Saxton
Garrett (NJ)	Matsui	Scalise
Gerlach	McCarthy (CA)	Schakowsky
Giffords	McCarthy (NY)	Schiff
Gillibrand	McCall (TX)	Schmidt
Gingrey	McCollum (MN)	Schwartz
Gohmert	McCrery	Scott (GA)
Gonzalez	McDermott	Scott (VA)
Goode	McGovern	Sensenbrenner
Goodlatte	McHenry	Serrano
Gordon	McHugh	Sessions
Granger	McIntyre	Sestak
Graves	McKeon	Shadegg
Green, Al	McMorris	Shays
Green, Gene	Rodgers	Shea-Porter
Grijalva	McNerney	Sherman
Gutierrez	McNulty	Shimkus

Shuler	Terry	Waters
Shuster	Thompson (CA)	Watson
Sires	Thompson (MS)	Watt
Skelton	Thornberry	Waxman
Slaughter	Tiahrt	Weiner
Smith (NE)	Tiberi	Welch (VT)
Smith (NJ)	Tierney	Weller
Smith (TX)	Towns	Westmoreland
Smith (WA)	Tsongas	Wexler
Solis	Turner	Whitfield (KY)
Souder	Udall (CO)	Wilson (NM)
Space	Udall (NM)	Wilson (OH)
Spratt	Upton	Wilson (SC)
Stark	Van Hollen	Wittman (VA)
Stearns	Velázquez	Wolf
Stupak	Visclosky	Woolsey
Sullivan	Walberg	Wu
Sutton	Walden (OR)	Yarmuth
Tancredo	Walz (MN)	Young (AK)
Tanner	Wamp	Young (FL)
Tauscher	Wasserman	
Taylor	Schultz	

## NOT VOTING—19

Cannon	Lampson	Simpson
Cubin	Loebach	Snyder
Fossella	Mahoney (FL)	Speier
Gilchrest	Marchant	Walsh (NY)
Jefferson	McCotter	Weldon (FL)
Johnson (GA)	Putnam	
Kaptur	Rush	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. YARMUTH) (during the vote). There are 2 minutes left in this vote.

□ 1818

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## AUTHORIZING THE USE OF THE ROTUNDA OF THE CAPITOL TO COMMEMORATE 60TH ANNIVERSARY OF THE INTEGRATION OF THE UNITED STATES ARMED FORCES

Mrs. DAVIS of California. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 377) authorizing the use of the rotunda of the Capitol for a ceremony commemorating the 60th Anniversary of the beginning of the integration of the United States Armed Forces, as amended.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

## H. CON. RES. 377

Whereas African American men and women have served with distinction, courage, and honor in the United States Armed Forces throughout the history of the nation, even when they were denied the basic constitutional freedoms promised to all citizens;

Whereas the practice of racial segregation and discrimination in the military prevented African Americans from receiving the full recognition to which they were entitled as a result of their service;

Whereas African Americans, in leading the effort to protest discriminatory treatment in the armed forces, paved the way for successful integration of women, Asians, Hispanics, and other ethnic minorities;

Whereas the dedicated and heroic service of African American men and women during World War II led to President Truman's historic executive order 60 years ago that marked the beginning of racial integration in the United States Armed Forces;



Whereas as a result of President Truman's action, the United States Armed Forces has become one of the nation's best examples of an institution committed to equality, opportunity, and advancement based on merit rather than race, religion, or ethnicity; and

Whereas the heroic contributions of each member of the United States Armed Forces should be honored and celebrated: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. USE OF ROTUNDA FOR CEREMONY COMMEMORATING 60TH ANNIVERSARY OF INTEGRATION OF THE ARMED FORCES.**

(a) **USE OF ROTUNDA.**—The rotunda of the Capitol is authorized to be used on July 23, 2008, for a ceremony commemorating the 60th anniversary of President Truman's Executive Order No. 9981, which states, "It is hereby declared to be the policy of the President that there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin."

(b) **PREPARATIONS.**—Physical preparations for the ceremony referred to in subsection (a) shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The **SPEAKER** pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. DAVIS) and the gentleman from California (Mr. DANIEL E. LUNGREN) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

**GENERAL LEAVE**

Mrs. DAVIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H. Con. Res. 377.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. DAVIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this concurrent resolution provides for the use of the Capitol rotunda to mark the 60th anniversary of the integration of the United States Armed Forces. I support the resolution.

Mr. Speaker, 60 years ago, President Harry Truman issued Executive Order 9981, which established the President's Committee on Equality of Treatment and Opportunity in the Armed Forces. Determined to end segregation in the Armed Forces, President Truman issued this historic directive to end discrimination experienced by African American soldiers.

Executive Order 9981 was successful in ending racial segregation in the military and its effect is long-standing. As a result of the directive, segregation based on creed, gender, and national origin was also abolished. It is important we recognize such an historic victory for civil rights and for our Armed Forces.

I reserve the balance of my time.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while we wait to find out what we are going to do tomorrow

and whether there will be a real energy bill presented to this floor, or some more energy fluff, I do rise today in support of H. Con. Res. 377 which would authorize use of the rotunda of the Capitol to commemorate the 60th anniversary of the beginning of the integration of the United States Armed Forces.

On July 26, 1948, President Harry Truman signed Executive Order 9981, which provided for the equal treatment of blacks serving in the military. We should remember that previous attempts had been made to integrate the Armed Forces. In fact, during our Revolutionary War, approximately 5,000 African Americans served in integrated units. They served in many different capacities, including as artillerymen, infantrymen, laborers, and even entertainers. Each served our Nation proudly, protecting the freedoms that they themselves had not yet come to know.

With a new century, though, came political realities that would once again segregated the military. Nearly 50 years passed until once again blacks and whites were able to stand shoulder to shoulder, as a unit defined not by color, but by a commitment to freedom and love of country. President Truman's executive order to integrate the military also laid the groundwork for other minorities to gain those same rights, paving the way for the diverse group of men and women of all backgrounds who today serve in our military.

I urge my colleagues to join me in supporting H. Con. Res. 377, so we may mark the historic occasion of the integration of our Nation's Armed Forces with a ceremony here in our Nation's capital at the Capitol rotunda in a manner that would truly honor the sacrifice that men and women of all backgrounds have made to our Nation throughout history.

As I understand the gentlelady has no further speakers, I yield back the balance of my time.

Mrs. DAVIS of California. Mr. Speaker, I have no further speakers, and I just urge that Members support H. Con. Res. 377 which provides for use of the Capitol rotunda marking the 60th anniversary of the integration of the United States Armed Forces.

Mr. SKELTON. Mr. Speaker, I rise in strong support of H. Con. Res. 377 to authorize the use of the rotunda of the Capitol for a ceremony commemorating the 60th anniversary of the beginning of the integration of the United States Armed Forces. The historic document that began the process of integration was Executive Order 9981 issued by President Harry S. Truman, my fellow Missourian.

