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House of Representatives

The House met at 9:30 a.m. and was called to order by the Speaker pro tempore (Mr. WEBSTER).

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
June 22, 2011.

I hereby appoint the Honorable DANIEL WEBSTER to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,
Speaker of the House of Representatives.

MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 5, 2011, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes each, but in no event shall debate continue beyond 11:20 a.m.

THREE OF THE TOP PERFORMING MIDDLE GRADES SCHOOLS IN THE COUNTRY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. THOMPSON) for 5 minutes.

Mr. THOMPSON of Pennsylvania. Mr. Speaker, this week, three middle schools located in Pennsylvania's Fifth Congressional District—Mount Nittany Middle School in State College, Park Forest Middle School in State College, and Titusville Middle School in Titusville—have been named three of the top performing middle grades schools in the country by the National Forum to Accelerate Middle Grades Reform. I rise today to recognize and congratulate these three schools for this noteworthy achievement.

The National Forum to Accelerate Middle Grades Reform is an alliance of more than 70 educators, researchers, and officers of national associations and foundations dedicated to improving schools for young adolescents across the country. Every year, the forum, through their Schools to Watch program, identifies schools across the United States for their high performance.

The forum's members believe that three things are true of high-performing middle grades schools: They are academically excellent; developmentally responsive schools that are sensitive to the unique developmental challenges of early adolescents; and socially equitable, schools that are democratic and fair, providing every student with high-quality teachers, resources, and supports.

Later this week, these three schools will be recognized with 97 other high-performing schools from across the Nation during the forum's annual conference. I am proud to represent these incredible teachers, administrators, and students. These outstanding efforts deserve recognition, and I want to congratulate all of you for this awesome achievement.

PROTECT OUR WORKERS FROM EXPLOITATION AND RETALIATION ACT

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from California (Ms. CHU) for 5 minutes.

Ms. CHU. I rise today to announce the introduction of legislation that will finally provide protection to immigrant workers from exploitation, the Protect Our Workers from Exploitation and Retaliation Act, the POWER Act.

Too often, unscrupulous employers threaten or retaliate against workers who complain about illegal working conditions. Today, employers can use a worker's immigration status and threaten them so that they will fear reporting them to the authorities. The abuse of these vulnerable workers undermines working conditions and wages for all U.S. workers.

The POWER Act protects these workers. Under current law, the U visa provides temporary status for immigrants who are victims of crimes, including domestic violence and rape. The POWER Act ensures that this visa protection is also provided to these workers who risk everything by reporting to authorities the employers who break the law by committing serious labor violations.

Today, such workers are silent out of fear, but silence can mean the difference between life and death. Take the case of Mr. Asuncion Valdivia, a farmworker who came from Mexico seeking a better life. One day, during the hot summer months, he picked grapes for 10 hours straight in 105 degree temperatures. Then he fell over, unconscious and ill. Instead of calling an ambulance, Giumarra Vineyards told his son to drive Mr. Valdivia home. On his way home, the father started foaming at the mouth and died of a heat stroke. A son had to witness his father die, a preventible death, at the age of 53.

After hearing about this tragedy, I had to act. For 15 years, the farmworker advocates had petitioned Cal OSHA for minimal health protections for the workers who perished and died working in heat, but they were always ignored. So I carried a bill in the California legislature that required that farmworkers and all outdoor workers have basic protections from the heat: water, shade, and rest periods. It passed and became the first law of its kind in the Nation.

A decade after that law, I am in Congress. And while some farms obey the heat protections, others are flagrantly violating it. The POWER Act will stop these violations. It would have let someone like Asuncion go to the authorities without fear of retaliation. It would have let him continue to work while he cooperated with Cal OSHA to take Giumarra to court and would have ensured that Giumarra treated all their workers fairly from then on. And I hope that because of the POWER Act, a son will never have to watch a father die in this way again.

The POWER Act will bring abused workers out of the shadows. It will give employees the courage to stand up to the world's biggest and strongest companies. The POWER Act will fundamentally change the very structure of workers' rights in this country. It supports every honest, hardworking employees across the country, protecting them. It's time that exploited workers were able to come out of the shadows, leave cruel conditions, and find jobs where they are treated with the dignity and respect that every employee in America deserves. It's time for the POWER Act.

RUSSIA

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. DREIER) for 5 minutes.

Mr. DREIER. Mr. Speaker, in August of 2008, Russia and the Republic of Georgia engaged in what author Ronald Asmus called ''A Little War That Shook the World.'' And, Mr. Speaker, it did shake the world. For all of post-Soviet Russia's anti-democratic crackdowns, its aggressive and bellicose actions toward former Soviet states, it was still a shock to see Russian tanks roll across the border of a sovereign, democratic country. The military conflict lasted 5 days; and a shaken world moved on, soon forgetting the shock and outrage of what happened.

But for the people of the Republic of Georgia, this conflict goes on nearly 3 years later. They live with the tragic consequences that follow any armed conflict, including thousands of displaced persons and significant economic hardships. Beyond the human cost, they face a long-term strategic challenge of an occupying force in the regions of Abkhazia and South Ossetia where Russia continues to violate the terms of the ceasefire to which it agreed.

As occupiers, they violate the sovereignty and territorial integrity of an independent democratic state, one that has chosen a path toward integration with Euro-Atlantic institutions and, more important, one that has chosen integration with Euro-Atlantic values of democracy, human rights, and the rule of law.

Russia's recalcitrance has left the region in a bitter stalemate as it flouts international norms and its own commitments. Within the context of this stalemate, the temperature has seemed to cool, with bitter hardship and frustrations supplanting heated military conflict.

But that cooling temperature is perhaps a very dangerous illusion. While the fear of overt military action may be waning, more subversive—but just as potentially deadly—action is taking place. Since 2009, the Republic of Georgia has experienced 12 acts or attempted acts of terrorism within its borders, which the Georgians believe are linked to Russian forces.

One such bombing, on September 22, 2010, took place right near the U.S. Embassy in Tbilisi. Two thwarted attacks took place just this month. One improvised explosive device was intercepted on June 2, two days before several colleagues and I arrived in Tbilisi. Another was intercepted on June 6 while we were still there.

□ 0940

We had the opportunity to discuss with President Saakashvili at length the nature of these attacks and attempted attacks. He and his administration are increasingly concerned about what they perceive to be a systematic effort to target the Georgian people and undermine their progress toward a peaceful, stable, democratic and independent nation. The intended targets of recent bombing attempts seem to suggest an increased focus on civilian casualties, which is particularly troubling.

As investigations proceed to determine the exact origin and intent of these bombings, it is more important than ever that we stand with our Georgian friends; that we stand with their right to sovereignty and territorial integrity; that we stand with their efforts to build a stronger democracy. In fact, the purpose of my recent trip to Tbilisi was to continue the work of the House Democracy Partnership, which has a longstanding program with the Georgian legislature.

My co-chairman, DAVID PRICE, and I have led a number of delegations to Tbilisi and hosted many Georgian legislators in Washington in order to provide training and support as they build their legislative institutions.

It is important to work with new and reemerging democracies as they grow and develop, but it is all the more essential for us to support those who are under attack for the very reason that they have chosen their democratic path.

The Obama administration has attempted to reset relations with Russia for a number of pragmatic and strategic reasons. I believe they were right to do so. But it is important to differentiate those relationships which are important for inescapable geopolitical considerations, and those which are based on shared values and goals. As a major international player and a permanent member of the United Nations Security Council, we must engage constructively with Russia, but that does not mean we must turn a blind eye to its tactics or strategic aims towards the former Soviet sphere. To the contrary, we must engage with eyes wide open.

Georgia is not the only state to have emerged from the Soviet orbit with democratic intentions, only to face deliberate, significant pressures and obstacles from Moscow.

The nature of our engagement with Russia will get more scrutiny than ever as Moscow moves toward entry into the World Trade Organization. Bringing them into a rules-based trading system will help us deal with the challenges that we face, but we cannot lose our resolve to address these challenges, or lose sight of the fact that the fate of democracy in the post-Soviet world is one of them. Those who are working diligently against great odds to build democratic institutions must know that the American people stand with them.

TAX LOOPHOLES

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, in their agitation over the debt, our Republican friends have obstinately focused on program cuts alone, ignoring the harm to American families and the economic recovery. Their mindless slashing of the budget is costing jobs, while damaging communities. Yesterday's news about EPA cuts hurting local efforts at clean air and clean water is another example.

More than a quarter of the deficit growth since 2001 resulted from the economic downturn which reduced tax revenues and increased programmatic spending. You spend more on unemployment when more people are unemployed.

Our focus should be on job creation, which reduces unemployment costs and increases tax revenue. However, in their first 6 months in the majority, the Republicans have not passed any legislation to create jobs.

The government's budget is often compared to a household budget, but every family knows that expenses are just one side of the equation. How many Americans, in tough times, take on second or even third jobs to increase their income because some expenses just can't be cut?

As a Nation, we have the ability to increase our revenues, our income. An obvious place to look for additional income is closing tax loopholes and ending unnecessary subsidies, for example, for large oil companies would be one of the best places to start.

Tax incentives are intended to help businesses create vital American jobs or develop technologies to improve our way of life. We as Democrats support those tax incentives that increase domestic manufacturing and other American businesses which create jobs and

aid the economic recovery. These tax breaks promote our national economic priorities and put people back to work.

But when a company's profits are $10.65 billion in just 3 months, such as ExxonMobil's were earlier this year, who can reasonably argue that that company needs expensive incentives to stay in business and make money?

The 10 most egregious tax loopholes enjoyed by the large oil companies have helped the five largest companies make a combined profit of nearly $1 trillion over the last decade.

The billions we spend every year on subsidies for the largest oil and gas companies are not moving us any closer to energy independence or a clean energy economy. The subsidies are not necessary and they're not useful for our economy.

In 2010, nearly 60 percent of big oil companies' profits went to stock buybacks and dividends, not job creation. With oil produced at $11 a barrel, and sold for $100, tax breaks for oil companies are simply wasteful handouts, transferring money from working families to corporate stockholders. The difference over what was sold for an average barrel of oil, $72 average production price; average production cost, $11.

No American family should be giving up their dinner to donate money to the millionaire next door. Removing these tax incentives will save taxpayers $40 billion over the next 5 years with only minimal impact in the profit, not in their operations. Cutting subsidies will not raise oil prices, which are set in a global market that this year will be in the range of $2 trillion to $3 trillion.

Subsidies in the Tax Code, instead, should be directed toward emerging technologies like wind and solar. That's where the real jobs are. A University of Massachusetts study found that incentives for clean energy create two to four times more direct and indirect jobs compared to investments in oil and gas production.

Another obvious place to cut is the ethanol tax credit. We don't need to subsidize something that industry is mandated to buy.

We cannot ask children and seniors to bear the brunt of sacrifice while we are simply giving more money to large corporate interests that don't need it. We must make tough choices to ensure we leave a sound economy to the next generation, but we have to make those choices wisely so we leave a Nation that is competitive, prosperous, healthy, and educated.

CONGRATULATING NEW JERSEY'S TOP RANKING PUBLIC SCHOOLS

The SPEAKER pro tempore. The Chair recognizes the gentleman from New Jersey (Mr. LANCE) for 5 minutes.

Mr. LANCE. Mr. Speaker, I rise today to congratulate eight outstanding public high schools in New Jersey's Seventh Congressional District that were recently recognized by Newsweek Magazine as among the top 500 public high schools in America for 2011.

In all, New Jersey claimed 36 high schools of Newsweek's top 500. In the Seventh Congressional District in New Jersey, that I have the honor of representing, I congratulate the Academy For Allied Health Sciences in Scotch Plains; the Union County Magnet High School, also in Scotch Plains; Watchung Hills Regional High School in Warren; Governor Livingston High School in Berkeley Heights; Westfield High School in Westfield; the Academy for Information Technology, also in Scotch Plains; Cranford High School in Cranford; and Jonathan Dayton High School in Springfield.

Newsweek contacted more than 1,100 high schools across the country and reviewed their graduation and college matriculation rates, SAT and Advanced Placement test scores and other information, as well as the school's ability to turn out college-ready and life-ready students.

□ 0950

I congratulate all of the students, teachers, administrators, parents, and other property taxpayers who help make New Jersey's Seventh Congressional District the home to so many of the top-performing high schools in the Nation. When it comes to the best education in the country, New Jersey's public school system makes the grade.

WE NEED A FAIR, BALANCED BUDGET

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. TONKO) for 5 minutes.

Mr. TONKO. Mr. Speaker, we are some 3 years into the worst recession since the Great Depression. I have heard repeated claims that these are times that call for courageous leadership and bold decisions. Well, there certainly has been no lack of audacity during recent talks on the budget.

I'm joining my colleagues on the Budget Committee here today to ask, on behalf of my constituents in New York's 21st Congressional District, for less hubris and more humility from some of our Nation's leaders as we attempt to solve a problem that impacts the lives and livelihoods of our families, our friends, our neighbors, and our constituents.

I have but two requests: first, that any budget agreement must not hurt our economy further. In 2008, the financial crisis brought this Nation to its knees. It was a crisis of our own making; and though we must not dwell on blame, we must learn from this experience to avoid the mistakes of the past.

Is there no way to encourage business growth, small and large, without wasting $130 billion a year on tax giveaways and without gutting programs that educate our workforce? I refuse to believe that there is no smart solution to this problem. My constituents refuse to believe it. We have learned our lesson, and we know better.

Second, any budget agreement must take a balanced approach. It is the height of arrogance to sit down at a negotiating table to solve a fiscal crisis and declare an $800 billion question off limits. Federal Government subsidies for some of the most profitable corporations on Earth, oil tax breaks that trace their roots to policy decisions made nearly 100 years ago must be on the table. Tax breaks for the wealthiest 2 percent of America must be on the table. Tax earmarks for corporate jets, for snow globes, for golf bags, these must be on the table.

America is watching. America is waiting for us to wake up, eat our Wheaties, and flex the powerful muscle of human reason to get this country on a sustainable path. Sustainability means cutting spending where it is not needed and where it offers no common good. It means cutting tax kickbacks where they are not needed. It means protecting the present and the future of Medicare in a form that provides more than a coupon to our seniors and more than an unsympathetic ''so be it'' to proud men and women who lost their jobs through no fault of their own. It means knowing that the Big Five oil companies can stand on their own two feet. It means playing for the same team, putting everything on the table and winning this one not for our campaigns, but for our constituents.

If I might refer to this chart using data from OMB and the Ways and Means Committee, my Republican colleagues have shown the so-called ''courage'' to ask America's seniors to make yet another great sacrifice for their country—giving up their hard-earned, guaranteed Medicare benefits in favor of a voucher. This will lead to thousands of dollars in new out-of-pocket expenses each year.

Certainly the $165 billion in cuts is rivaled by the $131 billion yearly giveaways, that $165-billion-a-year question from the Republican budget that is on the table in these talks. I do not like it. I will not vote for it. I will fight it every time it comes to this floor for a vote, but it is on the table. It is being discussed and debated, fought for and against in a process that makes our democracy run as it was intended to. But again, we will fight any cuts and any end to Medicare.

But there's another line on this chart, and that's this $131-billion-per-year question of giving tax breaks to wealthy special interests. Look, the two of them are comparable, giving oil companies more subsidies versus taking away Medicare. This is the question of using taxpayer-subsidized support from the Federal Government to add a few extra billion to the Herculean profits of some of the world's wealthiest corporations.

The Big Five oil companies have pocketed almost $1 trillion in profits in the past 10 years. In the midst of our recession, they are doing just fine. They have told us, We don't need the tax breaks. So why would my colleague

from Virginia, the Republican majority leader, declare that tax reform—like cutting the $20 billion in subsidies that these companies will receive in the next 10 years—is off the table? Why are tax write-off earmarks for corporate jets off the table? Why are hundreds of billions of dollars in tax breaks for millionaires and billionaires off the table? Why are we talking about cutting programs for nursing homes and preschools, for local cops and firefighters, for retirement security and the future of renewable energy? Why are we talking about cutting these programs without asking the Big Five oil companies to stand on their own two feet?

I have watched programs that my constituents rely on end up utterly decimated on the floor of this House this year. And yet I come before you today not asking for less sacrifice, but for more. I'm asking for those at the top to bear their fair share of both the burden and the potential triumph of this historic moment.

Again, I must merely ask for a little humility as we attempt to solve a challenge that no one woman or one man among us should attempt to tackle—or scuttle—alone. Nothing is off the table, and nothing is more important than getting every single American who wants to do a hard day's work for a fair wage back on the job site. Any budget agreement must take this balanced approach and must not hurt our economy further.

BRING THE TROOPS HOME

The SPEAKER pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. JONES) for 5 minutes.

Mr. JONES. Mr. Speaker, Monday I had the honor and the humbling experience of visiting Walter Reed Hospital. I met three young men that all three have lost both legs above the knees. And actually, one of them I engaged about Afghanistan, and he, with his wife there with him, believes that we have done just about all we can do, and certainly he has done more than that: he has given his legs for this country.

That leads me to wanting to read just a paragraph of an editorial by Eugene Robinson that was in the North Carolina papers, and the title of his column is ''Afghan Strategy: Lets Go.'' And I will read the last paragraph of his column:

''We wanted to depose the Taliban regime, and we did. We wanted to install a new government that answers to its constituents at the polls, and we did. We wanted to smash al Qaeda's infrastructure of training camps and safe havens, and we did. We wanted to kill or capture Osama bin Laden, and we did. Even so, say the hawks, we have to stay in Afghanistan because of the dangerous instability across the border in nuclear-armed Pakistan. But does anyone believe the war in Afghanistan has made Pakistan more stable?''

Mr. Robinson, you're right, it is not more stable because we are in Afghanistan. Perhaps it is useful to have a United States military presence in the region. This could be accomplished, however, with a lot fewer than 100,000 troops; and they would not be scattered across the Afghan countryside engaged in a dubious attempt at nation-building. The threat from Afghanistan is gone. Bring the troops home.

Mr. Speaker, I don't know what the President will say tonight, and I wish the President well. But Mr. Gates has been saying all weekend—and he did testify before the Armed Services Committee in February and said it would be the latter part of 2014, maybe 2015, before we start bringing a substantial number of our troops home.

Mr. Speaker, I say to the House of Representatives, both parties, let's come together and join in the McGovern-Jones bill, and let's start bringing our troops home and say to the President we don't need to be there until 2014–2015. As Eugene Robinson says, we're not going to change anything. History has proven you will never change Afghanistan. They don't want to change themselves. Quite frankly, the Taliban are Afghan people; it's a civil war.

And, Mr. Speaker, as I have done before, I have the poster that has a flag-draped coffin being carried by the Air Force at Dover Air Force Base. Mr. President, you're a very smart man. You can call the shots on this war in Afghanistan. Say to the American people tonight that we will be home before 2014–2015.

Mr. Speaker, I say in closing, may God bless our men and women in uniform. May God bless the families of our men and women in uniform. May God, in his loving arms, hold the families who have given a child dying for freedom in Afghanistan and Iraq. And I ask God to bless the House and the Senate, that we will do what is right in the eyes of God for his people here in America. And I ask God to give wisdom, strength, and courage to the President of the United States, that he will do what is right in the eyes of God for his people.

And I close three times: God please, God please, God please continue to bless America.

□ 1000

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded to address their remarks to the Chair.

NOT SIZABLE, SWIFT OR SIGNIFICANT

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from California (Ms. WOOLSEY) for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, tonight the President of the United States has an opportunity to show the bold leadership that the American people are crying out for regarding Afghanistan. Tonight he will announce how many troops will be redeployed out of Afghanistan. This must not be, as early reports are indicating, a token withdrawal, bringing only as few as 5,000 troops home now and 5,000 troops home by the end of the year, because that number falls tragically and painfully short of what the national security and moral decency demands.

There are many interpretations, Mr. Speaker, of ''sizable, swift or significant'' as the requests have been for him in his drawdown, but none of those interpretations go so low as 5,000 now and 5,000 by the end of the year. ''Sizable, swift or significant'' is not what 5,000 troops would accomplish. Ten thousand troops doesn't even bring us to where we were before the surge.

That is not a new way forward in Afghanistan. We were promised a new way forward in Afghanistan, and it is going to take 18 months just to get even that much done. How many times are we going to move the goalposts? Anything less than a major shift in Afghanistan policy will be a huge disappointment to the Americans who are paying for it in blood and treasure.

Clear, strong majorities of our country believe it is time we finally end this awful foreign policy blunder. This is not a partisan stance. You just heard Congressman WALTER JONES from North Carolina. This is common sense. Several Republicans in this body oppose this war. Even some of the Republicans running for President have expressed concern about continuing the military occupation much longer.

It is simply not acceptable to ask for more patience and more time for this strategy to work. You mean 10 years isn't enough? How many families were missing a seat at the table on Father's Day this weekend because we kept giving this dreadful policy one more chance?

Afghanistan casualties are on the rise, Mr. Speaker, with 2011 on pace to be the deadliest year yet and 43 percent of fatalities having occurred since the surge began a year and a half ago. How many more people have to die, Mr. Speaker, both U.S. servicemembers and Afghan citizens, before we say enough? How many more lives have to be destroyed? How many more young Americans have to leave limbs behind in Afghanistan? How many more have to come home ravaged by post-traumatic stress? And how many more billions in taxpayer money do we have to waste for the privilege of having our people killed and our global credibility destroyed? For pennies on the dollar, we could fight terrorism the right way, with a civilian surge that emphasizes humanitarian and political aid and reconciliation.

Mr. Speaker, it continues to pain me that we have to scratch and claw for every single dollar of Federal investment in the American people. One

child nutrition program last week was held out there as an example of what we don't need—but we do. Also we are scratching to support health care, education, even support for veterans, but we still continue to waste $10 billion a month in Afghanistan. In the time I take to give this speech, roughly $1 million will fly out of the Treasury to pay for this war.

Mr. Speaker, I implore the President to listen to the American people. Tonight is a moment where he can make history. End the war. Bring our troops home.

URGING THE SENATE TO PASS THE FISCAL YEAR 2012 DHS APPROPRIATIONS BILL

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. CARTER) for 5 minutes.

Mr. CARTER. Mr. Speaker, I rise today to urge the Democrat leadership in the Senate to immediately take up the fiscal year 2012 Department of Homeland Security appropriations bill which was passed by this House on June 2. With the 10th anniversary of the tragic attacks of September 11 rapidly approaching, the proliferation of violence along the southern border and natural disasters, it is irresponsible for Senate Democrats to hold up this bill any longer.

The House-passed bill included $1 billion in supplemental funding for FEMA disaster relief programs that is available immediately upon passage. These funds are desperately needed to respond to natural disasters that have swept the country, including the wildfires which have devastated my home State of Texas.

The House-passed bill uses taxpayer dollars wisely, cutting $1.1 billion from fiscal year 2011 levels while at the same time ensuring all frontline defenders, including the Border Patrol, Coast Guard and Secret Service, are fully funded. In delaying action on this bill, the Democratic leadership in the Senate is putting the security of American citizens at risk and disaster relief on hold. Any further delay is unacceptable.

I urge my Senate colleagues to make the passage of the FY 2012 DHS appropriations bill a top priority.

THE FAILED DRUG WAR

The SPEAKER pro tempore. The Chair recognizes the gentleman from Colorado (Mr. POLIS) for 5 minutes.

Mr. POLIS. Mr. Speaker, 40 years ago this month, President Nixon launched the war on drugs. Four decades later, I've asked through New Media for Americans to share with me their thoughts on what I believe to be a major public policy failure. Just listen to this story of Neil from Baltimore that Law Enforcement Against Prohibition shared with me.

Late in the evening on October 30, 2000, Neil was awoken by the ringing of a telephone. As the commander of training for the Baltimore Police Department, late night calls were not unusual, but this call was different. He was told that one of his officers had been shot and taken to the hospital.

The officer was a corporal and a 15-year veteran and undercover narcotics agent for the Maryland State Police. He was assigned to a drug enforcement task force and on that night was making his final drug buy in Washington, D.C., from a mid-level drug dealer when the dealer decided he wanted both the drugs and the money for himself. He returned to the car the officer was driving, paused for a moment, and shot the police officer at point-blank range in the side of the head.

Arriving at the hospital among the scores of family and friends, Neil was guided into the room where the officer laid with his head bandaged and bloodied. Neil had to face the officer's wife and children and explain why their caretaker was no longer with him.

Neil finished his story by writing, ''When the people are gone and quiet comes, so does the question: Why? Initially thinking of the covert operation, you rehash the event. How could this happen? What went wrong? What was the protocol? But then I realized that the questions I was asking dealt only with the symptoms of a much larger problem, the war on drugs—the broken policy of drug prohibition.''

Every comprehensive objective government study over the last four decades has recommended that adults should not be criminalized for using marijuana, and medical science tells us that by any reasonable health standard marijuana is comparable to alcohol. It is less addictive, less toxic, and, unlike alcohol, marijuana does not make users aggressive and violent.

□ 1010

We also know that criminalization comes at a very high cost. Each year, more arrests are made for marijuana possession than for all violent crimes combined. Marijuana arrests in the U.S. average 850,000 a year. That's one every 37 seconds; and 89 percent of those are just for possession, not sale or manufacture. Marijuana prohibition is even having a negative impact on our national parks and forests. We have Mexican drug cartels growing millions of plants on Federal land.

We've been down this prohibition path with alcohol, and it failed. It increased crime and violence. Crime bosses got rich, murder rates skyrocketed, the prisons filled, and deaths from tainted booze soared. We're seeing the same results today from marijuana prohibition. Prohibition does not stop people from using marijuana. In fact, marijuana is the largest cash crop in the country. It just gives criminals and violent gangs an exclusive franchise on marijuana sales. It drains resources from law enforcement that would be better spent fighting violent crime. It makes it harder to keep marijuana away from children.

So what have we learned in four decades of the failed drug war? It's this: The biggest part of the harm involving marijuana is caused by the criminalization of marijuana. And it's time to bring it to an end.

Let me end with a story of Brian from DuPage, whose son was caught up in the senseless criminalization of marijuana. When Brian's son was in eighth grade, an incident at school led to the discovery of a small amount of marijuana. Charges were brought. He was sentenced to community service. But the real tragedy followed. As a result of the incident, Brian's son was expelled and barred from reentering any school in the district. He was forced into a school for delinquents where he was grouped with kids who had committed violent crimes. He was basically treated like a criminal. Needless to say, his education suffered immensely.

Here's what Brian, the father, had to say about his son's experience: ''Did doing this teach my son a lesson? It did not help him. It harmed him. It disrupted his academic achievement. The school district's solution to finding a small bag of marijuana was to expel four students. No education. No counseling. No help. Just kick them out and wash their hands of the whole thing.''

Using marijuana is harmful. Smoking is harmful. Drinking is harmful. In fact, I applaud the FDA's new highlighting of the dangers of smoking and encourage similar efforts to discourage marijuana, which are impossible under the current criminalization regime. The war on drugs hurts America, wastes billions of dollars of taxpayer money, fosters drug-related violence, and does nothing to help Americans who are confronting serious addiction or serious health issues.

After 40 years, it's time Congress put an end to the drug war's 40-year failure.

PRINCIPLES FOR ANY BUDGET AGREEMENT

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. HONDA) for 5 minutes.

Mr. HONDA. I rise today to urge the President and this Congress to listen to the American people when negotiating a budget agreement. As much as the politicians argue, they don't seem to hear the good sense of the American people. The many closed-door meetings in Washington to decide America's future are filled instead with esoteric and magical formulas purporting to close the deficit. One group wants budget caps. Another wants trigger clauses. A third wants simplistic rules.

None of these will work. These are gimmicks, not governing. Governing is about making choices, setting priorities, and following through. Governing is also about ensuring that the interests and values of the American people are at the negotiating table. If not, any new deal will benefit only the rich and powerful or simply postpone any real

decisions until after 2012. Either way, America will lose.

A budget deal needs to be publicly debated and needs to reflect the true values and the views of the American people. One group in Congress gets this. The Congressional Progressive Caucus has heard the message of the American people who want to cut the deficit without cutting into America's future and without destroying America's sense of fairness. Ask the public what they want and they will tell you.

Let us defend our health programs for the elderly and the poor, Medicare and Medicaid. Let us hold to our intergenerational promise of Social Security. Let us invest in education, research and development, and fix our crumbling infrastructure. Let us bring our men and women home from Iraq and Afghanistan and save at least $150 billion a year, not to mention the lives saved as well. Let us rebuild America.

Any budget agreement must not hurt the economy. America is making economic progress, but many families are still struggling. And we must do more to create jobs. Any budget agreement must raise revenue. Americans know it. It would be irresponsible, unwise, and unfair to reduce the deficit and debt while leaving tax breaks for big corporations and millionaires in place. A fair budget will not emerge from behind closed doors. We need an open budget process, one that keeps the interests and the bottom majority of the American people front and center.

The Congressional Progressive Caucus wants to bring the people's budget to the forefront of publicly held negotiations as well as a budget plan that would truly put the American Dream back within the reach for the majority of the Americans.

A LOOK BACK AT RECOVERY SUMMER

The SPEAKER pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. PAULSEN) for 5 minutes.

Mr. PAULSEN. One year ago last week, the White House proclaimed that the summer of 2010 would officially be known as ''The Summer of Recovery.'' Now, 52 weeks later, unemployment remains painfully high at 9.1 percent, the housing crisis has not improved, and nearly 14 million Americans are out of work.

As I travel my district in Minnesota, from Bloomington to Wayzata to Coon Rapids, I hear from Minnesotans and small business owners that are understandably concerned. My constituents were told that a trillion-dollar stimulus package would keep unemployment below 8 percent. They were clearly sold a bill of goods, as unemployment has now been above 8 percent for more than 2 years straight.

House Republicans do have a plan to jump-start our economy and actually create jobs. Our plan takes commonsense steps to reducing regulatory burdens that actually will help small businesses, that will help entrepreneurs. It actually takes commonsense steps to fix an out-of-date Tax Code so our employers are more competitive around the world. We also take steps to pass the three pending free trade agreements with Colombia, Panama, and South Korea that would create up to 250,000 new jobs through new sales to new customers. Also, we will maximize domestic energy production by reducing our dependence on foreign oil and also lowering gas prices.

Finally, Mr. Speaker, and most important, by paying down our unsustainable debt burden and starting to live within our means, we will make the steps necessary to enact commonsense pro-growth strategies that can create certainty in the business environment that will actually grow our economy and create jobs and put America back to work.

BALANCING THE BUDGET

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Wisconsin (Ms. MOORE) for 5 minutes.

Ms. MOORE. I can tell you that one of the most heartbreaking experiences that I have had as a Member of Congress is to watch this Congress attempt to balance the deficit and the budget on the backs of infants, on the backs of children who need their educational opportunity, and on the backs of seniors. We have seen gargantuan efforts to cut Medicare, the main program to prevent poverty for our seniors; Medicaid; the Women, Infants, and Children program; nutrition programs for children; efforts to decimate educational opportunities for young people, while we refuse to end tax breaks for Big Oil.

The Big Five companies made nearly a trillion dollars—$1 trillion—in profits in the last decade, and yet we continue to insist on providing tax breaks for these profitable companies. Every year, we provide subsidies to oil companies that they pocket.

In addition to that, Mr. Speaker, we are cutting food from babies. I saw numerous, numerous amendments to cut moneys for lactating moms, pregnant women, and newborn babies, while we refuse to end the tax breaks for millionaires. We cannot afford another $800 billion in tax cuts for the top 2 percent in our country. This is backwards. This is un-American.

I join my Democratic colleagues from the House Budget Committee to express—in no uncertain terms—the basic principles we are fighting for in this budget agreement. I also want to state my support for my colleagues from the House of Representatives who are working hard to negotiate an agreement that demonstrates both decency and fairness.

I have had the honor of serving on the Budget Committee for two-and-a-half years, and I have learned a thing or two through my service. I also brought my own budgetary expertise to the table—as a former legislator for the State of Wisconsin, as a former community leader, and as a former (and current!) head of household. I know—and all of us here know, though we are not all admitting it—the fundamental truth that any budget agreement must take a balanced, reasonable approach towards deficit reduction. We cannot simply slash spending while preserving every nickel and dime of tax breaks for giant corporations and multi-millionaires.

As we stand here today, the leaders from both parties, and their staff, are working round-the-clock to chart our path forward. The American people have expressed their concern about our national debt and deficit, and the Congress has responded. We are on the brink of making new and historic policy changes that will be very difficult to un-do. We have the unique opportunity to make the right choice to end a wide array of gratuitous tax loopholes that will save billions upon billions of dollars—and in the end, will help us to preserve the priorities that are so crucial for Wisconsin's Fourth District, and for people all across this country.

We have the opportunity to choose to trim down the debt by cutting tax subsidies for oil companies—instead of cutting nutrition programs for Women, Infants, and Children, WIC.

We have the opportunity to choose to reduce the deficit by cutting ethanol subsidies—instead of cutting Medicare.

This is nothing short of an historic moment in time. We cannot turn our backs on these opportunities.

My Democratic colleagues at the budget negotiation table have assured us many times that revenue-raisers must be part of the solution. Unfortunately, their Republican counterparts have not offered us similar reassurance.

We're already in desperate need of a just and decent tax code that actually requires our Nation's most successful, wealthy people to pay their fair share.

We recently learned that one of the largest U.S. corporations, General Electric, paid no federal taxes in 2010. GE claimed a $3.2 billion tax benefit on reported worldwide profits of $14.2 billion, including $5.1 billion from its operations in the United States.

And that's just one example. Other corporations are able to pick from a long menu of tax breaks that allow them to reap profits while shipping jobs overseas.

We just celebrated the 10-year anniversary of the Bush tax cuts—so we have timely, concrete data showing us what happens when you slash income tax rates. Then-President Bush promised that his tax cuts would ''starve the beast,'' reducing revenues and thus forcing members of Congress to reduce the size of the Federal Government. He claimed that low taxes would stimulate the economy, and increase the prosperity of our Nation. He vowed that tax breaks would create jobs and generate wealth for all.

Well, we now know the truth: Most of the benefits accrued to the rich. The tax cuts didn't spur job growth. During the 2001 to 2007 business cycle, America's economy enjoyed the slowest rate of jobs growth on record since World War II—a rate that was just one-fifth the pace of what we saw in the 1990s. High-wage earners' income increased, but inequality just got worse. Government didn't get smaller: in fact, we saw massive expansion, in the form of new programs like Medicare Part D, and two new wars.

In addition to the cautionary tale of the Bush years—what we've seen over the past 30

years is that lower marginal tax rates have not led to particularly impressive economic growth, labor markets or revenues. Growth was actually more impressive back when marginal tax rates were higher.

The verdict is in. We need to reform our tax code now, for the sake of fairness, and for the sake of our economy. We cannot continue to fight tooth and nail for special interests, for the sake of justifying unprecedented cuts to everything from education to health care to infrastructure to public safety. We cannot protect the wealthy few at the expense of tens of millions of low-income and working-class families.

There is no excuse for this. We can, and we must, do better.

We all know we'll have to make hard choices to come to an agreement. But my Democratic colleagues also know that we must do all we can to preserve our economic progress, create jobs, and preserve programs that serve struggling families. We must reduce the deficit—but we must do it while adhering to basic principles of fairness and morality.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 11:30 a.m. today.

Accordingly (at 10 o'clock and 19 minutes a.m.), the House stood in recess until 11:30 a.m.

□ 1130

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. POE of Texas) at 11:30 a.m.

PRAYER

Reverend Dr. Joe Pool, First United Methodist Church, Rockwall, Texas, offered the following prayer:

Loving God, creator of all things, author of all life, and giver of all grace, You have brought us to this time through the blessings of Your hand, and we remember that we do not work alone, serve without Your spirit, or act without Your guidance.

Open Your heart to us as we depend on You for wisdom beyond ourselves, discernment that fulfills the cry of need, and strength for the challenges we face.

May we be about Your work of justice and mercy, security and peace, comfort and provision. Forgive us our shortcomings. Create in us Your will and way. Write these upon our hearts so that we might serve You as we serve Your people.

We invoke the recognition of Your sustaining and guiding presence at today's session and beyond. Accomplish in us the work of Your hands. May we be worthy of all that is entrusted to us this day.

In Your most holy name we pray. 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 North Carolina (Mr. COBLE) come forward and lead the House in the Pledge of Allegiance.

Mr. COBLE 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.

RECOGNIZING GUEST CHAPLAIN DR. JOE POOL

The SPEAKER pro tempore. Without objection, the gentleman from Texas (Mr. HALL) is recognized for 1 minute.

There was no objection.

Mr. HALL. Mr. Speaker, I am honored today to again recognize our guest chaplain, Reverend Dr. Joe C. Pool, pastor of my home church, my home town, First United Methodist Church of Rockwall, Texas.

Reverend Pool's ministry spans more than 30 years in north Texas and includes serving as associate pastor in Dallas and as pastor in Irving and Gainesville prior to serving in my home town of Rockwall.

Reverend Pool earned a bachelor of arts degree from Southwestern University in Georgetown, Texas, and earned both a master of theology degree and a doctor of ministry degree from Perkins School of Theology at Southern Methodist University. He has been a longtime member of the executive board and the Mentor Pastor Program at Perkins.

Over the past quarter of a century, Reverend Pool has led mission trips to the Appalachian region, Mexico, and the Navajo Nation. He has been involved in hurricane recovery and rebuilding efforts throughout Texas and Louisiana through Hurricanes Andrew, Katrina, and Rita. Active in community service, he was selected as an Outstanding Young Man of America three times and also was selected for inclusion in Who's Who in America.

Reverend Pool is blessed by his wife, Becky, and their three children—Candace, Corey, and Amanda. And Rockwall is in turn blessed by this minister and his family. Reverend Pool is known as a wonderful preacher, a great teacher, a close friend of mine and friend of many, and may God continue to bless his life and his ministry for many years to come.

I'd be remiss if I didn't also tell you—or perhaps warn you—that he and PETE SESSIONS were roommates at the university.

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.

AGE NOT AN ISSUE FOR BASEBALL'S JACK McKEON

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

Mr. COBLE. Mr. Speaker, Jack McKeon resides in Elon, North Carolina. And in 2003, he became the oldest manager to win a World Series championship, having defeated the New York Yankees. Jack was recently recalled by the Florida Marlins and now finds himself in the Marlin wheelhouse again, this time as the second oldest manager to manage a Major League team.

Jack responded when people questioned his age. He said, ''Experience should not be penalized.'' And Trader Jack further said, ''I'll probably be managing when I'm 95.''

From one octogenarian to another, on behalf of the citizens of the Sixth District of North Carolina, we extend hearty good wishes to Jack McKeon for the remainder of this season and until he is 95 years of age.

PRESIDENTIAL SCHOLARS

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

Mr. CICILLINE. Mr. Speaker, I rise today to recognize and honor Emily Gordon and Dylan Burke, young advocates in the fight to cure type 1 diabetes.

Emily and Dylan are making a significant impact on the research for diabetes, and their work will benefit future generations. That's because they are both delegates representing Rhode Island in the Juvenile Diabetes Research Foundation's Children's Congress gathered here in Washington this week, and they are with us on the floor today.

Emily, of Lincoln, Rhode Island, and Dylan, of Newport, Rhode Island, are working to raise public awareness of the critical need for diabetes research to eliminate this disease. Diagnosed at 17 months old, Emily has known diabetes for most of her life and doesn't view herself as different from other children. And Dylan has seen firsthand some of the complications of type 1 diabetes since his father also has the disease.

The work that Emily and Dylan are performing during the Children's Congress is critical to the nearly 26 million Americans who have diabetes. I commend and congratulate them for overcoming great obstacles to work towards a cure that will improve and save lives in generations to come.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind Members not to address guests on the floor of the House.

STIMULUS FAILURE

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

Mr. PITTS. Mr. Speaker, some may wonder why the nearly $1 trillion in government stimulus spending failed to hold down unemployment or reinvigorate our economy. Phillip Greenspun, owner and operator of a helicopter company in Boston, understands why government doesn't efficiently spend the public's money. In a June 16 blog post, he relates his maddening experiences with Federal bureaucracy.

As the manager of his company, he must administer a random drug test to employees. As the only employee, he must surprise himself with a drug test. As the manager, he must take a course on giving drug tests. As the only employee, he must take a course on his rights regarding drug tests. Mr. Greenspun notes that all of these requirements and steps don't just cost him money, but cost the Federal Government since FAA employees must ensure all of these requirements are met. It's just a small illustration of how the government manages to make the simple complex and hurt both businesses and taxpayers. It's just another reason why we need a smaller, less expensive Federal Government so that our private sector can grow again.

BIPARTISAN EFFORT TO REPEAL CLEAN WATER ACT

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

Mr. COHEN. Mr. Speaker, up to today, I was concerned that my friends on the Republican side were only trying to defeat great Democratic programs of the 20th century. Medicare, which will be celebrating its 46th birthday next month, is one of the great laws that have been passed in this House, and yet it's in danger. Medicare as we know it is in danger.

Social Security passed in the thirties, one of the great social advances of the 20th century under President Franklin Roosevelt, but also endangered—all Democratic activities and Democratic Congresses. But today I saw there was a bipartisan effort to destroy the work of the 20th century. In the Transportation Committee, a bill coming to this floor is going to try to end the Clean Water Act. So it's bipartisan.

Richard Nixon passed the Clean Water Act. I'm a history buff, and I think Richard Nixon should be known not just for Watergate, but for clean water. I hope they don't repeal Richard Nixon's signature achievement, the Clean Water Act.

□ 1140

TIME TO MOVE FORWARD ON FREE TRADE AGREEMENTS

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

Mr. BUCHANAN. Mr. Speaker, international competitiveness is critical to revitalizing America's economy. That is why it is so imperative that we move forward three free trade agreements with Colombia, Panama, and South Korea. Passage of these FTAs will not only improve our relationship with these countries but will also create new trade and jobs for America.

Make no mistake—creating jobs and growing the economy are the most important issue today facing America. The U.S. International Trade Commission reported that passage of these free trade agreements could create as many as 250,000 American jobs. In Florida, we have 14 deepwater seaports that generate over $65 billion in economic value to the State. These trade agreements will only enhance that figure.

It is time that we get serious and start competing in the global marketplace. That time is right now.

RESPECTING SENIORS

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

Mr. CARNAHAN. Mr. Speaker, our seniors need Medicare. As we prepare to celebrate its 46th anniversary next month, history shows Medicare has been one of the most successful health care programs in our Nation. Seniors rely on it. But my Republican colleagues, sadly, want to end Medicare as we know it.

Missouri's own Harry Truman conceived of Medicare and was the recipient of the first Medicare card in 1965 as it was signed into law by LBJ. At the time, 40 percent of American seniors over 65 lived at or below the poverty level. Now, more than 40 million seniors in America are enrolled in Medicare, including 1 million Missourians, and the poverty rate for seniors has dropped to only 10 percent.

The Republican plan is to reopen the doughnut hole, double seniors' medical expenses, and give insurance companies the power to ration care. We cannot let this happen. Everyone agrees we must make serious cuts to lower our debt, but we have to take a balanced approach that doesn't threaten the fragile recovery or scapegoat American seniors.

I ask my colleagues to set our differences aside and have a serious conversation about our debt that respects what seniors need and deserve.

FINDING A CURE FOR DUCHENNE MUSCULAR DYSTROPHY

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

Mr. RUNYAN. Mr. Speaker, I rise today to raise awareness about Duchenne muscular dystrophy. Duchenne is a progressive muscle disorder for which there is no cure and affects boys disproportionately. According to Parent Project Muscular Dystrophy, the disease affects approximately one in 3,500 live male births. Conditions of the disease include deterioration of the muscle tissue, abnormal bone development, paralysis, and eventually death.

Earlier this year, my office was contacted by several families from my district whose young sons are living with Duchenne disease. Duchenne takes lives too quickly, but, due in large part to the research developments, there are three signs of hope.

Over the last 5 years, Congress has appropriated $175 million to NIH for Duchenne efforts. In 2010, the NIH awarded three grants specifically to New Jersey institutions totaling $874,000. Two of the grants were awarded to the University of Medicine and Dentistry of New Jersey to explore treatments for congenital diseases, and the third went to TRIM-edicine for research of protein therapies for muscular dystrophy.

I hope these and other innovations bring us closer to finding the answers that we need to help and even cure Duchenne muscular dystrophy.

REDIRECTING RESOURCES FROM AFGHANISTAN TO AMERICA

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

Mr. CLARKE of Michigan. Mr. Speaker, it is time for us, this Congress, to begin withdrawing both our troops and our tax dollars from Afghanistan. For now, it is important to still train the Afghan National Army, but we don't have to spend $100 billion a year and keep over 100,000 troops in Afghanistan to help keep stability in that country.

We need to cut back our borrowing and our spending in Afghanistan in order to cut our debt and our deficit right here. But equally important, let's take that money that was slated for Afghanistan, and it is our tax dollars in the first place, and let's redirect it to the United States to protect Americans here at home with stronger homeland security. And all of the money we have spent in Afghanistan repairing bridges and roads and building schools and businesses, let's redirect this economic aid to the United States, because we need jobs here. Redirect our tax dollars from Afghanistan to help Americans and put them back to work.

HONORING THE LIFE OF ARMY PRIVATE FIRST CLASS MICHAEL C. OLIVIERI OF HOMER GLEN, ILLINOIS

(Mrs. BIGGERT asked and was given permission to address the House for 1

minute and to revise and extend her remarks.)

Mrs. BIGGERT. Mr. Speaker, it is with a heavy heart that I rise today to honor the life of an American soldier from Homer Glen, Illinois, who made the ultimate sacrifice in the service of his country.

Private First Class Michael C. Olivieri was a dedicated soldier serving his first tour of duty in Baghdad where he was helping to train and support the Iraqi police. On June 6, his base came under attack, resulting in the death of five soldiers, including Michael.

Last week would have marked Michael's first wedding anniversary, which he had hoped to celebrate during a scheduled visit home. During that same visit, he was to attend his sister's wedding.

Mr. Speaker, Michael was a caring husband, a loving son and grandson, a beloved sibling, and a dear friend to countless members of the Homer Glen community. A 2002 graduate of Lockport Township High School, Michael attended Southern Illinois University and went on to enlist in the U.S. Army, where his talents and leadership were on full display.

Often playing the guitar for his buddies in the field, Michael was well known for lifting the spirits of his fellow soldiers, and he will be missed dearly by those who knew and loved him.

Today I would like to offer my heartfelt condolences to his wife, Sharon; his parents, Michael and Jody; his sisters, Abby and Ashley, his brother, Joe; and his grandparents, Joseph and Adelaide Olivieri and Dorothy Riegel.

Private Michael C. Olivieri was a great man, a distinguished soldier, and a true American hero.

INVESTING IN THE FUTURE

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

Mr. DEFAZIO. Last December, with one vote, Congress voted to add $400 billion to this year's deficit by extending all the Bush tax cuts and adding a new Social Security tax holiday. The premise was this would put America back to work. Well, guess what? It hasn't worked—borrowed money, a consumption-driven economy is anemic at best. Now the Republicans and President Obama want to double down. They want to expand and continue the Social Security tax holiday at a cost of 220 billion borrowed dollars.

How about instead of more tax cuts, instead of reducing investment in infrastructure, how about $220 billion of real investment in our crumbling national infrastructure? We could put 7.5 million people to work, not just in construction, in engineering, in small businesses and manufacturing, and add $1.5 trillion to our economy.

The choice is clear: more failed policies of the past or investment in the future.

ACTION NEEDED ON THE DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2012

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

Mr. ADERHOLT. Mr. Speaker, I rise today to ask one simple question to the other Chamber across the Capitol: Where is their appropriation bill for the Department of Homeland Security for FY 2012?

On June 3, some 19 days ago, the House passed its version of the FY12 appropriation bill for the Department of Homeland Security, a bill that not only invokes fiscal discipline and needed oversight, but one that ensures that our frontline security and personnel and homeland security programs are adequately funded for the coming fiscal year. In addition, the House-passed bill includes $1 billion in supplemental funding for FEMA's disaster relief efforts that is available immediately upon enactment. Unfortunately, as of today, we have seen absolutely no action from the other body. There is no plan, no leadership, and no commitment to fiscal discipline, security, or disaster relief.

The Democrat leadership in the other body was not elected to wait. That is not what the American people elected them to do. Waiting only puts our security and disaster relief on hold.