History has well documented that President Truman was a man of great principle and courage. He was by all accounts a man that did not shrink from responsibility even when the decisions were very difficult. The employment of atomic weapons at the end of World War II, the Berlin airlift at the beginning of the cold war, and the Korean war are but few examples of his leadership during crisis.

However, I believe it is his decision to declare that each person in the military is de-

serving of equal treatment and opportunity, regardless of race, color, religion, and national origin that most reflects his personal commitment to his core beliefs.

His July 26, 1948 Executive order was no weak-kneed statement designed to fit the political expediency of the era. Executive Order 9981 was a bold statement that reflected his heartfelt commitment to the civil rights of all Americans and the American style of freedom that became a beacon of hope for so many people throughout the world during World War II. This powerful statement of equality in treatment and opportunity reflects the highest standards of democracy and lived up to the American spirit that we all cherish.

President Truman saw much in the professional and heroic performance of African Americans during World War II that demanded he issue his Executive order. The exploits of African Americans that carried out the Red Ball Express, flew with the 99th fighter squadron, and served as Tuskegee Airmen are legendary. There were also stories of the many individual heroes during World War II like the seven African Americans who were finally awarded the Medal of Honor for their long-overlooked World War II heroism in 1997. Like all the other wars that preceded World War II, African Americans had played an important role during war and Harry Truman was determined to set the record straight.

The 60th anniversary of President Truman's Executive order to begin the integration of the Armed Forces is a pivotal event in United States history that is deserving of a ceremony in the rotunda of the Capitol. I thank Chairman BRADY and the staff of the House Administration Committee for helping to move this resolution so expeditiously and I strongly encourage my colleagues to support H. Con. Res. 377.

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

The **SPEAKER** pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. DAVIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 377, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

**CIVIL RIGHTS FOR THE DISABLED**

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to enthusiastically support the legislation that we just debated on the floor of the House. Having been detained in my Committee on Transportation Security and Critical Infrastructure during the debate, I wanted to come and support H.R. 3195, the ADA Restoration Act of 2007. This is truly a civil rights initiative, and it is important to restore the basic support and rights of those who are disabled in America.

Unfortunately, through the Supreme Court's narrow decision and definition

of the word "disability," it made it very difficult for individuals with serious health conditions such as epilepsy, diabetes, cancer, muscular dystrophy, multiple sclerosis, and severe intellectual impairments to prove that they qualify for protection under the ADA.

The Supreme Court narrowed that definition in two ways: one by ruling that mitigation measures that help control an impairment, like medicine or hearing aids or other devices, must be considered a deserving disability; and, two, ruling that the elements of the definition must be interpreted strictly to create a demanding standard for qualifying as disabled.

Mr. Speaker, enough is enough. The civil rights of all Americans are an important constitutional element. We hold these truths to be self-evident that we are all created equal. This legislation, H.R. 3195, restores those rights. And I would like to affirm that my vote in the Judiciary Committee was a resounding "yes." The fact that I was detained, I want that to be reflected in the report.

This is an important bill. This bill is heavily supported, and I throw my support to a new civil rights law in America.

#### GET WITH THE PROGRAM

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, the people of this country are pretty smart. They watch television and they listen to all of the political rhetoric and the hot air that comes out of this place, and they listen to all the press conferences, but they know, they know gas prices are too high and they know we ought to be energy independent and they know that we ought to drill in the United States so we can be energy independent. They know that it is affecting their prices at the grocery store and everything that they buy. They want us to be energy independent. They want us to drill in the ANWR and they want us to drill offshore in the Outer Continental Shelf. They want us to do what is right in this body. And we are not doing it.

I want to say to my colleagues who are giving all of this hot air out about we shouldn't be doing it and about permits and everything else, the American people know they want us drilling in America. They want energy independence, and you guys had better get with the program.

#### STEER DRIVE ACT TO FLOOR

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, you know one thing that this Congress is not doing is sitting down and really trying to figure out where the Demo-

crats and the Republicans agree on this energy challenge. ELIOT ENGEL and I 2 years ago sat down and wrote a bill called the DRIVE Act. We left off drilling and we left off cafe standards; and we asked, what is it that builds the most consensus?

That bill takes us off of Mid East oil by the year 2025. It is something that should come to the floor. It makes sense. It has a lot of commonsense things, like ending the tariff on imported Brazilian surplus ethanol.

Think about that for a minute. Brazil has surplus ethanol that they are ready to sell to us right now, and we have a tariff on it. It is absurd. That is just one component of the DRIVE Act that makes sense. And I request that we bring this bill to the floor of the House for a good bipartisan debate and hopefully a good bipartisan passage.

□ 1830

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

#### WAR POWERS COURT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, forget about the days of judicial restraint. Those are the days when the Supreme Court thought their job was to interpret the law and follow the Constitution. The Supreme Court now has ushered in a new era power grab called judicial imperialism.

Recently, the deeply divided Supreme Court, or the war powers court, as we shall call it, issued a ruling by Justice Kennedy that gave terrorists the right to argue their cases in Federal courts. In this 5-4 decision, the court held that terrorism detainees captured on the battlefield engaged in war against America now held at Guantanamo Bay prison and other prison facilities under U.S. control have the same rights as American citizens.

When I was at Gitmo prison, which I doubt Justice Kennedy has ever seen, I saw several detainees that had been captured, released, and captured again on the battlefield trying to kill Americans. I'm sure these enemy combatants are partying in Guantanamo prison tonight.

Under the current law, individuals captured as enemy combatants have

their cases reviewed by military commissions. It has always been the law under our Constitution that the President is the Commander in Chief of the military, and the President and Congress control war, not the nine justices on the Supreme Court. But the imperialistic war powers court ruled that these military commissions aren't fair enough for enemy combatants trying to kill American troops. It's interesting. These terrorists hate America, hate freedom, hate our way of life but quickly run to American courts to seek redress against Americans.

The five war power judges on the Supreme Court say these poor little misfits should have access to American courts, even though it is the first time in history we have given constitutional rights to combatants against the United States. Even in the War between the States, captured Confederate soldiers who were actually born in the United States were not allowed access to U.S. courts. They were tried by military tribunals. The same occurred in World War II when Nazis were tried by military tribunals. During the Revolutionary War, British spy John Andre was caught on U.S. soil spying with traitor Benedict Arnold. Andre was hung by the Commander in Chief, George Washington, and a military court without any judicial intervention.

So what is next? Are we going to make our boys read terrorists their Miranda rights in the battlefield before they capture them? Justice Scalia was right, Mr. Speaker. In his dissent he argued that this ruling will make the war on terror harder on us and will "almost certainly cause more Americans to be killed."

The Supreme Court is running roughshod over the Constitution of the United States and changing 200 years of judicial precedent. In fact, at the end of World War II, the Supreme Court explicitly determined in a series of cases that the writ of habeas corpus—that's an action that allows a person to seek relief from detention—does not apply to foreign combatants held outside the United States.