SAYING NO TO REPUBLICAN THREATS ON THE BUDGET

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

Mr. YARMUTH. Mr. Speaker, we are now less than 6 weeks away from a magical date, August 2. That is the day when the Secretary of Treasury said we will essentially have to foreclose on the United States of America. We will begin paying China before we pay our troops. That is right. That is the day we run out of tricks to avoid raising the debt ceiling in this country.

Just Sunday, my senior Senator, the minority leader of the Senate, said on CBS News that he was actually threatening basically to derail whatever deal comes on raising the debt ceiling if we don't do a deal on entitlements. It is an interesting threat, and I would like to point out what Ezra Klein wrote in The Washington Post. He said:

''But what, specifically, is the threat here? That Republicans will endanger the economy and run a campaign demanding deep Medicare cuts necessitated by an unrelenting hostility to tax increases on the richest Americans in an election year? That's not a credible threat. At some point, Democrats need to begin saying no to this stuff, and now's as good a time as any.''

I say no.

□ 1150

HOMELAND SECURITY APPROPRIATIONS BILL

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

Mr. DENT. I too rise today to urge the Senate to take up this year's Homeland Security appropriations bill. The Senate has a bad habit of waiting to do just about anything. It's bad enough that the Senate has refused to even take up a budget. It's been hundreds of days before they considered to do one. But now they're derelict in their duties by failing to deal with the Homeland Security appropriations bill. We need to fund ICE, we need to fund CBP, we need to fund the Coast Guard, and many other critical functions of this Department. Of course, FEMA has great needs right now with the floods in Missouri, and elsewhere, and all the tragedies we've seen with the tornadoes across the country. It's important now that we get this funding, which was appropriated out of the House, through the Senate.

Mr. Speaker, with the 10th anniversary of 9/11 and those horrific attacks just weeks away and disasters occurring all over the country, I certainly urge today that the Senate move forward. There can be no further delay. The motto of the Senate simply can't be: do nothing, do nothing, do nothing; start slow and then wind down from there.

That's what we seem to be getting. But not on this bill. Move the House appropriations bill on Homeland Security immediately.

ONGOING VIOLENCE IN SYRIA

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

Mr. PETERS. Mr. Speaker, I rise today to express my growing concern regarding the events unfolding in Syria. President Assad has repeatedly refused to usher in democratic reforms for his people and instead has chosen to continue his indiscriminate killings of innocent men, women, and children. His ruthless campaign of brutality has now shifted to northern Syria, where Syrian security forces led by President Assad's brother have instilled fear in the residents. Many of those innocently protesting for reform and freedom have been gunned down and many more have fled their homes, leaving all belongings and possessions behind.

With a complete ban on the entry of foreign journalists into the country, it is nearly impossible to determine just how dire the circumstances are. However, with the thousands of Syrians fleeing the violence into nearby Turkey, it is clear that conditions both in Syria and on the Turkish-Syrian border are deteriorating.

I therefore urge President Assad to allow humanitarian aid groups access

into Syria. By refusing entry, President Assad has forced his own people to not only live under deplorable conditions but he has forced them to live in a constant state of fear. Aid groups must be allowed in to provide the vital care. If the Syrian regime has any compassion, it will do so.

HAPPY 100TH BIRTHDAY TO EDNA YODER

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

Mr. YODER. Today, I rise for a very special tribute to a strong, wonderful, and sweet woman who has played a remarkable role in my life and all those who know her. Edna Yoder, my grandmother, will be celebrating her centennial birthday next week on June 28. Edna reflects the heart and soul of our American rural heritage, and she embodies the prairie spirit that is the bedrock of our Nation's values.

Born in 1911 and raised on a Kansas farm, she and my grandfather, like so many other Americans, carved a way of life out of the Kansas prairie through hard work, determination, and strong heartland values. Each time I step on the floor of the United States House, I strive to honor these principles that my grandmother and her generation have taught us.

Mr. Speaker, join me in wishing my grandmother Edna Yoder a happy 100th birthday.

DEFINITION OF MEDICARE

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

Mr. POLIS. There's been a lot of discussion in the House about how best to characterize the Republican plan to eliminate Medicare. I want to start with the definition. The Oxford English Dictionary definition of Medicare: a Federal system of health insurance for people over 65 years of age and for certain younger people with disabilities. So, again, a Federal system of health insurance.

If you replace a Federal system of health insurance with a Federal system of assistance or a voucher or helping to pay part of the cost, you don't have anything that meets the definition of what we know as Medicare. Maybe they want to call it ''Medi-Assist.'' Maybe they want to call it ''Medi-Voucher.'' Maybe it covers part of the cost of care for some people. Maybe it costs a lot less than it really costs to get health care insurance for others. In fact, according to nonpartisan estimates, the average senior will have to pay $6,000 more for health care by the time the Republican budget is fully implemented. But whatever it is, it ain't Medicare.

Medicare is very simple. The American people truly understand what Medicare is. We all have family that rely on Medicare. Lord knows, we need to improve Medicare to help make sure it's sustainable for the next generation. Ending Medicare is not an improvement.

FOLLOW HOUSE RULES

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

Mr. SENSENBRENNER. Mr. Speaker, shortly, the House will begin its consideration of the so-called ''patent reform'' bill.

At last night's meeting of the Rules Committee, when the debate on the rule within the committee wrapped up, the chairman chastised the Judiciary Committee for voting out a bill in violation of House rules, and specifically the House CutGo rules. However, the Rules Committee also voted a waiver that allows the CutGo rules to be ignored. That waiver is described by its supporters as a technical correction. This technical correction involves $700 million, hardly something that is technical.

It seems to me that the best thing that should have been done was that the Rules Committee ordered the bill re-referred to the Judiciary Committee so the Judiciary Committee could do it right in conformity with the House rules, like the gentleman from Michigan (Mr. CONYERS) did when he was the chair and which I did when I was the chair. We ought to know this when we're debating it.

TIME TO ''CUT AND GROW'' IN ORDER TO CREATE JOBS

(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, the unemployment rate for the month of May was 9.1 percent. This marks the 28th consecutive month that unemployment has been at 8 percent or above. The President said unemployment would never reach 8 percent with his economic policies, which have sadly failed. Tragically, almost 14 million Americans are unemployed and looking for a job. The average job seeker in America has been unemployed for almost 40 weeks—almost 10 months.

This administration and its job-killing policies continue to spend and borrow money at a reckless rate without understanding a basic and fundamental principle: when the Federal Government borrows money wildly, it takes it away from the private sector's ability to create jobs. The House Republicans have solutions to promote jobs with the ''cut and grow'' congressional plan. First, you cut spending and then small businesses add jobs. This is the best way for families to get back on the path to prosperity.

In conclusion, God bless our troops and we will never forget September the 11th in the global war on terrorism.

PROVIDING FOR CONSIDERATION OF H.R. 2021, JOBS AND ENERGY PERMITTING ACT OF 2011, AND PROVIDING FOR CONSIDERATION OF H.R. 1249, AMERICA INVENTS ACT

Mr. NUGENT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 316 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 316

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2021) to amend the Clean Air Act regarding air pollution from Outer Continental Shelf activities. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. All points of order against provisions in the bill are waived. No amendment to the bill shall be in order except those printed in part A of the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. At any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1249) to amend title 35, United States Code, to provide for patent reform. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. An initial period of general debate shall be confined to the question of the constitutionality of the bill and shall not exceed 20 minutes equally divided and controlled by Representative Smith of Texas and Representative Kaptur of Ohio or their respective designees. A subsequent period of general debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original

bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in part B of the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 3. Upon receipt of a message from the Senate transmitting H.R. 1249 with a Senate amendment or amendments thereto, it shall be in order to consider in the House without intervention of any point of order a single motion offered by the chair of the Committee on the Judiciary or his designee that the House disagree to the Senate amendment or amendments and request or agree to a conference with the Senate thereon. The motion shall be debatable for one hour equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the motion to its adoption without intervening motion or demand for division of the question.

□ 1200

POINT OF ORDER

Mr. GARAMENDI. Mr. Speaker, I raise a point of order against House Resolution 316 because the resolution violates section 426(a) of the Congressional Budget Act. The resolution contains a waiver of all points of order against consideration of the bill, which includes a waiver of section 425 of the Congressional Budget Act, which causes a violation of section 426(a).

The SPEAKER pro tempore. The gentleman from California makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

The gentleman has met the threshold burden under the rule and the gentleman from California and a Member opposed each will control 10 minutes of debate on the question of consideration. Following debate, the Chair will put the question of consideration as the statutory means of disposing of the point of order.

The Chair recognizes the gentleman from California.

Mr. GARAMENDI. Mr. Speaker, I raise this point of order not necessarily out of concern for the unmet, unfunded mandates, although there are many in H.R. 2021, the Jobs and Energy Permitting Act of 2011; I raise the point of order because it is one of the very few vehicles we have, given the House rule, by which we can actually talk about what is in this bill, and there are plenty of problems in this bill. I also note that the resolution includes H.R. 1249, which talks about patents, because that also violates the House's CutGo rule.

Let me speak to H.R. 2021, the Jobs and Energy Permitting Act of 2011, which is actually better noted as the ''bad lung, emphysema and cancer act of 2011.''

This bill gives offshore oil companies a pass to pollute by exempting the offshore drilling companies from applying the pollution controls to vessels, which account for up to 98 percent of the air pollution from offshore drilling. I suppose, if you're in the Gulf of Mexico and the wind is blowing towards the shore, you would care about this; but in California, the wind almost always blows onto the shore, and the offshore drilling and the additional pollution that would be allowed because of this is a serious problem for California.

It poses a health risk. Smoke, fumes, dust, ash, black carbon—all of these things—blow onto the shore in southern California where we already have quite enough air pollution without this additional amount.

Local communities do have a right—and should—even though this bill would tend to limit it, to go to the EPA. It cuts the review time in half, thereby denying local communities the full opportunity to express their concerns about the additional pollution.

It eliminates third-party expert decision-making by the Environmental Appeals Board—finally, 20 years of the Environmental Appeals Board, created under the George W. Bush EPA, and it eliminates that.

There are many, many problems here, and I would like to raise them all by including the patents in this.

I would like to now yield 3 minutes to my colleague from California (Ms. ZOE LOFGREN).

Ms. ZOE LOFGREN of California. Mr. Speaker, the base bill is estimated to have a discretionary cost of $446 million over the next 5 years, $1.1 billion over the next 10 years. The manager's amendment violates the new CutGo rules by undoing the anti-fee diversion language, which eliminates a procedure that would have decreased the budget deficit by $717 million over 5 years. This violates the CutGo rules that the majority put in place.

I would note also that the rule and the manager's amendment have many other problems. I am very disappointed that having worked on the patent reform measure since 1997 that we are yanking defeat from the jaws of victory here today. The rule does not permit the consideration of Mr. CONYERS' amendment, which was focused on this fee matter that corrects the violation of the rule. It also does not permit the consideration of the grace period preservation and prior art clarification that is essential to small inventors. If we are going to go to the first-to-file system, we need to make sure that we protect prior user rights and that we protect the grace period that has been with our system for so long or else we are going to disempower small innovators. That is simply wrong.

This is a bill that had in the past gained nearly unanimous support when Mr. SENSENBRENNER was chair and when Mr. CONYERS was chair. I am distressed to report today that I cannot support this measure after working on it since 1997. Not only does it violate the rules, but it costs the Treasury, and it will disempower small innovative inventors. So this is wrong, and the amendments that could have been put in order to correct them were not permitted. I think this is really quite a shame, and I would urge that the measure not be brought up and, as Mr. SENSENBRENNER has suggested, that it be sent back to the Judiciary Committee for further work.

□ 1210

Mr. GARAMENDI. May I inquire as to how much time I have remaining.

The SPEAKER pro tempore. The gentleman from California has 5 minutes remaining.

Mr. GARAMENDI. I now yield 2 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of the move by the gentleman from California (Mr. GARAMENDI) to delay consideration of this rule, and I want to talk about the patent bill specifically.

The Rules Committee granted a waiver of CutGo rules to this bill so that it would not be subject to a point of order. I believe in the CutGo rules, and I'm told by the supporters of this bill that this waiver is just technical because the committee violated the rules in turning discretionary spending into mandatory spending.

As we have just heard, this technical waiver involves $717 million. It is hardly technical; and in fact, at the end of the Rules Committee's consideration of this resolution last night, the chairman of the Rules Committee admonished the chairman of the Judiciary Committee, the gentleman from Texas (Mr. SMITH), that he should not be reporting out legislation that violates House rules.

Now, rather than giving the Judiciary Committee a get-out-of-jail-free card with a $717 million technical waiver, we should send this bill back to the Judiciary Committee so that they can fix up their own mess rather than having the House or the Rules Committee do it.

Now, making a motion to send the bill back to the Judiciary Committee

is not in order because I looked into that. The only way we can get this legislation fixed up, without a $717 million technical waiver of CutGo rules, is to support the motion that the gentleman from California (Mr. GARAMENDI) is making, and I go across the aisle by agreeing that he is on the right track on this, and I hope that he is supported.

Mr. GARAMENDI. I thank the gentleman.

I reserve the balance of my time.

Mr. NUGENT. Mr. Speaker, I rise in opposition to the point of order and in favor of consideration of the resolution.

The SPEAKER pro tempore. The gentleman from Florida is recognized for 10 minutes.

Mr. NUGENT. I reserve the balance of my time.

Mr. GARAMENDI. Well, I think he tossed it back to me, Mr. Speaker; so let me go ahead and finish this up.

Mr. SENSENBRENNER accurately talked about the way in which this particular resolution and the underlying bill on the patent bill violates the House rule that was written not more than 5½ months ago. Why would we want to violate the rules that we put in place to prevent excessive Federal spending? Doesn't make sense to me. So I agree with Mr. SENSENBRENNER: send this thing back. It's a violation of the rule, and I would ask for a ruling on that from the Chair.

The other point that I'd like to make is a similar point with regard to the offshore oil drilling bill which really does present a very serious problem for California. All of the offshore drilling in California—and it's very extensive. It's the second largest year for offshore drilling in the United States—is immediately off the southern California coast where we have very serious air pollution problems, some of the worst in the Nation.

All of those offshore drilling platforms pollute, air pollution of many different kinds causing potential harm to the citizens of southern California. Those onshore winds bring those pollutants onto the shore and cause additional air pollution problems which then require, under this bill, that the local communities take additional action to reduce the pollutants that are generated onshore, creating a very serious economic problem.

In addition, the bill requires that any legal issue raised has to be taken up in the district court here in Washington, D.C. By my calculation, that's nearly 3,000 miles away from where the problem exists, that is, southern California, placing an incredible burden upon them and an unfunded mandate that they have to then come out of their own budgets to come to Washington, D.C., to take up any legal issue that is raised, an unfunded mandate clearly in violation of the Rules of the House.

And, therefore, a point of order is in order, and I would hope that the Speaker would so rule.

There are many, many problems beyond that with regard to air pollution and the like. I will let those go.

I reserve the balance of my time.

Mr. NUGENT. Mr. Speaker, the question before the House is, Should the House now consider H. Res. 316? While the resolution waives all points of order against consideration of the bill, the committee is not aware of any points of order. The waiver is prophylactic in nature.

The Congressional Budget Office believes that H.R. 1249 would impose both intergovernmental and private sector mandates as defined by the Unfunded Mandates Reform Act on certain patent applications and other entities and would also be preempted from the authority of State courts to hear certain patent cases.

However, based upon information from the Patent and Trademark Office, the Congressional Budget Office estimates that the costs of complying with those mandates to State, local, and tribal governments would fall far below the annual threshold established by the Unfunded Mandates Reform Act. Because the costs of complying with the mandates fall below the annual threshold, the waiver is prophylactic in nature.

In order to allow the House to continue its scheduled business of the day, I urge Members to vote ''yes'' on the question of consideration of the resolution.

I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from California has 30 seconds remaining.

Mr. GARAMENDI. I will ask for a vote, but I now yield the balance of my time to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, a $717 million CutGo waiver is not prophylactic in nature. It's whether we are going to abide by our CutGo rules or whether we won't; and the way we enforce the CutGo rules is by delaying consideration of this legislation, sending the patent bill back to committee, and letting the committee spend some time complying with the rules of the House of Representatives. This is a terrible precedent to set. Don't set it now.

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

Mr. NUGENT. Mr. Speaker, what's amazing about this is that we're going to stop the debate on the House floor about very important legislation that needs to move forward, both of those pieces of legislation. And so we need to have open debate on the House floor with opposing viewpoints, with the ability to have amendments added on the floor, which we have allowed in this rule.

With that, Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. DREIER), the chairman of the Rules Committee.

Mr. DREIER. I thank my friend for yielding.

Mr. Speaker, let me say that we obviously are dealing with an irregular development that took place in the Judiciary Committee, that being the notion of believing somehow that they could appropriate dollars.

We know full well that the Judiciary Committee cannot engage in the appropriations process itself, and so all that this provision that we are pursuing does is allows us to take from mandatory back to discretionary spending without any cost whatsoever. The power will fall with this institution, with the first branch of government, which is exactly where it should be.

And everyone, Mr. Speaker, talks about the concerns that we have over mandatory spending. Both Democrats and Republicans alike have made it clear that if we don't deal with the issue of mandatory spending we're not going to successfully address the economic and budget challenges that we face.

So all this provision does is it allows us to deal with what was an irregular development that took place in the Judiciary Committee, and it is for that reason that I support my friend from Florida's effort.

Mr. SENSENBRENNER: Will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Can the gentleman from California please explain to the House how we're going to cut spending by violating our CutGo rules with a $717 million waiver when the gentleman from California has already chastised the Judiciary Committee for violating the rules?

□ 1220

Mr. DREIER. Let me just say that this has absolutely no effect whatsoever on the actual spending level. By the way, the Congressional Budget Office is not able to take in the mix the details of this extraordinary development that took place in the Judiciary Committee. And so there is not going to be any cost.

This is a provision which clearly will allow us, as my friend from Florida has said, to proceed with a very important debate and to rectify a mistake that was made there.

I thank my friend for yielding.

Mr. NUGENT. I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

The question is, Will the House now consider the resolution?

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

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 215, nays 189, answered ''present'' 1, not voting 26, as follows:

[Roll No. 463]

YEAS—215

Adams
Aderholt
Akin
Amash
Austria
Bachmann
Barletta
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boustany
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Cravaack
Crawford
Crenshaw
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Marchant
Marino
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paul
Paulsen
Pearce
Pence
Peters
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rooney
Ros-Lehtinen
Roskam
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schweikert
Scott (SC)
Scott, Austin
Sessions
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Southerland
Stearns
Stutzman
Sullivan
Thompson (PA)
Thornberry
Tipton
Turner
Upton
Walberg
Walden
Webster
West
Westmoreland
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (IN)

NAYS—189

Ackerman
Altmire
Andrews
Baca
Baldwin
Barrow
Bass (CA)
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Brady (PA)
Braley (IA)
Brown (FL)
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Eshoo
Farr
Fattah
Filner
Frank (MA)
Franks (AZ)
Fudge
Garamendi
Gonzalez
Green, Al
Grijalva
Gutierrez
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hochul
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kildee
Kind
King (IA)
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Manzullo
Markey
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Peterson
Petri
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Reyes
Richardson
Richmond
Rohrabacher
Ross (AR)
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Sensenbrenner
Serrano
Sewell
Sherman
Shuler
Sires
Slaughter
Speier
Stark
Sutton
Terry
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Wu
Yarmuth

ANSWERED ''PRESENT''—1

Johnson (IL)

NOT VOTING—26

Alexander
Bachus
Brady (TX)
Burton (IN)
Duffy
Engel
Giffords
Gingrey (GA)
Gohmert
King (NY)
Lummis
Mulvaney
Myrick
Perlmutter
Rangel
Rokita
Schock
Scott, David
Shimkus
Stivers
Tiberi
Towns
Walsh (IL)
Whitfield
Young (AK)
Young (FL)

□ 1249

Messrs. TERRY, WELCH, and CONYERS changed their vote from ''yea'' to ''nay.''

Messrs. LANDRY, RYAN of Wisconsin, MICA, HALL, and CULBERSON changed their vote from ''nay'' to ''yea.''

So the question of consideration was decided in the affirmative.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following vote. If I had been present, I would have voted as follows: Rollcall vote 463, On Question of Consideration of the Resolution—H. Res. 316, Providing for consideration of the bill (H.R. 2021) to amend the Clean Air Act regarding air pollution from Outer Continental Shelf activities, and providing for consideration of the bill (H.R. 1249) to amend title 35, United States Code, to provide for patent reform—I would have voted ''aye.''

The SPEAKER pro tempore (Mr. WOMACK). The gentleman from Florida is recognized for 1 hour.

Mr. NUGENT. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Colorado (Mr. POLIS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

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

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

There was no objection.

Mr. NUGENT. House Resolution 316 provides a structured rule for consideration of both H.R. 1249 and H.R. 2021. The rule provides for ample debate on both of these bills and gives Members of both the minority and the majority the opportunity to participate in the debate.

Mr. Speaker, I rise today in support of H. Res. 316. As I said before, this rule provides for consideration of two different bills: H.R. 1249, the America Invents Act, and H.R. 2021, the Jobs and Energy Permitting Act of 2011. Although these bills share one rule, the House will have opportunity to consider these pieces of legislation separately, and the rule ensures that we'll have full, transparent debate on both of these bills.

Article I, section 8 of the Constitution delegates Congress the exclusive authority over U.S. patent law. However, Congress has not enacted a comprehensive patent reform for nearly 60 years, since the Patent Act of 1952.

The America Invents Act makes significant substantive, procedural, and technical changes to current U.S. patent law that is designed to put American inventors on a level playing field with their global competitors.

I've heard from my colleagues on both sides of the aisle about concerns they have with the America Invents Act. In fact, I have some of those same concerns myself. As colleagues on the other side of the aisle, and some on this side of the aisle, are going to point out, this rule waives CutGo.

Quite frankly, Mr. Speaker, I hate that we have to waive CutGo to bring this legislation to the House floor. However, I need to stress to Members on both sides of the aisle that even though this rule may waive CutGo, it does not increase the budget or its deficit.

The Judiciary Committee wrote a bill that violated the House rule by appropriating when it moved patent fees from discretionary spending to mandatory spending. The manager's amendment fixes the Judiciary Committee's violation of those House rules. The manager's amendment does this at the insistence of the Rules Committee and the leadership.

This is the right thing to do. The Constitution makes it clear that the power of the purse must stay in Congress, and I believe abdicating agency funding to PTO would have clearly violated the Constitution.

However, by moving money back to discretionary spending, Chairman SMITH's manager's amendment does, through a technicality, violate CutGo. Again, let me remind my colleagues that while the manager's amendment does require a technical waiver of CutGo, this does not increase the deficit. Let me say it again. This does not increase the deficit.

In fact, Budget Committee Chairman RYAN supports this solution because, one, the manager's amendment ensures that the funding for PTO stays on the discretionary side where it is subject to appropriation, budget enforcement, and oversight. Two, this is the only technical waiver of the CutGo rule because the provisions of the manager's amendment were not included in the reported bill.

As I said before, I don't like it that we need to waive CutGo. However, it is the right thing to do so we can ensure, institutionally, that the power of the purse continues to lie with Congress, where our Founding Fathers intended it to be.

Additionally, I'm proud to say this is the first time ever, the first time ever this rule actually specifically designates 20 minutes for debate devoted exclusively to the constitutionality concerning H.R. 1249.

We opened the 112th Congress by reading the U.S. Constitution. As a member of the Constitution Caucus, I believe we can't let the conversation end there. Therefore, I'm proud of this rule, which continues to reflect Congress' commitment to our Nation's foundation, the Constitution.

But this rule isn't just for H.R. 1249; it's also for H.R. 2021, the Jobs and Energy Permitting Act.

Mr. Speaker, I strongly support this legislation. The U.S. Geological Survey estimates that Alaska's Beaufort and Chukchi Seas contain 27.9 billion—that's with a ''b''—barrels of oil and 122 trillion cubic feet of natural gas. These resources, if developed, could produce up to 1 million barrels of oil per day for domestic energy consumption.

However, while companies may have drilling leases to these lands, they continue to be mired in redtape and bureaucratic delays related to the Clean Air Act. This bill helps cut through these delays.

H.R. 2021 eliminates the permitting back-and-forth that occurs between the Environmental Protection Agency and its Environmental Appeals Board. Rather than having exploration air permits repeatedly approved and then rescinded by the EPA and its review board, under H.R. 2021, the EPA will be required to take final action, either granting or denying the permit, within 6 months.

Mr. Speaker, the American people are tired of the EPA keeping us from taking advantage of our own natural resources. We're the only country in the world that does that.

And, Mr. Speaker, the Obama administration has put their green agenda and EPA bureaucracy over American jobs and the ability for our energy security. H.R. 2021 helps bring an end to those irresponsible policies.

I encourage my colleagues to vote ''yes'' on the rule.

I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I thank my friend from Florida for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, patents are one of the most critical components that drive American innovation, drive our economy, drive invention and innovation. Regrettably, for a variety of reasons, the bill that this rule makes in order fails to ensure that the Patent Office has the resources it needs to process patent applications in a timely manner.

Now, I am grateful that this rule allows discussion of a number of important amendments, including my amendment, but there are a number of underlying flaws in the manager's amendment to this bill.

Inventors, innovators, and job creation should not be on hold due to delays in patent approval. I'm an inventor of several patents, and I can tell you that the quickest one that I received took over 5 years until it was granted. By the time it was granted, I had actually sold the company and was no longer involved in the sector.

The Internet and the information economy move at a speed and a different timeframe than our current patent review process operates under. Yet, this legislation, in its current form, with the manager's amendment, might actually serve to ensure that those delays continue because of a squabble between factions on the majority side.

Rather than resolve these differences to the benefit of American inventors, instead, the baby has been split, a decision that would cause King Solomon great reticence. The bad news for any American innovator pursuing a patent, as well as for the employees that new businesses might support, is that we fail to resolve some of the most pressing issues within the patent and trademark administration through this law.

The issue is that H.R. 1249 changes what I would consider one of the most important aspects of patent reform. And while there are very legitimate and important policy discussions on the aspect of patent reform, an equally, if not more important issue is adequate funding for the U.S. Patent and Trademark Office to ensure the speedy approval of applications so that they're relevant and reviewed and granted in a timeframe consistent with the needs of the private sector.

The PTO needs to be able to charge fees sufficient to recover the cost of its services and use those fees to pay for providing those services.

□ 1300

Now the PTO has a backlog of more than 700,000 patent applications, and it takes on average—well, my wonderful documentation from my staff says 2 to 3 years for a patent to get to be approved or rejected. I have never had one reviewed in anything close to that time. Maybe they just see my name on it and they put it under a pile of notes and they take 5 or 6 years. But if we don't increase the resources of the PTO, there is no way the PTO could expand the number of highly qualified examiners to actually reduce patent review time and put it on a timeframe consistent with the needs of the private sector, protecting innovation.

It's crucial that the fees generated are made available to the PTO so they can run in an efficient manner and protect American innovation here and abroad. The fees should not be held hostage to political squabbling here in this body every year on appropriations bills, every year on the budget debate. The price to American innovation is one that is too steep to pay to make that beholden to our very important political discussions that we have every year, but one that inventors need predictability and companies need predictability when deciding how much to invest in R&D and deciding how to pursue patents with their invention.

I understand that some on the other side might be satisfied with the current manager's amendment language, but the worry is that the Patent and Trademark Office cannot actually use the patent fees to search, examine, and grant patents where warranted. So I would ask: What's the point?

Patent reform is not traditionally—nor is it today, nor should it be—a Democratic or Republican issue. It's a nonpartisan issue. High-quality patents, as mentioned in the United States Constitution, are crucial to our economy getting back on track and moving forward.

President Obama issued a challenge in the State of the Union address to outinnovate, outbuild, and outeducate the world. And having a patent and trademark system that we can be proud of is an important part of American competitiveness and a mark that we fail to reach with this bill and the manager's amendment.

Contrary to the belief of some, America still does invent, build, and sell our goods and services throughout the world. In fact, one of America's main competitive advantages is in the information economy, the intellectual economy, the creative economy, the very types of economic innovations that we rely on patent trademark and copyright to protect. And yet, if we fail to improve the quality of our patent application system, including rapid and high-quality review, we risk losing our leadership in innovation.

I think this Congress needs to rise beyond the petty squabbling over committee jurisdiction, over trying to bind future Congresses, over budget and appropriations debates. We really need to rise beyond that and come up with a patent bill that we can all be proud of that leaves American innovation in good stead.

Now, Mr. Speaker, this rule also calls for the consideration of H.R. 2021, that is called the Jobs and Energy Permitting Act. The proponents of this bill continue to push a false narrative sprinkled with outrage based not on facts but on sound bites. They somehow want to convince the American people that President Obama is singlehandedly shutting down oil drilling when, in fact, he has granted more permits than his predecessor. We've heard this broken record from my colleagues over and over again. And as simplistic and dramatic as the story is, the fact is that it's simply not true.

The American people know that prices at the pump—and that has caused difficulty for a lot of American families—have nothing to do with drilling here or now. Not only is there a lag effect in the 5- to 10-year timeframe, but, in fact, the domestic part of that equation in terms of reflecting gas prices is di minimus. The U.S. simply doesn't have enough oil to feed our addiction to oil, and gas prices are controlled by international markets and international supply and demand.

Despite the close relationship between the oil industry and the Bush administration, the Obama administration is allowing more drilling than the Bush administration did—much to the chagrin of some Members of the Democratic Caucus. The Obama administration approved more leases in 2010 than the Bush administration did in 7 out of 8 years of its Presidency.

In addition to more drilling, we are producing more oil, yet gasoline prices continue to go up—again, gasoline prices, international markets, supply and demand, separate from the long-term issues of drilling in this country.

The United States produces 9.7 million barrels of oil per day, and that's the most oil that we've produced in 20 years. We are just behind Saudi Arabia and Russia as the world's top producer. We have been raising production steadily since 2005—and that's a trend that I think we will be able to continue—and yet over this same period, oil hit a record high of $147 a barrel in 2008 during our period of production rise.

We need a real solution, not simply a solution that is focused on a 2012 election, on policy decrying President Obama's policies. We need a real solution to help end our Nation's reliance on fossil fuels and reduce our demand as well as supplement the energy supply with renewable energy sources.

Again and again, Republicans are proving that their energy platform isn't ''all of the above'' that common sense would dictate but, rather, ''oil above all,'' ''drill, baby, drill.''

Mr. Speaker, this rule and the underlying bills are bad policy. I think we need an open discussion of these issues rather than trying to split the baby in half, pleasing no one; and on the energy issue, rather than giving a sound bite approach, to really require a comprehensive national energy strategy, including ''all of the above.''

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

Mr. NUGENT. I appreciate the comments of my good friend from Colorado. We want to make sure that innovators like him don't have to wait 5 years to get something to market.

Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. GARDNER).

Mr. GARDNER. I thank the gentleman for the recognition.

I rise in support of this rule to bring more American energy online.

This is a bipartisan bill, H.R. 2021, and it deserves debate on the floor today. Everybody in this Chamber ought to vote for this rule if they care about our gas prices, about our national security, about our energy security, and about job creation.

This bill has the potential to create tens of thousands of jobs annually, over $100 billion in payroll over the next 50 years, and 1 million barrels of oil a day. That's nearly enough oil to replace our imports from Saudi Arabia.

This bill would reduce our dependence on Middle East oil significantly, and that ought to be our goal. Foreign nations—some of which have serious animosity towards the United States—are in control of the vast majority of oil that we use day in and day out. Is dependency on these foreign countries not one of the biggest threats that our country faces today? It's a scary reality that this bill directly addresses.

The energy security bill will streamline the process of offshore permitting. Current impediments have delayed development of the Beaufort and Chukchi Seas for over 5 years. These are areas that have already been approved for drilling. The revenues for the leases have already been collected by the Federal Government, and yet over 5 years drilling is yet to occur.

The bill will make a number of minor changes. First, it will clarify that a drilling vessel is stationary when drilling begins and, therefore, should only be regulated as a stationary source at that point. It clarifies that service ships are not stationary sources by the simple virtue of the fact that they do not stop to drill. They are mobile sources regulated, as such, under title II of the Clean Air Act.

Third, the bill clarifies that emission impacts are measured onshore, where the public resides.

Lastly, the bill eliminates the needless delays, the constant ping-pong between the EPA and the Environmental Appeals Board when it comes to exploration clean air permits. And it requires final agency action to take place in 6 months, to give them an up-or-down approval—denial of proof within 6 months.

Alaska holds tremendous potential, and this bipartisan bill achieves great things by allowing a responsible and efficient process to take place.

Mr. POLIS. Mr. Speaker, I yield 3 minutes to the ranking member of the Judiciary Committee, the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. I thank JARED POLIS, who is a brilliant former member of the Judiciary Committee, and we miss him very much.

Ladies and gentlemen, the reason these two bills are put together is very easy to fathom, that is that we have started off by, for the first time in the 112th Congress, violating the CutGo rule, formerly known as the pay-as-you-go rule, and we're trying to mask it by talking about how wonderful the second bill, the Jobs and Energy Permitting Act, H.R. 2021, is. But it's not going to work, friends, because we know why we're trying to play down the patent bill that the rule is originally committed to.

□ 1310

It is because there are growing numbers of Members that are not only going to vote ''no'' on the rule, but they are going to vote ''no'' on the bill since for the first time since January that this CutGo rule was instituted, which prohibits consideration of a bill that has the net effect of increasing spending within a 5-year window, it is waived. In other words, you can't pass a bill that will increase spending without providing an offset.

There is no offset. That is understood. But here is what the Congressional Budget Office said, that this bill will increase direct spending by $1.1 billion over the 2012–2021 period. It will increase it by $140 million by establishing a new procedure post-grant review. It will increase it by $750 million, because they establish a procedure that would allow patent holders to request the PTO to review an existing patent. It will increase it by $251 million by allowing inter partes reexamination, that is, to make it tougher and longer for a small inventor to be able to get his patent secured.

So please vote ''no'' on this rule for the reason that it violates the pay-as-you-go, now known as the cut-and-go rule.

Mr. NUGENT. Mr. Speaker, it is amazing when you hear the arguments in regards to CutGo that our friends are raising today; but in the 111th Congress, PAYGO was the flavor of the week, and that was violated eight times. And of those eight times, it actually increased, increased spending, and added to our deficit, each and every one of those.

This waiver of CutGo does neither. It merely is a technical ability for us to hear those two underlying pieces of legislation so we can have open debate on the House floor and have the amendment process be intact.

I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I yield 45 seconds to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. I thank the gentleman.

I say to the gentleman, Mr. NUGENT, the Congressional Budget Office sent us and you a letter saying it would increase direct spending by a total of $1.1

billion. That is not even a small increase. And, by the way, the fact that somebody else waived the pay-as-you-go rule doesn't give you the right to waive cut-as-you-go. This is outrageous that this would be allowed in the first 6 months of the year, and it has never been waived before in the 112th Congress. And he says it is not going to cost us very much, or nothing.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded that their remarks should be directed to the Chair and not to others in the second person.

Mr. NUGENT. Mr. Speaker, just as a response, the letter that we have from the Congressional Budget Office of May 26 talks about ''CBO estimates enacting the bill would reduce net direct spending by $725 million.'' So I am not sure if we have the same letter. But this is the letter that I referred to, Mr. Speaker, and I suggest those on the other side of the aisle may look at the same letter.

I reserve the balance of my time.

Mr. POLIS. To be clear, the gentleman from Florida refers to a letter that was regarding the initial bill. The manager's amendment actually changes the equation the gentleman indicated and renders that side letter inaccurate relating to the manager's amendment, which, if adopted under this rule, will then be part of the bill.

I yield 2 minutes to the gentleman from New York (Mr. TONKO), a member of the Budget Committee.

Mr. TONKO. I thank my colleague, the gentleman from Colorado.

Mr. Speaker, I rise in opposition to this rule on this historic day in the 112th Congress.

Six months. That's it. Six months. It took less than 6 months for the Republican majority to come to the floor of this House and break their most treasured promise to the American people, a promise made in writing to the rules of the House of Representatives. Today, by waiving the House CutGo rule, my colleagues across the aisle are giving up on their foundational principle of deficit reduction—no new spending without offsets.

Don't take my word for it. The Congressional Budget Office clearly states that the manager's amendment, as we just heard, to the base bill, H.R. 1249, breaks the rules of the House. So the majority has written a new one-time rule that breaks their most fundamental promise to America, that this Congress will not enact a dime of new spending without cutting spending from another area of our Federal budget.

This bill is going to increase discretionary spending by nearly half a billion dollars with no offset to cover that new spending. From my seat on the Budget Committee, I have watched how fiercely they have clung to this promise; and though I disagree with many of their choices and cuts, this is truly a new low. It is a historic breakdown that only took 6 months to arrive.

Though America is watching and waiting for a solution, a jobs bill, for instance, to our Nation's fiscal and economic crisis, Republicans began the year by saying that half the budget question was off the table. For instance, questions like $800 billion were spent on tax breaks for the wealthy, or like tens of billions in subsidies and deliberate loopholes for some of the wealthiest corporations on Earth.

CutGo doesn't lay down any rules about tax expenditures. We could entirely stop collecting taxes and let the budget and the economy collapse tomorrow, and that would abide by CutGo.

Again, this rule only deals with spending without finding the roughly half a billion dollars' worth of offsets to pay for the bill. Not surprisingly, this rule has lasted us only 6 months. I would ask my Republican colleagues, what will the next 6 months bring and the next 6 months after that?

Mr. NUGENT. Mr. Speaker, the manager's amendment fixes a rules violation. It requires a technical waiver of CutGo to move the patent fees back to the discretionary side. Those fees were going to be put into mandatory spending. Now it is back to discretionary.

Of course the discretionary spending went up, but think about this: the fees that are utilized to pay for this come from those that actually apply for patents. The money is going to be utilized to make sure that folks like Mr. POLIS don't have to wait 5 years. These are dollars collected for specific reasons. The reason is to allow us to become innovators again, to allow us to compete with China.

We need to do things in America to make us stronger; and while people might rail against the CutGo waiver, let's talk about the real issues that face America, and that is energy, in regards to finding more energy, bringing it to market, whether it is oil or natural gas. Those are the issues that are up. And it is about invention. It is about allowing the Patent and Trademark Office to actually get back to work and do the right things and have some ability to look forward in regards to what they can do in regards to moving forward the process.

I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I would like to yield 1½ minutes to the ranking member of the Rules Committee, the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. I do appreciate my friend from Colorado for yielding me time.

Mr. Speaker, with this rule today, the Republicans waive their so-called CutGo rule to protect a Republican manager's amendment to the patent reform bill. Nonpartisan experts at the Congressional Budget Office said, ''We estimate that amendment,'' No. 15, Smith, the manager's amendment, ''would significantly increase direct spending, would not affect revenues.''

I think, if I understand correctly, it adds about $140 million in spending.

□ 1320

By reclassifying the fees and spending by the PTO as discretionary, amendment 15 would eliminate $712 million in savings that are scored in the original bill.

Republicans have repeatedly characterized this waiver as ''technical.'' They may think the waiver is technical, but for $712 million to be tossed around does not sound technical to me or to most Americans, I'd wager. We think it's real money.

It was our Speaker, Mr. BOEHNER, who complained that the previous Democratic majority frequently waived pay-as-you-go to meet its needs. When the Republicans eliminated the PAYGO rule and replaced it with their CutGo rule, BOEHNER complained that, ''We routinely waive the Budget Act's requirements to serve our purposes.'' Today, it is the internal squabbling of the House Republican Conference whose purposes are being served by a waiver of CutGo.

They go on to say the manager's amendment is important enough to waive CutGo because it preserves congressional oversight of the Patent Office.

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

Mr. POLIS. I yield the gentlewoman 45 additional seconds.

Ms. SLAUGHTER. This is simply not accurate. The CutGo violation in the manager's amendment—the provision that increases direct spending by $712 million—would simply remove from the bill a provision that was going to ensure the Patent Office was fully funded.

If I didn't already have enough complaints against this manager's amendment, I want to call attention to the House that after 13 years of work we finally got genetic nondiscrimination passed in this Congress so that people could feel free to have genetic tests. This manager's amendment for the first time talks about the patenting of human genes. That must never, ever happen.

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

Mr. POLIS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. I thank the gentleman from Colorado (Mr. POLIS) for yielding, and rise against this rule and the underlying bill.

The bill is unconstitutional. It will stifle American job creation; cripple American innovation; it throws out 220 years of patent protections for individual inventors; and it violates the CutGo rules, increasing our deficit by over $1 billion. This bill should never have been brought to the floor. Not only is it chock full of special interest legislation for large banks and a handful of corporate interests, what we are voting on today makes a mockery of the openness that the Republican leadership promised in legislative procedures. The bill has gone through a lot

of iterations, without sunlight, since it was first reported out of committee. The Congressional Budget Office's score on this latest version of the bill that just came out last night shows that it violates the CutGo rules. That's right. It increases the deficit every year between now and 2021.

Just last week, we couldn't find enough money to provide hungry American children with food. But for some reason, the Republican leadership believes it's appropriate to add hundreds of millions of dollars in costs to the taxpayers and more regulations at the Patent Office. That's the non-partisan CBO's number, by the way. Meanwhile, the bill takes away patent and intellectual property rights of individual inventors.

This is not the bill passed by the Senate. This is not the bill that passed out of the Judiciary Committee. As the details of what we are actually being asked to vote on leaks out, more people, including now those who actually work in the Patent Office, oppose the bill. Importantly, the bill removes the requirement that only first inventors may receive a patent and it creates the monopoly nightmare that the Founders of our Constitution intended to prevent.

The first-to-file patent system will lead the Federal Government to create commercial monopolies and more regulations—exactly what Jefferson, Madison, and other Founders opposed. As opposed to securing to first inventors their property rights, the bill will merely secure unreserved rights to the first to file a patent. The first one to run over to the Patent Office might get the patent. That is not what is enshrined in our Constitution. The authentic, first inventor must not be stripped of their rights.

The very first right in our Constitution, even before the Bill of Rights, is the right to your intellectual property.

Vote ''no'' on the rule and the bill.

Mr. NUGENT. Mr. Speaker, I continue to reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROHRABACHER), a champion of individual inventors.

Mr. ROHRABACHER. I rise in opposition to the rule.

The CBO says the manager's amendment to this bill, H.R. 1249, would significantly increase direct spending. According to the CBO, over a 10-year period, H.R. 1249 would incur significant new deficit spending. For example, switching to first-to-file would increase costs by $18 million; the new post-grant review in this bill would cost $140 million; amending the inter partes reexamination would increase direct spending by $250 million. This is all annually. The new supplemental review would increase direct spending by $758 billion. That's a $1.1 billion increase in spending. Yet we as Republicans promised that if there would be this increase in spending, we would cut spending in a proportionate share. We made that the rule of how we're going to do business. This rule supersedes that promise. We should not be going back on our promise to the American people to act responsibly.

This bill will lay the foundation not only for weaker patent protection for American inventors but it will also knock the legs out from us finally being responsible in our spending patterns. This bill is not about making the Patent Office more efficient. That's what we keep hearing. It is about harmonizing American patent laws with those of Europe. And in Europe and Asia they do not have strong patent protection for their people. What that means is weaker patent protection for Americans. That is what they're trying to achieve. And who's going to be strengthened by this? Multinational corporations who don't care about the United States.

The Hoover Institution just did a major study showing that the patent bill demonstrably is a plus for large corporations who have created no jobs and hurts all the little guys and the small guys and the startups who have created all the jobs. This is an anti-jobs bill. It should be defeated.

Mr. NUGENT. Mr. Speaker, I listened to the arguments. The key to this is allowing this bill to go forward. The key to this is allowing amendments to come to the floor and have open debate. Even Mr. ROHRABACHER has some amendments that are going to be coming to this floor to have debate in regards to the merits; debate in regards to what is the will of the House. That's the reason we have the time set aside on each of these bills, so those that are opposed to it can be heard and those that have amendments that want to modify what the underlying legislation is can be heard. And issues about constitutionality. That's why this rule sets aside specific time to talk about the constitutionality of the America Invents Act. That's the beauty of this building that we're in and the organization and the institution that we represent, is the ability to have open debate, both sides of the aisle. It doesn't matter. It's about open debate and about changing and allowing us to hear differing opinions and different views.

So I respect those on the other side of the aisle. I respect those Members within the Republican side of the aisle. I respect the difference of opinion. That's what families are all about, so we can have an open discussion and exchange. That's what this rule does. It allows us to hear on both of these bills an open and frank discussion about the merits of each, the merits of any amendments as to how we want to change or modify.

I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. YARMUTH).

Mr. YARMUTH. I thank my colleague from Colorado.

Mr. Speaker, I rise to oppose the rule. When the Republicans last fall traveled around the country asking the American people to return this House to their control, they promised two things. One, they were going to create jobs. Secondly, they were going to promote fiscal responsibility and try to reduce the deficit and reduce the debt. Well, on the first score, it's been 6 months and we haven't seen the first item of job-creating legislation. On the second item, we should have known better. We should have known better than to trust them to actually try and rein in the deficit.

Today, with the rule under consideration, the Republican majority is proposing to waive the very rules they wrote to supposedly cut spending.

□ 1330

The GOP proposed the CutGo rule last year, saying it was part of their plan to rein in spending; and now, just a few short months later, they're violating their own rules. We heard the gentleman from Florida actually concede that they're violating their own rules. That is award-winning hypocrisy, but it's not surprising because, as has been mentioned, the Speaker of the House said last year, We routinely waive the Budget Act's requirements to serve our purposes.

Maybe we could excuse that if they were, say, proposing legislation to create jobs, but we know that isn't happening. In fact, the underlying bill does exactly the opposite.

It stifles innovation and entrepreneurship. The surplus fees that are collected by the Patent and Trademark Office could be used to protect patents and to process new ones so that there are new inventions, new innovations coming to market, creating jobs; but the Republican majority wants to take those funds and put them into the general kitty where they can spend it on other things like—who knows?—more tax breaks for the rich or maybe Big Oil companies.

Only time will tell that.

But now, for today, it is best advised to reject this rule and to not allow the Republicans to get away with violating their own CutGo rules and then to pass this legislation that would stifle innovation in America.

Mr. NUGENT. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. WOODALL).

Mr. WOODALL. I rise today as a proud member of the Rules Committee. I appreciate my colleague on the Rules Committee for yielding to me.

It's not lightly that I come down to the floor today, because I've only been on the job here 5 months. Mr. Speaker, you know that I'm one of the new guys here in Congress, and I came down to the House floor because I thought this is where deliberation went on. I thought this is where folks had candid conversations about how to improve a bill. I see my colleague Mr. POLIS there at the table. We've made a lot of amendments available, not just on the patent bill, but on the EPA bill as well.

So when I come to the floor and hear folks talking about CutGo, I wonder what happened to the serious conversations that we were going to have here on the floor. I wonder where the seriousness about improving the bills that are coming to the floor went because, as you know, Mr. Speaker, this CutGo issue is one that was created solely because the way the bill was reported out of committee and the way the manager's amendment impacted it created a technical CutGo violation.

A technical CutGo violation. Ask the freshman Member of Congress, and I'll tell you that there is a technical CutGo violation in the manager's amendment.

Does it spend $1? Does it spend $1 that the Federal Government wasn't going to spend anyway? No. Does it cost the American taxpayer $1? The answer is ''no.''

Mr. CONYERS. Will the gentleman yield?

Mr. WOODALL. I am happy to yield to the gentleman from Michigan (Mr. CONYERS), the ranking member.

Mr. CONYERS. This would spend $1.1 billion. That's not technical, my friend. It would spend $1.1 billion.

Mr. WOODALL. I reclaim my time.

That's what troubles me as a freshman because I know, Mr. Speaker, that the distinguished Member knows that had the committee reported this bill out the way the manager's amendment crafts this bill there would be no CutGo violation whatsoever. Hear that. Had the committee reported this bill out the way we're bringing this bill to the floor, there would have been no CutGo violation whatsoever. Yet we are raising this issue on the floor of the House as if there is some big backroom deal going on.

That's frustrating to me as a freshman Member, Mr. Speaker, because there is no backroom deal. This is the most open House of Representatives that I've seen in my lifetime. This is the most open Rules Committee that I've seen in my lifetime. This is the most open process in the people's House that I have seen in my lifetime. Yet, for reasons that I cannot suppose, folks make this case as if there are nefarious things going on in the background.

I say to my colleagues and I say to you, Mr. Speaker, that the American people have a distrust of Washington, D.C., and I will tell you that that distrust is well earned. That distrust is well earned, and that's why there are 96 new people here this time around. Folks, let's not suggest that there is something going on when there's not. Let's be honest when there are problems, and let's be honest when we're doing it right; and Mr. Speaker, we're doing it right today.

Mr. POLIS. I've been advised by some of our advisers on our side that, in fact, this would have been a CutGo violation even if this had been an amendment in committee.

This is a serious discussion. When we're talking about CutGo, it's a serious issue. I think this Congress on both sides of the aisle have come here to balance the budget, to restore fiscal discipline to our country; and setting the precedent of a CutGo violation so early in the term really calls into question what a ''rule of the House'' even means if it is to be so casually disregarded.

I yield 45 seconds to the ranking member of the Judiciary Committee, the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. I thank the gentleman for yielding.

I just wanted my dear friend—and I recognize he has only been here 5 months—to realize that this is not a technical CutGo violation. This is a $1.1 billion violation. That's real money that we're going to have to get from somewhere else, and we're waiving CutGo for the first time in the 112th Congress.

I am appealing to Republicans and Democrats, Mr. Speaker, to join with us against this outrageous and costly and blatant violation of the House rules that they wrote.

Mr. NUGENT. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER).

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

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule.

I realize that we are dealing with a somewhat unprecedented situation here; but I've got to say that, as I listen to the characterization being put forward by my colleagues on the other side of the aisle as to this so-called CutGo waiver, they appear to be way off base.

I have no idea, Mr. Speaker, what this $1.1 billion figure is. I've been asking my staff members since I heard the distinguished former chair of the committee, the ranking member, throw this figure out, and they said, We have no idea where this $1.1 billion figure has come from.

If he wants to explain that to me, I am happy to yield to my friend, the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Yes. The letter to the distinguished chair of the Rules Committee came from the Congressional Budget Office, and I would be pleased to quote it to you. The $1.1 billion is an accumulation of several other costs that they reported.

Mr. DREIER. I reclaim my time.

Let me say, I asked my staff where this $1.1 billion figure came from. My staff members are right here on the floor, and they said they don't know where the basis of this $1.1 billion figure comes from. Mr. Speaker, what happened in the Judiciary Committee was unfortunate. It was an unfortunate development that took place because the Judiciary Committee proceeded to do something that they should not do, which is they began appropriating.

All we are doing with this provision that we have in place is simply saying that the power should, in fact, lie with the House Appropriations Committee and that it should not be mandatory spending that does not provide the first branch of government, the legislative branch, with the adequate oversight.

Now, as I walked into the Chamber, my friend from Kentucky was saying that this bill is not focused on job creation and economic growth when, in fact, we know that encouraging creativity and innovation is about our creating good jobs right here in the United States of America. Mr. Speaker, the American people get it. They realize that if we were to take our time and energy and focus on job creation and economic growth we would be able to improve the standard of living and quality of life for the American people. Unfortunately, we've not been vigorously pursuing those.

I think that one of the most important things that we can do is to open up new markets around the world for U.S. goods and services and for our kind of innovation that is developing. We at this moment are waiting for three trade agreements that have been languishing over the past 4 years. Unfortunately, this House in the last 4 years has failed to consider them. They would create good union and nonunion jobs for the American worker.

□ 1340

Good jobs for union and nonunion members would be created if we were to pursue that kind of policy.

Now, those agreements are pending. We've gotten a positive indication that the administration is going to be sending those to us. We need to move on those as quickly as possible. As we look at those market-opening opportunities, having the kind of innovative ideas that will be able to take place, creating new products is going to be wonderful because we'll have new markets for those products around the world.

And so that's why, again, Mr. Speaker, here we are under a process that allowed an amendment by my friend from Michigan, the distinguished ranking member of the Committee on the Judiciary, to be made in order; my friend from Colorado from Boulder, Colorado (Mr. POLIS), I'm very happy that we were able to make his amendment in order. Ms. JACKSON LEE was here just a few minutes ago. She withdrew an amendment that she offered before the Rules Committee, and a similar amendment was offered by my colleague from California (Ms. ESHOO). We chose to make that amendment in order, which is virtually identical to the one that my friend from Houston offered.

And so as my friend from Lawrenceville, Georgia, my Rules Committee colleague, said, Mr. Speaker, here we are. We've made 15 amendments in order for considering allowing virtually every idea to be considered.

My friend from California (Mr. ROHRABACHER) has his amendment made in order. And so the idea of somehow criticizing the Rules Committee and the action that we've taken is just way off base.

There were 15 amendments that are made in order under this bill; 10 amendments have been made in order for the Energy and Commerce legislation that's come before us.

Mr. CONYERS. Will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank you, my friend.

We are not criticizing the Rules Committee. The CutGo violation, which you have not even seen the CBO letter that described the $1.1 billion——

Mr. DREIER. If I can reclaim my time, Mr. Speaker, let me just say that I asked my staff about this, and they were unaware of exactly where this $1.1 billion figure came from. And so in light of that, it seems to me that we are in a position where we need to proceed with this very important work, and we're trying our doggonedest to make it happen.

We're going to allow proposals from Messrs. ROHRABACHER, CONYERS, and POLIS and others to be considered, and that's why it's important that we pass this rule. If we don't pass this rule, we won't have the opportunity for the Rohrabacher, Conyers, and Polis ideas to be considered here on the House floor.

And so let me thank my friend for yielding. I know he has other speakers. And with that, I'm going to urge support of the rule.

Mr. POLIS. I think some of the frustration here, Mr. Speaker, is that the work product of the committee is being disregarded in favor of a rule that provides for a manager's amendment that fundamentally alters the character of the bill in a way that many Members of both parties have quite a few problems with.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas, a member of the Judiciary Committee, Ms. JACKSON LEE.

Ms. JACKSON LEE of Texas. I thank the Speaker and thank the gentleman, and I appreciate the generosity of the Rules chairman on the number of occasions that I have sought to both represent my constituents at the Rules Committee and to represent issues that are of concern to America.

Let me just say that I believe in efficiency of time, but I am struck by a rule that has two major legislative initiatives that require the deliberation and the thoughtfulness of Members of Congress. I believe the rule is not necessarily a place to express one's opposition or support, but I do believe it's important procedurally to discuss a number of issues.

The legislation that deals with the EPA, H.R. 2021, in and of itself would warrant an opportunity for full discussion, and I offered a number of amendments that I thought were quite productive, and those amendments would have provided some reasonable thought about the EAB. It would have provided a review period, and one in particular that the gentleman mentioned was the opportunity to file your cases in local courts.

I'm glad that we'll have the general discussion on the floor. Far be it from me to suggest that is not a good thing, but I do want to say that I had a very strong amendment that was not included in the Rule; the Amendment was originally withdrawn but resubmitted so we did have an opportunity to correct a letter that we had sent, but I'm glad for the debate in the form of another amendment just like mine regarding local federal courts being allowed to hear these matters.

Mr. CONYERS. Will the gentlewoman yield?

Ms. JACKSON LEE of Texas. I yield to the gentleman from Michigan.

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

Mr. POLIS. I yield the gentlewoman an additional 30 seconds.

Mr. CONYERS. The reason that both these bills were combined is that they're trying to mask all the defects in the patent bill, and that's why they put this great new jobs, supposedly, creating bill together.

Ms. JACKSON LEE of Texas. Well, reclaiming my time, whatever the reason was, we both agree we needed to have more time for the rules debate.

And I will now move to the patent bill. And as I said, I will not discuss the pros and cons of this legislation, but I will say to you—and I see the gentleman rising over here maybe trying to correct something that was said. There's no reason to correct anything other than the fact that we had a number of amendments that we offered and we would hope that we would have had an open rule.

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

Mr. POLIS. I yield the gentlewoman an additional 15 seconds.

Ms. JACKSON LEE of Texas. Thank you very much.

On the patent bill in particular, two amendments that would have been vital were to announce that this was not an undue taking of property, to indicate to those who are concerned about this issue, because I think the bill does have the ability to create jobs, and lastly is the point of being able to give small businesses an 18-month period for disclosure when many small businesses have to secure funding from other places and the secret of their invention is exposed.

This Amendment would have added protection to small businesses and improved the debate, nevertheless I look forward to the debate, but I hope we will not have this kind of rule in the future.

Mr. Speaker, before I discuss Amendments I offered, I would like to note my support for the first to file system in H.R. 1249. I believe it to be a positive step toward improving the efficiency and effectiveness of our IP system. However, I am not deaf to some of the criticisms that it has received from various interests, and I believe it is imperative that this bill be a real jobs creator for small and large inventors and businesses.

The amendments I am offering today are not controversial. They simply tighten up the language of the existing provisions of the bill, and add checks to ensure that the bill, if it becomes law, is fulfilling its intended purposes.

AMENDMENTS CONCERNING SMALL BUSINESSES, MINORITY-AND WOMAN-OWNED BUSINESSES, AND, HBCU'S

AMENDMENT #26 AND #22—INCLUSION OF MINORITY-AND WOMAN-OWNED BUSINESSES

H.R. 1249, the ''American Invents Act,'' addresses one of the concerns with the current patent system—the high fees associated with filing patent applications and the burden they impose on small businesses and not-for-profit entities wishing to secure patent protection.

It addresses this concern by giving a 50 percent discount on all USPTO fees to ''small entities'' and ''micro entities.''

My first amendment (Amendment #26) amends the definition of ''small entities'' for the purposes of receiving the fee discount to include language that ensures that minority-owned and woman-owned businesses are included.

My second amendment (Amendment #22), much like my first amendment, includes minority-owned and woman-owned businesses in the definition of ''micro entity'' for purposes of receiving the fee discounts afforded to these types of entities.

While I am sure it was the intent behind this section to extend protection for all small businesses, my amendments simply reassure inclusion of minority-owned and woman-owned businesses.

The U.S. Department of Commerce defines small businesses as a business which employs less than 500 employees. According to the Department of Commerce, in 2006 there were 6 million small employers—representing around 99.7 percent of the nation's employers and 50.2 percent of its private-sector employment. The proposed patent reform will ensure that small businesses are not treated at a disadvantage. It has great potential to create job growth, and in turn spur economic development for our country.

There were 386,422 small employers in Texas in 2006, accounting for 98.7 percent of the state's employers and 46.8 percent of its private-sector employment. Since small businesses make up such a large portion of our employer network, it is important to understand how they will be impacted as a result of patent reform.

Women and minority owned businesses generate billions of dollars and employ millions of people.

There are 5.8 million minority owned businesses in the United States, representing a significant aspect of our economy. In 2007, minority owned businesses employed nearly 6 million Americans and generated $1 trillion dollars in economic output.

Women owned businesses have increased 20 percent since 2002, and currently total close to 8 million. These organizations make up more than half of all businesses in health care and social assistance.

My home city of Houston, Texas is home to more than 60,000 women owned businesses, and more than 60,000 African American owned businesses.

AMENDMENT #29—HBCU'S AND HISPANIC SERVING INSTITUTIONS

One of the positive attributes of this bill is that it extends fee discounts to colleges and universities that engage in research and seek patent protection of their work.

H.R. 1249 does this by giving fee discounts to ''public institutions of higher education.''

For purposes of this section, my amendment includes in the definition of ''small entities'' Historically Black Colleges and Universities, HBCU's.

Generally speaking, HBCU's should be considered ''public institutions of higher education,'' however, in a few instances where schools receive alternative means of funding, there is a risk that minority serving institutions could be overlooked.

My amendment simply ensures that the intended goal of the language in this bill is actually achieved—that ALL colleges and universities, including Historically Black Colleges and Universities and Hispanic Serving Institutions, receive fee discounts to keep the patent system accessible.

Our Nation's colleges and universities are responsible for a vast amount of valuable research.

HBCUs are a source of accomplishment and great pride for the African American community as well as the entire Nation. The Higher Education Act of 1965, as amended, defines an HBCU as: ''. . . any historically black college or university that was established prior to 1964, whose principal mission was, and is, the education of black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary [of Education] to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation.'' HBCUs offer all students, regardless of race, an opportunity to develop their skills and talents.

Secretary of Education Arne Duncan said, ''HBCUs play an essential role in helping our Nation boost college completion rates and achieve the President's goal for America to again have the highest percentage of college graduates in the world by 2020.''

At present, HBCUs award just over 36,000 undergraduate degrees a year. More than 80 percent of those degrees, about 31,500 degrees, are baccalaureate degrees.

HBCUs currently award about 15 percent of all undergraduate degrees nationwide for African-American students.

The completion gap in high-demand fields in science, technology, engineering and math is particularly troubling. Nationwide, nearly 70 percent of white students in STEM fields complete their degrees, compared with just 42 percent of African-American students.

AMENDMENT #27—SENSE OF CONGRESS PROTECTING RIGHTS OF SMALL BUSINESSES AND INVENTORS

We must always be mindful of the importance of ensuring that small companies have the same opportunities to innovate and have their inventions patented and that the laws will continue to protect their valuable intellectual property.

Therefore, I am offering an amendment that expresses the sense of Congress that the patent system should promote industries to continue to develop new technologies that spur growth and create jobs across the country, which includes protecting the rights of small businesses and inventors from predatory behavior that could result in the cutting off of innovation.

The role of venture capital is very important in the patent debate, as is preserving the collaboration that now occurs between small firms and universities. We must ensure that whatever improvements we make to the patent laws are not done at the expense of innovators and to innovation. The legislation before us, while not perfect, does a surprisingly good job at striking the right balance.

Several studies, including those by the National Academy of Sciences and the Federal Trade Commission, recommended reform of the patent system to address what they thought were deficiencies in how patents are currently issued.

The U.S. Department of Commerce defines small businesses as businesses which employ less than 500 employees.

According to the Department of Commerce, in 2006 there were 6 million small employers representing around 99.7 percent of the Nation's employers and 50.2 percent of its private-sector employment.

In 2002 the percentage of women who owned their business was 28 percent while black owned was around 5 percent. Between 2007 and 2008 the percent change for black females who were self employed went down 2.5 percent while the number for men went down 1.5 percent.

Small business is thriving in my home state of Texas as well. There were 386,422 small employers in Texas in 2006, accounting for 98.7 percent of the state's employers and 46.8 percent of its private-sector employment.

In 2009, there were about 468,000 small women-owned small businesses compared to over 1 million owned by men.

88,000 small business owners are black, 77,000 are Asian, 319,000 are Hispanic, 16,000 are Native Americans.

Since small businesses make up such a large portion of our employer network, it is important to understand how they will be impacted as a result of patent reform.

AMENDMENT #23—EXTENSION OF THE DISCLOSURE PERIOD FOR SMALL BUSINESSES

My amendment addresses the section of this bill which deals with the disclosure period, also known as the grace period. In its current state, H.R. 1249 includes a one-year grace period for inventors who make disclosures about their inventions before they apply for an actual patent.

My amendment extends that grace period for small business from one year to eighteen months.

When small businesses are attempting to develop an invention, oftentimes it is necessary for them to make disclosures to outside entities because, due to a lack of resources, they need to outsource the effort needed to bring an invention to market.

For small businesses outsourcing their development, the one-year grace period may not be an adequate amount of time.

Whenever an inventor makes the first public disclosure of an invention, then—as to whatever the inventor disclosed publicly—the disclosing inventor is guaranteed the right to patent the invention if a patent is sought during the 1-year ''grace period'' after the first public disclosure, even if during this ''grace period'' someone else (e.g., another inventor) either publishes its own independent work on the invention or seeks its own patent on the invention based on its independent work.

Prior art is created when a disclosure is made available to the public. However, the ''grace period'' operates so that an inventor's own disclosure (or the disclosure by someone else that represents nothing more than the inventor's own work itself) is excluded as prior art to the extent of any of these inventor-originated disclosures made one year or less before the inventor seeks a patent. In short, inventors have one year from when they make their work public to seek patents.

AMENDMENTS ADDRESSING SECTION 18 (TRANSITIONAL REVIEW PROCESS FOR BUSINESS METHOD PATENTS)

AMENDMENT #25—SUNSET OF BUSINESS METHOD PATENTS REVIEW PROGRAM

Though I am generally supportive of this bill, Section 18, which creates a transitional review program for business method patents, has come under criticism.

There has been a lot of inconsistency in the status of the law surrounding business method patents over the years.

Historically, business methods and systems to implement those methods were not patentable, but in the 1998 State Street v. Signature Financial Group ruling, that all changed.

After that ruling, there was an explosion of applications for business method patents, and many were issued. However, many of these patents are of poor quality.

Many business methods are facially obvious, whereas patentable inventions are supposed to be novel and non-obvious.

They also lack prior art. It is very difficult to determine which business methods are simply common practice in different industries, but simply have been properly documented.

The difficulties associated with issuing business method patents coupled with the lack of resources within the USPTO lead to issuance of many weak business method patents, some of which probably should not have been awards. Thus, a slew of litigation followed.

This section, though controversial because it targets a specific type of patent, is intended to iron out the inconsistency in issuance of these types of patents and the many different rulings that flowed from mountains of litigation.

While I believe it is important to achieve to consistency, I also think the necessity of this process is finite. Currently, the provision sunsets in 10 years, however, that period is too long in my opinion.

Given the concerns associated with this section and the limited relevance of this provision, I have proposed an amendment that would make this provision sunset in 5 years.

AMENDMENT #24—REQUIRING DEPARTMENTAL DETERMINATION THAT THERE IS NO ''UNLAWFUL TAKING OF PROPERTY''

As I mentioned previously, Section 18 of this bill has been subject to criticisms, most notably the fact that the transitional review program is creates may cause some patents to be taken away, which may lead to a potential violation of the ''takings clause'' in the U.S. Constitution.

Patents, though intangible, are considered property and they are valuable—some extremely valuable and a source of great wealth to their owners. A process that could strip a patent owner of their property without just

compensation comes dangerously close to an unlawful taking, in my opinion.

This is of great concern to me, and therefore I am offering an amendment to address the constitutionality issue of this provision.

My amendment requires the Director of the U.S. Patent and Trademark Office, within a year of enactment of this bill, to make a determination of whether the provisions of this section could create a condition that could be considered an unlawful taking of property under the ''takings clause'' found in the Fifth Amendment of the Constitution. The Director would need to report to Congress the underlying reasoning for his determination.

While there may be a valid intent and purpose behind the provisions in section 18 of this bill, no purpose is so great that it warrants a violation of the Constitution.

My amendment will help ensure that the Constitution is upheld and adhered to, a goal that we all, regardless of party affiliation, should wholly support.

AMENDMENT #28—SENSE OF CONGRESS—NO VIOLATION OF THE TAKINGS CLAUSE

The Constitution is the law of land, a body of law that we as lawmakers respect, and that the American people value as the cornerstone of democracy.

Because some of the opponents of this bill have raised Constitutional concerns with specific provisions in the bill, I am offering an amendment that reaffirms our commitment to the Constitution.

My amendment is simple. It states that it is the sense of Congress that none of the provisions of this bill should constitute an unconstitutional taking of property under the fifth Amendment to the Constitution.

Mr. NUGENT. Mr. Speaker, just as a clarification, the Rules Committee has the obligation to make sure that they move this through the House so it can come up, so these bills can come up. It's not about combining two bills; it's about a rule that allows two bills to be heard separately. That's all this does.

With that, Mr. Speaker, I yield 3 minutes to gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, I do not commonly talk on rules. Usually I come for the substance of the underlying bill, and I will be speaking later on the underlying bill, on the Judiciary's patent reform bill, but I would like to speak not only to the fairness of the rule and the appropriateness and the reason for passage but also perhaps clarify something related to the underlying bill in the case of Judiciary.

First of all, I'm delighted, delighted to see that we are reducing the amount of time for passage of a rule when they are like.

My colleagues on the other side of the aisle certainly know that at the beginning of every Congress, once every 2 years, we pass a massive rules package that every suspension and every other bill is essentially brought under. A rules package is nothing but a slight addition to the overall set of rules of the House, and if we do not produce one, then we operate under the rules of the House. So I'm delighted to see that we are using floor time more efficiently.

As to the question of the costs related to the upcoming bill on patent reform, I find something really amazing that I think all the Members should be aware of, Mr. Speaker, and that is this is a piece of legislation that has already passed by 95–5 out of the Senate. This is a piece of legislation that the ranking member and I have worked on for my entire 11 years here. This is a piece of legislation that every one of us has had input into and found ways to come together so that we had a 10:1 ratio when we passed it out of committee.

And when it comes to the costs, the American people, Mr. Speaker, have to understand this is simply talking about the exclusive fees that both Republicans and Democrats on the committee have demanded be used only for the patent office work and not be diverted. So, even if at some point we have to admonish the appropriators to stay within a number, we're only talking about how much of the money that the men and women who apply for patents, the men and women who invent, contribute for the purpose of having that passed.

So although people will pass dollars around, let's understand these are not tax dollars. These are dollars contributed with an application for a patent or for the extension, continuation of a patent. These are fees that inventors pay in order to have their inventions considered and retained, and nothing should be more sacred to Republicans and Democrats than making sure that those funds collected by these people are used there.

Mr. CONYERS. Will the gentleman yield?

Mr. ISSA. I yield to the gentleman from Michigan.

□ 1350

Mr. CONYERS. I thank the distinguished member of the Judiciary Committee and the chair of Oversight and Government Reform.

The Congressional Budget Office sent the letter, Mr. ISSA, about the manager's amendment, which had nothing to do with the bill.

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

Mr. NUGENT. I yield the gentleman an additional 30 seconds.

Mr. ISSA. Reclaiming that 30 seconds, I fully understand my colleague's statement about the CBO scoring question, but understand, Mr. Speaker, that subject to appropriations, no money will be spent except money contributed in fees by those folks.

So whatever we must do in enactment of this law over time, we will do, but let's understand, we're not talking about the normal budget situation, where clearly any dollars that CBO is referring to are the dollars contributed by the men and women who invent things.

So I think we really have to look at that and say, We know they're entitled to 100 cents on the dollar. That's all we're doing regardless of scoring.

Mr. POLIS. I want to point out that the vote my friend from California referenced on the committee by a 10–1 margin is a completely different bill and finance mechanism than is contemplated under the manager's amendment to this bill. This manager's amendment has not been seen or voted on by any of the committees of jurisdiction and is a major break from precedents on this issue.

I would now yield 2 minutes to the gentleman from California (Mr. SCHIFF), a member of the Appropriations Committee.

Mr. SCHIFF. I thank the gentleman for yielding.

Mr. Speaker, I rise to raise my concerns about H.R. 1249 and the rule and in particular the manager's amendment.

America's uniquely innovative culture is the source of our economic strength, and I have long supported fundamental reforms to our patent system that would reduce the patent backlog, increase the quality of patents, and ensure that the patent system is not abused in ways that threaten innovation.

One of the best things in the bill up until now has been a provision to attack the backlog by devoting all of the fees gathered in the patent process to the Patent Office. We are asking the stakeholders of invention to pay higher fees to reduce the backlog. How can we ask them to do that if we are going to divert the fees they pay to paying general government expenses?

The provision in the underlying bill would have ended that practice, would have ended fee diversion, a diversion that has cost the invention community and our economy over a billion dollars in diverted funds. Unfortunately, the manager's amendment would severely undercut and really do away with that principle. I know as an appropriator I'm not supposed to be saying this. As a former member of the Judiciary Committee, however, I am, and that is, we should not be diverting these fees. We should not be diverting fees that need to be used to take down that backlog, to make sure that inventors can quickly patent their products and take them to market. This is part of our competitive economic advantage.

And so I was very enthusiastic about that part of the bill. Concerned about others, concerned about moving to first-to-file, which I will talk about later, but now I am doubly concerned because I think the most constructive part of the bill has been seriously diminished.

Mr. ROGERS of Kentucky. Will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. I welcome my colleague's comments. However, I think the gentleman has a misunderstanding about the content of that provision. The provision in the manager's bill states that no moneys can be diverted from the fee collections. All of

the fees have to stay with the Patent Office. It has to be reprogrammed.

Mr. SCHIFF. If I can reclaim my time.

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

Mr. SCHIFF. May I have an additional 15 seconds?

Mr. POLIS. I would express my hope to the gentleman from Florida that this discussion might continue on his time. We are down to our last minute and a half on this side.

Mr. NUGENT. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. I thank the gentleman for yielding, and I rise in support of the rule but also in support of the manager's amendment.

I think the gentleman from Kentucky, the chairman of one of the two committees that you have referred to here, is absolutely right, that these funds are sequestered and cannot be used for any other purpose. The Appropriations Committee may not appropriate all of the funds at one time, but they can only hold those funds in trust for the Patent Office. And then the Patent Office as they identify needs that need to be worked on will come to the appropriators, will come to you and your committee, and get approval for them. That maintains congressional oversight of the Patent Office. This is supported by the Commissioner of the Patent Office.

Mr. SCHIFF. Will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from California.

Mr. SCHIFF. Thank you, and I will be very brief.

If the funds that are sequestered—first of all, it requires another act of Congress to appropriate those sequestered funds back to the Patent Office. If it was never the intention to divert those, then why change the bill?

Mr. ROGERS of Kentucky. Will the gentleman yield?

Mr. GOODLATTE. I would be happy to yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. The gentleman may not be aware, but we have long had a practice on the Appropriations Committee of reprogramming funds within an agency's budget. All of the agencies have problems during the year where they need to change moneys from one particular account to another. That's fine. But they have to come to the Appropriations Committee for a reprogramming request. It's routine, it's considered normal, and it does not require an act of Congress. It's simply the signature of the chairman and the ranking Democrat of the Appropriations Committee, and the moneys are transferred.

When the Patent Office collects fees that exceed its appropriated level, that amount of money is placed in a sort of escrow account, just for their purposes, just for their use. If they see the need for more funds, they simply send up another reprogramming request, and the moneys can be transferred from the escrow account to the Patent Office. It's a standard procedure.

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

Mr. POLIS. I yield 30 seconds to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. I thank the gentleman.

The only concluding point I want to make is the funds that are held in the escrow account, if the Congress subsequently decides because of budgetary problems they have a better use for those funds, they want to be used for something else, to pay down something else, there's nothing that precludes the Congress from reallocating those funds. The patent community, the inventor community, still has to come hat in hand to the Appropriations Committee and say, Please give us the money you put in escrow.

There's no need to set up this account if we simply take this step in the underlying bill which would end diversion once and for all.

Mr. NUGENT. I yield 30 seconds to the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS of Kentucky. The gentleman is not correct. This provision in the manager's amendment precludes the expenditure of this escrow account for any purpose other than Patent Office. It's in the manager's amendment, and the gentleman will have a chance to vote on it.

Mr. POLIS. I yield myself the balance of my time.

Mr. Speaker, appropriations are at the discretion of Congress every year. For that reason and others, I urge my colleagues to oppose this rule and the underlying bills. Patent reform is critical, it's important, and it's the right way to go, but this bill and the manager's amendment and the rule are the wrong approach.

If we defeat the previous question, I will offer an amendment to the rule to remove the $712 million plus CutGo waiver for amendments to H.R. 1249.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment in the RECORD along with extraneous material immediately prior to the vote on the previous question.

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

There was no objection.

Mr. POLIS. Mr. Speaker, I urge my colleagues to vote ''no'' and defeat the previous question, because while it has shortcomings, at least the CutGo rule provides some checks on increasing spending. By waiving CutGo today, this Congress might risk demonstrating how little we care about fiscal discipline.

In order to get patent reform right, I urge a ''no'' vote on the rule and the bill.

I yield back the balance of my time.

Mr. NUGENT. Mr. Speaker, I support this rule and encourage my colleagues to support it as well.

I don't like the idea that we have to waive CutGo any more than anyone else in this Chamber; however, if we want to maintain Congress's constitutional ability to appropriate funds, it is necessary.

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

AN AMENDMENT TO H. RES. 316 OFFERED BY MR. POLIS OF COLORADO

Page 4, line 16, before the period insert the following: ''except those arising under clause 10 of rule XXI''.

(The information contained herein was provided by the Republican Minority on multiple occasions throughout the 110th and 111th Congresses.)

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 Republican 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 Republican 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 Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: ''Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule. . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment.''

In 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 Republican majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. NUGENT. 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.

RECORDED VOTE

Mr. POLIS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion for the previous question will be followed by 5-minute votes on adoption of House Resolution 316, if ordered; and the motion to suspend the rules and pass H.R. 672.

The vote was taken by electronic device, and there were—ayes 230, noes 184, not voting 17, as follows:

[Roll No. 464]

AYES—230

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Austria
Bachmann
Bachus
Barletta
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Black
Blackburn
Bonner
Bono Mack
Boustany
Brady (TX)
Brooks
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Cravaack
Crawford
Crenshaw
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Luetkemeyer
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
McCarthy (CA)
McCaul
McClintock
McCotter
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Olson
Palazzo
Paul
Pearce
Pence
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stutzman
Sullivan
Terry
Thompson (PA)
Tiberi
Tipton
Turner
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOES—184

Ackerman
Andrews
Baca
Baldwin
Barrow
Bass (CA)
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Brady (PA)
Brown (FL)
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinojosa
Hochul
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson, E. B.
Kaptur
Keating
Kildee
Kind
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters
Peterson
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Richmond
Ross (AR)
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Shuler
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Wu
Yarmuth

NOT VOTING—17

Bishop (UT)
Braley (IA)
Broun (GA)
Davis (CA)
Giffords
Gohmert
Hinchey
Hirono
Johnson (GA)
Lucas
Lummis
McHenry
Nunnelee
Paulsen
Stivers
Thornberry
Young (AK)

□ 1423

Mrs. MALONEY, and Messrs. VAN HOLLEN, BERMAN, and CARNEY changed their vote from ''aye'' to ''no.''

Mr. HALL changed his vote from ''no'' to ''aye.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Mrs. DAVIS of California. Madam Speaker, on rollcall No. 464, had I been present, I would have voted ''no.''

(By unanimous consent, Mr. HOYER was allowed to speak out of order.)

COMMEMORATING THE 20,000TH VOTE OF THE HONORABLE NORM DICKS

Mr. HOYER. Madam Speaker, ladies and gentlemen of the House, I rise to call the attention of my colleagues to a milestone that one of our Members has now reached, a very significant milestone. One of my best friends in the House, who I served with on the Appropriations Committee for many years, and who greeted me when I first came to the Congress, my friend, Congressman NORM DICKS, has just recently cast his 20,000th vote in the House of Representatives. And I personally think almost every one of them was correct.

Madam Speaker, it is a testament to his distinguished record of service in this Chamber, which began on January 3, 1977, at the start of the 85th Congress. Since that date, our colleague, NORM DICKS has continued to represent the people of the Sixth Congressional District of Washington, the cities of Bremerton and Tacoma, as well as the Olympic Peninsula, as he has worked his way up to the top of the leadership of the House Appropriations Committee. As some of you know, I refer to him as the Chairman in waiting.

The expertise he has developed on defense and natural resource issues throughout those years on the committee is well known.

Madam Speaker, as I indicated, NORM DICKS now serves as our ranking Democratic Member on the Appropriations Committee, and serves with the distinguished chairman, HAL ROGERS from Kentucky.

I believe I can speak for all of us, all of our Members today, in congratulating NORM on reaching this important milestone. And I think I can also say for both sides of the aisle, NORM DICKS is one of those Members who reaches across the aisle and tries to make policy in a positive way.

NORM DICKS, I think, is an example for all of us. He's become one of the few Members of the House who has had the determination and endurance to remain engaged in the people's business for so long here in the House of Representatives.

NORM, we congratulate you, not only on your 20,000th vote, but on the quality of service you have given to this

House, to this country, and to your district and Washington State. Congratulations.

The SPEAKER pro tempore (Mrs. EMERSON). Without objection, 5-minute voting will continue.

There was no objection.

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

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

RECORDED VOTE

Mr. NUGENT. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 239, noes 186, not voting 6, as follows:

[Roll No. 465]

AYES—239

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Austria
Bachmann
Bachus
Barletta
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Carney
Carter
Cassidy
Chabot
Chaffetz
Chandler
Coble
Coffman (CO)
Cole
Conaway
Costa
Cravaack
Crawford
Crenshaw
Culberson
Davis (KY)
DeFazio
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kissell
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Marchant
Marino
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Owens
Palazzo
Paulsen
Pearce
Pence
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schmidt
Schock
Schrader
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stutzman
Sullivan
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOES—186

Ackerman
Andrews
Baca
Baldwin
Barrow
Bartlett
Bass (CA)
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Braley (IA)
Brown (FL)
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson (IN)
Castor (FL)
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (CA)
Davis (IL)
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Gibson
Gonzalez
Green, Al
Grijalva
Gutierrez
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hochul
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kildee
Kind
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Manzullo
Markey
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Pallone
Pascrell
Pastor (AZ)
Paul
Payne
Pelosi
Perlmutter
Peters
Peterson
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Renacci
Reyes
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schilling
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Terry
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Wu
Yarmuth

NOT VOTING—6

Giffords
Gingrey (GA)
Gohmert
Lummis
Stivers
Young (AK)

□ 1437

Mr. ROHRABACHER changed his vote from ''no'' to ''aye.''

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.

ELECTION SUPPORT CONSOLIDATION AND EFFICIENCY ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 672) to terminate the Election Assistance Commission, and for other purposes, as amended, 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 Mississippi (Mr. HARPER) that the House suspend the rules and pass the bill, as amended.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 235, nays 187, not voting 9, as follows:

[Roll No. 466]

YEAS—235

Adams
Aderholt
Akin
Alexander
Amash
Austria
Bachmann
Bachus
Barletta
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Cravaack
Crawford
Crenshaw
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paul
Paulsen
Pearce
Pence
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman

Wolf	Woodall	Young (FL)
Womack	Yoder	Young (IN)

NAYS—187

Ackerman	Garamendi	Pascrell
Altmire	Gonzalez	Pastor (AZ)
Andrews	Green, Al	Payne
Baca	Green, Gene	Pelosi
Baldwin	Grijalva	Perlmutter
Barrow	Gutierrez	Peters
Bass (CA)	Hanabusa	Peterson
Becerra	Hastings (FL)	Pingree (ME)
Berkley	Heinrich	Polis
Berman	Higgins	Price (NC)
Bishop (GA)	Himes	Quigley
Bishop (NY)	Hinchey	Rahall
Blumenauer	Hinojosa	Rangel
Boren	Hirono	Reyes
Boswell	Hochul	Richardson
Brady (PA)	Holden	Richmond
Braley (IA)	Holt	Ross (AR)
Brown (FL)	Honda	Rothman (NJ)
Butterfield	Hoyer	Roybal-Allard
Capps	Inslee	Ruppersberger
Capuano	Israel	Rush
Cardoza	Jackson (IL)	Ryan (OH)
Carnahan	Jackson Lee (TX)	Sánchez, Linda T.
Carney	Johnson (GA)	Sanchez, Loretta
Carson (IN)	Johnson, E. B.	Sarbanes
Castor (FL)	Kaptur	Schakowsky
Chandler	Keating	Schiff
Chu	Kildee	Schrader
Cicilline	Kind	Schwartz
Clarke (MI)	Kucinich	Scott (VA)
Clarke (NY)	Langevin	Scott, David
Clay	Larsen (WA)	Serrano
Cleaver	Larson (CT)	Sewell
Clyburn	Lee (CA)	Sherman
Cohen	Levin	Shuler
Connolly (VA)	Lewis (GA)	Sires
Conyers	Lipinski	Slaughter
Cooper	Loebsack	Smith (WA)
Costa	Lofgren, Zoe	Speier
Costello	Lowey	Stark
Courtney	Luján	Sutton
Critz	Lynch	Thompson (CA)
Crowley	Maloney	Thompson (MS)
Cuellar	Markey	Tierney
Cummings	Matheson	Tonko
Davis (CA)	Matsui	Towns
Davis (IL)	McCarthy (NY)	Tsongas
DeFazio	McCollum	Van Hollen
DeGette	McDermott	Velázquez
DeLauro	McGovern	Visclosky
Deutch	McIntyre	Walz (MN)
Dicks	McNerney	Wasserman Schultz
Dingell	Meeks	Waters
Doggett	Michaud	Watt
Donnelly (IN)	Miller (NC)	Waxman
Doyle	Miller, George	Welch
Edwards	Moran	Wilson (FL)
Ellison	Nadler	Woolsey
Engel	Napolitano	Wu
Eshoo	Neal	Yarmuth
Fattah	Olver	
Filner	Owens	
Frank (MA)	Pallone	
Fudge		

NOT VOTING—9

Farr	Lummis	Stivers
Giffords	Moore	Sullivan
Kissell	Murphy (CT)	Young (AK)

□ 1444

So (two-thirds not being in the affirmative) the motion was rejected.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. WHITFIELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and insert extraneous material on H.R. 2021.

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

There was no objection.

JOBS AND ENERGY PERMITTING ACT OF 2011

The SPEAKER pro tempore. Pursuant to House Resolution 316 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2021.

□ 1445

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2021) to amend the Clean Air Act regarding air pollution from Outer Continental Shelf activity, with Mrs. EMERSON in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Kentucky (Mr. WHITFIELD) and the gentleman from California (Mr. WAXMAN) each will control 30 minutes.

The Chair recognizes the gentleman from Kentucky.

Mr. WHITFIELD. Madam Chair, as we prepare to take up an important piece of legislation today, H.R. 2021, I would like to yield such time as he may consume to the chairman of the Energy and Commerce Committee, the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. I want to thank the gentleman from Colorado, CORY GARDNER, the sponsor of this legislation; and the gentleman from Kentucky, ED WHITFIELD, the chairman of the Energy and Power Subcommittee, for moving this legislation along.

Madam Chair, the purpose of this bill is real simple. It is to streamline the permit process to allow us more domestic production of oil and gas. In this country, we consume about 19 million barrels a day of oil and we produce about 7 million, and the exploration on the Outer Continental Shelf has been delayed for years because of a broken bureaucracy. The regional EPA, they are going to approve exploration air permits, only to have them challenged again by EPA's Environmental Appeals Board. It has been a never-ending circuit of approvals, appeals and re-applications, and it has stalled exploration for nearly 5 years.

So what does that mean? It means that these resources, which perhaps contain as much as 28 billion—yes, that's billion—barrels of oil and 122 trillion cubic feet of natural gas, have been stalled.

We know that if production is allowed here, safe production, we could produce perhaps as much as 1 million barrels a day from these sites, and it would add about 54,000 American jobs. Yet 5 years after the original lease sales, not a single test well has been drilled, not a single barrel of domestic oil has been brought to market to reduce our reliance on Middle East oil, and not a single job has been created to develop the resources because the bureaucracy is standing in the way of exploration.

This legislation changes that, and I would urge my colleagues to support this sensible, bipartisan legislation to streamline the permitting process and finally allow us to explore and develop the vast resources of our Nation. This bill was approved by the Energy and Commerce Committee with a strong bipartisan vote, and I look forward to the same result today.

Mr. WAXMAN. Madam Chair, I yield myself 5 minutes.

I rise in opposition to this legislation. The legislation is not about creating jobs. It is not about lowering gasoline prices. It is a giveaway to the oil industry that will increase pollution along our coasts.

This legislation's supporters have promoted it as a narrow bill designed to address specific problems that Shell has faced in obtaining a clean air permit for exploratory drilling off the coast of Alaska.

□ 1450

This legislation will have wide-ranging impacts beyond the Arctic Ocean. The States of California and Delaware have grave concerns about the impact of this bill on their ability to protect public health and welfare from air pollution. In fact, this bill could affect every State on the Atlantic and Pacific Coasts.

I agree that the provisions of the Clean Air Act that apply to the Outer Continental Shelf will have some ambiguities that could use clarification, but this legislation takes the wrong approach. Each of the so-called clarifications in this bill would have the effect of allowing more pollution and providing less public health protection for the nearby communities and limiting participation of affected stakeholders in the permitting process.

The Republicans say that it shouldn't take 5 years to get a permit, and I agree with them. But the truth is it has not taken 5 years for Shell to get a permit. Shell has pulled permit applications and modified its proposed operations on numerous occasions. Each time, EPA has had to adjust its assessment of the potential impacts on air quality and public health. This is what EPA is supposed to do. No one should want EPA to take a one-size-fits-all approach to permitting these major sources of pollution.

There are many flaws in the legislation. It allows huge increases in air pollution from oil and gas drilling activities by moving the point of measurement from the drill ship to the shore. It threatens the ability of California and other States to regulate the emissions of support vessels. And it sets an arbitrary deadline of 6 months for final agency action on every offshore exploratory drilling permit, no matter the size or complexity of the proposed operations. The EPA Assistant Administrator for Air and Radiation testified before the Energy and Commerce Committee that 6 months is too short to allow for adequate technical analysis, public participation,

and administrative review. Witnesses for the States of California and Delaware agree this wouldn't work for their State programs. Yet these concerns have been ignored.

The legislation eliminates the Environmental Appeals Board from the permitting process, even though it is a cheaper, faster, and more expert substitute for judicial review. And it requires all challenges to air permits to be raised before the Federal Court of Appeals in Washington, D.C., thousands of miles away from the affected communities.

Claims that this legislation will reduce gas prices or the budget deficit are nonsense. They have no substantiation. There are sensible improvements we could make, but we aren't making them. Instead, this bill waives environmental requirements and short-circuits permitting reviews at the expense of public health.

The administration opposes H.R. 2021 because it would curtail the authority of EPA to help ensure that domestic oil production on the Outer Continental Shelf proceeds safely, responsibly, and with opportunities for efficient stakeholder input. I agree with them.

I urge my colleagues to oppose H.R. 2021.

I reserve the balance of my time.

Mr. WHITFIELD. At this time, Madam Chair, I yield 5 minutes to the author of this bill, the gentleman from Colorado (Mr. GARDNER).

Mr. GARDNER. I thank the chairman of the subcommittee that brought this bill before the body today, and I thank the chairman, Mr. UPTON, for his work on this piece of legislation. Energy security, job creation, working to reduce the pain at the pump, that is what H.R. 2021 is about, the Jobs and Energy Permitting Act of 2011. I thank the chairman for bringing it to the floor today.

This is an important bill for our country and a step in the right direction when it comes to weaning ourselves off of foreign, Middle Eastern oil. It allows us to utilize the resources that we have in our own backyard—American energy for American jobs—responsibly and environmentally friendly.

Gas prices are fluctuating near historic levels that can send our economy into yet another recession. Millions of Americans are out of work. The unemployment rate has ticked back above 9 percent. Unrest in the Middle East has highlighted our vulnerabilities that stem from dependence on oil half a world away and from many countries that seek to do us harm. In the face of seemingly intractable problems, it is our duty as elected representatives of the people of this country to pursue solutions that benefit our neighbors and our Nation as a whole. One such solution is unlocking America's vast energy potential. The Jobs and Energy Permitting Act is a bipartisan approach—a bipartisan bill—to bring a massive domestic resource online and create tens of thousands of jobs.

I am delighted to have my friend and colleague from Texas (Mr. GENE GREEN) as the coauthor of this legislation.

In this bill, we move in a nimble and elegant manner to tie the loose ends in EPA's permitting process and the Clean Air Act, itself, to expedite decisions on EPA's issued air permits for offshore oil exploration. The needless red tape inherent in EPA's current permitting process has blocked access to a truly enormous reserve, a reserve in our own backyard, Alaska's Beaufort and Chukchi Seas.

Taken together, we have been told that upwards of 1 million barrels of oil a day can be brought online as a result of the responsible development of these resources, entirely offsetting our imports from Saudi Arabia. Doing so will create and sustain over 50,000 jobs as massive projects get underway to bring this resource to American consumers. Such a vast amount of oil will not only reduce prices at the pump in the future, as testimony was given before the Energy and Commerce Committee, but keep us more secure by eliminating imports from hostile regimes abroad.

For these reasons, the President agrees that we should be moving forward with permitting exploration off Alaska's coast. This bipartisan bill is the most efficient way to get the job done.

Through two exhaustive hearings on this bill, we heard testimony from numerous stakeholders and citizens of Alaska. We believe we have created a solution that balances both environmental protection with public priorities, a balance that does not exist with current EPA procedures.

During our subcommittee and full committee markups we debated numerous amendments, giving members the opportunity to propose substantive changes to the underlying bill. I'm glad that we had a very serious and thought-provoking discussion on this bill during those meetings, and I look forward to the debate today.

The Jobs and Energy Permitting Act is a serious bill with serious implications for our economy and our energy security. I am delighted to be here today working with my Democratic colleague to move forward with an effective solution to regulatory problems experienced in Alaska and Alaska's offshore areas.

Mr. WAXMAN. Madam Chair, I am pleased to yield 5 minutes to our Democratic leader in the energy area, the ranking member of the Energy Subcommittee, the gentleman from Illinois (Mr. RUSH).

Mr. RUSH. I want to thank the ranking member from the full committee, my friend from California (Mr. WAXMAN), for yielding this time.

Madam Chair, I'm not opposed to drilling in Alaska and I'm not opposed to streamlining the permitting process in a sensible and thoughtful manner, but I do object to cutting out input and participation from the very communities that would be most affected by this process or preempting States' authority in order to expedite the permitting process for one single company.

Unfortunately, many of the less affluent communities who are ultimately being adversely affected by this permitting process do not have the resources of the oil industry to lobby Congress on their own behalf, and so it's up to us, those Members who represent those same people, to come to this floor to represent them.

While this bill will benefit Shell, the repercussions and consequences, both intended and unintended, will have a much greater impact on many stakeholders.

If the majority had been willing to work with our side on this bill, as we offered on many occasions we wanted to—we begged, we pleaded, we almost crawled to try to get bipartisan participation on this bill—if they had been willing to work together, we could have crafted a bipartisan piece of legislation that could move through the House and the Senate and ultimately become law.

□ 1500

However, this bill does not take into account some of the very real concerns that the minority has outlined to the majority on several occasions.

In fact, yesterday, the White House issued a statement opposing this bill because ''H.R. 2021 would curtail the authority of the Environmental Protection Agency under the Clean Air Act to help ensure that domestic oil production on the Outer Continental Shelf proceeds safely, responsibly, and with opportunities for efficient stakeholder input. H.R. 2021 would limit existing EPA authority to protect human health and the environment. H.R. 2021 would increase Federal court litigation and deprive citizens of an important avenue for challenging government action that affects local public health.''

Madam Chair, this bill is certainly not about creating jobs, and it's certainly not about lowering gasoline prices. It is a giveaway—a blatant giveaway, an unadulterated giveaway—to the oil industry that will increase pollution along our coasts. In fact, as the administration has pointed out, 70 percent of the offshore leases that oil companies currently possess are not even at this very moment in production. Again, 70 percent of the offshore leases that oil companies own are not now in production, and 29 million acres of onshore permits, as we speak, aren't being developed. So it is unnecessary for Congress to intervene by sacrificing public participation and air quality protections for the sake of expediency on behalf of Shell, as this bill does.

Madam Chair, I hope—I sincerely hope—that we can find bipartisan support for the amendments that will be offered today, including my own, which will simply allow the EPA administrator to provide additional 30-day extensions if the same administrator determines that such time is necessary to

provide adequate time for public participation and sufficient involvement by affected States.

Mr. WHITFIELD. Madam Chair, I might just add here that the University of Alaska did a study on this legislation in oil and gas development in Alaska's arctic seas, and they concluded that the full development there would create 54,000 jobs.

At this time, I yield 3 minutes to the chairman emeritus of the Energy and Commerce Committee, the gentleman from Texas (Mr. BARTON).

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Madam Chairwoman, Shell Oil Company has spent 5 years of time and $3 billion trying to drill one well in the Arctic Ocean—5 years and $3 billion. In that time period, worldwide and in other areas of the Outer Continental Shelf of the world, they have drilled and received permits for over 200 wells—200 and the rest of the world ''zero''—in the Arctic Ocean.

All this bill does is set up a fair procedure so that any company that wishes to drill a well—and the Environmental Protection Agency, the EPA, should probably be renamed under the Obama administration the ''energy prohibition administration''—can go through the permitting process and get a decision within an adequate time period.

Our friends in Russia are drilling wells in the territorial waters in the Arctic Ocean up there. Our friends in Norway are drilling wells in the Arctic Ocean in their territorial waters. We in the United States, because of bureaucratic foot-dragging at the EPA, are refusing to even let one well be drilled.