It gets down to this question, Mr. Speaker: Who should be running our wars? Should Congress and the executive branch be in charge of war, or should the Supreme Court, in all of its supreme knowledge, be running the war?

Well, according to the war powers court, they are the commanders in chief of the war. Now what does the imperialist war court want us to do with captured terrorists? Not capture them at all, or let them go so they can kill again?

While terrorists continue to use innocent women and children as shields, continue to bomb our troops, shoot our sons and daughters in the battlefield and behead American civilians and our troops without granting them any rights, the Supreme Court tells us these terrorists ought to be treated

like American citizens. The five imperialist judges on the Supreme Court have asserted the power of the Constitution that is reserved specifically to the executive branch and to the legislative branch.

Mr. Speaker, this ought not to be, but that's just the way it is.

**CIGARETTE SMUGGLING BETWEEN STATES SHOULD BE A FELONY, NOT A MISDEMEANOR**

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEINER) is recognized for 5 minutes.

Mr. WEINER. Mr. Speaker, I rise today to bring to the attention of the House a problem that exists, frankly, in all 50 States and is having a dramatic impact not only on individual States but having an impact tragically on our national security—the problem that tobacco excise taxes, which are levied State by State, have had the unwitting result of having a great incentive for people to smuggle tobacco over State lines. This is happening because of a weakness in the Federal law that makes it a misdemeanor to do so.

Let me explain to you exactly what happens. In a State like New York, for example, the New York State excise tax for each pack of cigarettes is \$2.75. New York City adds another \$1.50 to that tax. So the base tax on cigarettes in New York is the combination of \$2.75 in the State, \$1.50 in the city.

If you go to, say, North Carolina or another State that has a lower tax, there's an enormous amount of incentive for someone to buy the tobacco in a State like North Carolina, sell it in New York on the black market, or sell it on the Internet and wind up saving a great deal of money on that float between the two tax rates.

Now this is illegal under the Jenkins Act. However, it's hardly ever enforced, and when you ask folks at the ATF why it's not enforced, they say quite simply, because the Jenkins Act is too weak. It only makes it a misdemeanor to do these things.

What has become clear in recent months, though, and in recent years, according to the Government Accountability Office, according to the FBI, is that not only are people trying to make a couple of bucks doing this, but terrorist organizations have been funded.

According to a GAO investigation, what has happened is that tobacco is being bought in North Carolina where the tax is only five cents a pack and being resold in Michigan where the tax is 75 cents a pack. They're taking that extra 50 cents which, when you consider cases and cases, truckloads and truckloads, and where do the profits go? \$1.5 million was shipped overseas to Lebanon to fund Hezbollah. This is just one example.

FBI Director Robert Mueller, when he testified about this problem before the Senate, said the following:

“Terrorists now increasingly have to rely on criminal organizations to travel from country to country for false

identifications, for smuggling, being smuggled in or out of a country. They have to rely on other criminal organizations for money laundering. We have had a number of cases where Hezbollah, for instance, has utilized cigarette smuggling to generate revenues to support Hezbollah.”

In this GAO report that revealed this information, both DOJ—Department of Justice—and ATF suggested that if violations of the Jenkins Act were felonies instead of misdemeanors, U.S. Attorneys' Offices might be less reluctant to prosecute.

Well, I'm standing here to recommend that we do just that. We in the Crime Subcommittee of the Judiciary Committee recently had a hearing on my legislation which would do just that. It would raise the stakes on the Jenkins Act, and it would do something else. It would say that no longer can you transfer tobacco through the mail. In order for this selling to be done in a truly efficient way, you don't pack up a truck and drive it across lines; you get an Internet Web site and you offer to transport it over State lines using the mail service.

Now you can't use FedEx, you can't use UPS, and you can't use DHL. Why? Well, because they have all signed a compact, essentially a consent order saying they refuse to carry it. The only way to mail tobacco is through the United States Postal Service. So an additional thing the legislation would do would make that illegal.

This is a serious problem. As the tax goes up, as the difference between the State taxes goes up, it's no longer nickels and dimes, it's millions of dollars, millions of dollars that's going to black market tobacco that's funding nefarious activities and funding terrorism, and we should stop it.

**IN DEFENSE OF LUNCHTIME PRAYER AT THE U.S. NAVAL ACADEMY**

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, America was built on Judeo-Christian values. No one who knows the history of our nation can deny that freedom of religion played a critical part in its development. Yet there are those in our society who wish to threaten America's long history of religious freedom by limiting public expressions of religion by people of faith.

In 2001, the Virginia Chapter of the American Civil Liberties Union sued the Virginia Military Institute on behalf of two former cadets who opposed the school's nondenominational pre-supper prayer. In 2003, a three-judge panel of the Fourth Circuit Court of Appeals decided in favor of the ACLU and stripped VMI of its right to prayer, a tradition dating back to the school's founding in 1839. After the ACLU eliminated prayer at this State-supported school, the group expressed interest in locating Naval Academy graduates to

file a suit similar against lunchtime prayer at Annapolis.

In response to this threat, I introduced the Military Academy First Amendment Protection Act, legislation to protect the ability of our military service academies to include the offering of a voluntary, nondenominational prayer as an element of their activities.

With the support of other Members of Congress, this legislation was included as a provision of the fiscal year 2006 National Defense Authorization Act which was signed by the President and became law on January 6, 2006. I am so grateful to my colleagues in both parties who stood with me and acted to protect prayer at the United States Military, Naval, and Air Force Academies.

Since their founding, America's military academies have instilled in our military leaders the principles of our Founding Fathers and the traditions of our great military services. However, today, the American Civil Liberties Union has threatened to sue Annapolis over its tradition of lunchtime prayer.

Mr. Speaker, this is an example of why America is in trouble. Prayer or devotional thought has taken place at meals for midshipmen since the Naval Academy was founded in 1845. These prayers are nondenominational and have been rotated among chaplains of different faiths, from the Catholic to the Protestant to the Rabbi. Those who choose to attend the United States Naval Academy know what the rules are from day one.

Legal threats by the ACLU are not made in the spirit of religious tolerance but in a spirit of intolerance of any expression of faith at all.

Congress has a legitimate role to play in ensuring that the first amendment rights of American citizens are protected. By passing legislation to ensure our service academies' right to offer a voluntary, nondenominational prayer at an otherwise authorized activity of the academy, Congress codifies its belief that decisions respecting prayer should remain in the hands of each service academy's superintendent.

□ 1845

I am pleased that the law protects the right of the superintendent of the Naval Academy to continue the long tradition of lunchtime prayer at Annapolis.

As mission-crucial institutions, it should be the military authorities, and not civilian courts, that decide what practices are essential to fostering leadership and accomplishing the unique military mission.

I am hopeful that my colleagues in Congress will continue to stand with me to ensure the protection of our future military heroes and their first amendment rights.