This bill changes that. It sets timetables. It sets standards. It determines where you measure the emissions. There will be some emissions when you drill a few wells in the Arctic Ocean, but they're not going to be extensive. This bill says that you determine the emissions at the shoreline, which in the case of this particular well is about 80 miles away, and you measure it there. Madam Chairwoman, there will be more emissions created from the EPA agency heads and staff assistants in their driving up to Capitol Hill to testify than there probably will be from the service supply ships that go out to service the handful of wells that will be drilled.

This is a commonsense bill. It doesn't change the underlying statutory language at all in terms of standards. It does set timetables. It does define where you measure the pollution, and it does require that you actually make a decision. It is a good bill, H.R. 2021. In blackjack, if you get a 20, that's almost a sure winner. If you get a 21, it's a sure winner. This bill is a sure winner, H.R. 2021. Please vote for it.

Mr. WAXMAN. Madam Chair, I am pleased to yield 4 minutes to a very important member of our committee, the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. I thank the ranking member very much for yielding.

The underlying legislation represents another attempt by the Republicans to gut the Clean Air Act. Shell Oil spent years changing its mind about how it wanted to drill, what ship it wanted to use and even which of the arctic seas it planned to drill in. They, themselves, dragged out this process interminably.

This legislation prevents EPA from requiring emissions reductions from all drilling support vessels, from icebreakers to the drilling ship, itself, as part of the air permitting process. What that means is that—listen to this number—up to 98 percent of the total air emissions associated with Arctic Outer Continental Shelf drilling could not be regulated by EPA under the permitting process. So hear that again. Their bill says that EPA cannot regulate 98 percent of the emissions.

That's not reasonable. That's not a compromise. That's not balance.

EPA has informed Congressman WAXMAN that, as part of its permit negotiations, Shell has actually agreed to add technology to one of its icebreakers to reduce the icebreaker's NO_X emissions by 96 percent—to reduce them by 96 percent—and particulate emissions reduced by 82 percent. Shell has already agreed to use a cleaner burning fuel than what would otherwise be required by law. Shell agreed to take these measures so that it could receive its permit from EPA, and the net effect of all the measures Shell has agreed to take will reduce the NO_X emissions for the entire drilling project by 72 percent. But under this bill, EPA would no longer have the ability to require or to request measures such as these because the bill says that EPA can't require reductions in emissions from mobile sources using its stationary source air permitting authority.

Several weeks ago, Bob Meyers, who led EPA's Air Office during the Bush administration, pointed out at the Energy and Power Subcommittee hearing, that, in fact, EPA can regulate icebreakers and other support vessels under title II of the Clean Air Act. He said that this is why these mobile sources' emissions could be exempted from being regulated as part of the stationary source air permitting process. That all sounds so reasonable, but what these guys are saying is maybe you shouldn't be regulated as both a mobile source and a stationary source under the Clean Air Act.

□ 1510

But there's just one problem. Shell's air permit says that all of its icebreakers and other support vessels are foreign-flagged so they can't be regulated under title II of the Clean Air Act in the first place. And even if they were American vessels, they're all too old to have been subject to the most stringent Clean Air Act or international emissions requirements.

So what they're saying is for all intents and purposes, they're neither mobile nor are they stationary so they're not regulated at all. It's like being a carnivorous vegetarian, or you know, Chevy Chase nightlife. There is no such thing. You know, you have got to have it be one or the other; you've got to pick one or the other here. And you can't wind up nothing being required from them.

The CHAIR. The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman 1 additional minute.

Mr. MARKEY. I thank the gentleman.

So while Republicans say that this bill just keeps the ice-breakers and the ice-breaker part of the Clean Air Act, the reality is that it effectively puts EPA's ability to reduce emissions from these sources on ice.

My amendment to remedy the problem by ensuring that these vessels met the most stringent mobile source standards so that we would realize some emissions reductions from them was rejected by the majority in the committee. So instead of what the majority claims they want to do, which was to ensure that these vessels were not regulated as both mobile source and stationary source under the Clean Air Act, what this bill does is ensure that the emissions from these vessels aren't regulated at all. That's their goal, that 98 percent of emissions will go unregulated, and I don't think there's anyone listening to this debate that thinks that that's a good thing for the public health of our country.

I urge opposition to this bill.

Mr. WHITFIELD. I might remind our friend from Massachusetts that EPA actually approved the drilling permit, the exploratory drilling permit for Shell, in this case, on three separate occasions; but the delay has been the appeals by the opposing party to the Environmental Appeals Board, which is not even in the clean air statute. So this bill is simply designed to speed up the process and give people an adequate time to oppose the exploratory permitting.

At this time, I yield 3 minutes to the gentleman from Nebraska (Mr. TERRY), who's a member of the Energy and Commerce Committee.

Mr. TERRY. Madam Chairman, Mr. GARDNER's bill addresses this country's need on energy and power. Mr. GARDNER's bill prevents the government from going out of its way to stop the private sector from creating jobs. This job alone in the Chukchi Sea will create 54,000 jobs sustained over 50 years. The economic report from Northern Economics and the University of Alaska I will submit for the RECORD.

And with 1 million barrels per day going to our country's need of about 19 million barrels per day makes us more energy secure. So what we hear from the EPA and the minority is they will do everything they can to stop fossil fuels even though this is a fossil fuel

economy. Yes, we need all of the above, but to stop all fossil fuels creates national insecurity, making us more dependent on foreign oil, sending more of our financial resources and jobs overseas; and that's what we need to stop, and that's what this bill takes a large step towards doing.

Now, the EPA has made it impossible for new exploration off the coast of Alaska by continually changing the rules. The EPA has even testified before our committee that there is no anticipated human health risk at issue, and we've still been waiting 6 years and counting for this permit to be issued.

Let's make it clear: Bureaucratic delays are blocking energy development. While the EPA's regional office has granted air permits to allow this deep sea drilling, the process has repeatedly been stalled when the administrator's Environmental Appeals Board rejects the permits already granted. Yes, it gets to Washington; they stop it. And this process repeats itself. We'll have a bill maybe in a couple of weeks where the EPA's done the same thing, where they change the rules to stop a project.

The Federal Government's inability to issue viable permits to drill offshore Alaska is keeping resources and domestic jobs from the American people. The Gardner bill, H.R. 2021, aims to eliminate the uncertainty and confusion that has delayed oil exploration in deep sea Alaskan Outer Continental Shelf, and I hope my colleagues will support this bill.

ECONOMIC REPORT OVERVIEW

Potential National-Level Benefits of Oil and Gas Development in the Beaufort Sea and Chukchi Sea

A new study on potential national-level benefits of Alaska Arctic OCS development, by Northern Economics and the University of Alaska Anchorage's Institute of Social and Economic Research, builds on a previous study of potential state-level benefits using the same methodology and assumptions. Both reports are available for download from www.northerneconomics.com.

CREATES SIGNIFICANT ECONOMIC EFFECTS

Development of new oil and gas fields in the Beaufort and Chukchi Seas resulting in production of nearly 10 billion barrels of oil and 15 trillion cubic feet of natural gas over the next 50 years could create significant economic effects nationwide.

54,700 NEW JOBS

An estimated annual average of 54,700 new jobs that would be created by OCS-related development are sustained for 50 years. The total ramps up to 68,600 during production and 91,500 at peak employment. These direct and indirect jobs would be created both in Alaska and the rest of the United States.

$145 BILLION PAYROLL

An estimated $63 billion in payroll would be paid to employees in Alaska as a result of OCS oil and gas development and another $82 billion in payroll would be paid to employees in the rest of the United States. The sustained job creation increases income and further stimulates domestic economic activity.

$193 BILLION GOVERNMENT REVENUE

Federal, state, and local governments would all realize substantial revenue from OCS oil and gas development, with the base case totaling $193 billion:

$167 billion to the federal government
$15 billion to the State of Alaska
$4 billion to local Alaska governments
$7 billion to other state governments

SENSITIVITY CASES ARE ALL HIGHER

The study's base case assumed long-term average prices through the year 2030 of $65 per barrel (bbl) for oil and $6.40 per million Btu (mmBtu) for natural gas. The estimated total government revenue increases if energy prices remain higher in the future.

Total Government Revenue

[Dollars in billions]

Base Case ($65/bbl, $6.40/mmBtu)	$193
Case 1 ($80/bbl, $7.80/mmBtu)	214
Case 2 ($100/bbl, $9.80/mmBtu)	263
Case 3 ($120/bbl, $11.80/mmBtu)	312

IMPLICATIONS OF THE STUDY

Critical Infrastructure Protection

The Trans-Alaska Pipeline System (TAPS) delivers approximately 14% of domestic oil production to refineries on the West Coast and has been identified as critical infrastructure for national security. Built at a cost of $8 billion in 1977, TAPS throughput has fallen from 2.1 million barrels per day in 1988 to less than 650,000 barrels per day as North Slope oil fields age. Without additional oil development, the TAPS is anticipated to encounter operating difficulty below about 500,000 barrels per day and shut down when it reaches 200,000 barrels per day. Alaska OCS development can help extend the operating life of this critical infrastructure.

Moreover, Arctic OCS development maximizes the value of Alaska's and the Nation's oil and gas resources. Much of the expected incremental revenue from OCS development for the State of Alaska (55%) comes from enhancement of existing onshore North Slope production, in both volume and value. This results from reduced transportation costs (from infrastructure operating at capacity), and from expanded infrastructure enabling development of small satellite fields. OCS development will also enhance the probability of an Alaska gas pipeline due to increased certainty in the available gas resource base.

U.S. Energy Production and National Security

Domestic energy production is important for the security and prosperity of the United States. The money spent on domestic energy cycles through in the U.S. economy, thereby increasing domestic economic activity and jobs; while money spent on imported energy leaves the U.S. economy.

The majority (77%) of world oil reserves are owned or controlled by national governments; only 23% are accessible for private sector investment. The United States currently imports over 60% of the crude oil we use. Arctic offshore development could cut this by about 9% for a period of 35 years. Increasing domestic energy production would improve the nation's trade balance.

Potential Benefits Delayed

When the first study of state-level economic impacts was written in 2009, first oil was anticipated in 2019 and first gas in 2029 for the Beaufort Sea (2022, 2036 for the Chukchi Sea). This timeline assumed no major regulatory impediments or delays.'' However, exploration has been slowed, thus delaying the potential benefits of OCS oil and gas development.

SOURCES

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NEI and ISER. Economic Analysis of Future Offshore Oil and Gas Development: Beaufort Sea, Chukchi Sea, and North Aleutian Basin.

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Shell Exploration and Production. Calculated from TAPS throughput data and EIA Annual Energy Outlook data for domestic oil production.

US Energy Information Administration Annual Energy Outlook 2010.

Minerals Management Service. 2006 Oil and Gas Assessment: Beaufort Sea Planning Area (Alaska) and Chukchi Sea Planning Province Summaries.

Mr. WAXMAN. Madam Chair, I yield 2 minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Thank you, Madam Chair, and I rise today to support H.R. 2021, the Jobs and Energy Permitting Act; and I want to thank our Energy and Commerce ranking member for providing time.

Representing a heavily industrialized area that's naturally sensitive to air quality issues, I appreciate how the EPA's enactment of Clean Air Act provisions has positively attributed to our goal of cleaner air. For that reason, I have remained hopeful that EPA's administrative air permitting barriers to exploring Alaska's Outer Continental Shelf would be addressed, but they haven't. As such, we continue to see air permits for offshore exploration wells perpetually go back and forth between the producer, the EPA, the Environmental Appeals Board, with no movement towards a final decision.

That's why I am an original cosponsor of the Jobs and Energy Permitting Act, which would rectify several of those process questions so that we can safely and responsibly produce our natural resources in the Arctic Ocean. The EPA needs to have a permit approval system in place that is predictable, workable, and understandable.

When I hear that in the last 5 years Shell has drilled over 400 exploration wells worldwide while waiting for one single permit for Alaska, something's definitely wrong with the process.

While the opponents of this legislation are saying that this bill guts the Clean Air Act, that's just not true, because all this bill does is match EPA's Outer Continental Shelf permitting process with the air permitting process employed by the Department of the Interior in the Gulf of Mexico, a Clean Air Act air permitting process that has been successfully used for decades.

By doing so, we can rest assured that we have a strong, offshore air permitting process, but that these projects are not left in limbo like we have seen with the Environmental Appeals Board in recent years.

I also want to remind my colleagues that this bill just addresses permits for exploration wells where activity typically only lasts for a few days, not production wells where activities last for months.

I have long been a supporter of safe and responsible drilling on the Outer Continental Shelf as these resources are a vital source of energy for the

United States. With skyrocketing fuel costs, it is imperative for the U.S. to diversify our energy sources by exploring this area, and this bill is the first step in that process.

I strongly encourage my colleagues to support the bill.

Mr. WHITFIELD. Madam Chair, I might just also remind everyone that this 5-year, 6-year period for this permit was for only an exploratory permit, not even a production permit.

I yield 2 minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Madam Chairman, I rise in strong support of H.R. 2021 and appreciate Mr. GARDNER bringing this to our attention.

You know, this is not a bill about Shell Oil Company. This is about a system that is broken. Shell Oil Company has been trying for almost 5 years to get a permit and still doesn't get the answer. In the meantime, they've drilled over 400 exploratory wells around the world, but they can't drill in the United States.

I've recently spent time at gas stations talking to people, their frustration over our gas prices is why are they so high here, why are the prices going up. This bill answers why they're going up. We have a government that has a war on American jobs and a war on American energy. We have a war on Western jobs because oil production is concentrated in the West.

Every time a drill bit is stopped by its own actions, the price of gas will go incrementally up by just multiple percentages of very small amounts. But when it's stopped by bureaucratic action, then the market's going to assess that a government is going to be unfriendly to future production and the price begins to escalate because people get out of dollars and out of other investments into this because they know the price of gas and oil are going to go up because they can see the bureaucratic delays being played out.

So understand that when we have high gas prices in this country it is because the government is making them high. It's making them high by moratoriums. It's making them high by delaying tactics in our administration's responses to these things like this permit.

□ 1520

The gentleman from Colorado's bill simply says we're going to simply unravel one piece of the delays that have been happening. It's a well-thought-out bill, it's a well-thought-out process, and it's one which will result in lower prices for American consumers. There's absolutely no health hazard. Lisa Jackson herself has said that. They're going to give the permits.

What we're doing today is passing a bill that won't help Shell at all, that will help future producers to understand that they can get regulatory certainty, that they can get answers when they're asking questions of the government. It's a reasonable request and one which we should do.

Mr. WAXMAN. Madam Chair, I yield myself 1 minute to correct some of the statements that have been made that I don't think are accurate.

Lisa Jackson, the head of the Environmental Protection Agency, said if they got a permit that was approved by the EPA, there would be no adverse environmental impact, but what the proponents of this bill are trying to do is to circumvent the EPA action and to have Congress shorten the ability of the EPA to act. There will be pollution problems. States will not be able to control the pollution off their coasts. That is why California and Delaware have expressed such great concern, but other States are going to be in the same situation.

This bill does not deal with just the problem in Alaska. It tries to circumvent the orderly procedure by which those who are trying to get permits will come in and submit their permit and show that they're justified, unlike the situation with Shell, where they submitted a permit, pulled it back, submitted another one and pulled it back.

At this time I would like to yield 4 minutes to the gentlewoman from California (Mrs. CAPPS), a member of the Energy and Commerce Committee.

Mrs. CAPPS. I thank my colleague for yielding.

Madam Chair, I rise in strong opposition to H.R. 2021, the so-called Jobs and Energy Permitting Act.

I oppose this legislation for several reasons.

First, it gives oil companies a pass to pollute. It exempts offshore drilling companies from applying pollution control technologies to vessels like crew and supply boats, which actually account for most of the air pollution from drilling off my congressional district's coast. It also opens up a loophole for drill ships to pollute with no limits while the ship moves into place. And, instead of measuring pollution at the source, itself, H.R. 2021 allows oil companies to measure the impacts at the shore, with net results of more air pollution overall.

Second, H.R. 2021 does away with proven processes that provide an expert, efficient, and impartial review of air permitting decisions. I would note that in 20 years, the Santa Barbara Air Pollution Control District has never denied an offshore drilling permit, and there is more drilling off my district than just about anywhere in this country. The local air permitting review process works. We don't need to change it.

In addition, this bill's provision to remove all appellate action to Washington, D.C., is wholly unfair. This limits the rights of my constituents to participate in very important matters affecting their health. It forces cash-strapped local governments to travel thousands of miles to defend their permitting decisions, placing a serious burden on local taxpayers.

Finally, and perhaps most importantly to my constituents, H.R. 2021 poses real health risks to the communities surrounding offshore drilling by weakening local air quality standards. Pollution from the nearly two dozen oil platforms and the vessels that supply them in the Santa Barbara Channel includes high levels of airborne pollutants. These pollutants can cause severe lung problems and other major health issues. That's why our State adopted rules to strengthen air quality standards and help protect coastal residents from this pollution. It makes no sense to block these rules that will help my community clean up its air.

In sum, Madam Chair, H.R. 2021 is a bad bill.

Let me also address a theme that's been repeated on the other side. Supporters of this bill continue to parrot the Shell Oil talking point that it has taken them 5 years to get a Clean Air Act permit for their proposed drilling in the Arctic Ocean. They cite this 5-year delay as the justification for this legislation. This claim might make a nice sound-bite, but it is based on a fundamental misunderstanding of the facts.

Here are the facts. First, Shell has pulled its permit applications, modified its proposed operations, and changed its target drilling sites on numerous occasions over the past few years. Shell pulled the permit application for drilling in the Beaufort Sea for 2 years until going back to EPA with a brand new request in 2010. Every time Shell changed its plans, EPA had to adjust its assessment of the potential impacts on air quality and public health. That's what we expect EPA to do. No one wants EPA to take a one-size-fits-all approach to permitting these major sources of pollution.

Second, Shell delayed final EPA action on its air permit for drilling in the Chukchi Sea by submitting insufficient permit applications. That's Shell's fault, not EPA's.

Finally, EPA has prioritized Shell's permit applications and finalized them quickly. The two Shell permits at issue were proposed and finalized within 3 to 4 months of receiving completed applications. Both went from submission of a completed application to a decision by the Environmental Appeals Board within 1 year. EPA now says it is on track to finalize Shell's revised permits by the end of this summer.

If this bill is about addressing Shell's so-called 5-year permitting delay, then I see no basis for this legislation. The truth is that this bill isn't about expediting the permit process. It's about rolling back air quality protections. This bill will create more problems than it purports to solve because it will allow oil companies to pollute more offshore and cut concerned stakeholders out of the very process itself.

I urge my colleagues to oppose this bill.

Mr. WHITFIELD. Madam Chair, I would also like to clarify that this bill does not change the Clean Air Act in any way as it relates to monitoring

stationary sources or mobile sources. I wanted to point that out.

Second of all, the gentlelady from California mentioned additional drilling going on in the Pacific region. The government records show that since 1994, not one exploratory permit has been issued. There are production wells out there, but not one new exploratory permit since 1994.

I would now like to yield 2 minutes to the gentleman from Illinois (Mr. KINZINGER).

Mr. KINZINGER of Illinois. Madam Chairman, I rise today in strong support of H.R. 2021, the Jobs and Energy Permitting Act of 2011.

Every generation has an opportunity to excel in one area. Every 10 years or so, a country decides whether they're going to be a recipient of something or whether they're going to be a world leader.

For too long, the United States of America has accepted that we are going to be a net importer of energy, that we are always going to be energy dependent, that we are always going to be reliant on foreign sources of energy.

Ladies and gentlemen, two of Alaska's arctic seas contain up to 27.9 billion barrels of oil and 122 trillion cubic feet of natural gas. This could deliver up to 1 million barrels of oil a day, beginning the process of getting us unaddicted to foreign oil, beginning the process of bringing us energy security, and getting America back to work.

We have an opportunity here in the United States to get people back to work, but it is being limited and hamstrung by bureaucrats in Washington, D.C., and by those with a political agenda.

We have the equivalent of a pile of cash under our mattress, but we're taking out loans from the Mafia to care for our energy needs. It is high time that we stand up and say we have resources in the United States, and we're not going to allow political agendas to drive us to continued energy dependence, and we're going to stand up and say produce it here in the United States of America and do it now.

The American people, Madam Chairman, are beginning to understand that this administration and its agencies are having real consequences and real impacts on the unemployment rate, on the joblessness, and on the price we are paying for a barrel of oil and a gallon of gasoline, because every dollar that a gallon of gasoline increases, it is a regressive tax on Americans. Meanwhile, we sit around and we argue while bureaucrats in Washington, D.C., have their way.

Mr. WAXMAN. Madam Chair, I yield 3 minutes to the gentleman from Virginia (Mr. CONNOLLY).

Mr. CONNOLLY of Virginia. I thank my colleague.

Madam Chairman, the legislation before us would repeal pollution standards for ships and oil rigs located offshore anywhere in America. It appears to be based on the belief that as a general principle, air does not move. This legislation endangers air quality from Alaska to Virginia while offering another token of appreciation to the oil companies that were so generous in creating a new majority in the 112th Congress.

□ 1530

The premise of this bill is that pollution generated offshore doesn't matter because it will not affect any humans onshore or humans working offshore. And I know that those of us who represent littoral States are most reassured by our colleagues from Colorado, Kentucky, and Nebraska in reassuring us that we won't negatively be affected by this legislation.

Based on the content of this bill, apparently the majority believes that individuals employed on offshore oil rigs and ship servicing rigs do not breathe while they're working offshore. This bill would deregulate ongoing oil drilling in Alaska and prospective oil drilling off the coast of Virginia and all other coastal States. The majority is attempting to pass yet another bill to sacrifice the health and economic livelihoods of American citizens to pad the pocketbooks of Big Oil.

This legislation, which presupposes that air does not move, is as dangerous as the previous Republican oil bills which denied the existence of global warming and enacted wholesale repeals of the few safety and environmental safeguards that still protect coastal communities from oil drilling.

We keep hearing from across the aisle that this legislation will create 50,000 jobs. My friends, don't be misinformed. The study they referred to is a Shell Oil-funded study that simply estimates how many jobs could be created, all things being equal, like no pollution regulation, by offshore oil drilling in Alaska. Today's debate is not about whether to drill; it's about whether we will allow a massive increase in pollution when we do it. It is a false choice, and I urge my colleagues in the House to reject it.

Mr. WHITFIELD. Madam Chair, my friends on the other side of the aisle would make it appear that we are abandoning all environmental protections, and I would say that under this bill, there are still five opportunities for public comment. The NEPA process is not changed in any way.

At this time I would like to yield 2 minutes to the gentleman from Texas (Mr. OLSON), a member of the Energy and Commerce Committee.

Mr. OLSON. I thank my colleague from Kentucky for giving me this time.

Madam Chairman, I rise in strong support of H.R. 2021, the Jobs and Energy Permitting Act. This bill will help clarify and improve EPA's decisionmaking in air permitting off the coast of Alaska and restore much needed certainty to that regulatory process.

Estimates show that the Chukchi and Beaufort Seas have the potential to produce up to 1 million barrels of oil per day while creating over 54,000 American jobs. It is unacceptable that the bureaucratic permitting process has caused delays for 5 years and continues to block American energy resources from being developed. This bill would hold the administration accountable for its actions and provide the certainty so desperately needed by the private sector to grow jobs and get our economy back on track.

At a time of record high gas prices, we should be committed to developing American energy resources, reducing our dependence on Middle Eastern sources of energy, and providing good-paying American jobs. Let's put America back to work. I urge my colleagues to vote ''yes'' on this bill.

Mr. WAXMAN. I reserve the balance of my time.

Mr. WHITFIELD. I yield myself 5 minutes.

I would like to say that the American people expect the Congress to provide opportunities for us to fully explore our natural resources. This is a very modest bill that only changes one very small part of the Clean Air Act. It relates explicitly only to exploratory drilling permits, and it changes only appeals to the Environmental Appeals Board. The Environmental Appeals Board is not even in the statute of the Clean Air Act; it was put in by regulation.

And what's happening here in the one issue that we're talking about today, the EPA has approved this drilling permit on three separate occasions, yet it's been appealed to the Environmental Appeals Board, and it's tied up and tied up and they will not make a final decision. And if you cannot exhaust your administrative remedies, you cannot even go to the court system. So this legislation simply expedites the process without removing protections for people concerned about the environment, as we all are. And I wanted to make that comment.

I would also at this point like to yield 2 minutes to the gentleman from Colorado (Mr. GARDNER).

Mr. GARDNER. I thank the gentleman from Kentucky.

We've heard all kinds of arguments today, red herrings that would make the Fulton Fish Market proud of this debate.

This bill is not about jobs, my colleagues on the other side of this debate said. This bill is not about pain at the pump, my colleagues on the other side of the aisle said. This bill won't create jobs, I've heard in the arguments today. That it is a massive excuse for people to do incredible things to the environment, unthought-of things. Again, red herrings that the American people are tired of.

The American people are asking for jobs. They are asking for relief at the pump. This bill is nothing more than creating economic opportunity for not only people in Alaska but throughout this country with the creation of 50,000 jobs. When we access our resources,

evidently, there are some who believe it doesn't create jobs. When we create 1 million barrels of oil a day coming into our supplies, apparently that doesn't create jobs. When we build operations for our workers in the north shore of Alaska, the supply facilities in the lower 48 States, apparently that doesn't create jobs.

Apparently we don't lose jobs when people are beginning to pay nearly $4 a gallon for the price of gas. That seems to be the argument that I hear against this bill.

My constituents are paying $3.50, $3.60 for a price per gallon of gas. And apparently, as energy prices increase, some believe that doesn't cut jobs, that doesn't hurt our economy. I have heard time and time again, through testimony before the Energy and Commerce Committee, through town meetings, constituent calls and letters, they are tired of paying $50, $60 every time they fill up the tank with gas. They are tired of paying their hard-earned money for rising gas prices because this Congress has failed to pass energy policies that rein in the bureaucrats and regulators.

We have an opportunity with H.R. 2021 to create jobs, to create opportunities for energy security in this country. And I would remind my colleagues that these permits, the rights to explore have already been leased, paid for. I ask that Members support this bill, and I ask for a ''yes'' vote.

Mr. WAXMAN. Madam Chair, I yield 2 minutes to the gentleman from Illinois (Mr. RUSH).

Mr. RUSH. Madam Chair, I want to, first of all, say that this bill will not create jobs. This bill is not meant to create jobs. If the drilling is to create jobs, those jobs would be created regardless of whether this bill passes or not.

This bill's supporters also claim that it will lower gasoline prices, that it will reduce the budget deficit, and that it will cut unemployment. Well, they might as well have said that it would cure the common cold as well.

This bill is a solution in search of a problem.

This bill was written by Shell, for Shell, to address its frustrations with the permitting process in Alaska, a frustration that it was responsible for, Shell, itself. Ironically, the EPA has said on many occasions that it is working overtime to finalize Shell's permits by the end of this summer.

This bill won't get a drop of oil to American markets for American consumers one millisecond faster.

□ 1540

Shell told the Energy and Commerce Committee they won't be able to produce oil from its Arctic operations for at least 10 years, at least another decade. Even if this bill increased the rate of offshore production, new drilling is unlikely to affect world oil prices.

The CHAIR. The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman 30 additional seconds.

Mr. RUSH. In 2009 the Energy Information Administration looked at the difference between allowing full offshore drilling and restricting offshore drilling. The EIA found that there would be no impact on gasoline prices from full drilling in 2020, and only a slight impact by 2030, with gas prices falling by a mere 3 cents a gallon.

Mr. WHITFIELD. I yield 2 minutes to the gentleman from Louisiana (Mr. SCALISE).

Mr. SCALISE. Madam Chair, I rise in strong support of the Jobs and Energy Permitting Act of 2011. If you want to talk about a jobs bill, you want to talk about a bill that will actually allow us to decrease our dependence on Middle Eastern oil, this is it.

Now, some of my colleagues on the other side say, oh, it's going to take 10 years to get that oil. The reason it's going to take 10 years is because for the last 4 years they've been trying to get their permit to go and drill where there's known oil, known reserves and the EPA's been combining with these radical environmentalist groups to block them. And so what they're saying is, those people don't want the energy in America. They want to go to places like Brazil, they want to go to Egypt, they want to go to some of these other Middle Eastern countries, many of whom don't like us, and get the oil there. But when we find known reserves in America, they are using our own Federal regulators to block American energy.

So what we're saying is, let's pass the piece of legislation that's here on the floor now that's going to allow us to utilize our own American energy. This one find alone up in Beaufort and Chukchi Sea in Alaska, this one known reserve right here that we have the ability to put online is going to bring in a million barrels of oil a day. That's American energy. That's not oil that's going to be imported on tankers where 70 percent of your spills occur from Middle Eastern countries, where the billions of dollars we're sending them are going to countries who don't like us. That's American jobs, over 50,000 jobs that can be created by getting these bureaucratic hurdles out of the way.

They've got to follow all the rules. They've got to play by the rules, but you can't keep using these bureaucratic agencies combining up with radical environmentalist groups who don't want any American energy to be used to block production of American energy. That's what this bill does. It creates American jobs. It allows us to say, okay, a million barrels a day we no longer have to import from Middle Eastern countries.

So anybody that pays lip service and says they want to reduce our dependence on foreign oil, if they oppose this bill, then they're supporting foreign oil because this bill says a million less barrels of oil we have to bring in from these other countries because we have got it in America.

We want to bring in our own oil. We want to create American jobs, and we want to lower the price of gasoline at the pump. This is how you do it. This is how you put more oil through that Alaskan pipeline, which is getting ready to dry up because they won't let them explore for energy in America. Let's explore for energy and create jobs.

Mr. WAXMAN. Madam Chair, I just want to take issue with the statements that have been made over and over again that this drilling in Alaska by Shell Oil will relieve our dependence on foreign oil.

Let's look at the facts. This country consumes 25 percent of the world's oil. All the oil reserves in the United States amount to 2 percent. We are not going to reduce our dependence on foreign oil by producing more oil. We don't have enough oil to produce to satisfy our demand.

Now, that doesn't mean we shouldn't produce more domestic oil. And I want us to produce more domestic oil.

The gentleman from Louisiana said let's play by the rules and not let these radical environmentalist groups stop the permit. Well, I don't even know what he's talking about, and he may not know what he's talking about when he talks about radical environmental groups. There's no radical or other environmental groups that are opposing this drilling in Alaska. The people who are seeking the permit have put it in and pulled it back, and they've spent this additional time keeping EPA from acting on their permit.

Now, there's been talk about this Environmental Appeals Board, that it's not in the Clean Air Act. Well, the Clean Air Act provides that administrator shall set up an energy board to review the environmental issues.

Play by the rules? The Republicans want to repeal the rules. They don't want this appeals board, which has been in creation since President George H.W. Bush, which has worked well. They don't want them to review the application. They want to change the rules.

Now, let me tell you what it does in California. And my colleagues from California, Democratic and Republican, you don't know what your districts are going to be yet, so pay attention because our State is going to be hurt.

According to the State of California, which opposes this bill, in addition to increasing pollution, this legislation preempts local control and review. The bill short-circuits California's existing effective delegated permitting process, greatly increasing the likelihood of litigation, and removes all proceedings to Washington, D.C., imposing a substantial burden on the State and local governments and effectively disenfranchising local stakeholders.

Now, we hear so much from the Republican side of the aisle: Why should we have Washington make the decisions? Instead, what they're trying to

do is keep California from making its own decisions.

Well, what does California have to do with drilling off the coast of Alaska? Nothing, except in this bill they drafted it in a way that prevents California and Delaware and Virginia and other States from taking charge of what is known within their purview.

Let's let Shell get a permit under the regular procedures. If they need some help in clarifying ambiguity, we're glad to work on it.

But Republicans want to repeal the laws that protect the public interest and environmental protection just to give Shell a special break. It's not going to reduce our dependence on foreign oil. We won't even see that oil for another decade. It's a giveaway to Shell Oil, and they're using this as an excuse to repeal protections for other areas to control their own pollution sources.

So I would urge my colleagues to vote against this bill. It is a power grab, and the bureaucrats, the radical bureaucrats on the Republican side have come up with this bill; and they're trying to impose it on the whole country to help the oil companies.

I don't think that it's worthy of our support, and I urge my colleagues to vote against it.

I yield back the balance of my time.

Mr. WHITFIELD. I yield myself 3 minutes.

The gentleman, in his statement, noted that we consume 25 percent of the world's oil, but we possess only 2 percent of the world's reserves. And that's precisely why we're trying to pass this bill, because oil resources can only be counted as proven reserves if they've been fully explored, and we have not had the opportunity to fully explore.

And so why should we continue to be dependent on foreign oil when we have not been able to even explore because we have a bureaucratic agency at EPA, the purpose of which is to deny the opportunity to fully explore?

This is modest legislation. It simply clarifies that if you have a ship, that ship is going to be treated as a mobile source. If you have a drilling platform, that's going to be treated as a stationary source.

If you're drilling, we're going to look at the ambient air quality impact onshore, not offshore. And then we're just going to ask the EPA to eliminate the Environmental Appeals Board for exploratory permits only, nothing else, and to make a decision within 6 months after the completed application is there.

□ 1550

I think that this graph adequately demonstrates what our problem is here in America. This is the Trans-Alaska Pipeline. In 1985 we were moving 2.1 million barrels a day through that pipeline. Today, we're down below 600,000 barrels a day. So if we have the reserves, the American people are simply asking us to restore some balance in these Federal agencies. We want to protect the environment, but we also want an opportunity to explore and use our own oil resources, and we have reason to believe that they are abundant.

I want to thank Mr. GARDNER for his leadership on this issue. And I would urge everyone in this body, just like we had five Democrats in committee who voted for this bill, I think it's imperative for the American people that we do so, and I would urge that we adopt H.R. 2021.

Mr. BLUMENAUER. Madam Chair, I rise in opposition to H.R. 2021, which undercuts Clean Air Act standards and would allow large oil companies to circumvent air pollution regulations. I strongly believe that America needs to ensure our energy security and reduce our dependence on imported oil, but this bill is not the way to accomplish this goal. I support safe and responsible resource extraction and further developing our renewable energy capacity. But energy independence will not be secured by curtailing the authority of the Environmental Protection Agency (EPA) under the Clean Air Act to protect the nation's air quality standards.

H.R. 2021 would severely limit the EPA's authority to protect human health and the environment. It would allow companies to waive permit reviews by the Environmental Review Board and would exempt them from requirements to use pollution control technologies, despite the ready availability of these technologies. Removing these controls would allow damaging pollutants to be released into the air, including nitrogen dioxide, particles, and sulfur dioxide, which would have significant health, environment, and climate impacts. The regulations to prevent this pollution are reasonable, commonsense provisions, yet this bill would undercut them, allowing widespread damage to human health and the environment for benefit of few wealthy companies. The health and environmental damage would be seen on all coasts where drilling takes place.

According to some estimates, Shell's proposed 2010 drilling plan for the Arctic alone would have released as much particulate matter as 825,000 additional cars on the roads, traveling 12,000 miles each. This is only a single company's plan for a single drilling location; the full ramifications of this bill across all companies and all regions would be immense and disastrous.

H.R. 2021 would also increase Federal court litigation, taking authority from local courts and giving it to the D.C. Court of Appeals. This replaces an established, inexpensive process for citizen challenges to government actions with a longer, more expensive review process by a court that may not be familiar with the local coastal and air quality conditions.

In the wake of the Deepwater Horizon disaster, Federal policy should be more diligent than ever in pursuing safeguards and regulations that make sure that such costly, destructive events are made less frequent, rather than commonplace. Stripping out the environmental protections that we already have is irresponsible and it puts not only the Oregon coast, but communities from Alaska to California and from Maine to Florida at unnecessary risk. H.R. 2021 does nothing to secure a clean, safe path toward energy security. I oppose this legislation.

Mr. MORAN. Madam Chair, I rise in opposition to the Jobs and Energy Permitting Act. The duplicitous nature of the title itself should be sufficient reason to oppose it. This bill should actually be called the Shell Oil Exemption Act, because that is the intent and the effect of this legislation. Operating on the myth that the State and Federal Clean Air Act permits are blocking oil industry efforts to drill offshore, the legislation would grant them generous exemptions at the expense of the public's health and at needless harm to the environment.

Shell, the world's second largest oil company, can't seem to get its act together. Rather than admit to its feckless effort to drill offshore in Alaska and invest in pollution control technology, it has invested in the political process to buy some regulatory relief. I guess it's cheaper. But claims it makes that its Clean Air Act permits have taken five years is simply false.

EPA Assistant Administrator Gina McCarthy affirmed that and I quote, ''every time Shell has applied for a permit, a permit has been issued by the agency within 3 to 6 months of that permit application being complete.'' She also noted that Shell ''has consistently revised the request, changed the project, changed what sea they want to drill in.'' Shell also pulled is application to drill in the Beaufort Sea for two years and submitted an incomplete application.

There is no rational reason why Shell or any other oil company should be able to exempt their offshore operations from the Clean Air Act. Operations in the Gulf of Mexico aren't exempt.

This proposal also affects the environment in areas other than Alaska including my home state of Virginia and other areas where future drilling may occur like California, and Florida that unlike Alaska face more serious challenges of bringing their non-attainment areas into compliance with the Clean Air Act.

It's my understanding that exploration drilling can result in the release of as much particulate as 825,000 carts traveling 12,000 miles; as much CO_2 as the annual household emissions of 21,000 people; more than 1000 tons of NO_2, a pollutant associated with respiratory illness; and more than 57 tons of particulate matter (PM)2.5, a pollutant linked to respiratory illness and climate change.

Exempting offshore drilling would mean that other, land-based businesses would be subject to additional reductions to offset the pollution generated offshore.

Madam Chair, this bill is bad news for the public's health, the environment and for businesses.

I urge my colleagues to oppose this legislation.

Mr. WHITFIELD. Madam Chair, I yield back the balance of my time.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered read for amendment under the 5-minute rule.

The text of the bill is as follows:

H.R. 2021

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 ''Jobs and Energy Permitting Act of 2011''.

SEC. 2. AIR QUALITY MEASUREMENT.

Section 328(a)(1) of the Clean Air Act (42 U.S.C. 7627(a)(1)) is amended by inserting before the period at the end of the second sentence the following: '', except that any air quality impact of any OCS source shall be measured or modeled, as appropriate, and determined solely with respect to the impacts in the corresponding onshore area''.

SEC. 3. OCS SOURCE.

Section 328(a)(4)(C) of the Clean Air Act (42 U.S.C. 7627(a)(4)(C)) is amended in the matter following clause (iii) by striking ''shall be considered direct emissions from the OCS source'' and inserting ''shall be considered direct emissions from the OCS source but shall not be subject to any emission control requirement applicable to the source under subpart 1 of part C of title I of this Act. For platform or drill ship exploration, an OCS source is established at the point in time when drilling commences at a location and ceases to exist when drilling activity ends at such location or is temporarily interrupted because the platform or drill ship relocates for weather or other reasons.''.

SEC. 4. PERMITS.

(a) PERMITS.—Section 328 of the Clean Air Act (42 U.S.C. 7627) is amended by adding at the end thereof the following:

''(d) PERMIT APPLICATION.—In the case of a completed application for a permit under this Act for platform or drill ship exploration for an OCS source—

''(1) final agency action (including any reconsideration of the issuance or denial of such permit) shall be taken not later than 6 months after the date of filing such completed application;

''(2) the Environmental Appeals Board of the Environmental Protection Agency shall have no authority to consider any matter regarding the consideration, issuance, or denial of such permit;

''(3) no administrative stay of the effectiveness of such permit may extend beyond the date that is 6 months after the date of filing such completed application;

''(4) such final agency action shall be considered to be nationally applicable under section 307(b); and

''(5) judicial review of such final agency action shall be available only in accordance with such section 307(b) without additional administrative review or adjudication.''.

(b) CONFORMING AMENDMENT.—Section 328(a)(4) of the Clean Air Act (42 U.S.C. 7627(a)(4)) is amended by striking ''For purposes of subsections (a) and (b)'' and inserting ''For purposes of subsections (a), (b), and (d)''.

The CHAIR. No amendment to the bill is in order except those printed in part A of House Report 112–111. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MS. SPEIER

The CHAIR. It is now in order to consider amendment No. 1 printed in part A of House Report 112–111.

Ms. SPEIER. Madam Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Strike section 2 (and redesignate the subsequent sections accordingly).

The CHAIR. Pursuant to House Resolution 316, the gentlewoman from California (Ms. SPEIER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. SPEIER. Madam Chair, I rise today in support of my amendment which strikes section 2 of the bill.

Section 2 of this bill would amend the Clean Air Act to force emissions from any offshore source to be measured only at the corresponding onshore location. Yes, you heard me correctly, the bill demonstrates willful ignorance of the fact that pollution is also harmful over water, not just on land. This dirty air loophole is so big you can float a Deepwater Horizon-sized oil rig through it.

I know our philosophies differ here, but the fact is that even if we produced every drop of recoverable oil offshore today, it would only last us for 3 years at our current consumption rate. Then we would be right back where we started from without having reduced our demand on oil, except we would be about billions of dollars poorer after subsidizing the oil companies to turn the rest of offshore USA into the Gulf of Mexico. That does not sound like a deficit-cutting, jobs-creating proposal to me.

H.R. 2021 purports to simply reduce the amount of time it takes to get a permit to drill, but it also gives Big Oil a free pass on having to properly account for the toxic pollution it releases on the Outer Continental Shelf. It moves the geographic point where emissions are measured from offshore, near the drilling location, to an onshore point many miles away.

This change would clearly weaken public health protection for oil workers—are we interested in them?—fishermen—are we interested in them?—recreational boaters, not to mention all those who do business or make a living in our coastal communities. Apparently, it's the old out-of-sight, out-of-mind approach; what you can't see won't hurt you. After the BP oil spill just last year, such an approach should be dismissed as reckless.

One year ago today, oil was gushing into the gulf and toxic emissions were streaming into the air. But if this bill passes, the same level of Clean Air Act protections that gulf oil workers, fishermen, and coastal residents relied on to fight BP for damages would no longer apply in the gulf or anywhere else.

Let's be clear. In this bill, the rules don't apply to Shell. Shell wants to drill in the Arctic Ocean off Alaska without monitoring at the source. I get it. We all get it. But that isn't prudent; that isn't fair; that isn't safe.

Here are the facts this bill would cover up:

Shell's plans to drill for oil in the Arctic would dump as much particulate matter into the air as over 825,000 cars traveling 12,000 miles; as much CO_2 as the annual household emissions of 21,000 people; and more than 1,000 times of NO_2, a noxious pollutant that causes respiratory illness. This is according to Shell's own permit applications. The pollution may be emitted from rigs or vessels far offshore, but the effects are felt miles away by native populations with vibrant fishing communities by the coast.

If Shell Oil or any other company wants to do business on the Outer Continental Shelf, they need to demonstrate that they can meet standards set forth in the Clean Air Act. I mean, that's just fundamental. Instead, they have succeeded in getting Republicans here in Congress to waste taxpayers' time by pushing bills granting them exemptions from the rules at the expense of public health and the environment. In fact, by creating this loophole, H.R. 2021 would actually further complicate the permitting process and increase expenses for all parties involved.

The California Air Resources Board, which oversees oil and gas permitting in my State, testified on this very point in committee. This bill, they said, will require more time and expense to properly model onshore emission impacts. Districts may incur added cost and delay to deploy an adequate onshore monitoring network and obtain data sufficient to establish a baseline—costs that will be passed on to the permit applicants.

As a ''jobs and energy permitting'' measure, therefore, this bill would fail on both counts while doing real harm to air quality in California and many of the 20 other coastal States. It will certainly achieve the goal of increasing oil company profits at the cost of everyone else.

I respectfully urge my colleagues to vote for this amendment and oppose this dirty air loophole.

Madam Chair, I yield back the balance of my time.

Mr. WHITFIELD. Madam Chair, I rise in opposition to the amendment.

The CHAIR. The gentleman from Kentucky is recognized for 5 minutes.

Mr. WHITFIELD. Madam Chair, I would like to quote from Lisa Jackson, who was talking explicitly about the permitting issue here. She said: I believe that the analysis clearly shows that there is no public health concern here. And that's why EPA, on three separate occasions, approved this air quality permit, but on the appeal process it was denied by the Environmental Appeals Board.

Now, if you look at the legislative history of the Clean Air Act, it is very clear in that legislative history that, as it pertains to Outer Continental Shelf sources, they were concerned about the impact onshore and the ability of onshore to attain and maintain their Clean Air National Ambient Air Quality standard requirements.

And so all this legislation does is to clarify that point. We're not changing

the ambient air quality standards. We're not changing the way they monitor stationary sources. We're not changing the way they monitor mobile sources. We're simply clarifying that that was the legislative history, that was the intent, and the full range of environmental protections are still in place.

So I believe that this amendment is not necessary. We already have adequate monitoring in place.

Madam Chair, may I inquire as to the time remaining.

The CHAIR. The gentleman from Kentucky has 1½ minutes remaining.

Mr. WHITFIELD. I yield the balance of my time, in opposition, to the gentleman from Colorado (Mr. GARDNER).

The CHAIR. The gentleman from Colorado is recognized for 1½ minutes.

Mr. GARDNER. I thank the gentleman from Kentucky.

The issue that we are discussing here was actually brought up in debate at the time of the conference committee, this very language, the very title that we are discussing. I will read some language from the conference committee report.

Of primary concern is the fact that OCS air pollution is causing or contributing to the violation of Federal and State ambient air quality standards in some coastal regions.

□ 1600

We are dealing with onshore. The debate is on onshore. The debate at the time was over onshore regulations, on coastal regulations.

In addition, the testimony before the House Energy and Commerce Committee focused on this language in the regulations dealing with the rational relationship to the attainment and maintenance of Federal and State ambient air quality standards and the requirements of the PSD program, and that the rule is not used for the purpose of preventing exploration and development of the OCS, going directly—directly—to the interpretation that the focus on OCS requirements, as the regulations themselves state, is onshore, that the onshore air quality represents a rational relationship between OCS sources and obtaining and maintaining air quality standards.

California, this was the language, this was the conversation. The debate took place during the very conference committee about coastal regions, about onshore regulations.

I thank the gentleman for yielding.

Mr. WHITFIELD. I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from California (Ms. SPEIER).

The question was taken; and the Chair announced that the noes appeared to have it.

Ms. SPEIER. Madam Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. HASTINGS OF FLORIDA

The CHAIR. It is now in order to consider amendment No. 2 printed in part A of House Report 112–111.

Mr. HASTINGS of Florida. Madam Chair, I offer an amendment to the bill.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, line 19, strike ''but shall not be subject'' and insert ''and shall be subject''.

The CHAIR. Pursuant to House Resolution 316, the gentleman from Florida (Mr. HASTINGS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. HASTINGS of Florida. Madam Chair, in the past I have made the statement regarding offshore drilling as a native Floridian that I will be the last person standing opposed. But it would seem to me there is ever-mounting evidence that Republicans are willing to expand offshore drilling regardless of cost to the environment.

This particular iteration of what I describe as a near-criminal energy policy takes the form of a sellout of hardworking Americans' right to breathe clean air. In particular, this bill excludes Shell Oil's icebreaker ships in the Arctic from regulation under the Clean Air Act.

Shell has and will continue to argue that since its icebreakers are regulated under title II of the Clean Air Act, the vessels don't also need to be regulated under title I. Yet the fact is that Shell's ships would not be regulated under title II due to the fact that they are foreign-flagged and predate the effective date of the regulations.

Shell is asking Congress, and Republicans are obliging, to create a legal loophole so that Shell, their company, can pollute with impunity and not be bothered by complying with environmental regulations designed to minimize our desecration of the Earth.

This loophole would create a dream scenario for Shell and the rest of the oil industry, currently taking in record profits as gas prices soar for the average American family. For its 2010 drilling operations, it was not the amount of emissions from the drill ship itself that triggered the application of the Clean Air Act regulations to Shell's operations, but the emissions from Shell's icebreakers.

The exploration drilling proposed by Shell, as has been noted, would release particulate matter well in excess of 800,000 cars traveling 12,000 miles. These kinds of support vessels are responsible for up to 98 percent of the air pollution from drilling outfits, and Republicans are asking Congress to close our eyes to this matter.

My amendment would bring the oil companies' dreamworld crashing down around them. My amendment eliminates the loophole created in this bill, giving EPA the authority to regulate the support vessels and the emission sources that they are.

I was in the Rules Committee. I heard this argument about 5 years and Shell, and I also heard my colleague Mr. RUSH clearly explain that Shell filled out applications that were not fully filled out, and then when they were sent back at some point they even pulled their application before sending it back incomplete. Now, you can't have it both ways.