And I must say, Mr. Speaker, in closing, to those nine members of the

Naval Academy who joined the ACLU to sue Annapolis, all I can say is shame on you because America will not survive unless it protects the Judeo-Christian values of this great Nation.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

woman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CALVERT) is recognized for 5 minutes.

(Mr. CALVERT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

**A REVISION TO THE BUDGET ALLOCATIONS, AGGREGATES, OR OTHER APPROPRIATE LEVELS FOR FISCAL YEARS 2008 AND 2009 AND THE PERIOD OF FISCAL YEARS 2009 THROUGH 2013**

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. SPRATT) is recognized for 5 minutes.

Mr. SPRATT. Madam Speaker, under section 207 of S. Con. Res. 70, the Concurrent

Resolution on the Budget for fiscal year 2009, I hereby submit for printing in the CONGRESSIONAL RECORD a revision to the budget allocations, aggregates, or other appropriate levels for certain House committees for fiscal years 2008 and 2009 and the period of fiscal years 2009 through 2013. This revision represents an adjustment to certain House committee budget allocations, aggregates, and other appropriate levels for the purposes of sections 302 and 311 of the Congressional Budget Act of 1974, as amended, and in response to consideration of the bill H.R. 6275, Alternative Minimum Tax Relief Act of 2008. Corresponding tables are attached.

Under section 323 of S. Con. Res. 70, this adjustment to the budget allocations and aggregates applies while the measure is under consideration. The adjustments will take effect upon enactment of the measure. For purposes of the Congressional Budget Act of 1974, as amended, a revised allocation under section 323 of S. Con. Res. 70 is to be considered as an allocation included in the resolution.

Any questions may be directed to Ellen Balis or Gail Millar.

**BUDGET AGGREGATES**

(On-budget amounts, in millions of dollars)

	Fiscal years—		
	2008 <sup>1</sup>	2009 <sup>1 2</sup>	2009–2013
<b>Current Aggregates:</b>			
Budget Authority .....	2,454,256	2,455,920	n.a.
Outlays .....	2,435,860	2,490,920	n.a.
Revenues .....	1,875,400	2,029,644	11,780,107
<b>Change in Alternative Minimum Tax Relief Act (H.R. 6275):</b>			
Budget Authority .....	0	0	n.a.
Outlays .....	0	0	n.a.
Revenues .....	0	-2,924	158
<b>Revised Aggregates:</b>			
Budget Authority .....	2,454,256	2,455,920	n.a.
Outlays .....	2,435,860	2,490,920	n.a.
Revenues .....	1,875,400	2,026,720	11,780,265

<sup>1</sup> Current aggregates do not include spending covered by section 301(b)(1) (overseas deployments and related activities). The section has not been triggered to date in Appropriations action.

<sup>2</sup> Current aggregates do not include Corps of Engineers emergency spending assumed in the budget resolution, that will not be included in current level due to its emergency designation (section 301(b)(2)).

n.a. = Not applicable because annual appropriations Acts for fiscal years 2010 through 2013 will not be considered until future sessions of Congress.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

(Mr. MORAN of Kansas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. DONNELLY) is recognized for 5 minutes.

(Mr. DONNELLY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

**DUTY, HONOR AND COUNTRY**

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

Mr. HUNTER. I rise, Mr. Speaker, to talk about duty, honor, and country.

Many times, Members of this great body rise to talk about those who wear the uniform of the United States who have fallen in the Iraq or the Afghanistan theater and to recount their actions and to recount their mission and to praise their motive and their patriotism and their love of this great country.

I rise tonight, Mr. Speaker, to talk about an American who was killed on the 24th of this month, not wearing the uniform of the United States in the military service, even though he had served in the military for some 31 years, but who was killed in a deadly area in Iraq as an American contractor, an American who had worked as a contractor for the Department of Defense and then the Department of State, Steven Farley.

Steven Farley represented the very best of this country, and I have a picture here, Mr. Speaker, that I'd like to show the Members. This is him in his Navy uniform. Before he donned this Navy uniform and finished a career of 31 years in the U.S. military, he served in the U.S. Army in Vietnam.

He was a man of service, and when he left his wonderful wife, Donna, and his family to go to Iraq, he told them that he understood that this was a difficult and dangerous mission. He worked on a provincial reconstruction team, and I think he represented a forgotten segment of this great effort, this effort to bring the sunlight of freedom to Iraq.

He represented those people that don't wear the uniform in this operation but who wear contractor uniforms, who go out into very dangerous

places in Iraq. And in this case, Steven Farley was with three colleagues, working the provincial reconstruction teams in Iraq. He was in Sadr City, that adjunct to Baghdad that has over 1 million people in an area of great fighting and great turmoil and great danger. And yet when he came home to see his loved ones, he told them he knew that he was in danger. He knew that it might, at some point, cost him his life, but he told them that he thought the cause was a worthwhile cause.

His service to America represented all those wonderful aspects of duty and honor and country and patriotism, even though he wasn't wearing the uniform of the Army or the Marine Corps or the Air Force or the Navy, because he was serving that same goal, that same ideal, that same flag, and all of us.

Mr. Speaker, he came home a few weeks before, bringing some of the members of the city council of Sadr City to the United States to let them see what freedom was like, what this great experiment in freedom called the United States of America was like, to inspire them, to give them a model they could go back and use in this

fledgling representative government that is now taking place in Iraq.

He wanted to show them the American example, and Mr. Speaker, his example and the example of his family and the example of his great community, a guy from Guthrie, Oklahoma, it was the finest example that anybody can watch if they indeed want to model their country, their community, their town after a winning democracy, the United States of America.

So here was a gentleman who served in a very, very crucial area for the United States, and most of the work that we do here in the House of Representatives, most of our work is air-conditioned. I'm so proud of the members of the Armed Services Committee, most of whom have taken multiple trips to see the troops and the operations in Iraq and Afghanistan. And we now and again go out and put our boots on the ground in some tough places, but most of the time, we're in Washington, D.C., or with our constituent cities and our wonderful communities. These Americans, Americans like Steven Farley, are out there for years on end in very difficult conditions, carrying the American flag.

So, Mr. Speaker, a number of us on the Armed Services Committee are going to be visiting Iraq and Afghanistan in the coming months, especially the summer months, when we take the district work period break. I will tell you one thing I'm going to do. When I go to Baghdad this time, I'm going to spend more time with those contractors, people who haven't necessarily been given all of the credit that they should be given by this body, by the House of Representatives. People talk about the contractors as if they were somehow mercenaries.

Well, Steven Farley represented the very best of this very wonderful force of Americans who help to establish freedom around the world. May he rest in peace. God bless his family, and thank you, Steven Farley, for your service to the United States.

#### AMERICAN ENERGY SOLUTIONS FOR LOWER GAS PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. WESTMORELAND) is recognized for 5 minutes.