But, more important, I would ask every speaker that speaks in favor of this measure, tell the American public today how much this is going to reduce the cost of gasoline today, tomorrow, or next week, or next year.

The fact is, Hilda Solis, the Labor Secretary, did something today about the next iteration of jobs. She announced grants for different segments of this country in the amount of $38 million in grants for the Green Jobs Innovation Fund program. That is where our head needs to be. Our heart may still be in the need to use fossil fuels, but this measure isn't going to make one whit of a difference with reference to the cost of gas.

I reserve the balance of my time.

Mr. GARDNER. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR (Mr. CULBERSON). The gentleman from Colorado is recognized for 5 minutes.

Mr. GARDNER. I rise in opposition to the amendment, which mixes two basic concepts of stationary title I issues and mobile title II sources. What we are talking about here is something akin to requiring the employee of a factory to overhaul his engine simply because he parks next to the factory. It is requiring a re-engining of service vessels simply because they happen to be in the area of a stationary source.

So basically what we are talking about in the bill is saying that once a drilling ship starts to drill, that is when it becomes stationary. To require the vessels that service that drill ship, to require them to be stationary would be like requiring the UPS truck to fall under the same regulations as the factory that it is delivering to, or treating an emissions testing facility like it has wheels and ought to be moving around to everybody else because it is testing the emissions of a stationary source. So I rise to oppose this amendment, again, because of issues it is trying to deal with, mixing stationary and mobile sources.

The issue of foreign-flagged ships is dealt with in international law under our treaties that we have in this country. It is dealt with in the MARPOL Treaty. If we want to increase those regulations on U.S. vessels, Congress can do that. However, to increase regulations on service vessels only because they were hired to service an OCS vehicle makes no sense.

It was said in debate earlier too, I believe it was said we are not going to reduce our dependence on foreign oil by

producing more oil. I guess that argument means the same thing as we are not going to have more food by producing more food; we are not going to have more appliances in this country by producing more appliances. The arguments we have heard against this bill are off point, off subject, and are simply on claims that don't make any sense.

So when it comes to this particular amendment, delivery trucks aren't regulated as stationary sources, nor should the service vessels to a stationary source, the drilling ship, as will be considered once this legislation becomes law.

I yield back the balance of my time.

Mr. HASTINGS of Florida. Mr. Chair, I am prepared to yield back the balance of my time and ask for a record vote.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. HASTINGS).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. HASTINGS of Florida. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. WELCH

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in part A of House Report 112–111.

Mr. WELCH. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 4, after line 9, insert the following (and redesignate the subsequent paragraphs accordingly):

''(1) such completed application shall include data on oil subsidies provided by the Federal Government to the applicant;

□ 1610

The Acting CHAIR. Pursuant to House Resolution 316, the gentleman from Vermont (Mr. WELCH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Vermont.

Mr. WELCH. Mr. Chairman, oil companies, of course, benefit from significant subsidies. This amendment would require that applicant oil companies for permits to drill would disclose as part of their application the taxpayer-provided subsidies that they enjoy. They would make that specific as to the leases for which they're seeking permission to drill.

Now, we've had a long debate, Mr. Chairman, in this body about the wisdom of subsidies to oil companies and we have a strong contingent in this body that favors those subsidies, making arguments that it's good for the economy, good for producing energy, and beneficial to the taxpayer. We have many in this body, myself among them, who believe that these subsidies are too rich and they're unnecessary.

When oil company profits are a trillion dollars in the past year, when the price of oil has been hovering between $95 and $113 a barrel, when the companies have enjoyed record profits this year, the question arises by me and by many as to whether or not it makes sense to ask the taxpayers to reach into their pockets and to provide subsidies to a mature industry—an important industry, but a mature industry and a very profitable industry with a very high-priced product where they can generate and are succeeding in generating significant profits for that industry.

This is not about whether they're doing good or they're doing bad—we have oil companies that are doing their job—but it is about whether taxpayers should be, at the very minimum, made explicitly aware as to how much it is they're being asked to subsidize oil companies when they seek these leases.

One of the challenges we have that has been a major point by the new majority is that we have a budget deficit and we've got to control spending. Spending is both on the direct appropriations side and what's called here the tax expenditure side. I think our constituents would know that as tax breaks. Why not take every action we can when it comes to spending and it comes to tax breaks to mobilize the awareness of the American people so they know what it is we're spending their money on, whether it's for a spending program or a tax break subsidy.

So this is about disclosure. It's about unleashing the power of knowledge, making it available to the American people so they can tell their representatives, You know what? We think that subsidy is a pretty good idea, or, You know what? We don't have to continue to be shelling out money for that subsidy. We want to go in a new direction.

So, Mr. Chairman, my amendment is about empowering the democratic objectives of this country.

I reserve the balance of my time.

Mr. POMPEO. Mr. Chair, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Kansas is recognized for 5 minutes.

Mr. POMPEO. I rise in opposition to the Welch amendment and in strong support of H.R. 2021, the Jobs and Energy Permitting Act, a piece of legislation that would create jobs in America and American energy for American consumers.

The Welch amendment requires a company applying for a permit to provide data on ''oil subsidies provided by the Federal Government.'' Mr. Chairman, this is an absolute red herring. There's no definition of ''oil subsidy.'' That's intentional. The gentleman who proffered this amendment is an attorney. He ought to know better. I don't know what oil subsidies to which he's referring.

Section 199, manufacturing deduction, which goes to all businesses whether they produce oil or otherwise, so long as they're engaged in manufacturing. Maybe he's referring to the writing off of intangible drilling costs and claiming tax credits for employing American workers. If those qualify as American Government giveaways, that should absolutely be something that I would think that he would support. These folks are paying royalty taxes and giving great revenue to the United States Treasury.

This piece of legislation, without this amendment, will create many jobs and revenue for the United States Treasury.

What Mr. WELCH is really interested in, Mr. Chairman, what this amendment really does is it attempts to punish oil companies for producing American energy and American jobs. This piece of legislation, H.R. 2021, will do just that, and this amendment attempts to stop it.

If there were subsidies that applied only to the oil industry or specifically benefited folks who purchased traditional oil and petroleum, I'd be the first to rise and say, You're right; that's a subsidy. We ought to get rid of it. But that's not what this amendment attempts to do. Rather, this amendment attempts to stop a piece of legislation that will create energy; will lower the price of gasoline for American consumers; will, again, add jobs all over our country; and, once again, provide American energy so that American consumers may benefit.

I'd like to urge all of my colleagues to oppose the Welch amendment and support the underlying Jobs and Energy Permitting Act.

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

Mr. WELCH. I would just say this to my colleague: You and I disagree, obviously, on the subsidies. We don't disagree that the oil industry does provide good jobs to a lot of American families and a product that we need to keep our economy going. But there's a reasonable basis for disagreement about whether a particular subsidy has outlived its useful life. It is real money out of the pocket of the taxpayer.

While the suggestion is made that it would be tough to figure out what the subsidies are, these companies that enjoy these subsidies have accountants who scour the Tax Code to make certain that every legally available subsidy is one that they, in fact, do take. They actually owe that due diligence and that effort to their shareholders to make certain that they get maximum value for the shareholders, and that includes paying not a nickel more in taxes than they're legally required to pay by the rules that this House of Representatives sets.

So this is not about whether you're for or against the tax subsidies as they exist—we disagree on that—but it is about saying to the American taxpayer, when the company is filling out

this application, after they've done their tax filings, which they do every year, they can specify what the benefit is they are getting courtesy of the United States taxpayer. That's really what this is about.

What is the problem with letting people know how their money is being spent?

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Vermont (Mr. WELCH).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. WELCH. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Vermont will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. KEATING

The Acting CHAIR. It is now in order to consider amendment No. 4 printed in part A of House Report 112–111.

Mr. KEATING. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 4, after line 9, insert the following (and redesignate the subsequent paragraphs accordingly):

''(1) such completed application shall include data on bonuses provided to the executives of the applicant from the most recent quarter;

The Acting CHAIR. Pursuant to House Resolution 316, the gentleman from Massachusetts (Mr. KEATING) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. KEATING. I yield myself such time as I may consume.

I rise to urge my colleagues to support my amendment to H.R. 2021.

As constituents see soaring gas prices, soaring oil prices, oil companies have revealed record profits. The top five multinational oil companies earned over a trillion dollars in the past decade. In my district, where jobs and commerce depends on a coastal marine and tourism economy, I have constituents that are paying up to $4.50 a gallon. These oil firms, these conglomerates, are eating up more and more of our constituents' paychecks.

And where is it going? Only a small portion—some estimate as little as 7 percent—are reinvested back into the economy to pay for efficiencies and research into alternatives to oil. Rather, oil companies are providing bumps for stockholders and high bonuses to their company executives—a pat on the back for high prices at the pump. Remember that up to 90 percent of the tax subsidy money given to executives and companies by the taxpayers went to buybacks for preferred stock purchases.

My amendment would provide transparency to the U.S. taxpayer.

□ 1620

The amendment requires that all completed permit applications include data on executive bonuses distributed by the applicant company in the most recent quarter.

In May I offered a similar amendment to H.R. 1231, which would have required the Secretary to make available to the public data on executive bonuses for any company that is given a drilling lease, and it received at that time 186 votes. We have an opportunity now to successfully pass this amendment, and the time is now to hold the largest oil companies accountable. I urge my colleagues to support this important amendment in order to provide transparency to the American taxpayer.

I reserve the balance of my time.

Mr. GARDNER. I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Colorado is recognized for 5 minutes.

Mr. GARDNER. Mr. Chairman, once again, we are faced with the question of whether we want to focus on the issues that this bill is intending to address—the issue of job creation, the issue of energy security—and whether or not we are going to take advantage of the resources that we have in our own backyard, which is American energy for the American people.

This amendment presents, once again, one more distraction from the very purpose of this bill. It is a distraction for our colleagues. I understand that they want to oppose this bill, but I believe they ought to oppose the bill on its merits. If they want to oppose the bill, vote ''no'' on the bill. If they want to offer constructive amendments, then introduce amendments to try to improve the bill, but presenting red herring amendments in amendment after amendment ought to be defeated.

Aside from the distraction that this amendment creates, there is no real need for this amendment from a practical perspective. If an interested person wants to know the amounts of bonuses paid to an oil company executive, the information is available. As it is a publicly owned company, it's already available. I don't believe we require bonus disclosure when environmental groups apply for grants. When a staffer helps out on a particular piece of legislation when we introduce the bill, I don't believe that we have disclosure on a bonus to a staffer. Again, this is a red herring on a bill that focuses on jobs and job creation.

I reserve the balance of my time.

Mr. KEATING. Mr. Chairman, how much time remains?

The Acting CHAIR. The gentleman from Massachusetts has 3 minutes remaining.

Mr. KEATING. I think the point is that environmental groups, marine jobs groups and groups that depend on tourism in my district don't have shareholders. They aren't the beneficiaries of this. The purpose of this amendment is to find out who really benefits.

If you represent a district like mine, there is a great risk in this—a risk in jobs, a risk in commerce, a risk that is irreparable, a risk that is one that should be taken very seriously. If one is taking that very seriously, one has to look at who, indeed, is benefiting by this. It's clear, given some of the other alternatives that are there right now, that the people at the pump are not benefiting by this. The people in my district who are depending on jobs that could be risked as a result of failures from this drilling have a great deal to risk. It is not a red herring. In fact, if you're going to apply any kind of fish analogies, another important industry in my area, the fishing industry, is one that is assuming this risk as well. Now, all of these risks are there. Who is benefiting by this risk?

The purpose of this amendment is to tell the public who, indeed, benefits by it. It is the executives who are getting these large bonuses, because this is about profits, and the profits go to those executives. They aren't there to help reduce costs for the people at the pump, and they certainly aren't there to help the people in my district who are bearing all the risk of this type of drilling.

I yield back the balance of my time.

Mr. GARDNER. Who benefits from this bill? The American people benefit from this bill.

In testimony before the House Energy and Commerce Committee, it was made very clear that the west coast could import less oil because of the development of the Chukchi and Beaufort Seas. Testimony was received before the House Energy and Commerce Committee that this could reduce the price of gasoline when we create more supplies, particularly for areas along the west coast, because of the presence of the Beaufort and Chukchi Sea reserve. So the American people are the beneficiaries of increased American production.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Massachusetts (Mr. KEATING).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. KEATING. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts will be postponed.

AMENDMENT NO. 5 OFFERED BY MR. RUSH

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in part A of House Report 112–111.

Mr. RUSH. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 4, line 13, insert before the semicolon '', except that the Administrator may provide additional 30-day extensions if the Administrator determines that such time is

necessary to meet the requirements of this section, to provide adequate time for public participation, or to ensure sufficient involvement by one or more affected States''.

Page 4, beginning at line 18, strike paragraph (3) and insert the following:

''(3) no administrative stay of the effectiveness of such permit may extend beyond the deadline for final agency action under paragraph (1);

The Acting CHAIR. Pursuant to House Resolution 316, the gentleman from Illinois (Mr. RUSH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois.

Mr. RUSH. I yield myself such time as I may consume.

Mr. Chairman, the amendment I am offering today would strengthen this bill by ensuring that we maintain an opportunity for State and community input even as we seek to streamline the permitting process, as this bill attempts to do.

My amendment would simply allow the EPA administrator to provide additional 30-day extensions if the administrator determines that such time is necessary to provide adequate time for public participation and sufficient involvement by affected States. Mr. Chairman, input by those most affected by drilling is a vital and necessary part of the permitting process.

There was a time not too long ago when my Republican colleagues valued local participation and States' rights; and now that they are in the majority, they are attempting to strip away the power of States and the power of local communities to even participate in the decisions that will affect them the most.

As Representative of the people, I do not believe that it makes sense for us to legislate away the ability of our citizens to comment on drilling decisions that will impact their health, impact their livelihoods, impact their well-being. I also don't think that our constituents will buy into the argument put forth by my colleagues on the other side of the aisle that we must make it easier for all companies to drill and also take away the public's ability to comment, even while they say this is for the public's own benefit. It's ludicrous.

This bill's supporters have said that this is a narrow bill designed to address problems Shell Oil Company has faced in obtaining a Clean Air Act permit for exploratory drilling off the coast of Alaska; but in fact, this legislation will impact every State on the Atlantic and Pacific coasts. The States of California and Delaware testified before the Energy and Commerce Committee that they have grave concerns about the impact of this bill on their ability to protect public health and welfare from air pollution.

I truly believe, Mr. Chairman, that it is imperative that the States and the local communities that will be most affected participate in the process of awarding permits, and this amendment would ensure that adequate time is given for that purpose. I don't believe that we should ever sacrifice the interests of the American public in order to expedite the interests of oil companies, so I hope that all of my colleagues will join me in supporting my amendment.

□ 1630

I reserve the balance of my time.

Mr. WHITFIELD. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Kentucky is recognized for 5 minutes.

Mr. WHITFIELD. Mr. Chairman, I've had the opportunity to serve many years with the gentleman from Illinois, who's the ranking member of this subcommittee, and have a great deal of respect and admiration for him. But I would point out to him that this legislation does not in any way curtail, stop, impose the opportunity for anyone to express opposition or comment about a permit. We do not in any way change the comment period that EPA has to determine if they're going to issue, in this case, an exploratory permit.

We do not in any way change the National Environmental Policy Act that provides four additional opportunities for communities, local, State, individuals, environmental groups to comment on an exploration permit. There are today five opportunities for people to comment about air permits. After this bill is passed, there will still be five opportunities for entities to comment.

Today, individuals and entities can file a lawsuit against the EPA and their actions. After this bill is passed, they can still file a lawsuit.

This amendment basically gives the EPA Administrator the opportunity to grant 30-day extensions on final agency action as the Administrator deems it necessary; but it's not limited to one 30-day period, two 30-day periods or three 30-day periods. In fact, it could go on ad infinitum, and that's the whole reason we have the bill here today, because I don't care what company it is out there trying to explore to determine if the oil is there, if you cannot even get an administrative decision, as in the case in point it has taken 4 or 5 years and there's still no decision, you can never get to the court system.

So this bill is a commonsense bill that provides some balance, some checkpoints at EPA so that we have the maximum opportunity to explore, to determine how much oil we have off the coast of Alaska. And I might say, in the hearings Alaska government authorities came up and pleaded for us to do something to help get a decision from EPA.

So I would oppose this amendment.

I reserve the balance of my time.

Mr. RUSH. Mr. Chairman, may I inquire as to how much time I have remaining.

The Acting CHAIR. The gentleman from Illinois has 1 minute remaining.

Mr. RUSH. Thank you, Mr. Chairman.

Let us not be bamboozled by this argument that my friend on the other side is trying to perpetuate on the American people. There is one problem with this bill—well, there are actually two problems with this bill.

One problem is that it gives the EPA and State permitting authorities just 6 months, 6 lousy months, to finalize an air permit for offshore exploratory drilling, which is not enough time to perform an adequate technical review while allowing for adequate public participation.

Number two, it preempts State authority. It preempts the right of the State of California, the State of Delaware, and other States with designated authority to impose more stringent emission controls on vessels servicing an offshore drilling operation.

Mr. Chair, this amendment attempts to cure a very serious problem with this bill.

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

Mr. WHITFIELD. How much time do I have remaining?

The Acting CHAIR. The gentleman from Kentucky has 2 minutes remaining.

Mr. WHITFIELD. I yield myself 2 minutes.

To close this debate, I would simply say that we think 6 months is totally adequate to make some decisions about air quality permits for exploratory purposes only, and I would remind everyone here that EPA had a 60-day comment period for its utility MACT regulation that was a 1,000-page regulation imposed by EPA's own estimate of $10 billion on the American people and increased electricity costs, if it goes into effect, by 4 or 5 percent, and they did that in 60 days.

Certainly, the 6 months that we give in this bill for an air quality permit for drilling purposes alone is adequate, and I would respectfully request that we oppose this amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Illinois (Mr. RUSH).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. RUSH. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Illinois will be postponed.

AMENDMENT NO. 6 OFFERED BY MR. QUIGLEY

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in part A of House Report 112–111.

Mr. QUIGLEY. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 4, beginning on line 14, strike paragraph (2) and redesignate the subsequent paragraphs accordingly.

The Acting CHAIR. Pursuant to House Resolution 316, the gentleman from Illinois (Mr. QUIGLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois.

Mr. QUIGLEY. Mr. Chairman, I rise today in support of my amendment to H.R. 2021, a bill that curtails the EPA's authority under the Clean Air Act to regulate pollution from offshore oil drilling and to limit the public's participation in decisions that directly affect our health.

My amendment strikes the text which strips the ability of the Environmental Appeals Board to remand or deny the issuance of clean air permits for offshore energy exploration and extraction. Quite simply, this amendment allows the EAB to operate as it does today, saving taxpayer dollars and keeping unnecessary litigation out of the courts and in a place where unbiased and apolitical judges can make sound decisions with input from local constituencies who are most affected.

It's worth noting that the EAB was established under George H.W. Bush, created in recognition of increasing levels of appeals from permit decisions and civil penalty decisions. Further, three of the four sitting judges were appointed by Republican administrations. The judges who sit on the EAB are not political appointees. They are critical EPA officials whose terms do not end at the end of an administration.

The board takes approximately 5 months on the average from the time a petition is filed to receive and review briefs, hold oral arguments, and render a comprehensive written decision in a prevention of significant deterioration air permit case. Federal court review would likely take at least three or four times as long. Only four of the board's 100-plus air permit decisions have ever been appealed to a Federal court, and none of the board's air permit decisions have ever been overturned.

The EAB is cost-effective and efficient and has proven to be the fastest, cheapest way to achieve a final permit. I ask my colleagues to support this amendment to allow the EAB to continue to serve to protect the public health, to keep unnecessary lawsuits from the court system, and to take into account local community input.

I reserve the balance of my time.

Mr. GARDNER. I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Colorado is recognized for 5 minutes.

Mr. GARDNER. Thank you, Mr. Chairman.

So my colleagues can understand what this bill is about, this does not repeal the ability of the Environmental Appeals Board to hear issues relating to production, production permits. This simply addresses the issue at hand of whether or not the Environmental Appeals Board can be used as a stalling period for exploratory permits.

□ 1640

Let me say it again. Exploratory permits are for a very limited duration. We're talking an activity that may last 30 to 45 days.

Unfortunately, what has happened, the EAB, which is by all accounts litigation with judges in robes in Washington, D.C., that are appointed lifetime bureaucrats, unaccountable, created by the administration, the EAB would still be able to hear appeals related to production. They will not be a part or allowed to delay exploratory permits. Why? Because we believe exploration of our resources is important, that it should not be delayed for 5 years.

In the time that it has taken to reach this point, 400 wells have been drilled by the lessee around the world. That's job creation, but certainly not in the United States. That's energy production, but certainly not in the United States. This bill presents a solution, an up-or-down, yes-or-no answer to a permit within 6 months, without going to the EAB for a ping-pong delay back and forth, EPA, EAB, delay after delay, and says we are going to focus on an issue of national importance, developing our resources, getting exploration performed, so that we can indeed make sure that we are heading down the path toward energy security.

With that, I reserve the balance of my time.

Mr. QUIGLEY. Mr. Chairman, the numbers speak for themselves. What we're talking about with this legislation is really just two permits that folks were concerned about. The reality of the matter is the average is 5 months.

Now, I understand what we're talking about is with just exploration, but we would like to get this right and not have amnesia about what happens when we get this wrong, because that's not just job-killing, it's ecosystem-killing. It destroys an entire region. There's a lot at stake here.

These aren't unaccountable people. They're appointed by administrations, created by a Republican administration, three of the four appointed by Republican administrations. It is in fact, in a sense, the executive branch. And while the executive can't do all this, it's delegated to appropriate authorities to make sound, apolitical decisions that affect communities not just for months or years but conceivably for generations. There's a lot at stake.

This is a simple amendment to deal with a critical problem, and I encourage my colleagues to support it.

I yield back the balance of my time.

Mr. GARDNER. Mr. Chairman, I guess I'm getting confused by some of the arguments I'm hearing against this bill, because I hear that 6 months isn't enough time even though the average permitting time is 5 months, some will say. I hear that this is only dealing with two permits, although I hear that California, Delaware, and Massachusetts are at risk with this legislation. I hear the argument that some say this is ecosystem-destroying.

Let me read a quote from Lisa Jackson, the administrator of the EPA, testifying before the United States Senate:

''I believe that the analysis will clearly show that there is no public health concern here.''

''I believe that the analysis will clearly show that there is no public health concern here.''

Gina McCarthy, the assistant administrator of the EPA, did not rebut this testimony that was given by the administrator herself, Lisa Jackson, before the Senate. Gina McCarthy didn't refutes it before the Energy and Commerce Committee.

The arguments seem to be confusing and grasping for straws. This is about energy security, about economic opportunity and making sure that we can deliver energy that's produced right here in the United States.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Illinois (Mr. QUIGLEY).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. QUIGLEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Illinois will be postponed.

AMENDMENT NO. 7 OFFERED BY MS. ESHOO

The Acting CHAIR. It is now in order to consider amendment No. 7 printed in part A of House Report 112–111.

Ms. ESHOO. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 4, line 21, insert ''and'' after the semicolon.

Page 4, beginning on line 22, strike paragraph (4) and redesignate the subsequent paragraph accordingly.

Page 5, line 2, strike ''such''.

The Acting CHAIR. Pursuant to House Resolution 316, the gentlewoman from California (Ms. ESHOO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. ESHOO. Thank you, Mr. Chairman.

This bill, H.R. 2021, contains a rather extraordinary provision. It says that any appeal of an exploration permit decision can only be heard by the D.C. Circuit Court of Appeals. This is a fundamental change to longstanding law and precedent governing the venue for judicial review of challenges to EPA action.

Over 40 years ago when Congress adopted the Clean Air Act in 1970 and established venue for judicial review, Congress made a very sensible distinction. That distinction was that local

and regional EPA actions would be reviewed in the U.S. Court of Appeals for the appropriate circuit. Nationally applicable actions would be reviewed in the D.C. Circuit Court of Appeals.

This distinction has worked well for the past 40 years. If a major new industrial source will have significant local air pollution impacts, nearby communities will want to weigh in. Local businesses will want to ensure that a new source doesn't force more stringent cleanup requirements for existing sources. State and local authorities will have views. And the industrial source itself may disagree with EPA's decision. All of these stakeholders may want to appeal EPA's decision. Under the Clean Air Act, they can do so in the nearest court of appeals, without traveling to Washington, D.C. And for permits issued by States or localities, the decision is reviewed by State courts.

But this bill creates a new regime for exploration permits. In fact, under this bill, even for an exploration permit issued by a State or local permitting agency, all appeals would have to go to the Federal court here in Washington, D.C.

Many of my colleagues on the other side of the aisle like to criticize centralized government; bash Washington, D.C.; Washington, D.C. lawyers. They extol the virtues of local control. They cite the 10th Amendment. But this legislation centralizes control in Washington, D.C. In fact, it's a boon for Washington, D.C. lawyers.

This provision makes it far more difficult for regular folks to appeal a decision that can directly affect them. It took one of our Energy and Commerce Committee witnesses from the North Slope of Alaska 16 hours to travel to Washington, D.C., at a cost of at least $1,000 for that ticket.

This provision forces State and local authorities to fly to Washington, D.C. to defend a challenged permit decision. That's a huge burden in terms of money, and particularly so in these tough economic times.

The premise of this bill is that the oil industry needs faster permit decisions. Moving review from one Federal circuit court to another does not expedite permit decisions, and the committee that I'm a part of received no testimony identifying any actual problems with review in the relevant circuit courts.

I encourage Members to support this amendment, which would preserve local control, which would preserve community participation and really speaks to some fiscal common sense.

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

Mr. WHITFIELD. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Kentucky is recognized for 5 minutes.

Mr. WHITFIELD. Mr. Chairman, our friend from California's amendment sort of makes a lot of sense. There are a couple of issues that I would like to point out about it.

First of all, under her proposal, you would appeal the decision of the EPA at the local district court, wherever the project might be, let's say California. So you go through that appeals process through the U.S. District Court, and then if you don't like that decision, then you have to go to the U.S. Circuit Court of Appeals.

□ 1650

Well, today, if our bill did not pass, anyone could appeal a decision of the Environmental Protection Agency to the Environmental Appeals Board, which is located in Washington, D.C. So, today, any appeals to that board have to come to Washington, D.C., and it really is a judicial hearing. There are lawyers. There are judges. There is evidence. And so, today, that's the case.

Our bill simply says that in order to curtail the length of time it takes to receive or to even get a decision for an exploratory permit only, nothing else—we're not changing any other aspect of the EPA or Clean Air Act. We're simply saying, for this one purpose, we want a decision within 6 months, yes or no, so that the administrative decisions are exhausted. And then once the decision is made by the EPA, any party can go to the D.C. Circuit Court of Appeals. They don't even have to go through that extra layer at the Federal court but go right to the district court of appeals here in Washington, D.C.

So this legislation does not in any way change the venue. As I said, if we did nothing, as it is today, if they appeal to the Environmental Appeals Board, they come to Washington, D.C., to have the hearing. So I have been sympathetic to her desire to save people money, not require them to come all the way to Washington, but that's the way the law is today.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from California (Ms. ESHOO).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Ms. ESHOO. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California will be postponed.

AMENDMENT NO. 8 OFFERED BY MRS. CAPPS

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in part A of House Report 112–111.

Mrs. CAPPS. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 5, line 8, strike ''subsections (a), (b), and (d)'' and insert ''subsections (a), (b), (d), and (e)''.

Page 5, after line 8, add the following new section:

SEC. 5. STATE AUTHORITY.

Section 328 of the Clean Air Act (42 U.S.C. 7627) is further amended by adding at the end the following:

''(e) STATE AUTHORITY.—Any State with delegated authority to implement and enforce this section may impose any standard, limitation, or requirement relating to emissions of air pollutants from an OCS source if such standard, limitation, or requirement is no less stringent than the standards, limitations, or requirements established by the Administrator pursuant to this section.''.

The Acting CHAIR. Pursuant to House Resolution 316, the gentlewoman from California (Mrs. CAPPS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Mrs. CAPPS. I yield myself such time as I may consume.

Mr. Chairman, this amendment that I'm offering with Representatives CARNEY and CASTOR addresses one of several concerns we have about this bill: its harmful impact on State programs that today are working to issue permits while protecting local air quality.

Last month, the Energy and Power Subcommittee heard testimony from officials of the States of Delaware and California. Both expressed serious concerns about the impact of this bill on local air quality. The Delaware Department of Natural Resources has this to say about the legislation: ''The constraints placed on States' rights and authorities will adversely affect our State's ability to protect public health and welfare from the harmful effects of air pollution.'' The California Air Resources Board also testified that this measure ''could have far-reaching, unintended consequences on public health.''

California and its local air districts in some cases require emission controls that go beyond Federal law, and that is to address our unique pollution problems. For example, emissions from commercial harbor craft and ocean-going vessels represent the largest source of smog-forming air pollution in the entire Santa Barbara County. These emissions account for over 40 percent of our local air pollution. In response, the California Air Resources Board adopted rules to help coastal areas like California come into attainment with ozone and particulate matter air quality standards. But H.R. 2021 would nullify some of these State requirements, and it would increase pollution by preventing our local air quality district from incorporating them into their air permits for offshore drilling production and processing.

It's very critical to our local air quality and to public health that emissions from these marine vessels and offshore drilling are subject to commonsense regulations, and that is why this simple amendment is before us today. It says that if a State with delegated authority wants to enact more stringent air quality protections for offshore drilling, it can continue to do so.

Mr. Chairman, this is about giving flexibility to our local air quality districts so that they can apply the technologies that work best for them—they've been doing so for 20 years—so they can continue their work protecting our air quality and the health of our communities. This amendment says that a one-size-fits-all approach that comes from Washington politicians and giant multinational oil companies is the wrong approach.

I urge my colleagues to support this straightforward amendment. It's common sense. It will allow State and local air districts to continue to do their job to protect the air quality of coastal communities like the central coast of California—nothing more, and nothing less.

I reserve the balance of my time.

Mr. GARDNER. I rise in opposition to this amendment.

The Acting CHAIR. The gentleman from Colorado is recognized for 5 minutes.

Mr. GARDNER. Mr. Chairman, I thank the gentlelady from California for being a part of this debate today.

We had, I believe, this amendment or a similar amendment in committee. We discussed this amendment. As I mentioned, we've had two separate committee hearings on this particular piece of legislation. We had a markup where a number of amendments were offered. A tremendous amount of debate took place, and I believe debate took place on this very amendment.

One of the concerns I have with this amendment is the practical impact it would have in what could best be described as a balkanization in the regulation of Federal waters, creating a patchwork quilt, so to speak, of regulations as it applies to the Federal areas in the OCS. The amendment allows States to promulgate any regulation for the OCS as long as it can be deemed no less stringent. This will result in chaotic regulation of Federal waters, many of which may conflict with interstate commerce.

But perhaps even more important is the dramatic expansion of State jurisdiction that this amendment would have. And this was also an issue that was discussed back and forth during our markups both at the subcommittee level and at the full committee level, whether or not this would create challenges for the expansion of State jurisdiction.

The current law only allows for the delegation of the exact authorities of the administrator and not the flexibility to create the State's own laws to implement the act. I think that's one of the distinctions that we have sort of walked over during this debate.

It's also important to recognize that the Federal OCS is different from onshore State borders, where the States do have this type of flexibility in setting their State implementation plans. We talked in committee, once again, about the Submerged Lands Act and the Outer Continental Shelf Lands Act. They were enacted for this very reason: to federalize and provide harmony in the offshore.

So State regulations of the OCS will be used, I believe, unfortunately, by those who would try to obstruct and stop domestic energy production. The policy of this bill, of the Jobs and Energy Permitting Act, is to provide a clear process so that resources can be explored, and I am afraid this amendment would cause the opposite.

The Jobs and Energy Permitting Act is a bill that was brought forward because of significant delay in a bureaucratic process through an Environmental Appeals Board that was not created by Congress but was created as an administrative construct; something that was designed, I'm sure, with good intentions. But unfortunately, in its applicability, in the way it is working, the way people have used it, it is now being part of a great delay.

In the time that it has taken for the EAB to work on this bill, 5 years, the company that has the lease in the Beaufort-Chukchi Sea area right now has drilled over 400 wells around the world, not in the United States, not creating U.S. jobs here, not creating U.S. energy, but working abroad.

□ 1700

And if we are going to set this country on a path toward energy security, I've said it before and will continue to say it, if we are going to set this country on a path to energy security, then we have to recognize the national importance of allowing exploration to occur, exploration permits activities that will take 30 to 45 days.

Mr. WHITFIELD. Will the gentleman yield?

Mr. GARDNER. I yield to the gentleman from Kentucky.

Mr. WHITFIELD. I would like to make one additional comment. I think you have a very good point on the balkanization. We have these Federal waters, the Outer Continental Shelf. We have a lot of oil reserves, and we're trying to explore, trying to produce more oil. And if this amendment is adopted, different States can have different rules, so that would complicate things.

And we already have a situation where we have different agencies of the Federal Government issuing these permits. In some areas we have the Department of the Interior. In other areas we have EPA. If you take that, on top of the balkanization, it's going to take a lot longer than 5 years. We may never get a permit.

I thank the gentleman for yielding.

Mr. GARDNER. I thank the gentleman from Kentucky.

Reclaiming my time, it's frustrating too because we continue to hear statements from the administration, from others who wish to pursue a vibrant energy policy for our country that they too agree that we need expanded resource development in the United States, expanded U.S. energy opportunities. But it's almost like lipsynching. They are talking about it, but not actually doing it. And, unfortunately, what we are seeing is conversations by the administration without the action to back up that conversation.

I yield back the balance of my time.

Mrs. CAPPS. Mr. Chairman, I yield myself 30 seconds to respond to my colleague from Colorado, the author of the bill.

Section 328 of the Clean Air Act is what is at issue here today in this amendment. It was created more than 20 years ago, largely at the insistence of California officials. In fact, my Republican predecessor, Congressman Lagomarsino, introduced this legislation because residents were unhappy about uncontrolled air pollution from offshore drilling, as well as local industry and business groups who were upset that offshore sources were basically free to pollute, while onshore sources bore the burden of heavier regulation to try to make up for the degraded air quality. Only two States now have this permission.

I yield the balance of my time to my colleague from Delaware (Mr. CARNEY).

The Acting CHAIR. The gentleman is recognized for 1½ minutes.

Mr. CARNEY. Mr. Chair, I rise in support of this amendment, and I will submit this letter from the Delaware Department of Natural Resources for the RECORD.

While I oppose the underlying bill, I will only speak to this amendment. It addresses what I think is a nonpartisan issue and, frankly, it appeals to States' rights, which my Republican friends typically support.

Delaware is in nonattainment with Federal clean air standards, mainly due to emissions that come from outside our State borders. In order to comply with Federal law and protect public health, Delaware has the ability to implement pollution control strategies beyond EPA's requirements.

Last year Delaware was given Clean Air Act authority for the Outer Continental Shelf, meaning that the State, rather than EPA, regulates emissions there. Delegated authority is working. The one OCS permit requested of Delaware was granted within weeks, not months. Disputes go through a quick administrative review, rather than costly litigation. It does not mean a delay, as my Republican colleague alleged.

In fact, this delegated authority is working so well that other States are actively looking into it. Maryland, Virginia and Alaska have each asked Delaware for its documents on delegated authority.

A one-size-fits-all approach like H.R. 2021 is not in the best interest of our States. Our amendment simply preserves delegated authority to the States that want it, enabling our States to oversee pollution control as they see fit. This is not balkanization; it's common sense.

I urge my colleagues to preserve States rights by supporting this amendment.

STATE OF DELAWARE,
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL,
Dover, DE, June 21, 2011.

Hon. JOHN C. CARNEY,
United States Representative,
Washington, DC.

DEAR CONGRESSMAN CARNEY: I write to you today to express State of Delaware's opposition to H.R. 2021, the Jobs and Energy Permitting Act of 2011. Our concerns with this bill are outlined below:

(1) The proposed bill will impede states' authority to regulate emissions and create unnecessary burdens on state agencies;

(2) By restricting the consideration of air quality impacts solely to an onshore location in the corresponding onshore area, the proposed bill does not sufficiently protect human health and the environment;

(3) The proposed bill shields a potentially significant portion of emissions from OCS activities from emission control requirements; and

(4) The proposed bill subverts our state's established procedures for due process and replaces them with a potentially cumbersome and costly judicial review.

Delaware's air quality is so severely impacted by transported air pollution from the Southwest and the West that Delaware can no longer produce a plan to meet the National Ambient Air Quality Standards for ozone even if it eliminated all in-state emissions. This bill will open a new Eastern front in the assault on our air quality and at the same time removes available and much needed tools to address these emissions. Delaware's citizens and those living on the East coast deserve clean air and need the continued protection afforded them by the Clean Air Act.

I urge you to reject this bill.

Sincerely,

COLLIN P. O'MARA,
Secretary.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from California (Mrs. CAPPS).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mrs. CAPPS. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California will be postponed.

AMENDMENT NO. 9 OFFERED BY MS. HOCHUL

The Acting CHAIR. It is now in order to consider amendment No. 9 printed in part A of House Report 112–111.

Ms. HOCHUL. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 5, after line 8, add the following new subsection:

(c) REPORTING.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to Congress a report that details how the amendments made by this Act are projected to increase oil and gas production and lower energy prices for consumers.

The Acting CHAIR. Pursuant to House Resolution 316, the gentlewoman from New York (Ms. HOCHUL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York.

Ms. HOCHUL. Mr. Chair, I stand here today to ask one simple question: How will the Jobs and Energy Permitting Act of 2011 reduce the cost of gasoline for consumers?

I think this is a fair question, one that my colleagues on both sides of the aisle should want the answer to.

The price of gasoline is soaring in our country, and across the Nation Americans are paying too much at the pump. The average gasoline right now is $3.63, up over a dollar from a year ago. Diesel, which our struggling farmers have to pay, has gone up a dollar per gallon in the same timeframe.

However, as I've stated on this floor before, the people in my district are paying much more than that. In the past, western New Yorkers have paid some of the highest gas prices in this Nation. Rising fuel prices have hurt our small businesses. They hurt our farms, and they hurt our families at a time when money is far too scarce. And that is why we must know how the Jobs and Energy Permitting Act of 2011 will increase oil and gas production, and we need to know that this will decrease the cost of energy for our consumers.

Under this bill, American people are supposed to put their trust in the same oil companies that have consistently betrayed that trust. They tell us we need to drill more, and they tell us they need to get more permits on an expedited basis in order to do so.

Well, I agree. I agree we need to reduce our dependency on foreign oil. But I'm asking for the proper oversight. How do we know that the permits we're issuing so oil companies can drill in our waters will result in that production of oil and gas? How do we know they simply won't secure permits and not choose to drill to keep oil and gas off the market, or even worse, just to drive up the price of oil by manipulating supply?

The amendment I'm offering today is quite simple and straightforward. In one line it gives the EPA administrator 60 days to submit a report dealing with how this bill will increase oil and gas production, while lowering the price of energy for consumers. It has nothing to do with the merits of the bill, which I'm not weighing in on at this time. But I think that asking for a report within 2 months of passing this act is not unreasonable, which is why I ask all my colleagues to join with me today in supporting this amendment.

Today the people back home in my district and all across this Nation are still fed up with high gas prices, and they want to know what we are going to do about these problems. This amendment, in a bipartisan way, can be a step toward finding that solution.

I yield back the balance of my time.

Mr. WHITFIELD. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Kentucky is recognized for 5 minutes.

□ 1710

Mr. WHITFIELD. We certainly want to thank the gentlelady from New York for introducing this amendment.

To answer the question about how is this bill going to help oil prices and provide more oil for the marketplace, obviously it can't do it overnight. But the reason that we're here is because it has taken EPA 5 years and they still have not even rendered a decision on a simple exploratory drill permit request, which is not even a long-term activity. It's simply to explore to determine is oil there and can we use it.

Now, in America we're using around 20 million barrels of oil a day, and the vast majority of that is being imported into the U.S. from other sources. And so all we're attempting to do in this bill—we're not changing any aspect of the Clean Air Act, we're not changing mobile source rules, stationary source rules, national ambient air quality standards. We're not changing that. We're not changing the Environmental Appeals Board from hearing appeals on any other permit other than an exploratory permit, and that's all this bill does.

And we want to do it because we're trying to find additional oil in America, and we know we have it. And we also know that if we have more oil, obviously we can't get it produced tomorrow. We've been trying 5 years just to get the permit, and we don't have that yet. But we want any company to have the ability to go out and drill and to get an expedited answer from EPA. We're not even directing EPA to approve the permit. We're simply saying make a decision. And then if the other side does not like the decision, they have an opportunity to go to court. Under the way it's operating today, we can't get a final decision to even go to court. So here we are in limbo.

I might also say that on the gentlelady's amendment, she does not give any time for this report to be issued. And knowing EPA's track record, we could be here 10 years waiting for a report.

But more important than that, EPA really does not perform economic analyses of energy markets. The Energy Information Administration does that. They have the modeling to do it, they have the technicians to do it, they have the information to do it. EPA really does not even do a very good job on their regulations of thinking about the impact on jobs in America.

So I understand the gentlelady's intent; I think it's a very good intent. But as I said, one of the real weaknesses here is she doesn't even set a timeline for this.

Mr. Chairman, I yield the balance of my time to the gentleman from Colorado (Mr. GARDNER.)

The Acting CHAIR. The gentleman is recognized for 1½ minutes.

Mr. GARDNER. I thank the gentleman from Kentucky.

This issue of studies, this issue of blue ribbon commissions, it doesn't address the actual fact that price is very much dependent on supply. That's the testimony that we have received. If we have 1 million barrels of oil coming into this country from our own resources, American resources, we know from testimony at the hearing that it will impact price, testimony at the hearing that said the west coast of this United States would have to import less, that it would reduce the price at the pump in California.

We don't have time to create commissions that don't actually relieve the American consumers' pain at the pump. They're paying for it now. I too represent farmers, businesses that are paying $3.50 a gallon—they were paying higher just a few weeks ago—and none of them have come to me and said, you know, I wish you could study whether or not high prices are impacting me or not. I wish you could study whether American production will actually reduce the price at the pump because they know intuitively that increased supply—American energy resources, when we develop them, will add to our supply, and it's a function of supply and demand.

We have the opportunity in this country to create American jobs. I ask for a ''no'' vote on this amendment.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from New York (Ms. HOCHUL).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Ms. HOCHUL. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from New York will be postponed.

AMENDMENT NO. 10 OFFERED BY MR. SCHRADER

The Acting CHAIR. It is now in order to consider amendment No. 10 printed in part A of House Report 112–111.

Mr. SCHRADER. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, insert the following:

SEC. 5. PROHIBITION AGAINST DRILLING OFF THE COAST OF OREGON.

No permit may be issued under the Clean Air Act (42 U.S.C. 7401 et seq.) for an Outer Continental Shelf source (as defined in section 328(a)(4) of such Act (42 U.S.C. 7627(a)(4))) in connection with drilling for oil or natural gas off the coast of Oregon.

The Acting CHAIR. Pursuant to House Resolution 316, the gentleman from Oregon (Mr. SCHRADER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon.

Mr. SCHRADER. Mr. Chairman, I rise in strong support of this amendment, co-sponsored by the coastal members of the Oregon delegation. This amendment is very simple; it protects 63 miles of fragile Oregon coastline and many of the communities that depend on its health.

This amendment would prevent any permits required under the Clean Air Act for oil or natural gas drilling on the Outer Continental Shelf off the coast of Oregon. It respects Oregon State's right to decide what is best for its coast without Federal interference.

Our Oregon coastal communities depend on the health and natural vitality of the Pacific Ocean. They already face tremendous pressure both in the fishing arena and in our tourism economy. They cannot afford an environmental catastrophe like Deepwater Horizon.

While Oregon has operated under a congressionally supported moratorium on drilling since 1982, this had expired in 2008. Oregon's citizens and its businesses deserve certainty to be able to invest in our fishing and tourism infrastructure.

We respect other States' rights to do what they need to do and suggest what they want. Oregon is leading the way in renewables. We have a State energy portfolio that highlights hydro, solar, wind, wave, biomass, and waste-to-energy technologies, not oil or coal.

Mr. Chairman, I yield 1 minute to my colleague from the north coast of Oregon (Mr. WU).

Mr. WU. Mr. Chairman, I rise today in strong support of this amendment to prohibit oil and gas drilling off the Oregon coast.

As an Oregonian, I question why we would risk our pristine coast to support an energy industry of the last century rather than of the next century, why we would subject our fisheries and visitor-based coastal economy to the dangers of a BP-style disaster in Oregon waters.

We should focus on generating local jobs, not profits for far-off oil companies. We could create these local jobs by investing in the energy industries of the next century that are uniquely suited to the Oregon coast—waste energy and next-generation offshore wind. Oregon can be the Saudi Arabia of renewable wave energy. Wave energy depends on two things, big waves and seabed contours suited to exploit those waves; and Oregon has both. Oregon is the best place in the world where these two factors come together.

As for wind energy, next-generation technology will allow floating wind farms to be operated 100 miles offshore. These are the jobs of the future. These are the technology and the energy of the future.

Mr. GARDNER. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Colorado is recognized for 5 minutes.

Mr. GARDNER. Mr. Chairman, I would like to point out that you have to get an air permit for the energy production that my colleague was just discussing. You have to get an air permit for the offshore wind development, for the wave development. So I believe opposition to this bill actually hurts the very projects that he is promoting.

And so, again, I rise in opposition to this amendment because it basically puts this country in a situation where you can go get a lease, you can achieve an energy lease, but you can't then get a permit for it. So does that create additional liability for this country? Are we going to end up entering into an area where we can get sued because we've issued a lease but then said you can't get a clean air permit—not only for oil and gas development, but for the very projects that my colleague was addressing?

So here we are in a situation that gets back to the fundamental question at issue: Are we going to allow a bureaucratically created board in Washington, D.C., wearing robes and hearing basic judicial proceedings—are we going to allow them to stall an issue of national importance?

□ 1720

Five years it has taken. Five years it has taken in this one particular instance. Access to Federal offshore areas is not determined by the EPA-issued air permits. It is determined by the President of the United States when through the Department of the Interior lease sales are or are not held for Federal lands and waters.

This is once again an attempt to shut off exploration activity in the Pacific. The matter is not to be decided through air permits. It is to be decided when and if lease sales are proposed for those waters. If lease sales are proposed in the future, Oregon's interests and concerns will no doubt be represented by our colleagues who are proposing this amendment, by the opportunities that remain to debate and provide comment through the NEPA process, through the leasing process.

There are five opportunities for public comment to provided on exploration activity, 30 to 45 days' worth of activity. There are five opportunities for the public to comment.

We have got to get this country into a position where we recognize that it is a good thing for American-produced energy to have opportunities to be developed.

We heard testimony from the State of Alaska. This bill has bipartisan support. It is an effort to say, you know what, we have resources and reserves. We have facilities like the Trans-Alaska pipeline that right now has 650,000 barrels of oil going through a day when it was designed to bring in 2 million barrels of oil a day. If it gets any lower, it is going to create mechanical problems transporting the oil. If it gets below 200,000 barrels a day, it will be decommissioned, torn apart. The potential to bring 2.1 million barrels of oil a day into this country will be gone if the Trans-Alaska pipeline is removed.

The Jobs and Energy Permitting Act, H.R. 2021, gives this body the chance to say we are going to utilize our resources in a responsible manner. We are going to tell the EPA that they have got 6 months to do the analysis. Approve it or don't approve it, but make a decision because the American people deserve a decision.

I reserve the balance of my time.

Mr. SCHRADER. Mr. Chairman, I yield 1 minute to the Congressman from southern Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. I thank the gentleman for yielding.

You are either for States' rights or you're not. It seems on the other side of the aisle, when it is convenient to their agenda, they are for States' rights. But when it is not convenient to their agenda or their generous campaign contributors, the oil and gas industry, they are not for States' rights.

My State voted, the legislature, just last year for a 10-year moratorium on their lands as an expression of interest not only to ban the leasing of the lands within the coastal waters, but beyond that. We are serious about protecting our fisheries, we are serious about our very profitable tourism industry, and, yes, we are serious about wind and wave development. The gentleman made no sense. He said somehow this would preclude wind and wave development. Not at all. You don't need a clean air permit for something that doesn't potentially pollute the air.

So at this point I would just suggest that let's be consistent. If the State of Alaska wishes to push ahead, the gentleman from Alaska has the bill before us. The Republican Party controls the House. Great. He also had a rule that people from local districts and local States, the gentleman from Alaska, get to have their prerogative. This is our prerogative, representing the people of the State of Oregon.

Mr. GARDNER. May I inquire how much time remains.

The Acting CHAIR. The gentleman from Colorado has 1 minute remaining, and the gentleman from Oregon has 1½ minutes remaining.

Mr. GARDNER. I continue to reserve the balance of my time.

Mr. SCHRADER. I yield 1 minute to the Congressman from the largest port in our great State, Congressman EARL BLUMENAUER.

Mr. BLUMENAUER. I appreciate the gentleman's courtesy in permitting me to speak on this. I appreciate all my colleagues who represent the Oregon coast for bringing this forward. Now, my district may not actually touch the Oregon coast, but my constituents and I spend time there, value its beauty, the ecosystem, and the economic benefits it brings to the United States. The underlying bill could bring all of these at risk, allowing expedited drilling for offshore drilling, a process that is expedited for those who would drill, but a process that is much worse for citizens who may object.

We need to continue to respect the wishes of Oregonians to keep oil rigs off our shores, prohibiting sources from obtaining permits to drill off the coast of Oregon. This amendment is an appropriate safeguard to protect our coastal environment and communities.

Mr. GARDNER. Mr. Chairman, just to clarify a point when I was seeking the opportunity to ask the gentleman to yield, section 328 applies to any offshore project authorized under the Outer Continental Shelf Lands Act. So under the OCSLA, all offshore energy projects must have a permit.

I reserve the balance of my time.

Mr. SCHRADER. How much time do I have remaining?

The Acting CHAIR. The gentleman from Oregon has 30 seconds remaining.

Mr. SCHRADER. Mr. Chair, Oregonians don't want or need drilling off our coast. This amendment is supported by all three Members of the entire Oregon coastline and our State legislature. We respect, and I hope this body would respect, Oregonians' right to determine their own destiny. We are not talking about Alaska, we are talking about the State of Oregon, and we are only talking about oil and natural gas permits.

House Members representing this coast are very passionate about its health and future vitality. We urge this body to pass this amendment and respect Oregon's destiny.

I yield back the balance of my time.

Mr. GARDNER. Mr. Chairman, again, I oppose the amendment. We have an opportunity with the Jobs and Energy Permitting Act to get this country on a path toward a secure energy future. It is a matter of national interest. It is not just a matter of Oregon or just a matter of Colorado or just a matter of Alaska. Everyone who is suffering through the pain at the pump realizes that the resources we have been blessed with in this country, when used responsibly, can be used for the benefit of our country and the benefit of all.

The 112th Congress has continued to focus on job creation, just like the Jobs and Energy Permitting Act, job creation and long-term economic well-being. It was said before, somebody on the other side said we are not going to reduce our dependence on foreign oil by producing more oil. That doesn't make any sense at all.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Oregon (Mr. SCHRADER).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. SCHRADER. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Oregon will be postponed.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part A of House Report 112–111 on which further proceedings were postponed, in the following order:

Amendment No. 1 by Ms. SPEIER of California.

Amendment No. 2 by Mr. HASTINGS of Florida.

Amendment No. 3 by Mr. WELCH of Vermont.

Amendment No. 4 by Mr. KEATING of Massachusetts.

Amendment No. 5 by Mr. RUSH of Illinois.

Amendment No. 6 by Mr. QUIGLEY of Illinois.

Amendment No. 7 by Ms. ESHOO of California.

Amendment No. 8 by Mrs. CAPPS of California.

Amendment No. 9 by Ms. HOCHUL of New York.

Amendment No. 10 by Mr. SCHRADER of Oregon.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MS. SPEIER

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Ms. SPEIER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 176, noes 248, not voting 7, as follows:

[Roll No. 467]

AYES—176

Ackerman	DeFazio	Jones
Andrews	DeGette	Kaptur
Baldwin	DeLauro	Keating
Bass (CA)	Deutch	Kildee
Becerra	Dicks	Kind
Berkley	Dingell	Kissell
Berman	Doggett	Kucinich
Bishop (NY)	Doyle	Langevin
Blumenauer	Edwards	Larsen (WA)
Boswell	Ellison	Larson (CT)
Brady (PA)	Engel	Lee (CA)
Braley (IA)	Eshoo	Levin
Brown (FL)	Farr	Lewis (GA)
Butterfield	Fattah	Lipinski
Capps	Filner	Loebsack
Capuano	Frank (MA)	Lofgren, Zoe
Cardoza	Fudge	Lowey
Carnahan	Garamendi	Luján
Carney	Grijalva	Lynch
Carson (IN)	Gutierrez	Maloney
Castor (FL)	Hanabusa	Markey
Chandler	Hastings (FL)	Matsui
Chu	Heinrich	McCarthy (NY)
Cicilline	Higgins	McCollum
Clarke (MI)	Himes	McDermott
Clarke (NY)	Hinchey	McGovern
Clay	Hinojosa	McIntyre
Cleaver	Hirono	McNerney
Clyburn	Hochul	Meeks
Cohen	Holt	Michaud
Connolly (VA)	Honda	Miller (NC)
Conyers	Hoyer	Miller, George
Cooper	Inslee	Moore
Courtney	Israel	Moran
Critz	Jackson (IL)	Murphy (CT)
Crowley	Jackson Lee (TX)	Nadler
Cummings	Johnson (GA)	Napolitano
Davis (CA)	Johnson, E. B.	Neal
Davis (IL)		Olver

Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters
Peterson
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Reichert
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Shuler
Sires
Slaughter
Smith (WA)
Speier
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Wu
Yarmuth

NOES—248

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Austria
Baca
Bachmann
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Black
Bonner
Bono Mack
Boren
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Costa
Costello
Cravaack
Crawford
Crenshaw
Cuellar
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gohmert
Gonzalez
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Green, Al
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Holden
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paul
Paulsen
Pearce
Pence
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Renacci
Reyes
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stark
Stearns
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOT VOTING—7

Blackburn
Boustany
Giffords
Gingrey (GA)
Lummis
Stivers
Young (AK)

□ 1759

Mr. LUETKEMEYER, Ms. FOXX, Messrs. DOLD, BACA, and STARK changed their vote from ''aye'' to ''no.''

Mr. CLARKE of Michigan changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. HASTINGS OF FLORIDA

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. HASTINGS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 167, noes 254, not voting 10, as follows:

[Roll No. 468]

AYES—167

Ackerman
Andrews
Baldwin
Bass (CA)
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (FL)
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Castor (FL)
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Costello
Courtney
Critz
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Grijalva
Gutierrez
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hirono
Hochul
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Kaptur
Keating
Kildee
Kind
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Peters
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Richardson
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Shuler
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Wu
Yarmuth

NOES—254

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Austria
Baca
Bachmann
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boswell
Brady (TX)
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Cardoza
Carter
Cassidy
Chabot
Chaffetz
Chandler
Coble
Coffman (CO)
Cole
Conaway
Cooper
Costa
Cravaack
Crawford
Crenshaw
Cuellar
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gohmert
Gonzalez
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Green, Al
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Hinojosa
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Pastor (AZ)
Paulsen
Pearce
Pence
Perlmutter
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Reyes
Ribble
Richmond
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stutzman
Sullivan
Terry
Thompson (CA)
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Walberg
Walden

Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOT VOTING—10

Boustany
Braley (IA)
Brooks
Giffords
Gingrey (GA)
Labrador
Lummis
Paul
Stivers
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (Mr. GRAVES of Georgia) (during the vote). There are 2 minutes remaining in this vote.

□ 1806

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY MR. WELCH

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Vermont (Mr. WELCH) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 183, noes 238, not voting 10, as follows:

[Roll No. 469]

AYES—183

Ackerman
Andrews
Baca
Baldwin
Bass (CA)
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Braley (IA)
Brown (FL)
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costello
Courtney
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Dold
Donnelly (IN)
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Gibson
Green, Al
Grijalva
Gutierrez
Hanabusa
Hanna
Harris
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hirono
Hochul
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kildee
Kind
Kissell
Langevin
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters
Peterson
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Ribble
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schilling
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Shuler
Sires
Slaughter
Smith (NJ)
Smith (WA)
Speier
Stark
Sutton
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walsh (IL)
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Wu
Yarmuth

NOES—238

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Austria
Bachmann
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Cardoza
Carter
Cassidy
Chabot
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Costa
Cravaack
Crawford
Crenshaw
Critz
Cuellar
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gohmert
Gonzalez
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Harper
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Hinojosa
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Issa
Jackson Lee (TX)
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Larsen (WA)
Latham
LaTourette
Latta
Lewis (CA)
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paulsen
Pearce
Pence
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Reyes
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (NE)
Smith (TX)
Southerland
Stearns
Stutzman
Sullivan
Terry
Thompson (CA)
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Walberg
Walden
Webster
West
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOT VOTING—10

Doggett
Giffords
Gingrey (GA)
Hurt
Kucinich
Lummis
Paul
Stivers
Westmoreland
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). Two minutes remain in this vote.

□ 1813

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 4 OFFERED BY MR. KEATING

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. KEATING) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 167, noes 258, not voting 6, as follows:

[Roll No. 470]

AYES—167

Ackerman
Andrews
Baca
Baldwin
Bass (CA)
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Braley (IA)
Brown (FL)
Butterfield
Capps
Capuano
Carnahan
Carson (IN)
Castor (FL)
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Costello
Courtney
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Dent
Deutch
Dicks
Dingell
Doggett
Dold
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Graves (MO)
Green, Al
Grijalva
Gutierrez
Hanabusa
Hastings (FL)
Heinrich
Higgins
Hinchey
Hirono
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kildee
Kind
Kissell
Kucinich
Langevin
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Richardson
Rothman (NJ)
Roybal-Allard
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schilling
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Slaughter
Speier
Stark
Sutton

Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Woolsey
Wu
Yarmuth
Young (FL)

NOES—258

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Austria
Bachmann
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Cardoza
Carney
Carter
Cassidy
Chabot
Chaffetz
Chandler
Coble
Coffman (CO)
Cole
Conaway
Cooper
Costa
Cravaack
Crawford
Crenshaw
Critz
Cuellar
Culberson
Davis (KY)
Denham
DesJarlais
Diaz-Balart
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gohmert
Gonzalez
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Himes
Hinojosa
Hochul
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jackson Lee (TX)
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Larsen (WA)
Latham
LaTourette
Latta
Lewis (CA)
Lipinski
LoBiondo
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Owens
Palazzo
Paul
Paulsen
Pearce
Pence
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Reyes
Ribble
Richmond
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ruppersberger
Ryan (WI)
Scalise
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Southerland
Stearns
Stutzman
Sullivan
Terry
Thompson (CA)
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (IN)

NOT VOTING—6

Giffords
Gingrey (GA)
Lummis
Stivers
Watt
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). Two minutes remain in this vote.

□ 1820

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 5 OFFERED BY MR. RUSH

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Illinois (Mr. RUSH) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 172, noes 253, not voting 6, as follows:

[Roll No. 471]

AYES—172

Ackerman
Andrews
Baca
Baldwin
Bass (CA)
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Brady (PA)
Braley (IA)
Brown (FL)
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Castor (FL)
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costello
Courtney
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Gonzalez
Grijalva
Gutierrez
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hirono
Hochul
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kildee
Kind
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Peters
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Wu
Yarmuth

NOES—253

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Austria
Bachmann
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boswell
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Cardoza
Carter
Cassidy
Chabot
Chaffetz
Chandler
Coble
Coffman (CO)
Cole
Conaway
Costa
Cravaack
Crawford
Crenshaw
Critz
Cuellar
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Green, Al
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Hinojosa
Holden
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paul
Paulsen
Pearce
Pence
Perlmutter
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOT VOTING—6

Giffords
Gingrey (GA)
Lummis
Pelosi
Stivers
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). Two minutes remain in this vote.

□ 1826

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 6 OFFERED BY MR. QUIGLEY

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Illinois (Mr. QUIGLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 173, noes 251, not voting 7, as follows:

[Roll No. 472]

AYES—173

Ackerman
Andrews
Baca
Baldwin
Bass (CA)
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Braley (IA)
Brown (FL)
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Castor (FL)
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costello
Courtney
Critz
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Grijalva
Gutierrez
Hanabusa
Hastings (FL)
Hayworth
Heinrich
Higgins
Himes
Hinchey
Hirono
Hochul
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones
Kaptur
Keating
Kildee
Kind
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Peters
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Reichert
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Wu
Yarmuth

NOES—251

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Austria
Bachmann
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boswell
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Cardoza
Carter
Cassidy
Chabot
Chaffetz
Chandler
Coble
Coffman (CO)
Cole
Conaway
Costa
Cravaack
Crawford
Crenshaw
Cuellar
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gohmert
Gonzalez
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Green, Al
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck
Hensarling
Herger
Herrera Beutler
Hinojosa
Holden
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jackson Lee (TX)
Jenkins
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paul
Paulsen
Pearce
Pence
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Renacci
Reyes
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tipton
Turner
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOT VOTING—7

Giffords
Gingrey (GA)
Lummis
Pelosi
Stivers
Tiberi
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There are 2 minutes remaining in this vote.

□ 1832

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MS. ESHOO

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Ms. ESHOO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 183, noes 240, not voting 8, as follows:

[Roll No. 473]

AYES—183

Ackerman
Altmire
Andrews
Baca
Baldwin
Bartlett
Bass (CA)
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Braley (IA)
Brown (FL)
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Cassidy
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hanabusa
Hanna
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hirono
Hochul
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones
Kaptur
Keating
Kildee
Kind
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Pallone
Pascrell
Pastor (AZ)
Paul
Payne
Perlmutter
Peters
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Shuler
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Wu
Yarmuth

NOES—240

Adams
Aderholt
Akin
Alexander
Amash
Austria
Bachmann
Bachus
Barletta
Barrow
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boswell
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Carter
Chabot
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Costa
Cravaack
Crawford
Crenshaw
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Hinojosa
Holden
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Owens
Palazzo
Paulsen
Pearce
Pence
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOT VOTING—8

Butterfield
Giffords
Gingrey (GA)
Lummis
Meeks
Pelosi
Stivers
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There are 2 minutes remaining in this vote.

□ 1838

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MRS. CAPPS

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Mrs. CAPPS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 180, noes 242, not voting 9, as follows:

[Roll No. 474]

AYES—180

Ackerman
Andrews
Baca
Baldwin
Bass (CA)
Becerra
Berkley
Berman
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Brady (PA)
Braley (IA)
Brown (FL)
Buchanan
Butterfield
Capps
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Coble
Cohen
Connolly (VA)
Conyers
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Gibson
Gonzalez
Grijalva
Gutierrez
Hanabusa
Hastings (FL)
Hayworth
Heinrich
Herrera Beutler
Higgins
Himes
Hinchey
Hirono
Hochul
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kildee
Kind
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Pallone
Pascrell
Pastor (AZ)
Paul
Payne
Perlmutter
Peters
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Reichert
Reyes
Richardson
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Wu
Yarmuth
Young (FL)

NOES—242

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Austria
Bachmann
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boswell
Boustany
Brady (TX)
Brooks
Broun (GA)
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Chandler
Coffman (CO)
Cole
Conaway
Cooper
Costa
Cravaack
Crawford
Crenshaw
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gohmert
Goodlatte
Gosar
Gowdy
Graves (GA)
Graves (MO)
Green, Al
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck
Hensarling
Herger
Hinojosa
Holden
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Owens
Palazzo
Paulsen
Pearce
Pence
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Renacci
Ribble
Richmond
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (IN)

NOT VOTING—9

Capuano
Giffords
Gingrey (GA)
Granger
Lummis
Lynch
Pelosi
Stivers
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). Two minutes remain in this vote.

□ 1845

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 9 OFFERED BY MS. HOCHUL

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from New York (Ms. HOCHUL) on which further proceedings

were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 186, noes 238, not voting 7, as follows:

[Roll No. 475]

AYES—186

Ackerman
Andrews
Baca
Baldwin
Barrow
Bass (CA)
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Braley (IA)
Brown (FL)
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Castor (FL)
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Connolly (VA)
Conyers
Cooper
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Gibson
Green, Al
Grijalva
Gutierrez
Hanabusa
Hanna
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hirono
Hochul
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones
Kaptur
Keating
Kildee
Kind
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Peters
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Slaughter
Smith (NJ)
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Wu
Yarmuth

NOES—238

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Austria
Bachmann
Bachus
Barletta
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Cardoza
Carter
Cassidy
Chabot
Chaffetz
Chandler
Cole
Conaway
Costa
Cravaack
Crawford
Crenshaw
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gohmert
Gonzalez
Goodlatte
Gosar
Gowdy
Graves (GA)
Graves (MO)
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Hinojosa
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paul
Paulsen
Pearce
Pence
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (TX)
Southerland
Stearns
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOT VOTING—7

Giffords
Gingrey (GA)
Granger
Lummis
Pelosi
Stivers
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There are 2 minutes remaining in this vote.

□ 1851

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 10 OFFERED BY MR. SCHRADER

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Oregon (Mr. SCHRADER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 160, noes 262, not voting 9, as follows:

[Roll No. 476]

AYES—160

Ackerman
Andrews
Baldwin
Bass (CA)
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Braley (IA)
Brown (FL)
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Castor (FL)
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Coble
Cohen
Connolly (VA)
Conyers
Courtney
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Grijalva
Gutierrez
Hanabusa
Hastings (FL)
Heinrich
Herrera Beutler
Higgins
Hinchey
Hinojosa
Hirono
Holt
Honda
Inslee
Israel
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kildee
Kind
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Pallone
Pascrell
Pastor (AZ)
Payne
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Reichert
Richardson
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Wu
Yarmuth

NOES—262

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Austria
Baca
Bachmann
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boswell
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Chandler
Coffman (CO)
Cole
Conaway
Cooper
Costa
Costello
Cravaack
Crawford
Crenshaw
Critz
Cuellar
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher

Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gohmert
Gonzalez
Goodlatte
Gosar
Gowdy
Graves (GA)
Graves (MO)
Green, Al
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Himes
Hochul
Holden
Hoyer
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jackson Lee (TX)
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Owens
Palazzo
Paul
Paulsen
Pearce
Pence
Perlmutter
Peters
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Renacci
Reyes
Ribble
Richmond
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Visclosky
Walberg
Walden
Walsh (IL)
Walz (MN)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOT VOTING—9

Carson (IN)
Giffords
Gingrey (GA)
Granger
Jackson (IL)
Lummis
Pelosi
Stivers
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (Mr. LATHAM) (during the vote). There are 2 minutes remaining in this vote.

□ 1858

So the amendment was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GRAVES of Georgia) having assumed the chair, Mr. LATHAM, Acting Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2021) to amend the Clean Air Act regarding air pollution from Outer Continental Shelf activities, and, pursuant to House Resolution 316, reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

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

Mr. KEATING. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. KEATING. I am opposed to it in its current form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Keating moves to recommit the bill H.R. 2021 to the Committee on Energy and Commerce with instructions to report the same to the House forthwith with the following amendment:

After subsection (d) of section 328 of the Clean Air Act, as proposed to be added by section 4 of the bill, insert the following:

''(e) DETERMINATION OF LOWER GAS PRICES AT THE PUMP.—In conducting analyses relating to requirements for pollution controls pursuant to this section, the Administrator shall determine whether the controls under review will result in lower gasoline prices in the United States, including the retail price charged at service stations.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts is recognized for 5 minutes in support of his motion.

Mr. KEATING. Mr. Speaker, I rise to offer this final amendment that I believe will greatly increase economic and job safeguards for the American people.

Simply put, the underlying legislation is about risk versus reward. We know what the reward is: trillions of dollars of profit over the last decade for oil companies and preferred stock buybacks and bonuses for executives. We know what the proponents of this bill say the reward will be: lower gas prices at the pump.

Now, what is the risk that we're looking at?

The risk is existing jobs: existing jobs in the marine industry, the fishing industry, the tourism industry—industries that are among the most job-producing in my State and in the States of so many other people in this Chamber.

My amendment requires the administrator to determine whether or not this will lower gas prices for American citizens. I believe we need a safeguard for the American public, who should not bear the burden of the risk with no guarantee of the reward. I'm sure the many small businesses in the gulf and in my district which rely on the marine economies and tourism would agree with this. This final amendment is a commonsense compromise, and regardless of how the Members feel about the underlying legislation, this is something that we should all be able to support.

When I offered my amendment earlier, my colleague from across the aisle said it was irrelevant because it dealt with exposing executive bonuses and that it, thus, did not deal with the heart of what this bill is supposed to do, which, according to him, was to increase domestic oil production that would translate into decreased gas prices at the pump. Now, if it's not for lower gas prices for consumers, then the only rationale for this must be that it's for higher profits for oil companies. All day, proponents have said the reason for the bill is to lower gas prices.

This amendment, simply put, asks them to mean what they say. I ask all of my colleagues to please support this final amendment.

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

Mr. GARDNER. I rise in opposition to the gentleman's motion.

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 5 minutes.

Mr. GARDNER. Energy security and job creation, that's what the Jobs and Energy Permitting Act is about. The amendment, the motion to recommit that has been offered, is something that we talked about today: whether or not a study actually results in lower prices at the pump.

Colleagues, I don't think our constituents will appreciate it if we put a big sign on the pump at the gas station that reads ''you're going to pay $3.50 a gallon for gas; you're going to pay $4 a gallon for gas'' while we study it, while a blue ribbon commission proceeds.

This bill will allow our domestic resources to be accessed in a responsible manner, in a timely manner to help relieve the price at the pump. Americans are tired of overregulation. Americans are tired of job-killing regulations. Americans are tired of the pain at the pump that they face each and every day. This bill presents an opportunity to create 54,000 jobs. In the time that it has taken to get a permit approved in the Chukchi and Beaufort Seas, 400 wells have been drilled around the world. They created jobs in other countries; they created energy in other countries, but they didn't do it in our own backyard. This is our opportunity to get American resources online in a responsible manner.

This amendment is one more stall, one more study, one more way to tell the American people that we're not interested in helping relieve the pain at the pump. We're going to study it. We're going to commission it. Then we're not going to do anything. This is 54,000 jobs and 1 million barrels of oil a day brought online from Alaska, creating jobs not just there but throughout the 48 States.

The other day, I heard people talking about making it in America. ''Make It in America.'' Do you know what we need to make it in America? We need an energy policy that allows an abundant, affordable energy resource. To make it in America, we need opportunities to secure policies that don't overregulate and kill jobs. If you want

to make it in America, reject this motion to recommit; develop American resources; put America back to work; and vote ''yes'' on the underlying bill.

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.

RECORDED VOTE

Mr. KEATING. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 177, noes 245, not voting 9, as follows:

[Roll No. 477]

AYES—177

Ackerman
Altmire
Andrews
Baca
Baldwin
Barrow
Bass (CA)
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Brady (PA)
Braley (IA)
Brown (FL)
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Castor (FL)
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dingell
Doggett
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Green, Al
Grijalva
Gutierrez
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hochul
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kildee
Kind
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Peters
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Shuler
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Wu
Yarmuth

NOES—245

Adams
Aderholt
Akin
Alexander
Amash
Austria
Bachmann
Bachus
Barletta
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boswell
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Cardoza
Carter
Cassidy
Chabot
Chaffetz
Chandler
Coble
Coffman (CO)
Cole
Conaway
Costa
Cravaack
Crawford
Crenshaw
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gohmert
Gonzalez
Goodlatte
Gosar
Gowdy
Graves (GA)
Graves (MO)
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Owens
Palazzo
Paul
Paulsen
Pearce
Pence
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOT VOTING—9

Dicks
Giffords
Gingrey (GA)
Granger
Landry
Lummis
Pelosi
Stivers
Young (AK)

□ 1923

Mr. OWENS changed his vote from ''aye'' to ''no.''

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. WAXMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 253, noes 166, not voting 12, as follows:

[Roll No. 478]

AYES—253

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Austria
Baca
Bachmann
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boswell
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Cardoza
Carter
Cassidy
Chabot
Chaffetz
Chandler
Coble
Coffman (CO)
Conaway
Costa
Cravaack
Crawford
Crenshaw
Critz
Cuellar
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gohmert
Gonzalez
Goodlatte
Gosar
Gowdy
Graves (GA)
Graves (MO)
Green, Al
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Hinojosa
Holden
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jackson Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paul
Paulsen
Pearce
Pence
Perlmutter
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stutzman
Sullivan

Terry	Walden	Wolf
Thompson (PA)	Walsh (IL)	Womack
Thornberry	Webster	Woodall
Tiberi	West	Yoder
Tipton	Westmoreland	Young (FL)
Turner	Whitfield	Young (IN)
Upton	Wilson (SC)	
Walberg	Wittman	

NOES—166

Ackerman	Hastings (FL)	Payne
Andrews	Heinrich	Peters
Baldwin	Higgins	Pingree (ME)
Bass (CA)	Himes	Polis
Becerra	Hinchey	Price (NC)
Berkley	Hirono	Quigley
Berman	Hochul	Rahall
Bishop (NY)	Holt	Rangel
Blumenauer	Honda	Reyes
Brady (PA)	Hoyer	Richardson
Braley (IA)	Inslee	Richmond
Brown (FL)	Israel	Rothman (NJ)
Butterfield	Jackson (IL)	Roybal-Allard
Capps	Johnson, E. B.	Ruppersberger
Capuano	Jones	Rush
Carnahan	Kaptur	Ryan (OH)
Carney	Keating	Sánchez, Linda T.
Castor (FL)	Kildee	
Chu	Kind	Sanchez, Loretta
Cicilline	Kissell	Sarbanes
Clarke (MI)	Kucinich	Schakowsky
Clarke (NY)	Langevin	Schiff
Clay	Larsen (WA)	Schrader
Cleaver	Larson (CT)	Schwartz
Clyburn	Lee (CA)	Scott (VA)
Cohen	Levin	Scott, David
Connolly (VA)	Lewis (GA)	Serrano
Conyers	Lipinski	Sewell
Cooper	Loebsack	Sherman
Costello	Lofgren, Zoe	Shuler
Courtney	Lowey	Sires
Crowley	Luján	Slaughter
Cummings	Lynch	Smith (WA)
Davis (CA)	Maloney	Speier
Davis (IL)	Markey	Stark
DeFazio	Matsui	Sutton
DeGette	McCarthy (NY)	Thompson (CA)
DeLauro	McCollum	Thompson (MS)
Deutch	McDermott	Tierney
Dingell	McGovern	Tonko
Doggett	McIntyre	Towns
Doyle	McNerney	Tsongas
Duncan (TN)	Meeks	Van Hollen
Edwards	Michaud	Velázquez
Ellison	Miller (NC)	Visclosky
Engel	Miller, George	Walz (MN)
Eshoo	Moran	Wasserman Schultz
Farr	Murphy (CT)	
Fattah	Nadler	Waters
Filner	Napolitano	Watt
Frank (MA)	Neal	Waxman
Fudge	Olver	Welch
Garamendi	Owens	Wilson (FL)
Grijalva	Pallone	Woolsey
Gutierrez	Pascrell	Wu
Hanabusa	Pastor (AZ)	Yarmuth

NOT VOTING—12

Carson (IN)	Gingrey (GA)	Murphy (PA)
Cole	Granger	Pelosi
Dicks	Lummis	Stivers
Giffords	Moore	Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1930

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. LANDRY. Mr. Speaker, on rollcall No. 477 I was unavoidably detained. Had I been present, I would have voted ''no.''

RESIGNATION AS MEMBER OF COMMITTEE ON ARMED SERVICES

The SPEAKER pro tempore (Mr. BROUN of Georgia) laid before the House the following resignation as a member of the Committee on Armed Services:

HOUSE OF REPRESENTATIVES,
CONGRESS OF THE UNITED STATES,
Washington, DC, June 22, 2011.

Hon. JOHN BOEHNER,
Speaker of the House, The Capitol, Washington, DC.

DEAR SPEAKER BOEHNER, I am writing to notify you of my resignation from the Armed Services Committee, effective June 22, 2011. I look forward to continuing to serve the Tampa Bay area and the State of Florida from the Energy and Commerce and Budget Committees in the 112th Congress.

Sincerely,

KATHY CASTOR,
United States Representative,
Florida District 11.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTING A MEMBER TO A CERTAIN STANDING COMMITTEE OF THE HOUSE OF REPRESENTATIVES

Mr. LARSON of Connecticut. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 321

Resolved, That the following named Member be and is hereby elected to the following standing committee of the House of Representatives:

COMMITTEE ON ENERGY AND COMMERCE.—Ms. Castor of Florida.

Mr. LARSON of Connecticut (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2219, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2012

Mr. NUGENT, from the Committee on Rules, submitted a privileged report (Rept. No. 112–113) on the resolution (H. Res. 320) providing for consideration of the bill (H.R. 2219) making appropriations for the Department of Defense for the fiscal year ending September 30, 2012, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1380

Mr. PITTS. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 1380, the New Alternative Transportation to Give Americans Solutions Act of 2011.

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

There was no objection.

GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous materials on H.R. 1249.

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

There was no objection.

AMERICA INVENTS ACT

The SPEAKER pro tempore. Pursuant to House Resolution 316 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1249.

□ 1933

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1249) to amend title 35, United States Code, to provide for patent reform, with Mr. GRAVES of Georgia in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

An initial period of general debate shall be confined to the question of the constitutionality of the bill and shall not exceed 20 minutes equally divided and controlled by the gentleman from Texas (Mr. SMITH) and the gentlewoman from Ohio (Ms. KAPTUR) or their designees.

The Chair recognizes the gentleman from Texas.

Mr. SMITH of Texas. I yield myself such time as I may consume.

Mr. Chairman, individuals who raise questions about the constitutionality of this legislation perhaps should review the Constitution itself. The Constitution expressly grants Congress the authority to ''promote the progress of science and useful arts.'' That is precisely what this bill does. H.R. 1249 improves the patent system, ensuring the protection and promotion of intellectual property that spurs economic growth and generates jobs.

The bill's inclusion of a move to a first-inventor-to-file system is absolutely consistent with the Constitution's requirement that patents be awarded to the ''inventor.''

A recent letter by professors of law from across the country—from universities including Emory, Indiana, Washington University in St. Louis, Missouri, NYU, New Hampshire, Wisconsin, Albany, Stanford, Chicago, Georgia, Richmond, Vanderbilt, and Washington—states that claims of unconstitutionality ''cannot be squared with well-accepted and longstanding rules of current patent law.'' And

former Attorney General Michael B. Mukasey has said that the provision is both ''constitutional and wise.''

In a letter to PTO Director David Kappos, General Mukasey stated that the bill's constitutionality is assured because it ''leaves unchanged the existing requirement that a patent issue only to one who 'invents or discovers.'''

Also, this provision actually returns us to a system that our Founders created and used themselves. Early American patent law, that of our Founders' generation, did not concern itself with who was the first-to-invent. The U.S. operated under a first-inventor-to-register, which is a system very similar to the first-inventor-to-file.

It wasn't until the 1870s, when the courts created interference proceedings, that our patent system began to consider who was the first-to-invent an invention. These interference proceedings disadvantaged independent inventors and small businesses. Over time, interference proceedings have become a costly litigation tactic that has forced some manufacturers to take the path of least resistance and move operations and jobs overseas rather than risk millions or billions of dollars in capital investment. The America Invents Act does away with interference proceedings and includes a provision to address prior user rights without jeopardizing American businesses and jobs.

Opponents of the first-inventor-to-file system claim that it may disadvantage independent inventors who cannot file quickly enough. But the current system lulls inventors into a false sense of security based on the belief that they can readily and easily rely on being the first-to-invent. Inventors forget that, to have any hope of winning an interference proceeding, they must comply with complex legal procedures and then spend over $500,000 to try to prove that they were the first-to-invent.

In the last 7 years, under the current system of interference proceedings, only one independent inventor out of 3 million patent applications has proved an earlier date of invention over the inventor who filed first, one out of 3 million. In fact, the current patent system's costly and complex legal environment is what truly disadvantages independent inventors, who often lose their patent rights because they can't afford the legal battle over ownership.

The America Invents Act reduces frivolous litigation over weak or overbroad patents by establishing a pilot program to review a limited group of business method patents that never should have been awarded in the first place. Section 18 deals with mistakes that occurred following an activist judicial decision that created a new class of patents called business method patents in the late 1990s. The PTO was ill equipped to handle the flood of business method patent applications.

Few examiners had the necessary background and education to understand the inventions, and the PTO lacked information regarding prior art. As a result, the PTO issued some weak patents that have lead to frivolous lawsuits. The pilot program allows the PTO to reexamine a limited group of questionable business method patents, and it is supported by the PTO.

Former 10th Circuit Federal Appeals Court Judge Michael McConnell sent me a constitutional analysis of the bill's reexamination proceedings. He stated that ''there is nothing novel or unprecedented, much less unconstitutional, about the procedures proposed in sections 6 and 18. The application of these new reexamination procedures to existing patents is not a taking or otherwise a violation of the Constitution.''

Supporters of this bill understand that if America's inventors are forced to waste time with frivolous litigation, they won't have time for innovation. That's why the U.S. Chamber of Commerce, National Association of Manufacturers, PhRMA, BIO, the Information Technology Industry Council, American Bar Association, Small Business & Entrepreneurship Council, Independent Community Bankers of America, Credit Union National Association, Financial Services Roundtable, American Insurance Association, Property Casualty Insurers Association of America, the Securities Industry and Financial Markets Association, the American Institute of CPAs, industry leaders, the Coalition for 21st Century Patent Reform, the Coalition for Patent Fairness, independent inventors, and all six major university associations all support H.R. 1249.

To quote the Chamber of Commerce: ''This legislation is crucial for American economic growth, jobs, and the future of U.S. competitiveness.''

We can no longer allow our economy and job creators to be held hostage to legal maneuvers and the judicial lottery.

□ 1940

American inventors have led the world for centuries in new innovations, from Benjamin Franklin and Thomas Edison to the Wright Brothers and Henry Ford. But if we want to continue as leaders in the global economy, we must encourage the innovators of today to develop the technologies of tomorrow.

This bill holds true to the Constitution, our Founders and our promise to future generations that America will continue to lead the world as a fountain for discovery, innovation and economic growth.

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

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

Mr. Chairman, if this bill is passed into law, it will violate the first right explicitly named in our Constitution, the intellectual property clause. This bill makes a total mockery of article 1, section 8, clause 8, which requires Congress to secure for inventors the exclusive right to their respective writings and discovery.

Supporters of this bill say it is an attempt to modernize our patent system. What they really mean is that this bill Europeanizes our patent system by granting the rights to an invention to whoever wins the race to the Patent Office.

The Supreme Court has been consistent on this issue throughout our history. First inventors have the exclusive constitutional right to their inventions. This right extends to every citizen, not just those with deep pockets and large legal teams. A politicized patent system will further entrench those very powerful interests with deep pockets and lots of lobbying offices over on K Street.

Claiming to be an inventor is not the same thing as being that inventor, the person who actually made the discovery. A patent should be challenged in court, not in the U.S. Patent Office.

Since the first Congress, which included 55 delegates to the Constitutional Convention, our nation has recognized that you are the owner of your own ideas and innovations. This bill throws that out the window and replaces it with a system that legalizes a rather clever form of intellectual property theft.

I assure you of one thing: If this bill mistakenly passes, this debate will not be over. We will see it head straight to the courts with extended litigation for years to come, along with complete uncertainty to our markets, killing jobs and killing innovation.

I urge my colleagues to vote ''no'' on H.R. 1249.

I yield 3 minutes to the former chairman of the Judiciary Committee, our esteemed colleague from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, in the first day of this session we all took an oath to preserve and protect and defend the Constitution of the United States against all enemies, foreign and domestic. And a day or two later, for the first time in history, we read the Constitution on the floor from beginning to end.

We changed the rules to have a constitutional debate when the constitutionality of legislation before us was in question. And this is the first time in the history of the United States House of Representatives when a question serious enough to have a constitutional debate is being debated on the floor for 20 minutes.

Unlike what my friend from Texas (Mr. SMITH) has said, this bill is unconstitutional, and voting for this bill will violate one's oath of office. And here is why.

The intellectual property clause of the Constitution gives the protection to the first-to-invent, and what happens later in the Patent Office only protects that right. It doesn't denigrate the right, and the right is given to the person who is first-to-invent. If someone who was the first-to-invent

ends up losing the race to the Patent Office, this bill takes away a property right, and that violates the Fifth Amendment.

Now, inventor means first inventor in the Constitution. And earlier this month, in Stanford University v. Roche, the Chief Justice has said, since 1790 the patent law has operated on the premise that in an invention, the rights belong to the inventor. And since the founding of our Republic, that has been the law.

Even in the beginning of our Republic, the 1793 act created an interference provision and set up an administrative procedure to resolve competing claims for the same invention. The Patent Board rejected the proposal that the patent should be awarded to the first person to file an application. And Thomas Jefferson served on that Patent Board that rejected first-to-file.

Secondly, early Supreme Court decisions confirm that patents must be granted to inventors, not when they file, but when they invent it. And that began in 1813 with Chief Justice Marshall, reaffirmed in 1829, and last month in Stanford v. Roche in the Supreme Court of the United States.

I think it is clear from all of the precedents that a first-to-invent and a first-to-file provision is unconstitutional because it adds a layer of compliance in winning the race to the Patent Office for someone who already has that right.

Let's vote ''no'' to uphold our oaths of office under the Constitution of the United States.

Mr. SMITH of Texas. Mr. Chairman, I reserve the balance of my time.

Ms. KAPTUR. I yield 1 minute to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Chairman, since the founding of the Republic, our patent system has been based on the premise that an inventor is entitled to a patent for their work, and not simply the first person to file a patent application. Indeed, article 1, section 8, clause 8 of the Constitution specifically states that to promote the progress of science and useful arts, Congress shall have the power to secure to authors and inventors the exclusive right to their respective writings and discoveries. Nowhere does it say filers have that right. Under no rule of construction or interpretation can this clause mean anything other than what it says.

And Mr. Chairman, I find it comforting to know that certainly I'm not alone in my concern over the constitutionality over first-to-file. None other than Chief Justice of the United States Supreme Court John Roberts recently wrote in an opinion, joined by six of his fellow Supreme Court justices that, ''Since 1790, the patent law has operated on the premise that rights in an invention belong to the inventor.''

Mr. SMITH of Texas. It is nice to be able to yield 1 minute to the gentleman from New York (Mr. NADLER), who is the ranking member of the Constitution Subcommittee of the Judiciary Committee.

Mr. NADLER. Mr. Chairman, some have argued that the first-to-file provision in this bill violates the constitutional provision giving Congress the power to promote the progress of science and useful arts by securing for limited times for authors and inventors the exclusive rights to their respective writings and discoveries.

The first key point to note is that the text does not define inventor. Under H.R. 1249, one still has to be an inventor to be awarded the patent, as the Constitution requires. Indeed, former Bush administration Attorney General Michael Mukasey noted in a May 2011 letter to Patent Office Director David Kappos that ''the second inventor is no less an inventor for having invented second.'' And former Attorney General Mukasey correctly points out that the Constitution grants Congress the power to ''promote the progress of the science and useful arts'' but does not say how it can or should do so. Congress deciding that awarding patents to inventors who are the first-to-file is consistent with that constitutional power.

The Patent Act of 1793 makes no mention of needing to be the first-to-invent. A patent was valid as long as the invention was not an invention already in the public domain or derived from another person. It was not until 1870 that there was a specific process put in place to even determine who the first-to-invent was.

The bottom line is that this bill is a clear exercise of Congress' constitutional power to secure patent rights to inventors.

□ 1950

Ms. KAPTUR. Mr. Chairman, may I inquire as to my remaining time, please.

The CHAIR. The gentlewoman from Ohio has 4 minutes remaining.

Ms. KAPTUR. I yield 1 minute to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT. Mr. Chairman, as founder and chairman of the Constitution Caucus, I applaud the opportunity to debate the constitutionality of this bill. This is the first of what I hope will be many more instances to discuss the constitutionality of legislation considered on this floor.

What this bill does is change the U.S. patent system from one which allows the moment of invention to determine who is entitled to a patent to one which confers this power to a government agency. Such a change would violate the intellectual property clause of the Constitution. Why is that? Because the Founders rejected the idea that rights are bestowed to the people by the government in favor of the revolutionary principle that men are born with natural rights.

Our Constitution instituted a government that secures only these natural and preexisting rights. So inventions created by the fruits of intellectual labor are the property of the inventor. These and only these first and true inventors then are entitled to public protection of their rightful property. To remain true to the principles of liberty, we must preserve a system that protects the true and first inventor.

Mr. SMITH of Texas. Mr. Chairman, may I inquire as to how much time remains on each side.

The CHAIR. The gentleman from Texas has 2½ minutes remaining, and the gentlewoman from Ohio has 3 minutes remaining.

Mr. SMITH of Texas. I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE), who is the chairman of the Intellectual Property Subcommittee of the Judiciary Committee.

Mr. GOODLATTE. I also very much appreciate this debate on the constitutionality of this issue. I had the honor of leading the reading of the Constitution on the second day of this new Congress.

I want to make it very clear because there's a lot of confusion on the part of a lot of people who think this is a first-to-file—even if you're not the inventor—gets the patent. That is most assuredly not the case. This is first-inventor-to-file. You must be a bona fide inventor to qualify for this.

Our Constitution grants exclusive rights to inventors. Now, in point of fact, when our Constitution was first adopted and our Patent Office was established, there was no interference provision, and it was 80 years later before that took place. In fact, in at least one case patents were granted to more than one inventor. So the issue here I think is not at all well-founded.

This is clearly constitutional. We have submitted and we will make part of the RECORD writings by 20 constitutional law professors—Attorney General Mukasey who has noted this as well. The Constitution grants Congress the authority to award inventors the exclusive rights to their inventions; however, the Constitution leaves to Congress how to settle disputes between two individuals who claim to have invented a certain idea.

Article I, section 8, of the Constitution declares that patent rights are to be granted in order to ''promote the progress of science and useful arts.'' A first-inventor-to-file system ensures this by awarding patent protections to the first actual inventor to disclose and make productive use of its patent.

Our Nation has adopted different standards for settling these issues in the past. Currently, we have a first-to-invent standard. The reality is that a first-to-invent standard subjects small businesses and individual inventors who have filed for patent protection to surprise and costly litigation in what are called interference actions to determine who invented the idea first. This is a better idea, and this is a constitutional idea.

We can make this process much easier by awarding a patent to the first inventor to make

use of his invention by seeking patent protection. This will reward the inventor who is making productive use of his patent and will discourage individuals from sitting idly on their ideas.

Let us make clear—switching to First-Inventor-to-File does not allow a subsequent party to steal an invention. It requires that a subsequent inventor had to have come up with the idea independently and separately.

Switching to a First-Inventor-to-File system fits squarely within the plain meaning of the Constitution and will reward inventors who are working to launch our nation into the next level of innovation and job creation.

Ms. KAPTUR. I yield 1 minute to my distinguished colleague and cosponsor in opposition to this bill, the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, our Constitution was designed and written to protect inventors, not filers. The words are very clear. ''Inventor'' is in the Constitution, ''filers'' is not in the Constitution. So why are we having this dispute about the constitutionality of this provision which is very clearly in the Constitution?

Are there all sorts of problems that we have people fighting as to who really invented something? No, we don't have a lot of problems. The reason why we have to change this is to harmonize our law, American patent law, with Europe. There are opponents that stated this over and over again in the early part of this debate, that the purpose was harmonizing American law with the rest of the world. Well, American law has always been stronger; we've had the strongest patent protection in the world. So what does harmonize mean? It means weakening our constitutionally protected patent rights.

The purpose of the bill is to weaken a constitutionally protected right that has been in place since the founding of our country. It should be rejected.

Ms. KAPTUR. I would like to inquire as to the remaining time on both sides, please.

The CHAIR. The gentlewoman from Ohio has 2 minutes remaining; the gentleman from Texas has 30 seconds remaining.

Ms. KAPTUR. Mr. Chairman, this bill is unconstitutional. It will stifle American job creation, cripple American innovation. It throws out over 220 years of patent protections for individual inventors and violates the CutGo rules, increasing our deficit by over $1 billion by 2021.

The proponents claim that the bill is constitutional because it contains the word ''inventor'' and leaves in place the existing statutory language awarding patents to those who invent or discover. But adding a word to the title of a bill cannot paper over its constitutional flaws. The bill denies a patent to the actual inventor simply because he or she files second, and therefore it is unconstitutional.

Earlier this month, in a decision issued on June 6, the Supreme Court reaffirmed that since 1790, the patent law has operated on the premise that the rights in an invention belong to the inventor. Chief Justice John Marshall explained in 1813 that the Constitution and law, taken together, give to the inventor from the moment of invention an inchoate property therein which is completed by suing out a patent. And in 1829, the Supreme Court held that under the Constitution the right is created by the invention and not by the patent. And a New York district judge stated in 1826 that it is very true that the right to a patent belongs to him who is the first inventor.

If this very flawed bill passes, I guarantee you it is going to be tied up in litigation for years to come. With the job situation being what it is, with our need for innovation in this economy, the last thing we should do is try to undermine a system that works. More patents are filed in this country than anyplace else in the world. It is dependable. And it is the first right, even before the Bill of Rights, contained in our Constitution.

We should stand for what is in the Constitution and not try to undermine it for any interest that comes before the Members of this Congress.

Mr. Chairman, I yield back the balance of my time and I ask my colleagues to vote against this bill. Support our own Constitution and the very successful record we've had of American innovation.

Mr. SMITH of Texas. I yield myself the balance of my time.

Mr. Chairman, I know my colleagues know a lot about this subject, but I don't think they know more than the Founders themselves. The Founders, including those who wrote the Constitution, operated under a first-to-register patent system starting in 1790. This is a very similar system to the first-inventor-to-file provision in the bill. So if the Founders liked the concept and thought it was constitutional, so should Members of Congress.

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

The CHAIR. All time for debate on the question of the constitutionality of the bill has expired.

A subsequent period of general debate shall be confined to the bill and shall not exceed 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary.

The gentleman from Texas (Mr. SMITH) and the gentlewoman from California (Ms. ZOE LOFGREN) each will control 30 minutes.

The Chair recognizes the gentleman from Texas.

Mr. SMITH of Texas. I yield myself such time as I may consume.

Mr. Chairman, the foresight of the Founders in creating an intellectual property system in the Constitution demonstrates their understanding of how patent rights benefit the American people. Technological innovation from our intellectual property is linked to three-quarters of America's economic growth, and American IP industries account for over one-half of all of our exports. These industries also provide millions of Americans with well-paying jobs.

□ 2000

Our patent laws, which provide a time-limited monopoly to inventors in exchange for their creative talent, helped create this prosperity.

The last major patent reform was nearly 60 years ago. During this time we have seen tremendous technological advancements, going from computers the size of a closet to the use of wireless technology in the palm of your hand. But we cannot protect the technologies of today with the tools of the past.

The current patent system is outdated and dragged down by frivolous lawsuits and uncertainty regarding patent ownership. Unwarranted lawsuits that typically cost $5 million to defend prevent legitimate inventors and industrious companies from creating products and generating jobs. And while America's innovators are forced to spend time and resources defending their patents, our competitors are busy developing new products that expand their businesses and their economies.

According to a recent media report, China is expected to surpass the United States for the first time this year as the world's leading patent publisher. The more time we waste on frivolous litigation, the less time we have for innovation.

Another problem with the patent system is the lack of resources available to the PTO. The average wait time for a patent approval is 3 years or more. These are products and innovations that will create jobs and save lives. Inadequately funding the PTO harms inventors and small businesses.

The bill allows the Director to adjust the fee schedule with appropriate congressional oversight and prevents Congress from spending agency funds on unrelated programs. This will enable the PTO to become more efficient and productive, reducing the wait time for patent approval. Patent quality will improve on the front end, which will reduce litigation on the back end.

The patent system envisioned by our Founders focused on granting a patent to the first inventor who registered their invention. This is similar to the first-inventor-to-file provision in H.R. 1249. This improvement makes our system similar to the international standard that other countries use, only it is better. We retain both a 1-year grace period that protects universities and small inventors before they file, as well as the CREATE Act, which ensures collaborative research does not constitute prior art that defeats patentability.