Mr. WESTMORELAND. Mr. Speaker, it's good to be here tonight, and I wanted to come and talk about something that's concerning Americans all over this country, and that's the price of gas and what we're doing about it here in this body, this decisive body that's supposed to be decisive, that takes action when we find our country in need.

I wanted to talk a little bit about something that happened to me shortly a couple of weeks ago I guess, and I started having people, Mr. Speaker, e-mail me and ask me questions about signing different types of petitions on the Internet, drill here, drill now,

lower prices, several other ones on the Internet, so Americans could let their Members of Congress, Mr. Speaker, know how they felt about these skyrocketing gas prices that they had been promised by the new majority that they would get control of.

So I was in a service station down home, and there was another petition laying on the counter. I'm assuming that the proprietor of that service station put that down to give people something to do rather than beat him over the head, but it was a petition: Please sign here if you want to see Congress lower gas prices.

So I came up with an idea, Mr. Speaker. I said, you know, the American people are letting us know, as their representatives, how they feel. We need to let them know how we feel. And so I came up with this petition that's pretty simple. What it says is: American energy solutions for lower gas prices; bring onshore oil on-line; bring deepwater oil on-line; and bring new refineries on-line.

We have not produced in this country, Mr. Speaker, a refinery since the late 1970s. We now import about 7 billion gallons of gas a year. We also import about the same amount of diesel. So we don't even have the refining capacity to refine what we import.

So I did this, and I made a little petition. You can see it over here. It's got spots for 435 people plus the non-voting Delegates to sign. So far I'm pleased to say, Mr. Speaker, we've got 188 people who have signed this. We've got three Democrats, three brave Democrats that have signed it: NEIL ABERCROMBIE, PATRICK MURPHY, and Mr. Speaker, I believe HENRY CUELLAR was the last one from Texas. And so these are brave people that understand that we have got to do something.

The majority says, well, it will be 10 years before we ever get oil. We've got to start today. If President Clinton in 1995 had not vetoed the drilling in ANWR, we would be producing 1 million gallons of crude oil for this country every day.

So, Mr. Speaker, what this is about—and by the way, this is very simple, because what it says is, I will vote to increase U.S. oil production to lower the price of gas for Americans. And Mr. Speaker, if anybody wanted to know if their Member was on the petition, they could go to [house.gov/westmoreland](http://house.gov/westmoreland) to see if their Member is on there. We've had two Members that did not sign originally, and Mr. Speaker, they were put on the would-not-sign list. They have heard from their constituents and have come back and are now signed onto the petition.

So, Mr. Speaker, it is very important for people to understand where their Members of Congress are at on the energy issue. You're going to hear all kinds of excuses. You're going to hear all kinds of different regulations they want to put in place, all kinds of different taxes they want to put in place. This petition is too simple for most

Members of this body to understand because it only says, I will vote to increase oil production in the United States, our own natural resources, to lower gas prices for Americans. That's all it says.

And if somebody wanted to know, Mr. Speaker, they could go to [house.gov/westmoreland](http://house.gov/westmoreland), and see exactly where their Member of Congress was at because, listen, Mr. Speaker, we hear about change from just about every candidate running, but we are going to have to be forced to change by our constituents. Because as you've seen since the new majority came in in January of 2007, there's been nothing done.

So, Mr. Speaker, I would ask the American people if I could to help us bring about change by notifying your Congressman and say get out of the fetal position and let's be called to action.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

(Mr. CUMMINGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PAYNE) is recognized for 5 minutes.

(Mr. PAYNE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MAHONEY of Florida (at the request of Mr. HOYER) for today.

Mr. PUTNAM (at the request of Mr. BOEHNER) for today on account of attending a funeral.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BOYD of Florida) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. SPRATT, for 5 minutes, today.

Mr. DONNELLY, for 5 minutes, today.

Mr. WEINER, for 5 minutes, today.

Mr. PAYNE, for 5 minutes, today.

(The following Members (at the request of Mr. JONES of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. PAUL, for 5 minutes, June 26 and 27.

Mr. HUNTER, for 5 minutes, today.

Mr. WESTMORELAND, for 5 minutes, today.

## SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2403. An act to designate the new Federal Courthouse, located in the 700 block of East Broad Street, Richmond, Virginia, as the "Spottswood W. Robinson III and Robert R. Merhige, Jr. Federal Courthouse"; to the Committee on Transportation and Infrastructure.

S. 2837. An act to designate the United States courthouse located at 225 Cadman Plaza East, Brooklyn, New York, as the "Theodore Roosevelt United States Courthouse"; to the Committee on Transportation and Infrastructure.

S. 3009. An act to designate the Federal Bureau of Investigation building under construction in Omaha, Nebraska, as the "J. James Exon Federal Bureau of Investigation Building"; to the Committee on Transportation and Infrastructure.

S. 3145. An act to designate a portion of United States Route 20A, located in Orchard Park, New York, as the "Timothy J. Russert Highway"; to the Committee on Transportation and Infrastructure.

## ADJOURNMENT

Mr. WESTMORELAND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 58 minutes p.m.), the House adjourned until tomorrow, Thursday, June 26, 2008, at 10 a.m.

EXECUTIVE COMMUNICATIONS,  
ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7314. A letter from the Chief Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations — received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7315. A letter from the Chief Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7316. A letter from the Chief Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7317. A letter from the Chief Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7318. A letter from the Chief Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7319. A letter from the Chief Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule —

Changes in Flood Elevation Determinations [Docket No. FEMA-B-7776] received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7320. A letter from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting the Department's final rule — Financial Crimes Enforcement Network; Amendment Regarding Financial Institutions Exempt from Establishing Anti-Money Laundering Programs (RIN: 1506-AA88) received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7321. A letter from the Acting Fiscal Assistant Secretary, Department of the Treasury, transmitting the Department's notification to Congress of any significant modifications to the auction process for issuing United States Treasury obligations, pursuant to Public Law 103-202, section 203; to the Committee on Financial Services.

7322. A letter from the Acting Fiscal Assistant Secretary, Department of the Treasury, transmitting the Department's report that no such exemptions to the prohibition against favored treatment of a government securities broker or dealer were granted during the period January 1, 2007 through December 31, 2007, pursuant to Public Law 103-202, section 202; to the Committee on Financial Services.

7323. A letter from the Acting Fiscal Assistant Secretary, Department of the Treasury, transmitting the Department's annual report on material violations or suspected material violations of regulations relating to Treasury auctions and other Treasury securities offerings during the period January 1, 2007 through December 31, 2007, pursuant to Public Law 103-202, section 202; to the Committee on Financial Services.

7324. A letter from the Executive Director, Philadelphia Housing Authority, transmitting the Authority's Annual Report for 2007 entitled, "A Dynamic Decade"; to the Committee on Financial Services.

7325. A letter from the Secretary of the Commission, Federal Trade Commission, transmitting the Commission's final rule — Definitions and Implementation Under the CAN-SPAM Act [Project No. R411008] (RIN: 3084-AA96) received June 19, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7326. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Allocation of Trips to Closed Area II Yellowtail Flounder Special Access Program [Docket No. 080428607-8689-02] (RIN: 0648-AW69) received June 19, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7327. A letter from the Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting the Department's position on the budgeting of the Chicagoland Underflow Plan (CUP), Thornton Reservoir, Illinois; to the Committee on Transportation and Infrastructure.

7328. A letter from the Director of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule — Prohibition of Interment or Memorialization in National Cemeteries and Certain State Cemeteries Due to Commission of Capital Crimes (RIN: 2900-AM86) received June 19, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

7329. A letter from the Chief, Border Security Regulations Branch, Department of Homeland Security, transmitting the De-

partment's final rule — TECHNICAL AMENDMENTS TO LIST OF USER FEE AIRPORTS: ADDITIONS OF CAPITAL CITY AIRPORT, LANSING, MICHIGAN AND KELLY FIELD ANNEX, SAN ANTONIO, TEXAS [CBP Dec. 08-23] received June 19, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7330. A letter from the Chairman, International Trade Commission, transmitting the Commission's report entitled, "Textiles and Apparel: Effects of Special Rules for Haiti on Trade Markets and Industries," pursuant to Public Law 109-432, section 5003; to the Committee on Ways and Means.

7331. A letter from the Commissioner, Social Security Administration, transmitting the Administration's report entitled, "Plan to Eliminate the Hearing Backlog and Prevent Its Recurrence: Semiannual Report for Fiscal Year 2008"; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON  
PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. CASTOR: Committee on Rules. House Resolution 1304. Resolution providing for consideration of the bill (H.R. 6052) to promote increased public transportation use, to promote increased use of alternative fuels in providing public transportation, and for other purposes (Rept. 110-734). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BERMAN (for himself, Mr. COBLE, Mr. CONYERS, and Mr. SMITH of Texas):

H.R. 6362. A bill to amend title 35, United States Code, and the Trademark Act of 1946 to provide that the Secretary of Commerce, in consultation with the Director of the United States Patent and Trademark Office, shall appoint administrative patent judges and administrative trademark judges, and for other purposes; to the Committee on the Judiciary.

By Mr. RANGEL:

H.R. 6363. A bill to amend title 4, United States Code, to add National Korean War Veterans Armistice Day to the list of days on which the flag should especially be displayed; to the Committee on the Judiciary.

By Mr. DICKS (for himself, Mr. INSLEE, Mr. LARSEN of Washington, Mr. BAIRD, Mr. McDERMOTT, Mr. SMITH of Washington, and Mr. REICHERT):

H.R. 6364. A bill to amend the Federal Water Pollution Control Act to provide assistance for programs and activities to protect the water quality of Puget Sound, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. KIND (for himself and Mr. RAMSTAD):

H.R. 6365. A bill to amend part C of title XVIII of the Social Security Act with respect to Medicare special needs plans and the alignment of Medicare and Medicaid for dually eligible individuals; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BUYER (for himself, Mr. MICHAUD, Mr. MILLER of Florida, and Mr. BROWN of South Carolina):

H.R. 6366. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish not more than seven consolidated patient accounting centers, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BRADY of Texas (for himself, Mr. MCCAUL of Texas, Mr. MARCHANT, Mr. SAM JOHNSON of Texas, Mr. BILBRAY, Mr. SULLIVAN, Mr. SHAD-EGG, Mr. ROHRBACHER, Mr. JONES of North Carolina, Mr. POE, and Mr. CULBERSON):

H.R. 6367. A bill to provide an exception to certain mandatory minimum sentence requirements for a law enforcement officer who uses, carries, or possesses a firearm during and in relation to a crime of violence committed while pursuing or apprehending a suspect; to the Committee on the Judiciary.

By Mr. BRADY of Texas (for himself, Mr. SAM JOHNSON of Texas, Mr. PORTER, Mr. HERGER, Mr. PUTNAM, Mr. BOEHNER, and Mr. DAVID DAVIS of Tennessee):

H.R. 6368. A bill to amend the Internal Revenue Code of 1986 to provide for an increase in the standard mileage rates to reflect the increase in the cost of highway fuels, and for other purposes; to the Committee on Ways and Means.

By Mr. DAVIS of Virginia:

H.R. 6369. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to make grants to recognized science and technology secondary schools to support research and development projects at such schools in science, mathematics, engineering, and technology to supplement the national security functions of the Department of Defense; to the Committee on Armed Services.

By Mr. DEFAZIO:

H.R. 6370. A bill to transfer excess Federal property administered by the Coast Guard to the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians; to the Committee on Transportation and Infrastructure.

By Mr. EMANUEL (for himself, Mr. CROWLEY, Mr. KIND, Ms. SCHWARTZ, Mr. LEVIN, Ms. SUTTON, Mr. FILNER, and Mr. BISHOP of New York):

H.R. 6371. A bill to amend the Internal Revenue Code of 1986 to require employers to notify their employees of the availability of the earned income credit; to the Committee on Ways and Means.

By Mr. HILL:

H.R. 6372. A bill to reestablish standards from the Commodity Exchange Act to provide for the regulation of United States markets in energy commodity futures, and for other purposes; to the Committee on Agriculture.

By Mr. MCCOTTER:

H.R. 6373. A bill to amend the Internal Revenue Code of 1986 to allow individuals to establish Home Ownership Mortgage Expense Accounts (HOME Accounts) which may be used to purchase, remodel, or make mortgage payments on the principal residence of the taxpayer; to the Committee on Ways and Means.

By Mr. MCDERMOTT (for himself, Mr. ENGLISH of Pennsylvania, and Ms. SCHWARTZ):

H.R. 6374. A bill to amend the Internal Revenue Code of 1986 to repeal the shipping investment withdrawal rules in section 955 and to provide an incentive to reinvest foreign shipping earnings in the United States; to the Committee on Ways and Means.

By Mr. STARK (for himself and Mr. GEORGE MILLER of California):

H.R. 6375. A bill to provide assistance to adolescents and young adults with serious mental health disorders as they transition to adulthood; to the Committee on Energy and Commerce.

By Ms. DELAURO (for herself, Mr. SIREs, Mr. HOLT, Ms. LEE, Ms. MATSUI, Ms. WOOLSEY, Mr. LEWIS of Georgia, Ms. KAPTUR, Ms. SUTTON, Mrs. CAPPS, Mr. BRADY of Pennsylvania, Mr. PAYNE, Mr. PALLONE, Mr. ROTHMAN, and Mr. SCOTT of Virginia):

H. Con. Res. 382. Concurrent resolution recognizing the important social and labor contributions and accomplishments of Congresswoman Mary T. Norton of New Jersey on the 70th anniversary of the Fair Labor Standards Act; to the Committee on Education and Labor.

By Mr. SIREs:

H. Res. 1305. A resolution supporting the designation of National Tourette Syndrome Day; to the Committee on Energy and Commerce.