There are some who think this bill hurts small businesses and independent inventors, but they are wrong. It ensures that independent inventors are able to compete with larger companies,

both here and abroad. American inventors seeking protection here in the United States will have taken the first step toward protecting their patent rights around the world.

The bill also makes the small business ombudsman at the PTO permanent. That means that small businesses will always have a champion at the PTO looking out for their interests and helping them as they secure patents for their inventions. This bill protects small businesses and independent inventors by reducing fees for both.

This bill represents a fair compromise and creates a better patent system than exists today for inventors and innovative industries.

Patents are important to the United States and the world. For example, during the War of 1812, American troops burned the Canadian town of York, known today as Toronto. In retaliation, the British marched on Washington in the summer of 1814 to put the capital city to the torch.

Dr. William Thorton, the Superintendent of the Patent Office, delivered an impassioned speech to the British officer commanding 150 Redcoats who were tasked to burn Blodgett's Hotel, where the Patent Office was located. Thorton argued that the patent models stored in the building were valuable to all mankind and could never be replaced. He declared that anyone who destroyed them would be condemned by future generations, as were the Turks who burned the library in Alexandria. The British officer relented and Blodgett's Hotel was spared, making it the only major public building in Washington not burned that day.

American inventors have led the world in innovation and new technologies for centuries, from Benjamin Franklin and Thomas Edison to the Wright Brothers and Henry Ford. But if we want to foster future creativity, we must do more to encourage today's inventors. Now is the time to act.

I urge the House to support the America Invents Act.

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

Ms. ZOE LOFGREN of California. I yield myself such time as I may consume to oppose H.R. 1249.

I have worked on the patent reform effort since 1997 and am disappointed that here today I am unable to support the bill as it exists. I did vote to report this bill out of our Judiciary Committee, but since that time we have seen two unfortunate things occur that have made this bill simply not viable. The first, and exceedingly important, is the protections for patent fees, so that all the fees would stay in the office, have been removed. The regular appropriations process will allow for fee diversions in the future.

It has been the policy of the House, for example, not to divert fees from the Office. However, fees continue to be diverted. In fact, in the CR approved by the House this year, we diverted between $85 million and $100 million in fees from the Patent Office, and that is under the existing prohibition. So that is a major reason why the bill is defective.

I would note also that if we are moving to a first-to-file system, there has to be robust protection for prior user rights, including prior user rights in the grace period that exists under current law. Sadly, those protections are missing in this bill. The manager's amendment talks about disclosures only. It is a shame that other prior art, such as trade secrets and the like, would not receive the same protection.

So I would urge that the bill, unfortunately, cannot be supported. I intend to oppose it, as well as the manager's amendment.

I yield such time as he may consume to the honorable gentleman from North Carolina (Mr. WATT), the distinguished ranking member of the Intellectual Property Subcommittee.

Mr. WATT. I thank the gentlewoman for yielding time.

As the gentlewoman has indicated, I am the ranking member of the Subcommittee on Intellectual Property of Judiciary, and I too supported reporting the bill favorably to the House floor. The problem is that the bill we may end up debating is not the bill that we reported favorably from the Judiciary Committee, and there are reasons for that. I understand what those reasons are, but if the amendment that is being offered as the manager's amendment passes, it will put us in a position where substantial people who supported the bill will be unable to do so.

Here is the equation. One of the primary purposes for which there was a strong alliance of people and groups and interests supporting patent reform was that in the past fees that have been paid to the Patent and Trademark Office have gone through the appropriations process, and over the last 10 years almost $800,000 of those fees have been diverted to other purposes, other than the use of the Patent and Trademark Office. The effect of that is that there has been a hidden tax on innovation in our country.

The United States Senate passed a bill that would end that diversion. They passed it by a vote of 85–4. We passed a bill out of our Judiciary Committee that would end that diversion, and all of a sudden we come to the floor and a manager's amendment is being offered that, if it is not defeated, will undermine that unifying thing that has held the groups together and allowed people to support the bill. So I have to be in a position where I am strongly opposing the manager's amendment to this bill.

I don't think the groups out there support it. It is not often that I come to the floor and say I am speaking for the U.S. Chamber of Commerce. The Chamber of Commerce would like for the diversion of fees to stop.

□ 2010

It's not often that I come to the floor and say that I'm speaking, I think, for the United States Senate. They've already passed a bill that would stop the diversion of fees. It's not often that I come to the floor standing up for the bill that came out of our committee against forces that have taken it over and are putting forward a manager's amendment that we simply cannot support.

Now, I understand how we got here. The appropriators would like to continue to control the process. They said, Well, we are going to object to this, and we will raise a point of order. And they came up with language that professes to solve the problem. The problem is that that raised another point of order because the Congressional Budget Office said, Well, if you do it that way, you are going to put yourself in a situation where we have to score this bill in a different way. So then the leadership on the chairman's side said, Okay, well, we can waive that rule. And I'm saying, Well, if you can waive the rule, you are the people who have been so much worried about the deficit, if you can waive the rule that gets around worrying about the deficit, why couldn't you waive the rule that allows us to take up the bill that we passed out of committee?

So I need to be addressing my Republican colleagues here. If they want to start this process over, the way to start the process over is to vote against the manager's amendment. That's the simple way to do it. At that point we can get back, hopefully, to a bill that does clearly not divert fees and that the whole population of supporters has said we would support.

That's where I am, Mr. Chairman. I don't want to belabor this. I don't want to take away time from other people who want to speak. But it's not the bill itself that came out of committee that's the problem. If we pass the manager's amendment, we've got a problem here. We could tinker around the edges of the bill that came out of the committee, and we could solve the minor concerns that we've got there. But there's no way to tinker around the edges of this diversion issue. Either you support diversion of money, or you don't support diversion of money.

I think it's time for us to stop this hidden tax that we have imposed on innovation in this country. The only way to do that is to defeat the manager's amendment.

Mr. SMITH of Texas. Madam Chair, I yield 3 minutes to the gentleman from North Carolina (Mr. COBLE), the chairman of the Courts, Commercial, and Administrative Law Enforcement Subcommittee of the Judiciary Committee.

Mr. COBLE. I thank the gentleman from Texas. And I say to my friend from North Carolina, it was my belief that diversion had ended. But let me make my statement, and maybe we can get to this subsequently.

A robust patent system, Madam Chairman, is critical to a strong, developed economy. And H.R. 1249, in my

opinion, serves that goal by ending diversion of user fees to other agencies. Ending diversion is essential to a robust and strong patent system, it seems to me. This is not a new concept. It's been a controversial issue for many years; but we're at a point where if something isn't done, the office is going to be overwhelmed.

When someone asks why I support patent reform, I respond, The answer is simple, two words: backlog and pendency. The number of pending applications, I am told, is around 700,000, and the average time for an application to be reviewed is 30 months. This is unacceptable. The number of pending claims should be approximately 300,000 and the pendency time period should be approximately 20 months, or 10 months less than what it is now. Patents provide innovative and economic incentives for creators. If our patent system loses its efficacy, those incentives will become diluted. The dilution begins very simply when inventors decide to find other forms of protection for their ideas or begin marketing their ideas independently to avoid the cost and sometimes hassle of filing for patent protection.

Reducing the backlog and pendency rate depends on the office's ability to improve the performance of examiners and to provide additional examiners. Enacting H.R. 1249, in my opinion, Mr. Chairman, and ending diversion will provide that needed certainty for the office to begin making the changes to meet these goals.

I urge Members to vote in favor of the bill.

Ms. ZOE LOFGREN of California. Madam Chairman, I yield 30 seconds to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. I thank the gentlelady for yielding to me. I will place in the RECORD dozens and dozens of organizations that oppose this bill. They oppose the manager's amendment. And what is amazing about these groups is they range the vast ideological spectrum from liberal to conservative to moderate. And they all represent people—thousands and thousands of people—such as the American Bar Association, the Eagle Forum, the American Civil Rights Union, the Christian Coalition, the Family Research Council Action, Friends of the Earth, National Association of Realtors, Innovation Alliance. If one looks across this list, they have deep concerns about this bill and oppose it.

The following groups oppose H.R. 1249 or specific provisions of it or the Manager's Amendment: U.S. Business and Industry Council; National Association of Realtors; Innovation Alliance, American Bar Association; American Medical Association; ACLU; Breast Cancer Action; US-Israel Science & Technology Foundation (Sections 3 and 5); Public Citizen (Section 16); American Association for Justice (Section 16); Joan Claybrook, President Emeritus, Public Citizen; National Consumers League; Trading Technologies; Patent Office Professional Association (POPA); Generic Pharmaceutical Association (Section 12); Eagle Forum; Intellectual Ventures (Section 18); Data Treasury (Section 18).

Angel Venture Forum; BlueTree Allied Angels; Huntsville Angel Network; Private Investors in Entrepreneurial Endeavors; Institute of Electrical and Electronic Engineers (IEEE–USA); Wisconsin Alumni Research Foundation; Brigham Young University; University of Kentucky; Hispanic Leadership Fund; American Innovators for Patent Reform; National Association of Patent Practitioners (NAPP); National Small Business Association; IPAdvocate.org; National Association of Seed & Venture Funds; National Congress of Inventor Organizations; Inventors Network of the Capital Area; Professional Inventors Alliance USA; Public Patent Foundation; Edwin Meese, III, Former Attorney General of the United States; Let Freedom Ring.

American Conservative Union; Southern Baptist Ethics and Religious Liberty Convention; 60 Plus; Tradition, Family, Property; Gun Owners of America; Council for America; American Civil Rights Union; Christian Coalition; Patriotic Veterans, Inc.; Center for Security Policy; Family PAC Federal; Liberty Central; Americans for Sovereignty; Association of Christian Schools International; Conservative Inclusion Coalition; Oregon Health & Science University; North Dakota State University; South Dakota University; University of Akron Research Foundation; University of New Hampshire.

University of New Mexico; University of Utah; University of Wyoming; Utah Valley University; Weber State University; WeReadTheConstitution.com; Family Research Council Action; Friends of the Earth; National Women's Health Network; Our Bodies Ourselves; Center for Genetics and Society; International Center for Technology Assessment; Southern Baptist Ethics & Religious Liberty Commission; United Methodist Church—General Board of Church and Society; American Society for Clinical Pathology; American Society for Investigational Pathology; Association for Molecular Pathology; College of American Pathologists; Association of Pathology Chairs.

Mr. SMITH of Texas. Madam Chair, I yield 5 minutes to the gentleman from Virginia (Mr. GOODLATTE), who is the chairman of the Intellectual Property Subcommittee of the Judiciary Committee.

Mr. GOODLATTE. I thank the chairman for yielding and for his leadership on this issue, and I rise in strong support of H.R. 1249.

For the better part of the past decade, Congress has been working to update our patent laws to ensure that the incentives our Framers envisioned when they wrote article I, section 8, of our Constitution remain meaningful and effective. The U.S. patent system must work efficiently if America is to remain the world leader in innovation. It is only right that as more and more inventions with increasing complexity emerge, we examine our Nation's patent laws to ensure that they still work efficiently and that they still encourage and not discourage innovation.

The core principles that have guided our efforts have been to ensure that quality patents are issued by the PTO in the first place and to ensure that our patent enforcement laws and procedures do not create incentives for opportunists with invalid claims to exploit while maintaining strong laws that allow legitimate patent owners to enforce their patents effectively. H.R. 1249 addresses these principles.

With regard to ensuring the issuance of quality patents, this legislation allows third parties to submit evidence of prior art during the examination process, which will help ensure examiners have the full record before them when making decisions. In addition, after the PTO issues a patent, this legislation creates a new post-grant opposition system in which third parties can raise objections to a patent immediately after its issuance, which will both help screen out bad patents while bolstering valid ones.

□ 2020

Furthermore, the bill contains a provision on fee diversion where any fees that are collected but not appropriated to the PTO will be placed in a special fund to be used only by the PTO for operations. This solves the fee diversion issue, and it assures that the problem that we have had in the past will not take place in the future; but at the same time it also assures that the Congress will continue its oversight authority because the Patent Office will have to come to the Congress, to the Appropriations Committee, to justify those expenditures. They can't be spent on anything else, but they have to be justified to the Congress before the funds are appropriated. These funds will still be subject to appropriation but will be set aside to only fund the PTO. With a backlog of almost a million patent applications and many waiting 3 years to get an initial action on their patent applications, this agreement could not come at a more crucial time. We have been trying for 10 years, by the way, and this is the closest we have ever come.

In addition to these patent quality improvements, H.R. 1249 also includes provisions to ensure that patent litigation benefits those with valid claims but not those opportunists who seek to abuse the litigation process. Many innovative companies, including those in the technology and other sectors, have been forced to defend against patent infringement lawsuits of questionable legitimacy. When such a defendant company truly believes that the patent being asserted is invalid, it is important for it to have an avenue to request the PTO to take another look at the patent in order to better inform the district court of the patent's validity. This legislation retains an inter partes re-exam process, which allows innovators to challenge the validity of a patent when they are sued for patent infringement.

In addition, the bill allows the Patent and Trademark Office to reexamine some of the most questionable business method patents, which opportunists have used for years to extort money from legitimate businesses. By allowing the PTO to take another look at

these patents, we help ensure that invalid patents will not be used by aggressive trial lawyers to game the system.

The bill also ensures that abusive false markings litigation is put to an end. Current law allows private individuals to sue companies on behalf of the government to recover statutory damages in false markings cases. After a court decision 2 years ago that liberalized the false markings damages awards, a cottage industry has sprung up, and false markings claims have risen exponentially. H.R. 1249 maintains the government's ability to bring these actions but limits private lawsuits to those who have actually suffered competitive harm. This will discourage opportunistic lawyers from pursuing these cases.

The bill also restricts joinder rules for patent litigation. Specifically, it restricts joinder of defendants to cases arising out of the same facts and transactions, which ends the abusive practice of treating as codefendants parties who make completely different products and have no relation to each other.

Furthermore, the bill addresses the problem of tax strategy patents. Unbelievably, tax strategy patents grant monopolies on particular ways that individual taxpayers can comply with the Tax Code.

The Acting CHAIR (Ms. FOXX). The time of the gentleman has expired.

Mr. SMITH of Texas. I yield the gentleman an additional 30 seconds.

Mr. GOODLATTE. Over 140 tax strategy patents have already been issued, and more applications are pending. Tax strategy patents have the potential to affect tens of millions of everyday taxpayers, many who do not even realize that these patents exist. The Tax Code is already complicated enough without also expecting taxpayers and their advisers to become ongoing experts in patent law.

Scores, hundreds of organizations in fact, support these reforms. It is important that this House supports the manager's amendment; and by the way, the United States Chamber of Commerce supports the manager's amendment and the bill.

That is why I worked to include in H.R. 1249 a provision to ban tax strategy patents. H.R. 1249 contains such a provision which deems tax strategies insufficient to differentiate a claimed invention from the prior art. This will help ensure that no more tax strategy patents are granted by the PTO.

Importantly, the House worked hard to find a compromise that will ensure Americans have equal access to the best methods of complying with the Tax Code while also preserving the ability of U.S. technology companies to develop innovative tax preparation and financial management software solutions. I believe the language in H.R. 1249 strikes the right balance.

By giving the necessary tools to the Patent Office to issue strong patents and by enacting litigation reforms, we will help to inject certainty about the patents that emerge from this process—patents rights that are more certain to attract more investment capital. This will allow independent inventors, as well as small, medium and large-sized enterprises to grow our economy and create jobs.

Ms. ZOE LOFGREN of California. Madam Chair, may I inquire as to how much time remains?

The Acting CHAIR. The gentlewoman from California has 20 minutes remaining, and the gentleman from Texas has 17½ minutes remaining.

Ms. ZOE LOFGREN of California. At this point, I would be honored to yield 3 minutes to the gentlelady from Texas, a member of the Judiciary Committee, Ms. SHEILA JACKSON LEE.

Ms. JACKSON LEE of Texas. I thank the distinguished Member from California.

To my colleagues on the floor, this has to be, could have been or hopefully can be one of the greatest opportunities for bipartisanship that we have seen in any number of years. That was the process that was proceeded under on the Judiciary Committee, though obviously there are always disagreements; but the whole idea of our debate and the support of the present underlying legislation without the manager's amendment was to, in fact, create jobs.

In the committee, a number of my amendments were accepted, but in particular, the focus of converting from a first-inventor-to-use system to a first-inventor-to-file was thought to promote the progress of science by securing for a limited time to inventors the exclusive right for their discoveries and to provide inventors with greater certainty regarding the scope of protections granted by these exclusive rights.

Further, this new system was to be, or should be, able to harmonize the United States patent registration system with similar systems used by nearly all other countries with whom the United States conducts trade. This was to shine the light and open the door on American genius.

In addition, so many of us have waited so long to be able to give the resources to the PTO in order for it to do its job. We were aghast in hearings to hear that there is a 7,000-application backlog, so I rise as well to express enormous concern with the manager's amendment, which, as the PTO director has indicated, Dave Kappos, every time we do not process a PTO, or a patent, for some genius here in the United States, for some hardworking inventor, every patent that sits on the shelf at the PTO office is taking away an American job, and that job is not being created. As well, it is denying a product from going to the market, and it is someone's life that is not being saved, and our country ceases to grow.

We need jobs in this country. We need a Patent Office that is going to expedite and move forward. We don't need discussions about lawyers fighting lawyers or trial lawyers. This is not a case of anti-lawyer legislation. We hope that some of the small businesses and large companies have their lawyers fighting to preserve and protect their patents. This bill will give them the opportunity to have that protection, but I am disappointed that all of a sudden the manager's amendment changed around and took an enormous amount of those fees and invested them elsewhere instead of helping our small businesses. I am also disappointed that we don't recognize that a bill that helps big businesses can help small businesses as well, so I had offered an amendment that would extend the grace period while the small business is working to fund its patent.

The Acting CHAIR. The time of the gentlewoman has expired.

Ms. ZOE LOFGREN of California. I yield the gentlewoman an additional 15 seconds.

Ms. JACKSON LEE of Texas. The period is now a year—I'd indicated 18 months—because small businesses have to reach to others to help fund their inventions, and they let their secrets out of the bag. Eighteen months protects their disclosures for a period of time for them to be able to move forward.

Lastly, I had a sunset provision that would help small businesses as well as relates to the sunset of the business method patents review.

This could be a good bill. I hope that we can correct it, and I ask my colleagues to consider correcting this bill.

Madam Chair, I rise in support of H.R. 1249, "America Invents Act." However I am concerned over the drastic fee charges that were made in the new Manager's Amendment completely contrary to our agreement in the House Judiciary markup—it takes enormous amounts of money from the work of the PTO. As a Senior member of the Judiciary Committee and a member of the Subcommittee on Intellectual Property, Competition and the Internet, I am proud to support this legislation because in many ways the current patent system is flawed, outdated, and in need of modernization.

The Judiciary Committee labored long and hard to produce legislation that reforms the American patent system so that it continues to foster innovation and be the jet fuel of the American economy and remains the envy of the world. This legislation incorporates amendments that I offered during the full committee markup as it recognizes the importance of converting from a first-inventor-to-use system to a first-inventor-to file will promote the progress of science by securing for a limited time to inventors the exclusive rights to their discoveries and provide inventors with greater certainty regarding the scope of protections granted by these exclusive rights. Further, this new system will harmonize the United States patent registration system with similar systems used by nearly all other countries with whom the United States conducts trade. This legislation will continue to ensure that the United States is at the helm of innovation.

Our Nation's Founders recognized the integral role the patent system would play in the

growth of our nation. Within our Constitution, they explicitly granted Congress with the power to issue patents. The Founders were supporting a fundamental part of the American dream which is to live in a free land where ideas can be shared thereby leading to the individual ingenuity, invention, and innovation.

Madam Chair, Article I, Section 8, clause 8 of the Constitution confers upon the Congress the power:

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

In order to fulfill the Constitution's mandate, we must examine the patent system periodically. The legislation before us represents the first comprehensive review of the patent system in more than a generation. It is right and good and necessary that the Congress now reexamine the patent system to determine whether there may be flaws in its operation that may hamper innovation, including the problems described as decreased patent quality, prevalence of subjective elements in patent practice, patent abuse, and lack of meaningful alternatives to the patent litigation process.

On the other hand, we must always be mindful of the importance of ensuring that small companies have the same opportunities to innovate and have their inventions patented and that the laws will continue to protect their valuable intellectual property.

The role of venture capital is very important in the patent debate, as is preserving the collaboration that now occurs between small firms and universities. We must ensure that whatever improvements we make to the patent laws are not done so at the expense of innovators and to innovation. The legislation before us, while not perfect, does a surprisingly good job at striking the right balance.

From small towns to big cities, our country is filled with talent and genius. As it stands, the United States has four times as many patent applications filed here per year than in Europe. The United States Patent and Trademark office must have the tools to meet this demand. Failing to change the patent system as we know it will deny the men and women from around our nation fair and equal access to a streamlined and effective patent system.

The current system has a backlog of hundreds of thousands of patents, nearly 700,000 applications are waiting to be reviewed. The USPTO is currently reviewing applications from 2007/2008, and using the fees received from the most recent patent applications to do so due to limitations in the current system under which the USPTO is funded. This has caused inventors and business creators to wait on average three years prior to receiving a determination on whether or not their patents are valid.

Without that determination it is nearly impossible for a small business to receive the necessary venture capital. That's a three-year waiting period for struggling small businesses; this is a three-year gap filled with financial uncertainty which leads to a three-year delay in job creation. Only 4 out of ten applications, or 42 percent, of patent applications are approved. It is vital to have approval prior to attaining financing because there is a 58 percent chance that a patent will not be approved. Given our current economic environment, a three year backlog is too long for any individual to wait to build a business which will create new jobs, especially at a time when jobs are sourly needed by many right now. Patent reform is the key to economic change that could lead to untapped job growth.

Since the creation of the USPTO in 1790 it has issued 7,752,677 patents and many of those patents have resulted in the creation of new jobs. In 2010, 121,179 patents granted by the USPTO originated in the United States of those granted 8,027 went to applicants in Texas. Imagine how many jobs could be created if there were not a 700,000 patent application backlog.

Our current system is outdated and the backlog makes it evident that our system is in serious need of change. Patent reform must reflect the major advances in our society over the last 50 years. Since the last major patent reform how we live has been transformed by a variety of inventions such as the home computer, ATM, video games, cellular phones and mobile devices, and life saving technologies like the artificial heart, all of which have been invented since any major reform of our patent system.

Madam Chair, patent reform is a complex issue but one thing is clear the innovation ecosystem we create and sustain today will produce tomorrow's technological breakthroughs. That ecosystem is comprised of many different operating models. It is for that reason that we evaluated competing patent reform proposals thoroughly to ensure that sweeping changes in one part of the system do not result in unintended consequences to other important parts.

Let me discuss briefly some of the more significant features of this legislation, which I will urge all members to support. H.R. 1249 converts the U.S. patent system from a first-to-invent system to a first inventor-to-file system. The U.S. is alone in granting priority to the first inventor as opposed to the first inventor to file a patent. H.R. 1249 will inject needed clarity and certainty into the system. While cognizant of the enormity of the change that a ''first inventor-to-file'' system may have on many small inventors and universities, a study regarding first-to-file will be conducted by the Small Business Administration and the United States Patent Office to identify any negative impact this change may have on these inventors.

Furthermore, H.R. 1249 adjusts the fee structure which funds the USPTO, giving them greater control over the fees they collect for patent services and enabling the USPTO to improve its efficiency and review more patents at a greater speed. Currently, the USPTO is funded solely by the fees its receives from it's users. However, not all the fees collected are available for use by the USPTO because Congress appropriates a specific amount, and any fees above the appropriated amount are used for other non-USPTO purposes. Under H.R. 1249, the USPTO will have greater control over the use of the fees it receives, giving them greater flexibility to make necessary improvements to the patent system.

SMALL BUSINESS FACTS

Several studies, including those by the National Academy of Sciences and the Federal Trade Commission, recommended reform of the patent system to address what they thought were deficiencies in how patents are currently issued.

The U.S Department of Commerce defines small businesses as businesses which employ less than 500 employees. According to the Department of Commerce in 2006 there were 6 million small employers representing around 99.7% of the nation's employers and 50.2% of its private-sector employment. In 2002 the percentage of women who owned their business was 28% while black owned was around 5%. Between 2007 and 2008 the percent change for black females who were self employed went down 2.5% while the number for men went down 1.5%.

There were 386,422 small employers in Texas in 2006, accounting for 98.7% of the state's employers and 46.8% of its private-sector employment. Since small businesses make up such a large portion of our employer network, it is important to understand how they will be impacted as a result of patent reform.

In 2009, there were about 468,000 small women-owned small businesses compared to over 1 million owned by men

The number of small employers in Texas was 386,422 in 2006, accounting for 98.7% of the state's employers and 46.8% of its private-sector employment, 88,000 small business owners are black, 77,000 are Asian, 319,000 are Hispanic, 16,000 are Native Americans.

SMALL BUSINESSES AND JOB CREATION

Small Businesses:

Represent 99.7 percent of all employer firms.

Employ just over half of all private sector employees.

Generated 64 percent of net new jobs over the past 15 years.

Create more than half of the nonfarm private gross domestic product (GDP).

Hire 40 percent of high tech workers (such as scientists, engineers, and computer programmers).

Made up 97.3 percent of all identified exporters and produced 30.2 percent of the known export value in FY 2007.

Produce 13 times more patents per employee than large patenting firms; these patents are twice as likely as large firm patents to be among the one percent most cited.

Creativity and technological change are the engines for our economic growth. In our current economic climate, patents spur innovation and lay the foundation for future growth, by assuring inventors that they will receive the rewards for their effort. I urge all members to join me in supporting passage of this landmark legislation.

Mr. SMITH of Texas. Madam Chair, I yield 3 minutes to the gentleman from Ohio (Mr. CHABOT), who is the senior member of the Constitution Subcommittee and a senior member of the Intellectual Property Subcommittee of the Judiciary Committee.

Mr. CHABOT. I first want to thank Chairman SMITH and Chairman GOODLATTE for their leadership in getting us to the point that we are on this important legislation here this evening.

Section 8, clause 8 of the Constitution states that the Congress shall have power to ''promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.'' The Constitution clearly grants Congress the authority to grant patent rights to inventors, and it defers to the discretion

of Congress how best to procedurally award these rights to the inventor.

I rise in support of H.R. 1249, the America Invents Act. The first-inventor-to-file provision shifts us to a system used by all other modern, industrial nations. This system would end the need for expensive discovery and litigation over priority dates and would put an end to expensive interference proceedings that small entities overwhelmingly lose.

This provision also ensures that inventors can establish priority dates by filing simple and inexpensive provisional applications. This is a much needed change, which former U.S. Attorney General Michael Mukasey indicated would be both constitutional and wise. Congress has the right, in fact the duty, to protect those who invent or discover.

□ 2030

Through in-depth studies conducted by former U.S. PTO commissioners, the first-to-file system has been found to be faster and cheaper in resolving disputes among inventors. The current system creates an environment for exorbitantly expensive litigation. It has also become cost prohibitive for small businesses and independent inventors to fight the claims filed by larger corporations which can cost over half a million dollars just to litigate.

In the past 7 years, only one independent inventor out of 3 million patent applications filed has successfully proved an earlier date of invention over the inventor who filed first. However, with the new first-inventor-to-file system, a bold timeline of filing dates will allow these small businesses and independent inventors to more easily defend and settle their disputes over the rightful patent holder.

Lastly, the Supreme Court has never held that first-to-file is an unconstitutional procedure. We are now simply returning to the system that our Founders originally established. It is a commonsense procedure that will spur more rapid innovation, yield new jobs, and stimulate the economy; and I think as we all know if we ever needed to get this economy moving and get America back to work, we're in that time right now.

Ms. ZOE LOFGREN of California. I yield 2 minutes to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Madam Chair, in my office there are two photographs, one with me and Edwards Deming and the other of Dr. Ray Damadian, who is the inventor of the MRI. Dr. Damadian visited our office, and I said, What's wrong with this bill? He said, Everything. He said, If this bill were law when I invented the MRI, today we would not have the MRI.

There are a lot of problems with this bill. This is my fourth patent fight with my esteemed colleague from Texas, but we do agree on most issues; but now we have two persons who simply disagree on policy.

Back in 2004 when I chaired the Small Business Committee, I was instrumental in putting in a fixed-fee structure for small businesses; and to do that, I had stricken from the bill the authority of the PTO Director to set fees. This new bill gives to the PTO Director the ability to set fees, even though the initial filing fees for small businesses have been lowered. The problem is that the PTO can come in and simply raise fees to so-call ''manage their operations.''

In fact, two reports, ''The 21st Century Strategic Plan'' filed in June of 2002 by the U.S. PTO, said fees were based upon a highly progressive system aimed at strictly limiting applications containing very high numbers of claims and also the same thing in 2007. Their idea of decreasing claims in the patent office is to raise fees. Obviously, who's that going to hurt? It's going to be the little guy, and that's why it's one of many reasons I oppose this bill. But we should not delegate the authority that Congress has to set fees in one of the few constitutional functions that we have in this body over to somebody who has already stated that he's going to raise fees.

You raise fees, guess who gets hurt—the future Ray Damadian, the little inventor, the people who invent things in this country, the true creators of jobs.

Madam Chair, I rise in strong opposition to this anti-innovation bill. I believe this bill will stifle job creation and is unconstitutional.

Over the past 40 years, the value of corporations has shifted from tangible assets, such as real estate and machinery, to intellectual property. During this same time period, the primary source of all net new job creation has come from start-up small companies.

However, since the first major change to our patent system in 1994 that altered the length of the patent from 17 years from award to 20 years from filing, the number of patent awards from start-ups and small, individual inventors has dropped dramatically. Patents awarded to start-up firms decreased from 30 percent of all awards in 1993 to 18 percent in 2009. Patents awarded to small inventors dropped from 12 percent in 1993 to 5 percent in 2009.

Why? America has slowly shifted towards a European-style patent system, which gives more opportunities to challenge a patent, resulting in delays in receiving approval for granting a patent, thus shortening the length of the exclusive use of the patent. Now, the average wait is three years. This bill would finalize the shift towards a European-style patent system through changing from a ''first-to-invent'' to ''first-to-file'' system; establishing a new set of ''prior use'' rights; and adopting a third European-style ''post-grant'' challenge.

This bill would prompt a litigation boom, primarily inside the administrative review processes at the U.S. Patent and Trademark Office. In Europe, five percent of patents are challenged. In the United States, only 1.5 percent of patents are challenged in court, contrary to the misinformation from the other side of this debate that there is a litigation boom in patent cases. Japan dropped post-grant review in 2004 because it consumed 20 percent of their patent office resources. Canada saw a one-third increase in patent applications and clogged up its system when it shifted to ''first-to-file.'' Commenting on similar legislation in 2007, a former senior judge and Deputy Director of the IP Division of the Beijing High People's Court said the bill ''will weaken the right of patentees greatly, increase their burden, and reduce the remedies for infringement . . . the bill favors infringers and burdens patentees . . . It is not bad news for developing countries which have lower technological development and relatively fewer patents.'' That is why entrepreneurial organizations such as the National Small Business Association (NSBA) and the Angel Venture Forum oppose H.R. 1249.

Second, I believe the bill is unconstitutional on several grounds. First, H.R. 1249 shifts from a ''first-to-invent'' system to ''first-to-file.'' However, Article 1, Section 8 states that the Congress shall have power ''to promote the progress of science . . . by securing for limited times to . . . inventors the exclusive rights to their respective . . . discoveries.''

The First Congress included 23 of the 55 delegates to the Constitutional Convention. Three other delegates served in the Executive Branch, including President George Washington. When examining the 1790 Patent Act, we know the intent of the Founding Fathers in patent law—the legislation clearly states that the patent goes to the ''first and true'' inventor.

This was recently reaffirmed in a June 6, 2011, Supreme Court decision written by Chief Justice John Roberts in Stanford v. Roche, in which he said that ''(s)ince 1790, the patent law has operated on the premise that rights in an invention belong to the inventor . . . Although much in intellectual property has changed in the 220 years since the first Patent Act, the basic idea that inventors have the right to patent their inventions has not.''

In addition, two constitutional scholars specializing in patent law ranging the political spectrum agree that moving to a first to file system is unconstitutional. Jonathan Massey, former law clerk to Supreme Court Justice William Brennan and who represented former Vice President Al Gore in Bush v. Gore said, ''Our nation's founders understood that technological progress depends on securing patent rights to genuine inventors, to enable them to profit from their talents, investment, and effort . . . If the bill's provisions had been law in the 20th Century, the Wright Brothers would have been denied a patent for the airplane.''

Adam Mossoff, Professor of Law at George Mason University and Chairman of the Intellectual Property Committee of the conservative Federalist Society said, ''In shifting from a first-to-invent to a first-to-file system, the America Invents Act contradicts both the text and the historical understanding of the Copyright and Patent Clause in the Constitution.'' But more importantly, of the only nine peer-reviewed law journal articles on the subject of patent reform, all have concluded that adopting a ''first-to-file'' system is unconstitutional. So, if this bill becomes law, it will be tied up in litigation, further delaying innovation, until the Supreme Court rules on its constitutionality.

Section 18 of H.R. 1249 also creates a special class of patents in the financial services sector subject to their own distinctive post-grant administrative review and would apply retroactively to already existing patents. Governmental abrogation of patent rights represents a ''taking'' of property and therefore

triggers Fifth Amendment obligations to pay "just compensation." Section 18 would shift the cost of patent infringement from financial services firms to the U.S. Treasury. Finally, the "prior use" provision in H.R. 1249 violates the "exclusive" use provision guaranteed to inventors under the Constitution.

Thus, because this bill will hurt jobs and is unconstitutional, I urge my colleagues to oppose the bill. The manager's amendment does not fix any of the problems with the bill; in fact, it further compounds the problems with the bill. The first step to fixing our patent system is to fix the PTO. This manager's amendment would still allow patent fee diversion to take despite promises made in recent days. Permitting the PTO to retain its fees will allow the agency to hire more examiners and modernize its information technology infrastructure to reduce the massive backlog of pending patent applications. That's real patent reform; not this bill.

Mr. SMITH of Texas. Madam Chair, I yield 1 minute to the gentleman from New Hampshire (Mr. BASS) for purposes of a colloquy.

Mr. BASS of New Hampshire. I thank the chairman.

I want to discuss some important legislative history of a critical piece of this bill, in particular, sections 102(a) and (b) and how those two sections will work together. I think we can agree that it is important that we set down a definitive legislative history of those sections to ensure clarity in our meaning.

Mr. SMITH of Texas. I want to respond to the gentleman from New Hampshire and say that one key issue for clarification is the interplay between actions under section 102(a) and actions under section 102(b). We intend for there to be an identity between 102(a) and 102(b). If an inventor's action is such that it triggers one of the bars under 102(a), then it inherently triggers the grace period subsection 102(b).

Mr. BASS of New Hampshire. I believe that the chairman is correct. The legislation intends parallelism between the treatment of an inventor's actions under 102(a) and 102(b). In this way, small inventors and others will not accidentally stumble into a bar by their pre-filing actions. Such inventors will still have to be diligent and file within the grace period if they trigger 102(a); but if an inventor triggers 102(a) with respect to an invention, then he or she has inherently also triggered the grace period under 102(b).

The Acting CHAIR. The time of the gentleman has expired.

Mr. SMITH of Texas. I yield myself 30 seconds.

Madam Chair, contrary to current precedent, in order to trigger the bar in the new 102(a) in our legislation, an action must make the patented subject matter ''available to the public'' before the effective filing date. Additionally, subsection 102(b)(1)(B) is designed to make a very strong grace period for inventors that have made a disclosure that satisfies 102(b). Inventors who have made such disclosures are protected during the grace period not only from their own disclosure but from other prior art from anyone that follows their disclosure. This is an important protection we offer in our bill.

Ms. ZOE LOFGREN of California. Madam Chairwoman, I yield 2 minutes to my colleague from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Thank you very much, and I hope everyone is paying attention to what this is all about tonight.

First of all, we have DAN LUNGREN, one of our Members who is a former Attorney General of California, along with JIM SENSENBRENNER and JOHN CONYERS both the former chairmen of the Judiciary Committees, all of them adamant that this bill is unconstitutional. And now we have a discussion and we have a lot of people talking about backlogs and what's wrong with the efficiency of the patent system or the patent office as if that's what this is all about.

It is not what this is all about. This, again, has been designed, this is a patent fight that's been going on 20 years. Basically, you have some very large multinational corporations who are trying to harmonize American patent law with the rest of the world, even though American patent law has been stronger than the rest of the world throughout our Republic's history. You weaken the patent protection of the American people; you are weakening their constitutional protections in the name of harmonizing it with Europe. Is that what we want to do? I don't think so. That will have dramatic impact on our country.

Hoover Institution, one of the most highly respected think-tanks in the United States, had four of their scholars go after this bill; and here's three of the points they've made, through the many points, that said thumbs down on this America Invents Act. It is better called the patent rip-off bill. Here's what Hoover Institution said: the America Invents Act will protect large, entrenched companies at the expense of market challenging competitors. Read that: overseas multinational corporations. They also said, The bill wreaks havoc on property rights, and predictable property rights are essential for economic growth.

This bill is a job killer, and the jobs that will be killed are in the United States of America, not the multinational corporation.

The Acting CHAIR. The time of the gentleman has expired.

Ms. ZOE LOFGREN of California. I yield the gentleman an additional 30 seconds.

Mr. ROHRABACHER. These multinational corporations, they're creating jobs overseas. They don't care if the jobs are lost here. The America Invents Act—here's Hoover Institution again—the America Invents Act would inject massive uncertainty into the patent system.

We have had the strongest patent system in the world, and it has yielded us prosperity and security as a people. We do not need to change the fundamentals of this system and to harmonize with weaker systems throughout the world.

I call for the people to vote against this patent rip-off bill.

Mr. SMITH of Texas. Madam Chair, I yield 2 minutes to the gentleman from Arizona (Mr. QUAYLE), who is also the vice chairman of the Intellectual Property Subcommittee of the Judiciary Committee.

Mr. QUAYLE. I thank the gentleman for yielding.

Madam Chair, I rise in support of H.R. 1249, and one of the reasons I do is because it encourages innovation and entrepreneurship by reducing costly litigation within our patent system. Innovation is the key to America's immediate and future economic growth; and right now, many American innovators are being held back by an onerous and backlogged patent system. In order to unleash their job-creating potential, we must reform this system which hasn't been reformed in almost 60 years.

□ 2040

One way this bill tackles patent reform is by creating a business method patent pilot program in which administrative patent judges will review the validity of these patents if a challenger presents evidence showing that a patent is more likely than not invalid.

Business method patents were not patentable until the late 1990s and have resulted in frivolous lawsuits which have cost between $5 million to $10 million per patent.

These types of patents cover a ''method of doing or conducting business'' which includes printing ads at the bottom of a billing statement, ordering something online but picking it up in person, tax strategies, or getting a text when your credit card gets swiped.

The tort abuse created by these patents has become legendary. Section 18 of this bill has broad bipartisan support in the Senate and is an alternative to costly litigation that will save 90 percent of the costs incurred in civil litigation.

I support Chairman SMITH's work in creating a less costly, more efficient alternative to this abusive litigation and oppose any effort to strike section 18. As part of the Republican Conference's overall effort to spur job creation and economic growth, I urge passage of this important legislation.

Ms. ZOE LOFGREN of California. Madam Chairman, I yield myself such time as I may consume.

I want to talk a little bit about the manager's amendment under this general debate time because there is a very constrained amount of time for that discussion.

I want to touch on two things in particular. First is the fee issue. I know that there's been discussion that somehow the fees won't be diverted under

the manager's amendment, and I just think that is not a credible argument.

I remember back in the year 2000 when we were promised that the fees would not be diverted by the appropriators, but then subsequent to that, there was diversion. And the truth is that so long as this is part of the appropriations process, the fees can, and I predict will be, diverted just as they were diverted during the adoption of the CR this year. The PTO estimates an $85 million to $100 million diversion of fees in the CR that was adopted earlier this year. That conceptually is really just a special tax on innovators. If you raise the fees and you divert it for general purposes, that's just a special tax on inventors, and I just think it's wrong and I cannot support it.

I want to talk also, my colleague, Mr. WATT, said that other than the fee bill, we could resolve the issues, and I think we could have but we're not. There are two issues that I want to address and they are really closely related, and they're complicated but they're important.

Under our laws, an idea must be new, useful, and nonobvious in order to receive patent protection, and this is evaluated in comparison to what's known as prior art. That's the state of knowledge that exists prior to an invention. If an idea already exists in the prior art, you can't get a patent. Under current law, a variety of different things create prior art, such as descriptions of an idea in previous patents, printed publications, as well as public uses or sales. But current law has what's known as the grace period, which provides 1 year for an inventor to file a patent application after certain activities that would otherwise create patent-defeating prior art.

So, for example, if an inventor published an article announcing a new invention, he or she would have a year under this grace period to file a patent application for it, and this is a very important provision of patent law. It's pretty unique, actually, to the United States. The PTO director, David Kappos, referred to this grace period as ''the gold standard of best practices.''

As we move into the first-to-file system as is proposed in this bill, it is absolutely essential that the revised grace period extend to everything that is prior art under today's rules. Unfortunately, that is not the case in the manager's amendment. The grace period would protect, and this is a direct quote, ''only disclosures.'' Well, what would that not protect? Trade secrets. Offers for sale that are not public. You could have entrepreneurs who start an invention and start a small business who won't be able to get a patent for their invention under the grace period, and entrepreneurs might then be forced to delay bringing their products to market, which would slow growth. This needs to be addressed, not in a colloquy but in language, and we agreed in the committee when we stripped out language that didn't fix this that we would fix the 102(a) and (b) problem in legislation. There was a colloquy on the Senate floor similar to one that has just taken place, but we know that the language of the bill needs to reflect the intent. Judges look to the statute first and foremost to determine its meaning, and the legislative history is not always included.

So the ambiguity that's in the measure is troublesome. And although we prepared an amendment to delineate it, it has not been put in order, and, therefore, this remedy cannot be brought forth, and small inventors and even big ones may have a problem.

We now have our iPads on the floor, and while I was sitting here, I got an email from the general counsel of a technology company. I won't read the whole thing, but here is what this general counsel said:

''The prior use rights clause as written will be a direct giveaway to foreign competitors, especially those from countries where trade secret test is rampant.''

What we're saying to American companies is that if you have a trade secret that you want to protect under the grace period prior art rules, you're out of luck. You are quite potentially out of luck. You'll either have to disclose that trade secret, and we know that there are serious concerns in doing that. We don't want to get into maligning countries around the world, but there are some that do not have the respect for intellectual property that we have. Or else we will say to that inventor or company that you can't use your own invention that you have devised without being held up for licensing fees with somebody who got to the office before you did.

This is a big problem that is not resolved. Even if the manager's amendment is defeated, this problem will remain in the bill. It is an impediment to innovation and an impediment to making first-to-file work. If we're going to have first-to-file, and I can accept that, it must have robust, broad, rigorous protection under the grace period with a broad definition of a prior art that is protected. That is just deficient in this bill.

This is, I know, down in the weeds. It's a little bit nerdy. We've spent many years talking about this in the Judiciary Committee. I'm just so regretful that this bill after so many years has gone sideways in the last 2 days and is something that we cannot embrace and celebrate.

I reserve the balance of my time.

Mr. SMITH of Texas. Madam Chair, I yield 2 minutes to the gentleman from Arkansas (Mr. GRIFFIN), who is also a member of the Intellectual Property Subcommittee of the Judiciary Committee.

Mr. GRIFFIN of Arkansas. Thank you, Mr. Chairman.

Madam Chairman, I rise today in strong support of H.R. 1249, the America Invents Act, and I urge my colleagues to support it.

Make no mistake, the America Invents Act is a jobs bills. At no cost to taxpayers, this legislation builds on what we as Americans do best: We innovate. Bolstering American innovation will create jobs at a time when we need it most.

The America Invents Act ends fee diversion and switches the U.S. to a first-inventor-to-file system. These changes will streamline the patent application process to help American innovators bring their inventions to market. Each new commercialized invention has the potential to create American jobs. This is a jobs bill.

A provision that I worked on included in the bill would make permanent the Patent and Trademark Office's ombudsman program for small business concerns. This program will provide support and services for independent inventors who may not have the resources to obtain legal counsel for guidance on obtaining a patent. This provision ensures that the small guys will always have a champion at the PTO to help them navigate the process.

□ 2050

In addition, the America Invents Act finally puts an end to fee diversion, a practice that has siphoned almost $1 billion in fees from the PTO over the past 20 years. Too many patent applications have sat untouched for years because the PTO does not have the resources it needs to review them in a timely manner. Ending fee diversion will expedite the review and unleash their potential to create American jobs.

This bill is endorsed by the U.S. Chamber of Commerce, the National Association of Manufacturers, and the Small Business & Entrepreneurship Council. I urge my colleagues to support this jobs bill.

Ms. ZOE LOFGREN of California. I continue to reserve the balance of my time.

Mr. SMITH of Texas. Madam Chair, I yield 3 minutes to the gentleman from Virginia (Mr. GOODLATTE), as I mentioned awhile ago, the chairman of the Intellectual Property Subcommittee of the Judiciary.

Mr. GOODLATTE. Madam Chairman, it was mentioned earlier by one of those speaking in opposition to the bill that the National Association of Realtors was opposed to this legislation. And we will make available for the RECORD a letter that we received, dated 2 days ago, from the National Association of Realtors: ''On behalf of the 1.1 million members of the National Association of Realtors, we are pleased to support H.R. 1249, the America Invents Act.'' It goes on to explain in great detail why they, along with literally hundreds of other organizations, support this legislation. That includes the United States Chamber of Commerce, the National Association of Manufacturers, and the Retail Federation of America. There is a whole host of organizations and individual companies,

both large and small, who support the legislation because they know that this is what is vital for job creation in this country.

We need to have reform of our patent laws because, unfortunately in recent years, countries like China have overtaken us in the productivity of their patent office. And the fact of the matter is, unless we change our patent laws, we are going to continue to be at a disadvantage. And the advantages that we've had in the past are no longer available to us because, quite frankly, the complexity of inventions has increased; and more and more, we find ourselves in a situation where the laws that we operate under today, which were last updated in 1952, need to be updated to address a lot of the abuses that you've heard described here this evening.

We also need to pass this legislation to make sure that the fee diversion, that, as has been noted, has kept nearly $1 billion from going to the operation of the Patent Office to work down the 3-year 1 million patent backlog, also can be addressed. And we also need to recognize that this legislation, in addition to being a jobs bill, as recognized by all of these many, many, many companies and associations of various trade groups, it is also major litigation reform.

It cuts out the abuses with tax strategy patents and other business method types of patents, where individuals do not produce anything other than lie in wait for somebody else to come up with a similar idea and then come forward and say, Hey, that was really my idea, and now you pay me a lot of money. They aren't creating jobs. They, in fact, are causing jobs to leave this country.

So there are many reasons to support this legislation, and I would urge my colleagues to do so. We have not yet come to the manager's amendment, but it provides a critical component to making sure that fee diversion does not occur.

NATIONAL ASSOCIATION
OF REALTORS,
Washington, DC, June 20, 2011.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the 1.1 million members of the National Association of REALTORS® (NAR), we are pleased to support H.R. 1249, the America Invents Act. NAR's support, however, is predicated upon the retention of important anti-fee diversion provisions contained in section 22 of the bill. NAR believes it is critically important that the U.S. Patent Trademark Office have access to all user fees paid to the agency by patent and trademark applicants. Without this reform, delays in processing patent applications will continue to undermine American innovation and stymie the nation's economy.

NAR, whose members identify themselves as REALTORS®, represents a wide variety of real estate industry professionals. REALTORS® have been early adopters of technology and are industry innovators who understand that consumers today are seeking real estate information and services that are fast, convenient and comprehensive. Increasingly, technology innovations are driving the delivery of real estate services and the future of REALTORS'® businesses.

The nation's patent law system faces many of the same issues but has not kept pace. It has been more than 50 years since the patent system's last major overhaul. Modernization is critically needed to improve the quality of issued patents, reduce the burden of unnecessary litigation on businesses and refocus the nation's efforts on innovation and job creation.

As technology users, NAR and several of its members currently find themselves facing onerous patent infringement litigation over questionable patents launched by patent holding companies and other non-practicing entities. Without needed reforms that assure that asserted patent rights are legitimate, the ability of businesses owned by REALTORS®, many of which are small businesses, to grow, innovate and better serve modern consumers will be put at risk. For this reason, NAR supports reforms such as expanded post-grant review and prior user rights.