## MEMORIALS

### Under clause 3 of rule XII,

326. The SPEAKER presented a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 51 memorializing the Congress of the United States to establish a grant program to assist the seafood industry in St. Tammany, St. Bernard, Orleans, and Plaquemines parishes; to the Committee on Financial Services.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 78: Mr. GARRETT of New Jersey.  
 H.R. 96: Mr. RANGEL.  
 H.R. 154: Mr. TOWNS, Mr. FRELINGHUYSEN, Mr. DOYLE, Mr. SPACE, and Mr. LARSON of Connecticut.  
 H.R. 158: Mr. MILLER of Florida.  
 H.R. 688: Mr. HAYES.  
 H.R. 856: Mr. ARCURI.  
 H.R. 901: Mrs. LOWEY.  
 H.R. 1063: Mr. COLE of Oklahoma.  
 H.R. 1078: Ms. KAPTUR.  
 H.R. 1223: Mr. MCNERNEY.  
 H.R. 1228: Ms. SUTTON.  
 H.R. 1295: Mr. GARRETT of New Jersey.  
 H.R. 1665: Mr. FEENEY.  
 H.R. 1671: Ms. SUTTON.  
 H.R. 1738: Mr. HALL of New York, Mr. DICKS, and Mr. STARK.  
 H.R. 1767: Mr. KANJORSKI.  
 H.R. 1940: Mr. SALLI.  
 H.R. 1992: Mr. SOUDER.  
 H.R. 2611: Mr. GRUJALVA.  
 H.R. 2712: Mr. GARRETT of New Jersey and Mr. SAM JOHNSON of Texas.  
 H.R. 3132: Mr. REYES.  
 H.R. 3174: Mr. FRANK of Massachusetts and Mr. MCDERMOTT.  
 H.R. 3232: Mr. WEXLER, Mr. REYES, Ms. GINNY BROWN-WAITE of Florida, Ms. JACKSON-LEE of Texas, Mr. CROWLEY, Mr. FERGUSON, Mr. KAGEN, Mr. ORTIZ, and Mr. CUELLAR.  
 H.R. 3329: Mr. BISHOP of New York and Mr. KANJORSKI.  
 H.R. 3334: Mrs. CAPPS and Mrs. LOWEY.  
 H.R. 3366: Ms. HIRONO.  
 H.R. 3396: Mr. MORAN of Virginia.  
 H.R. 3406: Mr. LEWIS of Georgia and Mr. MICHAUD.  
 H.R. 3438: Mr. GRUJALVA and Mr. REYES.  
 H.R. 3439: Mr. PAYNE.  
 H.R. 3457: Mr. BROUN of Georgia.

H.R. 3544: Mrs. LOWEY.  
 H.R. 3622: Mr. MACK.  
 H.R. 3646: Mr. GARRETT of New Jersey.  
 H.R. 3650: Mr. GARRETT of New Jersey.  
 H.R. 3829: Mr. SHAYS.  
 H.R. 3834: Mr. UDALL of Colorado.  
 H.R. 3934: Mr. PENCE.  
 H.R. 4089: Mr. HARE.  
 H.R. 4093: Mr. SESTAK.  
 H.R. 4138: Mr. MOORE of Kansas.  
 H.R. 4498: Mr. GARRETT of New Jersey.  
 H.R. 4544: Mr. BILBRAY and Mr. SPACE.  
 H.R. 4775: Mr. CARSON and Ms. WOOLSEY.  
 H.R. 4789: Ms. JACKSON-LEE of Texas.  
 H.R. 4935: Mr. EDWARDS of Texas.  
 H.R. 4990: Mr. DAVIS of Illinois.  
 H.R. 5236: Mrs. MYRICK.  
 H.R. 5244: Mrs. JONES of Ohio and Mr. FALCOMA VAEGA.  
 H.R. 5267: Mr. JORDAN and Mr. GOODE.  
 H.R. 5467: Mr. LANGEVIN.  
 H.R. 5496: Mrs. CAPPS.  
 H.R. 5534: Mr. SAXTON and Mr. GILCREST.  
 H.R. 5552: Mr. SPACE.  
 H.R. 5575: Mr. RANGEL.  
 H.R. 5673: Mr. GARRETT of New Jersey.  
 H.R. 5709: Mr. BISHOP of New York.  
 H.R. 5748: Mr. HALL of Texas.  
 H.R. 5752: Mr. SMITH of New Jersey.  
 H.R. 5760: Mr. ROGERS of Alabama.  
 H.R. 5774: Ms. SCHAKOWSKY and Mrs. LOWEY.  
 H.R. 5793: Mr. SPACE.  
 H.R. 5842: Ms. LEE.  
 H.R. 5843: Ms. LEE.  
 H.R. 5846: Ms. CORRINE BROWN of Florida.  
 H.R. 5874: Mr. REICHERT.  
 H.R. 5892: Mr. KILDEE and Mr. CLAY.  
 H.R. 5913: Mr. FRANK of Massachusetts and Mr. DEFAZIO.  
 H.R. 5925: Mr. SMITH of Washington.  
 H.R. 5935: Mr. CARNEY.  
 H.R. 5950: Mr. FRANK of Massachusetts.  
 H.R. 5984: Mrs. CAPITO.  
 H.R. 6045: Mr. LYNCH, Mr. SOUDER, Mr. SPACE, Mrs. MALONEY of New York, Mr. WATT, Mr. KIND, Mr. FRANKS of Arizona, and Mr. POE.  
 H.R. 6083: Mr. BLUMENAUER.  
 H.R. 6107: Mr. CARTER, Mr. THORNBERRY, and Mr. GARRETT of New Jersey.  
 H.R. 6123: Mr. KIRK.  
 H.R. 6126: Ms. JACKSON-LEE of Texas.  
 H.R. 6143: Mr. FRANK of Massachusetts.  
 H.R. 6168: Mr. BLUNT.  
 H.R. 6169: Mr. BLUNT.  
 H.R. 6172: Mr. POE.  
 H.R. 6180: Ms. MCCOLLUM of Minnesota.  
 H.R. 6198: Mr. CLAY, Mr. AKIN, Mr. CARNAHAN, Mr. SKELTON, Mr. GRAVES, Mr. BLUNT, Mrs. EMERSON, Mr. HULSHOF, Mr. BUTTERFIELD, and Mr. TOWNS.  
 H.R. 6199: Mr. MCHUGH.  
 H.R. 6203: Mr. PAYNE and Mr. CONYERS.  
 H.R. 6208: Mr. BLUNT.  
 H.R. 6209: Ms. LINDA T. SANCHEZ of California, Mr. MORAN of Virginia, Mr. INSLEE, Mr. LARSEN of Washington, Mr. SIREs, Mr. KANJORSKI, Mr. TIERNEY, Ms. SUTTON, Mr. KENNEDY, Mr. MURPHY of Connecticut, Mr. MURTHA, Mr. BRADY of Pennsylvania, Mr. RYAN of Ohio, Ms. DELAURO, Mr. CROWLEY, and Mr. DICKS.  
 H.R. 6210: Mr. KAGEN.  
 H.R. 6214: Mr. ARCURI and Mr. MANZULLO.  
 H.R. 6233: Mr. ABERCROMBIE.  
 H.R. 6234: Mr. SESTAK.  
 H.R. 6252: Mr. DAVIS of Kentucky, Mr. LATOURETTE, Mr. CAMPBELL of California, Mr. LATHAM, and Mr. CARTER.  
 H.R. 6264: Mr. LATOURETTE, Mr. PLATTS, Mr. KILDEE, Mr. McNULTY, Mr. JONES of North Carolina, and Mr. GILCREST.  
 H.R. 6287: Mr. HALL of New York and Mrs. GILLIBRAND.  
 H.R. 6321: Mrs. GILLIBRAND.  
 H.R. 6328: Ms. WATERS, Mr. HASTINGS of Florida, and Mr. BLUMENAUER.

H.R. 6330: Mr. ISRAEL, Mrs. GILLIBRAND, Mr. HARE, Mr. WALZ of Minnesota, Ms. JACKSON-LEE of Texas, Mr. SIRES, and Mr. LANGEVIN.

H.R. 6355: Mr. LIPINSKI, Ms. HIRONO, and Mr. COHEN.

H.J. Res. 22: Mr. DAVID DAVIS of Tennessee, Mrs. BLACKBURN, Ms. FOXX, Mr. LATTA, Mr. FORTUÑO, Mr. DAVIS of Kentucky, Mr. SHIMKUS, Mr. GOHMERT, Mr. WESTMORELAND, Mr. BARRETT of South Carolina, Mr. PRICE of Georgia, Ms. FALLIN, Mr. JORDAN, Mr. GINGREY, and Mr. WAMP.

H.J. Res. 89: Mr. CHILDERS.

H. Con. Res. 72: Mr. McNULTY.

H. Con. Res. 214: Mr. BISHOP of Georgia, Mr. MEEKS of New York, Mr. KUCINICH, Ms. LEE, Mr. JEFFERSON, Ms. NORTON, and Ms. CLARKE.

H. Con. Res. 223: Mr. MORAN of Kansas, Mr. OLVER, and Mr. WILSON of South Carolina.

H. Con. Res. 338: Mr. HINCHEY.

H. Con. Res. 341: Mr. UDALL of Colorado.

H. Con. Res. 342: Mr. FRANKS of Arizona.

H. Con. Res. 356: Mr. PASCRELL, Mrs. TAUSCHER, Mr. WOLF, Mr. SKELTON, Mrs. MILLER of Michigan, Mr. CARSON, and Mr. BRADY of Pennsylvania.

H. Con. Res. 364: Mr. MCGOVERN.

H. Con. Res. 378: Ms. BORDALLO and Mr. COHEN.

H. Con. Res. 380: Mr. MURPHY of Connecticut.

H. Con. Res. 381: Ms. SUTTON, Ms. ZOE LOFGREN of California, Mr. DANIEL E. LUNGREN of California, Ms. LINDA T. SÁNCHEZ of

California, Mr. JACKSON of Illinois, Mr. COHEN, Mr. MCDERMOTT, Mr. SNYDER, Mr. BLUMENAUER, Mr. NADLER, Mr. SMITH of Texas, Mr. DELAHUNT, Mr. CLAY, and Ms. WALTERS.

H. Res. 282: Mr. LINCOLN DIAZ-BALART of Florida.

H. Res. 373: Mr. GARRETT of New Jersey.

H. Res. 672: Mr. YOUNG of Florida, Mr. MILLER of Florida, and Mr. BERMAN.

H. Res. 758: Mr. ROTHMAN.

H. Res. 883: Mr. BRADY of Pennsylvania.

H. Res. 1006: Mr. HOLDEN, Ms. BORDALLO, Mr. COHEN, Mr. TIM MURPHY of Pennsylvania, Mr. BOUCHER, and Mr. MURTHA.

H. Res. 1045: Mr. MARKEY, Mr. SMITH of New Jersey, Mr. CROWLEY, Mr. FORTENBERRY, Ms. WOOLSEY, Mr. FERGUSON, Mr. DELAHUNT, Mr. DREIER, Mr. MEEKS of New York, Mrs. BONO MACK, Ms. LEE, Mr. KUHL of New York, Ms. JACKSON-LEE of Texas, Mr. ENGLISH of Pennsylvania, Mr. FALCOMA, Mr. SHAYS, Mr. SERRANO, Mr. FRANK of Massachusetts, Ms. ESHOO, Mr. TIERNEY, Mr. NEAL of Massachusetts, Mr. LEWIS of Georgia, Mr. BLUMENAUER, Mr. WAXMAN, and Mr. TIBERI.

H. Res. 1191: Mr. WOLF.

H. Res. 1202: Mr. CASTLE.

H. Res. 1217: Mrs. CAPPS and Ms. SCHAKOWSKY.

H. Res. 1245: Mr. CONYERS, Mr. CROWLEY, Mr. GARRETT of New Jersey, Mr. GONZALEZ, Mr. HONDA, Mr. INGLIS of South Carolina, Mr. MICHAUD, and Mr. SHERMAN.

H. Res. 1248: Mr. CONAWAY, Mr. TAYLOR, Mrs. BOYDA of Kansas, Ms. SHEA-PORTER, Mr. LOEBACK, and Ms. GIFFORDS.

H. Res. 1254: Mr. HASTINGS of Florida.

H. Res. 1286: Ms. CLARKE, Mr. MCDERMOTT, and Ms. SLAUGHTER.

H. Res. 1290: Mr. WEXLER, Ms. LINDA T. SÁNCHEZ of California, and Mr. DELAHUNT.

H. Res. 1302: Mr. BOYD of Florida, Mr. MATHESON, Mr. COHEN, Mr. PETERSON of Minnesota, Mr. MELANCON, Mr. WALBERG, Mr. BRADY of Texas, Mr. HENSARLING, Mr. BARTLETT of Maryland, Mr. WILSON of South Carolina, Mr. HERGER, Mr. GARRETT of New Jersey, Mr. REYNOLDS, Mr. BURTON of Indiana, Mr. FEENEY, Mr. CAMPBELL of California, Mr. FLAKE, Mr. AKIN, and Mr. BROUN of Georgia.

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#### PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

283. The SPEAKER presented a petition of the City Council of Compton, CA, relative to Resolution No. 22,564 supporting the Homeowners and Bank Protection Act of 2007; to the Committee on Financial Services.

284. Also, a petition of the California State Lands Commission, relative to a Resolution regarding the taking of marine mammals and sea turtles incidental to power plant operations of once-through cooling power plants in California; to the Committee on Natural Resources.