The America Invents Act contains needed reforms geared towards improving patent quality. NAR supports greater transparency in the patent application process including creating a mechanism to allow practitioners with the expertise and knowledge to review and comment on the appropriateness of a patent application prior to the issuance of the patent and the creation of a streamlined and more effective process for challenging a patent outside of the judicial system. Finally, it is critically important that the U.S. Patent Trademark Office have access to all user fees paid to the agency by patent and trademark applicants. Without this reform, delays in processing patent applications will continue to undermine American innovation.

The National Association of REALTORS® supports H.R. 1249 with the section 22 anti-fee diversion provisions. We urge the House to pass this much needed legislation with these critical provisions.

Sincerely,

RON PHIPPS,
2011 President.

Ms. ZOE LOFGREN of California. I yield myself such time as I may consume.

I want to get back to the original reason why we've worked so hard on this bill, only to be here at the end of this process with a bill that we can't support. We started with hearings in the 1990s with the Federal Trade Commission and the National Academy of Science. And one of the things they pointed out was that there are more patents than there are inventions. We started focusing in on the abuse of litigation that occurred as well as the needs of the office.

My colleague is correct: The Patent Office has a tremendous backlog, and that is a serious concern for inventors and really for the country. The examiners have such an enormous backlog, they can't spend sufficient time reviewing the applicants. This has led to a flood of poor-quality patents that were issued over the last decade and a half that I think—and most believe—should have been denied by the office. These dubious patents do significant damage to particular industries, like the information technology industry, as they can be used by nonpracticing entities to demand rents from legitimate businesses and to interfere with the development of legitimate products. Now, I don't blame the examiners at the PTO. They are working hard, but they don't have enough time to give each application the consideration it deserves.

A bill, as approved by the Judiciary Committee, would have helped remedy this problem by making sure—a lot of people don't realize that the Patent Office doesn't get any taxpayer money. The Patent Office is entirely supported by fees submitted by inventors. So keeping all of those fees that the inventors are paying in the office so that the patents can properly be dealt with in a timely fashion was a key component of this measure. Unfortunately, under the manager's amendment, that strong protection is simply gone.

And I know, as I said in the past, we've had unanimous votes in the Judiciary Committee. We've had promises never to do it again; but the diversions have continued, and it is clear that they will continue under the manager's amendment provision because it allows the regular process to continue as it has in the past.

I have not submitted lists of letters of who's in favor, who's opposed to this bill. It's my understanding that the Realtors Association is, in fact, opposed to the manager's amendment; but we're not going to vote on these amendments tonight. We're rolling these votes until tomorrow. So we will research that, and we will find the truth of where they are and make that information available to the Members because certainly Realtors are a very valuable part of our Nation's economy.

I want to talk a little bit as well about whether we can fix the defect on prior art by an amendment that will be offered later in the week by the gentleman from Michigan (Mr. CONYERS) and the gentleman from California (Mr. ROHRABACHER). They propose that the first-to-file patent system that is being promoted to harmonize our system with other countries would not go into effect until the grace period, which is the critical part of the patent system, actually is fixed and harmonized.

If the manager's amendment is passed, the fatal defect of defining the prior art is disclosures, I don't believe can be fully remedied by this amendment, although I think that this amendment is a good one, and I intend to support it. So I think it's very important that the manager's amendment be defeated. I would hope that if that happens, that we might have a chance to step back and to fully examine where we are in terms of the prior user rights and the grace period because, as the patent commissioner had said, this is the gold standard, the United States has had the gold standard in patents with this grace period. It would be a shame not just for the Congress but for our country and our future as innovators to lose this genius part of our patent system.

I reserve the balance of my time.

□ 2100

Mr. SMITH of Texas. Madam Chair, I yield 2½ minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Madam Chairman, the gentlewoman has expressed concern about the fee diversion provision in the manager's amendment. I think it is actually a very good provision; and it will, for the first time, end fee diversion at the Patent and Trademark Office by statute. It accomplishes both our overarching policy goals and maintains congressional oversight.

For the first time, we are establishing an exclusive PTO reserve fund that will collect all excess PTO fees and bring an end to fee diversion. It's been expressed on the other side of the aisle that maybe with the authority to set fees that is granted for a limited period of time in this bill, there will be an abuse in the Patent Office. But it can't be abused very much because the fees will still be subject to appropriations here in the Congress. They can't spend them on other things. They can't divert them, but they can put them in escrow, and they can require the PTO to come in and justify those fees before they're authorized. There will be no incentive to have excess fees if there can't be excess expenditures because of congressional oversight.

Patent reform has been a long road; and with the inclusion of this provision, we have ensured that all funds collected by the PTO will remain available to them and may not be diverted to any other use.

Ending fee diversion has been an important goal for all of us; and as we crafted legislation, our ultimate policy goal was to ensure that PTO funds are not diverted for other uses, such as earmarks or for other agencies.

Working with leadership and the Appropriations Committee, we developed a compromise provision that accomplishes our shared policy goal through a statutorily created PTO reserve fund.

This compromise was carefully brokered by leadership to ensure that it aligned with House rules and did not include mandatory spending that would have resulted in a score. Just a few months ago, including a provision like this one would have been unheard of, and no such provision has been included in patent bills considered by previous Congresses.

All excess fees that the PTO collects will be deposited into the PTO reserve fund and amounts in the fund ''shall be made available until expended only for obligation and expenditure by the Office.''

This compromise provision also ensures that the Appropriations and Judiciary Committees will continue to have oversight over the PTO. Though PTO remains within the appropriations process, the appropriators no longer have an incentive to divert fees. In other words, because excess fees are made available to the PTO, there will be no scoring advantage to the Appropriations Committee to decrease the appropriations, and this will not impact their 302(b) allocation for Commerce, Justice, State appropriations.

I urge my colleagues to support the manager's amendment.

By creating the Reserve Fund, we have walled-off PTO funds from diversion. All the excess fees are collected and deposited into the Fund and are made available in Appropriations Acts and cannot be "diverted" to other non-PTO purposes.

PTO funding would still be provided in Appropriations Acts, but the language carried in those Acts will appropriate excess fee collections and provide a clear and easy mechanism for PTO to request access to those funds.

By giving USPTO access to all its funds, the Manager's Amendment supports the USPTO's efforts to improve patent quality and reduce the backlog of patent applications. To carry out the new mandates of the legislation and reduce delays in the patent application process, the USPTO must be able to use all the fees it collects.

The language in the Manager's Amendment reflects the intent of the Judiciary Committee, the Appropriations Committee and House leadership to end fee diversion. USPTO is 100% funded by fees paid by inventors and trademark filers who are entitled to receive the services they are paying for. The language makes clear the intention not only to appropriate to the USPTO at least the level requested for the fiscal year but also to appropriate to the USPTO any fees collected in excess of such appropriation.

Providing USPTO access to all fees collected means providing access at all points during that year, including in case of a continuing resolution. Access also means that reprogramming requests will be acted on within a reasonable time period and on a reasonable basis. It means that future appropriations will continue to use language that guarantees USPTO access to all of its fee collections.

Appropriations Chairman ROGERS is committed to this agreement and to ending fee diversion at the PTO, and I appreciate his efforts.

This provision represents a sea change of improvement over the current system and I urge all Members to strongly support this end to fee diversion at the PTO. This amendment, including the commitment from Chairman ROGERS to Leadership ensures that all the user fees that the PTO collects will be available to the PTO so that they can get to work to reduce patent pendency and the backlog, and issue strong patents.

Ms. ZOE LOFGREN of California. May I inquire how much time remains.

The Acting CHAIR. The gentlewoman from California has 15 seconds remaining.

Ms. ZOE LOFGREN of California. Well, I will use those 15 seconds, Madam Chair, by saying just a few things. First, the litigation reform mentioned is really to retroactively undo a case that was fairly and squarely won in the courts.

Number two, that section 18 is basically just a giveaway to the banks. There's some good things in this bill. The post-grant review, overall it does more harm than good.

I yield back the balance of my time.

Mr. SMITH of Texas. I yield myself the balance of the time.

Madam Chair, in closing, I want to thank the patent principles who devoted so much time, energy and intellect to this project. We've worked together for the common goal of comprehensive patent reform for the better part of 6 years.

While some of us still have differences over individual items, I want these Members to know that I appreciate their contributions to the project. This includes, among many others, Mr. GOODLATTE, Mr. WATT, Mr. ISSA, and Mr. BERMAN.

In the Senate we've worked closely with Senators LEAHY, GRASSLEY, KYL, HATCH and others; and I want to thank them as well.

Also, we would not be at this point tonight without the support of Commerce Secretary Locke and PTO Director Kappos.

Our country needs this bill. We can't thrive in the 21st century using a 20th-century patent system. At a time when the economy remains fragile and unemployment is unacceptably high, we must include the patent system and the PTO, an agency that has been called an essential driver of a pro-growth job-creating agenda.

This bill will catapult us into a new era of innovation and enhanced consumer choice. I urge my colleagues to support H.R. 1249.

Mrs. CHRISTENSEN. Madam Chair, I rise today to express my strong support for H.R. 1249—a smart bill that fixes an anomaly in the patent law by addressing the confusion around the deadline for filing patent term extensions. This bill—which has broad bipartisan support in both chambers—will ensure that if the FDA notifies a company after normal business hours that its drug has been approved, then the time that the company has to file a patent term extension application does not begin to run until the next business day.

I support this bill not only because it protects the rights of patent holders, but also because it will help inspire greater investments in the development of new drugs that not only could save millions of lives, but also could play a pivotal role in reducing racial and ethnic health disparities. Take, for example, a blood thinning drug that was proven very effective in treating and preventing stroke—the third leading cause of death in the nation, and a cause of death from which African American men are 52% more likely to die than white men, and African American women are 36% more likely to die than white women.

But for an unintentional one-day filing delay, the developer of this drug would have been entitled to secure a patent term restoration. And, with that term restoration, the company would have been positioned to invest the additional resources to qualify the drug for the treatment and prevention of stroke and for expanded use in heart surgeries. This medical advancement would undoubtedly have saved countless lives and improved the health and wellbeing of tens of thousands of Americans.

Absent the correction provided by this bill, however, none of what could have—and should have—happened ever did happen, and, as a result, a great medical advancement never came to fruition. This bill would ensure that the situation that occurred with the promising blood thinning drug does not happen

again. And, this bill fixes an anomaly that not only jeopardizes the development of life-saving drugs, but also jeopardizes the health and wellness of innocent, hardworking Americans. I urge all of my colleagues to be a key part of the solution to this problem by supporting this bill.

Ms. PELOSI. Madam Chair, I rise in opposition to this patent reform bill, misnamed the America Invents Act.

It had been our hope that we would be voting on a patent bill that encourages entrepreneurship, protects intellectual property rights, and sends a message abroad that strengthens patent rights at home. The bill before us fails on all these scores.

Instead, by favoring large international companies, we have before us a missed opportunity to encourage entrepreneurship. It is a missed opportunity to strengthen intellectual property rights here at home.

For these and other reasons, I urge my colleagues to vote no on the Manager's amendment, yes on the Boren-Sensenbrenner-Waters-Schock amendment, and no on the final passage of this disappointing bill. Let's go back to the drawing board for a real bill to keep America number one.

Ms. WASSERMAN SCHULTZ. Madam Chair, today I rise in support of H.R. 1249, the America Invents Act.

This vital reform to our nation's patent system would help spur innovation, foster competition, and create and support American jobs.

Democrats in Congress have urged our colleagues across the aisle to bring legislation to the Floor and today we have an opportunity to support legislation to create jobs and support our recovering economy.

That is why this legislation is a priority of the Obama Administration—the bill represents a significant step in the right direction toward American job growth and is crucial to winning the future through innovation.

I urge my colleagues to support this bill's benefits for American inventors, manufacturers, and jobs.

I also urge my colleagues to support this bill because it includes a provision that will help engender much-needed patient protection and choice for patients undergoing genetic diagnostic tests.

As many, of you know, several years ago, I was diagnosed with breast cancer.

Through genetic testing, I discovered that I am a carrier of the BRCA–2 gene mutation, which drastically increased my lifetime risk of ovarian cancer and recurring breast cancer.

As a result, I made the life-altering decision to have seven major surgeries—a double mastectomy and an oophorectomy—from a single administration of a single test.

You see, there is only one test on the market for this mutation.

The maker of this test not only has a patent on the gene itself; they also have an exclusive license for limited laboratories to administer the test.

Like genetic tests for colon cancer, Parkinson's disease, Alzheimer's disease, stroke, and many other genetic disorders, there is no way to get a truly independent second opinion.

In approximately 20 percent of all genetic tests, only one laboratory can perform the test due to patent exclusivity for the diagnostic testing, and often the actual human gene being tested.

Just imagine: Your genes hold the key to your survival; having major, body-altering surgery or treatment could save you life; but the test results fail to give you certainty.

The America Invents Act begins to address this problem.

A provision in the Manager's amendment simply directs a study by the U.S. Patent and Trademark Office on ways to remove barriers for patient access to second opinions on genetic testing on patented genes.

Such a study would address questions about the current effects such patents have on patient outcomes and how best to provide truly independent, confirmatory tests.

Given ongoing court cases on the issue of gene patents, let me be clear: the study's focus on second opinion genetic testing is not intended to express any opinion by Congress regarding the validity of gene patents.

By allowing clinical laboratories to confirm the presence or absence of a gene mutation found in a diagnostic test, we can help Americans access the second opinions they truly deserve.

I know first-hand the stress of wanting a second opinion—but being unable to get it.

With so much at stake, it is incredibly important that we give everyone in this situation as much certainty as we possibly can.

We owe that much to those whose lives are in the balance.

Mr. GALLEGLY. Madam Chair, I rise in support of this amendment.

Development of new prescription drug therapies is critically important if we are to successfully treat—or even cure—diseases such as cancer, ALS and juvenile diabetes.

The problem is that medical research is expensive. A researcher can spend years trying various drug combinations before developing one that may be approved for testing in humans, and it can take even more years after that to get final Food and Drug Administration, FDA approval. If patent protection expires soon after the drug is approved, companies may not be able to recover their investment, which would lead to less research and development.

Congress recognized this problem when it passed the Hatch-Waxman Act in 1984. Hatch-Waxman provides for extended patent protection if the company applies within 60 days after the FDA approves a new drug.

Unfortunately, the FDA and the Patent and Trademark Office have different interpretations of when the company must file the application. The resulting confusion and uncertainty may be discouraging people from investing in life-saving medical research.

This amendment simply clarifies when the 60-day period begins. This is completely budget neutral and does not make any substantive change to the law.

I urge my colleagues to support this common sense amendment.

Mr. GALLEGLY. Madam Chair, I rise in strong support of this bill. First, I would like to recognize Chairman SMITH's extraordinary work on behalf of American inventors. This bill is a well-crafted compromise that will streamline the patent process, while improving the quality of patents.

Although I do not support every single provision of this legislation, it is critical that the House of Representatives pass H.R. 1249.

I am especially pleased that Chairman SMITH included a provision that helps many businesses in the United States, including several in my district, who have been forced to spend time and money to defend themselves against so-called "false marking" lawsuits.

By law, patent holders are required to place the patent number on their products. The problem is that after the patent expires, it may be very costly for a business to recall their products to change the label. Unfortunately, several law firms have discovered that suing these manufacturers can be lucrative, and we have seen a sharp increase in the number of these nuisance lawsuits.

This bill includes a common sense solution that will stop these lawsuits and allow employers to devote resources to developing new products and creating jobs.

I urge my colleagues to support this important legislation.

Mr. SMITH of Texas. Madam Chair, I yield back the balance of my time.

The Acting CHAIR. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 1249

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''America Invents Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term ''Director'' means the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

(2) OFFICE.—The term ''Office'' means the United States Patent and Trademark Office.

(3) PATENT PUBLIC ADVISORY COMMITTEE.—The term ''Patent Public Advisory Committee'' means the Patent Public Advisory Committee established under section 5(a)(1) of title 35, United States Code.

(4) TRADEMARK ACT OF 1946.—The term ''Trademark Act of 1946'' means the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the ''Trademark Act of 1946'' or the ''Lanham Act'').

(5) TRADEMARK PUBLIC ADVISORY COMMITTEE.—The term ''Trademark Public Advisory Committee'' means the Trademark Public Advisory Committee established under section 5(a)(1) of title 35, United States Code.

SEC. 3. FIRST INVENTOR TO FILE.

(a) DEFINITIONS.—Section 100 of title 35, United States Code, is amended—

(1) in subsection (e), by striking ''or inter partes reexamination under section 311''; and

(2) by adding at the end the following:

''(f) The term 'inventor' means the individual or, if a joint invention, the individuals collectively who invented or discovered the subject matter of the invention.

''(g) The terms 'joint inventor' and 'coinventor' mean any 1 of the individuals who invented or discovered the subject matter of a joint invention.

''(h) The term 'joint research agreement' means a written contract, grant, or cooperative agreement entered into by 2 or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.

''(i)(1) The term 'effective filing date' for a claimed invention in a patent or application for patent means—

''(A) if subparagraph (B) does not apply, the actual filing date of the patent or the application for the patent containing a claim to the invention; or

''(B) the filing date of the earliest application for which the patent or application is entitled, as to such invention, to a right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c).

''(2) The effective filing date for a claimed invention in an application for reissue or reissued patent shall be determined by deeming the claim to the invention to have been contained in the patent for which reissue was sought.

''(j) The term 'claimed invention' means the subject matter defined by a claim in a patent or an application for a patent.''.

(b) CONDITIONS FOR PATENTABILITY.—

(1) IN GENERAL.—Section 102 of title 35, United States Code, is amended to read as follows:

''§ 102. Conditions for patentability; novelty

''(a) NOVELTY; PRIOR ART.—A person shall be entitled to a patent unless—

''(1) the claimed invention was patented, described in a printed publication, or in public use, on sale, or otherwise available to the public before the effective filing date of the claimed invention; or

''(2) the claimed invention was described in a patent issued under section 151, or in an application for patent published or deemed published under section 122(b), in which the patent or application, as the case may be, names another inventor and was effectively filed before the effective filing date of the claimed invention.

''(b) EXCEPTIONS.—

''(1) DISCLOSURES MADE 1 YEAR OR LESS BEFORE THE EFFECTIVE FILING DATE OF THE CLAIMED INVENTION.—A disclosure made 1 year or less before the effective filing date of a claimed invention shall not be prior art to the claimed invention under subsection (a)(1) if—

''(A) the disclosure was made by the inventor or joint inventor or by another who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor; or

''(B) the subject matter disclosed had, before such disclosure, been publicly disclosed by the inventor or a joint inventor or another who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor.

''(2) DISCLOSURES APPEARING IN APPLICATIONS AND PATENTS.—A disclosure shall not be prior art to a claimed invention under subsection (a)(2) if—

''(A) the subject matter disclosed was obtained directly or indirectly from the inventor or a joint inventor;

''(B) the subject matter disclosed had, before such subject matter was effectively filed under subsection (a)(2), been publicly disclosed by the inventor or a joint inventor or another who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor; or

''(C) the subject matter disclosed and the claimed invention, not later than the effective filing date of the claimed invention, were owned by the same person or subject to an obligation of assignment to the same person.

''(c) COMMON OWNERSHIP UNDER JOINT RESEARCH AGREEMENTS.—Subject matter disclosed and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person in applying the provisions of subsection (b)(2)(C) if—

''(1) the subject matter disclosed was developed and the claimed invention was made by, or on behalf of, 1 or more parties to a joint research agreement that was in effect on or before the effective filing date of the claimed invention;

''(2) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and

''(3) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.

''(d) PATENTS AND PUBLISHED APPLICATIONS EFFECTIVE AS PRIOR ART.—For purposes of determining whether a patent or application for patent is prior art to a claimed invention under subsection (a)(2), such patent or application shall be considered to have been effectively filed, with respect to any subject matter described in the patent or application—

''(1) if paragraph (2) does not apply, as of the actual filing date of the patent or the application for patent; or

''(2) if the patent or application for patent is entitled to claim a right of priority under section 119, 365(a), or 365(b), or to claim the benefit of an earlier filing date under section 120, 121, or 365(c), based upon 1 or more prior filed applications for patent, as of the filing date of the earliest such application that describes the subject matter.''.

(2) CONTINUITY OF INTENT UNDER THE CREATE ACT.—The enactment of section 102(c) of title 35, United States Code, under paragraph (1) of this subsection is done with the same intent to promote joint research activities that was expressed, including in the legislative history, through the enactment of the Cooperative Research and Technology Enhancement Act of 2004 (Public Law 108–453; the ''CREATE Act''), the amendments of which are stricken by subsection (c) of this section. The United States Patent and Trademark Office shall administer section 102(c) of title 35, United States Code, in a manner consistent with the legislative history of the CREATE Act that was relevant to its administration by the United States Patent and Trademark Office.

(3) CONFORMING AMENDMENT.—The item relating to section 102 in the table of sections for chapter 10 of title 35, United States Code, is amended to read as follows:

''102. Conditions for patentability; novelty.''.

(c) CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER.—Section 103 of title 35, United States Code, is amended to read as follows:

''§ 103. Conditions for patentability; non-obvious subject matter

''A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.''.

(d) REPEAL OF REQUIREMENTS FOR INVENTIONS MADE ABROAD.—Section 104 of title 35, United States Code, and the item relating to that section in the table of sections for chapter 10 of title 35, United States Code, are repealed.

(e) REPEAL OF STATUTORY INVENTION REGISTRATION.—

(1) IN GENERAL.—Section 157 of title 35, United States Code, and the item relating to that section in the table of sections for chapter 14 of title 35, United States Code, are repealed.

(2) REMOVAL OF CROSS REFERENCES.—Section 111(b)(8) of title 35, United States Code, is amended by striking ''sections 115, 131, 135, and 157'' and inserting ''sections 131 and 135''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect upon the expiration of the 18-month period beginning on the date of the enactment of this Act, and shall apply to any request for a statutory invention registration filed on or after that effective date.

(f) EARLIER FILING DATE FOR INVENTOR AND JOINT INVENTOR.—Section 120 of title 35, United States Code, is amended by striking ''which is filed by an inventor or inventors named'' and inserting ''which names an inventor or joint inventor''.

(g) CONFORMING AMENDMENTS.—

(1) RIGHT OF PRIORITY.—Section 172 of title 35, United States Code, is amended by striking ''and the time specified in section 102(d)''.

(2) LIMITATION ON REMEDIES.—Section 287(c)(4) of title 35, United States Code, is amended by striking ''the earliest effective filing date of which is prior to'' and inserting ''which has an effective filing date before''.

(3) INTERNATIONAL APPLICATION DESIGNATING THE UNITED STATES: EFFECT.—Section 363 of title 35, United States Code, is amended by striking ''except as otherwise provided in section 102(e) of this title''.

(4) PUBLICATION OF INTERNATIONAL APPLICATION: EFFECT.—Section 374 of title 35, United States Code, is amended by striking ''sections 102(e) and 154(d)'' and inserting ''section 154(d)''.

(5) PATENT ISSUED ON INTERNATIONAL APPLICATION: EFFECT.—The second sentence of section 375(a) of title 35, United States Code, is amended by striking ''Subject to section 102(e) of this title, such'' and inserting ''Such''.

(6) LIMIT ON RIGHT OF PRIORITY.—Section 119(a) of title 35, United States Code, is amended by striking ''; but no patent shall be granted'' and all that follows through ''one year prior to such filing''.

(7) INVENTIONS MADE WITH FEDERAL ASSISTANCE.—Section 202(c) of title 35, United States Code, is amended—

(A) in paragraph (2)—

(i) by striking ''publication, on sale, or public use,'' and all that follows through ''obtained in the United States'' and inserting ''the 1-year period referred to in section 102(b) would end before the end of that 2-year period''; and

(ii) by striking ''prior to the end of the statutory'' and inserting ''before the end of that 1-year''; and

(B) in paragraph (3), by striking ''any statutory bar date that may occur under this title

due to publication, on sale, or public use'' and inserting ''the expiration of the 1-year period referred to in section 102(b)''.

(h) DERIVED PATENTS.—

(1) IN GENERAL.—Section 291 of title 35, United States Code, is amended to read as follows:

''§ 291. Derived Patents

''(a) IN GENERAL.—The owner of a patent may have relief by civil action against the owner of another patent that claims the same invention and has an earlier effective filing date, if the invention claimed in such other patent was derived from the inventor of the invention claimed in the patent owned by the person seeking relief under this section.

''(b) FILING LIMITATION.—An action under this section may be filed only before the end of the 1-year period beginning on the date of the issuance of the first patent containing a claim to the allegedly derived invention and naming an individual alleged to have derived such invention as the inventor or joint inventor.''.

(2) CONFORMING AMENDMENT.—The item relating to section 291 in the table of sections for chapter 29 of title 35, United States Code, is amended to read as follows:

''291. Derived patents.''.

(i) DERIVATION PROCEEDINGS.—Section 135 of title 35, United States Code, is amended to read as follows:

''§ 135. Derivation proceedings

''(a) INSTITUTION OF PROCEEDING.—An applicant for patent may file a petition to institute a derivation proceeding in the Office. The petition shall set forth with particularity the basis for finding that an inventor named in an earlier application derived the claimed invention from an inventor named in the petitioner's application and, without authorization, the earlier application claiming such invention was filed. Any such petition may be filed only within the 1-year period beginning on the date of the first publication of a claim to an invention that is the same or substantially the same as the earlier application's claim to the invention, shall be made under oath, and shall be supported by substantial evidence. Whenever the Director determines that a petition filed under this subsection demonstrates that the standards for instituting a derivation proceeding are met, the Director may institute a derivation proceeding. The determination by the Director whether to institute a derivation proceeding shall be final and nonappealable.

''(b) DETERMINATION BY PATENT TRIAL AND APPEAL BOARD.—In a derivation proceeding instituted under subsection (a), the Patent Trial and Appeal Board shall determine whether an inventor named in the earlier application derived the claimed invention from an inventor named in the petitioner's application and, without authorization, the earlier application claiming such invention was filed. The Director shall prescribe regulations setting forth standards for the conduct of derivation proceedings.

''(c) DEFERRAL OF DECISION.—The Patent Trial and Appeal Board may defer action on a petition for a derivation proceeding until the expiration of the 3-month period beginning on the date on which the Director issues a patent that includes the claimed invention that is the subject of the petition. The Patent Trial and Appeal Board also may defer action on a petition for a derivation proceeding, or stay the proceeding after it has been instituted, until the termination of a proceeding under chapter 30, 31, or 32 involving the patent of the earlier applicant.

''(d) EFFECT OF FINAL DECISION.—The final decision of the Patent Trial and Appeal Board, if adverse to claims in an application for patent, shall constitute the final refusal by the Office on those claims. The final decision of the Patent Trial and Appeal Board, if adverse to claims in a patent, shall, if no appeal or other review of the decision has been or can be taken or had, constitute cancellation of those claims, and notice of such cancellation shall be endorsed on copies of the patent distributed after such cancellation.

''(e) SETTLEMENT.—Parties to a proceeding instituted under subsection (a) may terminate the proceeding by filing a written statement reflecting the agreement of the parties as to the correct inventors of the claimed invention in dispute. Unless the Patent Trial and Appeal Board finds the agreement to be inconsistent with the evidence of record, if any, it shall take action consistent with the agreement. Any written settlement or understanding of the parties shall be filed with the Director. At the request of a party to the proceeding, the agreement or understanding shall be treated as business confidential information, shall be kept separate from the file of the involved patents or applications, and shall be made available only to Government agencies on written request, or to any person on a showing of good cause.

''(f) ARBITRATION.—Parties to a proceeding instituted under subsection (a) may, within such time as may be specified by the Director by regulation, determine such contest or any aspect thereof by arbitration. Such arbitration shall be governed by the provisions of title 9, to the extent such title is not inconsistent with this section. The parties shall give notice of any arbitration award to the Director, and such award shall, as between the parties to the arbitration, be dispositive of the issues to which it relates. The arbitration award shall be unenforceable until such notice is given. Nothing in this subsection shall preclude the Director from determining the patentability of the claimed inventions involved in the proceeding.''.

(j) ELIMINATION OF REFERENCES TO INTERFERENCES.—(1) Sections 134, 145, 146, 154, and 305 of title 35, United States Code, are each amended by striking ''Board of Patent Appeals and Interferences'' each place it appears and inserting ''Patent Trial and Appeal Board''.

(2)(A) Section 146 of title 35, United States Code, is amended—

(i) by striking ''an interference'' and inserting ''a derivation proceeding''; and

(ii) by striking ''the interference'' and inserting ''the derivation proceeding''.

(B) The subparagraph heading for section 154(b)(1)(C) of title 35, United States Code, is amended to read as follows:

''(C) GUARANTEE OF ADJUSTMENTS FOR DELAYS DUE TO DERIVATION PROCEEDINGS, SECRECY ORDERS, AND APPEALS.—''.

(3) The section heading for section 134 of title 35, United States Code, is amended to read as follows:

''§ 134. Appeal to the Patent Trial and Appeal Board''.

(4) The section heading for section 146 of title 35, United States Code, is amended to read as follows:

''§ 146. Civil action in case of derivation proceeding''.

(5) The items relating to sections 134 and 135 in the table of sections for chapter 12 of title 35, United States Code, are amended to read as follows:

''134. Appeal to the Patent Trial and Appeal Board.

''135. Derivation proceedings.''.

(6) The item relating to section 146 in the table of sections for chapter 13 of title 35, United States Code, is amended to read as follows:

''146. Civil action in case of derivation proceeding.''.

(k) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Section 32 of title 35, United States Code, is amended by inserting between the third and fourth sentences the following: ''A proceeding under this section shall be commenced not later than the earlier of either the date that is 10 years after the date on which the misconduct forming the basis for the proceeding occurred, or 1 year after the date on which the misconduct forming the basis for the proceeding is made known to an officer or employee of the Office as prescribed in the regulations established under section 2(b)(2)(D).''.

(2) REPORT TO CONGRESS.—The Director shall provide on a biennial basis to the Judiciary Committees of the Senate and House of Representatives a report providing a short description of incidents made known to an officer or employee of the Office as prescribed in the regulations established under section 2(b)(2)(D) of title 35, United States Code, that reflect substantial evidence of misconduct before the Office but for which the Office was barred from commencing a proceeding under section 32 of title 35, United States Code, by the time limitation established by the fourth sentence of that section.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply in any case in which the time period for instituting a proceeding under section 32 of title 35, United States Code, had not lapsed before the date of the enactment of this Act.

(l) SMALL BUSINESS STUDY.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''Chief Counsel'' means the Chief Counsel for Advocacy of the Small Business Administration;

(B) the term ''General Counsel'' means the General Counsel of the United States Patent and Trademark Office; and

(C) the term ''small business concern'' has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

(2) STUDY.—

(A) IN GENERAL.—The Chief Counsel, in consultation with the General Counsel, shall conduct a study of the effects of eliminating the use of dates of invention in determining whether an applicant is entitled to a patent under title 35, United States Code.

(B) AREAS OF STUDY.—The study conducted under subparagraph (A) shall include examination of the effects of eliminating the use of invention dates, including examining—

(i) how the change would affect the ability of small business concerns to obtain patents and their costs of obtaining patents;

(ii) whether the change would create, mitigate, or exacerbate any disadvantages for applicants for patents that are small business concerns relative to applicants for patents that are not small business concerns, and whether the change would create any advantages for applicants for patents that are small business concerns relative to applicants for patents that are not small business concerns;

(iii) the cost savings and other potential benefits to small business concerns of the change; and

(iv) the feasibility and costs and benefits to small business concerns of alternative means of determining whether an applicant is entitled to a patent under title 35, United States Code.

(3) REPORT.—Not later than the date that is 1 year after the date of the enactment of this Act, the Chief Counsel shall submit to the Committee on Small Business and Entrepreneurship and the Committee on the Judiciary of the Senate and the Committee on Small Business and the Committee on the Judiciary of the House of Representatives a report on the results of the study under paragraph (2).

(m) REPORT ON PRIOR USER RIGHTS.—

(1) IN GENERAL.—Not later than the end of the 4-month period beginning on the date of the enactment of this Act, the Director shall report, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, the findings and recommendations of the Director on the operation of prior user rights in selected countries in the industrialized world. The report shall include the following:

(A) A comparison between patent laws of the United States and the laws of other industrialized countries, including members of the European Union and Japan, Canada, and Australia.

(B) An analysis of the effect of prior user rights on innovation rates in the selected countries.

(C) An analysis of the correlation, if any, between prior user rights and start-up enterprises and the ability to attract venture capital to start new companies.

(D) An analysis of the effect of prior user rights, if any, on small businesses, universities, and individual inventors.

(E) An analysis of legal and constitutional issues, if any, that arise from placing trade secret law in patent law.

(F) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(2) CONSULTATION WITH OTHER AGENCIES.—In preparing the report required under paragraph (1), the Director shall consult with the United States Trade Representative, the Secretary of State, and the Attorney General.

(n) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this section shall take effect upon the expiration of the 18-month period beginning on the date of the enactment of this Act, and shall apply to any application for patent, and to any patent issuing thereon, that contains or contained at any time—

(A) a claim to a claimed invention that has an effective filing date as defined in section 100(i) of title 35, United States Code, that is on or after the effective date described in this paragraph; or

(B) a specific reference under section 120, 121, or 365(c) of title 35, United States Code, to any patent or application that contains or contained at any time such a claim.

(2) INTERFERING PATENTS.—The provisions of sections 102(g), 135, and 291 of title 35, United States Code, as in effect on the day before the effective date set forth in paragraph (1) of this subsection, shall apply to each claim of an application for patent, and any patent issued thereon, for which the amendments made by this section also apply, if such application or patent contains or contained at any time—

(A) a claim to an invention having an effective filing date as defined in section 100(i) of title 35, United States Code, that occurs before the effective date set forth in paragraph (1) of this subsection; or

(B) a specific reference under section 120, 121, or 365(c) of title 35, United States Code, to any patent or application that contains or contained at any time such a claim.

(o) STUDY OF PATENT LITIGATION.—

(1) GAO STUDY.—The Comptroller General of the United States shall conduct a study of the consequences of litigation by non-practicing entities, or by patent assertion entities, related to patent claims made under title 35, United States Code, and regulations authorized by that title.

(2) CONTENTS OF STUDY.—The study conducted under this subsection shall include the following:

(A) The annual volume of litigation described in paragraph (1) over the 20-year period ending on the date of the enactment of this Act.

(B) The volume of cases comprising such litigation that are found to be without merit after judicial review.

(C) The impacts of such litigation on the time required to resolve patent claims.

(D) The estimated costs, including the estimated cost of defense, associated with such litigation for patent holders, patent licensors, patent licensees, and inventors, and for users of alternate or competing innovations.

(E) The economic impact of such litigation on the economy of the United States, including the impact on inventors, job creation, employers, employees, and consumers.

(F) The benefit to commerce, if any, supplied by non-practicing entities or patent assertion entities that prosecute such litigation.

(3) REPORT TO CONGRESS.—The Comptroller General shall, not later than the date that is 1 year after the date of the enactment of this Act, submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the results of the study required under this subsection, including recommendations for any changes to laws and regulations that will minimize any negative impact of patent litigation that was the subject of such study.

(p) SENSE OF CONGRESS.—It is the sense of the Congress that converting the United States patent registration system from ''first inventor to use'' to a system of ''first inventor to file'' will promote the progress of science by securing for limited times to inventors the exclusive rights to their discoveries and provide inventors with greater certainty regarding the scope of protection granted by the exclusive rights to their discoveries.

(q) SENSE OF CONGRESS.—It is the sense of the Congress that converting the United States patent registration system from ''first inventor to use'' to a system of ''first inventor to file'' will harmonize the United States patent registration system with the patent registration systems commonly used in nearly all other countries throughout the world with whom the United States conducts trade and thereby promote a greater sense of international uniformity and certainty in the procedures used for securing the exclusive rights of inventors to their discoveries.

SEC. 4. INVENTOR'S OATH OR DECLARATION.

(a) INVENTOR'S OATH OR DECLARATION.—

(1) IN GENERAL.—Section 115 of title 35, United States Code, is amended to read as follows:

''§ 115. Inventor's oath or declaration

''(a) NAMING THE INVENTOR; INVENTOR'S OATH OR DECLARATION.—An application for patent that is filed under section 111(a) or commences the national stage under section 371 shall include, or be amended to include, the name of the inventor for any invention claimed in the application. Except as otherwise provided in this section, each individual who is the inventor or a joint inventor of a claimed invention in an application for patent shall execute an oath or declaration in connection with the application.

''(b) REQUIRED STATEMENTS.—An oath or declaration under subsection (a) shall contain statements that—

''(1) the application was made or was authorized to be made by the affiant or declarant; and

''(2) such individual believes himself or herself to be the original inventor or an original joint inventor of a claimed invention in the application.

''(c) ADDITIONAL REQUIREMENTS.—The Director may specify additional information relating to the inventor and the invention that is required to be included in an oath or declaration under subsection (a).

''(d) SUBSTITUTE STATEMENT.—

''(1) IN GENERAL.—In lieu of executing an oath or declaration under subsection (a), the applicant for patent may provide a substitute statement under the circumstances described in paragraph (2) and such additional circumstances that the Director may specify by regulation.

''(2) PERMITTED CIRCUMSTANCES.—A substitute statement under paragraph (1) is permitted with respect to any individual who—

''(A) is unable to file the oath or declaration under subsection (a) because the individual—

''(i) is deceased;

''(ii) is under legal incapacity; or

''(iii) cannot be found or reached after diligent effort; or

''(B) is under an obligation to assign the invention but has refused to make the oath or declaration required under subsection (a).

''(3) CONTENTS.—A substitute statement under this subsection shall—

''(A) identify the individual with respect to whom the statement applies;

''(B) set forth the circumstances representing the permitted basis for the filing of the substitute statement in lieu of the oath or declaration under subsection (a); and

''(C) contain any additional information, including any showing, required by the Director.

''(e) MAKING REQUIRED STATEMENTS IN ASSIGNMENT OF RECORD.—An individual who is under an obligation of assignment of an application for patent may include the required statements under subsections (b) and (c) in the assignment executed by the individual, in lieu of filing such statements separately.

''(f) TIME FOR FILING.—A notice of allowance under section 151 may be provided to an applicant for patent only if the applicant for patent has filed each required oath or declaration under subsection (a) or has filed a substitute statement under subsection (d) or recorded an assignment meeting the requirements of subsection (e).

''(g) EARLIER-FILED APPLICATION CONTAINING REQUIRED STATEMENTS OR SUBSTITUTE STATEMENT.—

''(1) EXCEPTION.—The requirements under this section shall not apply to an individual with respect to an application for patent in which the individual is named as the inventor or a joint inventor and who claims the benefit under section 120, 121, or 365(c) of the filing of an earlier-filed application, if—

''(A) an oath or declaration meeting the requirements of subsection (a) was executed by the individual and was filed in connection with the earlier-filed application;

''(B) a substitute statement meeting the requirements of subsection (d) was filed in connection with the earlier filed application with respect to the individual; or

''(C) an assignment meeting the requirements of subsection (e) was executed with respect to the earlier-filed application by the individual and was recorded in connection with the earlier-filed application.

''(2) COPIES OF OATHS, DECLARATIONS, STATEMENTS, OR ASSIGNMENTS.—Notwithstanding paragraph (1), the Director may require that a copy of the executed oath or declaration, the substitute statement, or the assignment filed in connection with the earlier-filed application be included in the later-filed application.

''(h) SUPPLEMENTAL AND CORRECTED STATEMENTS; FILING ADDITIONAL STATEMENTS.—

''(1) IN GENERAL.—Any person making a statement required under this section may withdraw, replace, or otherwise correct the statement at any time. If a change is made in the naming of the inventor requiring the filing of 1 or more additional statements under this section, the Director shall establish regulations under which such additional statements may be filed.

''(2) SUPPLEMENTAL STATEMENTS NOT REQUIRED.—If an individual has executed an oath or declaration meeting the requirements of subsection (a) or an assignment meeting the requirements of subsection (e) with respect to an application for patent, the Director may not thereafter require that individual to make any additional oath, declaration, or other statement equivalent to those required by this section in connection with the application for patent or any patent issuing thereon.

''(3) SAVINGS CLAUSE.—A patent shall not be invalid or unenforceable based upon the failure to comply with a requirement under this section if the failure is remedied as provided under paragraph (1).

''(i) ACKNOWLEDGMENT OF PENALTIES.—Any declaration or statement filed pursuant to this section shall contain an acknowledgment that any willful false statement made in such declaration or statement is punishable under section 1001 of title 18 by fine or imprisonment of not more than 5 years, or both.''.

(2) RELATIONSHIP TO DIVISIONAL APPLICATIONS.—Section 121 of title 35, United States Code, is amended by striking ''If a divisional application'' and all that follows through ''inventor.''.

(3) REQUIREMENTS FOR NONPROVISIONAL APPLICATIONS.—Section 111(a) of title 35, United States Code, is amended—

(A) in paragraph (2)(C), by striking ''by the applicant'' and inserting ''or declaration'';

(B) in the heading for paragraph (3), by inserting ''OR DECLARATION'' after ''AND OATH''; and

(C) by inserting ''or declaration'' after ''and oath'' each place it appears.

(4) CONFORMING AMENDMENT.—The item relating to section 115 in the table of sections for chapter 11 of title 35, United States Code, is amended to read as follows:

''115. Inventor's oath or declaration.''.

(b) FILING BY OTHER THAN INVENTOR.—

(1) IN GENERAL.—Section 118 of title 35, United States Code, is amended to read as follows:

''§ 118. Filing by other than inventor

''A person to whom the inventor has assigned or is under an obligation to assign the invention may make an application for patent. A person who otherwise shows sufficient proprietary interest in the matter may make an application for patent on behalf of and as agent for the inventor on proof of the pertinent facts and a showing that such action is appropriate to preserve the rights of the parties. If the Director grants a patent on an application filed under this section by a person other than the inventor, the patent shall be granted to the real party in interest and upon such notice to the inventor as the Director considers to be sufficient.''.

(2) CONFORMING AMENDMENT.—Section 251 of title 35, United States Code, is amended in the third undesignated paragraph by inserting ''or the application for the original patent was filed by the assignee of the entire interest'' after ''claims of the original patent''.

(c) SPECIFICATION.—Section 112 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking ''The specification'' and inserting ''(a) IN GENERAL.—The specification''; and

(B) by striking ''of carrying out his invention'' and inserting ''or joint inventor of carrying out the invention'';

(2) in the second undesignated paragraph—

(A) by striking ''The specification'' and inserting ''(b) CONCLUSION.—The specification''; and

(B) by striking ''applicant regards as his invention'' and inserting ''inventor or a joint inventor regards as the invention'';

(3) in the third undesignated paragraph, by striking ''A claim'' and inserting ''(c) FORM.—A claim'';

(4) in the fourth undesignated paragraph, by striking ''Subject to the following paragraph,'' and inserting ''(d) REFERENCE IN DEPENDENT FORMS.—Subject to subsection (e),'';

(5) in the fifth undesignated paragraph, by striking ''A claim'' and inserting ''(e) REFERENCE IN MULTIPLE DEPENDENT FORM.—A claim''; and

(6) in the last undesignated paragraph, by striking ''An element'' and inserting ''(f) ELEMENT IN CLAIM FOR A COMBINATION.—An element''.

(d) CONFORMING AMENDMENTS.—

(1) Sections 111(b)(1)(A) of title 35, United States Code, is amended by striking ''the first paragraph of section 112 of this title'' and inserting ''section 112(a)''.

(2) Section 111(b)(2) of title 35, United States Code, is amended by striking ''the second through fifth paragraphs of section 112,'' and inserting ''subsections (b) through (e) of section 112,''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act and shall apply to any patent application that is filed on or after that effective date.

SEC. 5. DEFENSE TO INFRINGEMENT BASED ON EARLIER INVENTOR.

Section 273 of title 35, United States Code, is amended as follows:

(1) Subsection (a) is amended—

(A) in paragraph (1)—

(i) by striking ''use of a method in'' and inserting ''use of the subject matter of a patent in''; and

(ii) by adding ''and'' after the semicolon;

(B) in paragraph (2), by striking the semicolon at the end of subparagraph (B) and inserting a period; and

(C) by striking paragraphs (3) and (4).

(2) Subsection (b) is amended—

(A) in paragraph (1)—

(i) by striking ''for a method''; and

(ii) by striking ''at least 1 year'' and all that follows through the end and inserting ''and commercially used the subject matter at least 1 year before the effective filing date of the claimed invention that is the subject matter of the patent.'';

(B) in paragraph (2), by striking ''patented method'' and inserting ''patented process'';

(C) in paragraph (3)—

(i) by striking subparagraph (A);

(ii) by striking subparagraph (B) and inserting the following:

''(A) DERIVATION AND PRIOR DISCLOSURE TO THE PUBLIC.—A person may not assert the defense under this section if—

''(i) the subject matter on which the defense is based was derived from the patentee or persons in privity with the patentee; or

''(ii) the claimed invention that is the subject of the defense was disclosed to the public in a manner that qualified for the exception from the prior art under section 102(b) and the commercialization date relied upon under paragraph (1) of this subsection for establishing entitlement to the defense is less than 1 year before the date of such disclosure to the public;'';

(iii) by redesignating subparagraph (C) as subparagraph (B); and

(iv) by adding at the end the following:

''(C) FUNDING.—

''(i) DEFENSE NOT AVAILABLE IN CERTAIN CASES.—A person may not assert the defense under this section if the subject matter of the patent on which the defense is based was developed pursuant to a funding agreement under chapter 18 or by a nonprofit institution of higher education, or a technology transfer organization affiliated with such an institution, that did not receive funding from a private business enterprise in support of that development.

''(ii) DEFINITIONS.—In this subparagraph—

''(I) the term 'institution of higher education' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); and

''(II) the term 'technology transfer organization' means an organization the primary purpose of which is to facilitate the commercialization of technologies developed by one or more institutions of higher education.''; and

(D) by amending paragraph (6) to read as follows:

''(6) PERSONAL DEFENSE.—

''(A) IN GENERAL.—The defense under this section may be asserted only by the person who performed or caused the performance of the acts necessary to establish the defense, as well as any other entity that controls, is controlled by, or is under common control with such person, and, except for any transfer to the patent owner, the right to assert the defense shall not be licensed or assigned or transferred to another person except as an ancillary and subordinate part of a good faith assignment or transfer for other reasons of the entire enterprise or line of business to which the defense relates.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), any person may, on the person's own behalf, assert a defense based on the exhaustion of rights provided under paragraph (2), including any necessary elements thereof.''.

SEC. 6. POST-GRANT REVIEW PROCEEDINGS.

(a) INTER PARTES REVIEW.—Chapter 31 of title 35, United States Code, is amended to read as follows:

''CHAPTER 31—INTER PARTES REVIEW

''§ 311. Inter partes review

''(a) IN GENERAL.—Subject to the provisions of this chapter, a person who is not the owner of a patent may file with the Office a petition to institute an inter partes review of the patent. The Director shall establish, by regulation, fees to be paid by the person requesting the review, in such amounts as the Director determines to be reasonable, considering the aggregate costs of the review.

''(b) SCOPE.—A petitioner in an inter partes review may request to cancel as unpatentable 1 or more claims of a patent only on a ground that could be raised under section 102 or 103 and only on the basis of prior art consisting of patents or printed publications.

''(c) FILING DEADLINE.—A petition for inter partes review shall be filed after the later of either—

''(1) the date that is 1 year after the grant of a patent or issuance of a reissue of a patent; or

''(2) if a post-grant review is instituted under chapter 32, the date of the termination of such post-grant review.

''§ 312. Petitions

''(a) REQUIREMENTS OF PETITION.—A petition filed under section 311 may be considered only if—

''(1) the petition is accompanied by payment of the fee established by the Director under section 311;

''(2) the petition identifies all real parties in interest;

''(3) the petition identifies, in writing and with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim, including—

''(A) copies of patents and printed publications that the petitioner relies upon in support of the petition; and

''(B) affidavits or declarations of supporting evidence and opinions, if the petitioner relies on expert opinions;

''(4) the petition provides such other information as the Director may require by regulation; and

''(5) the petitioner provides copies of any of the documents required under paragraphs (2), (3), and (4) to the patent owner or, if applicable, the designated representative of the patent owner.

''(b) PUBLIC AVAILABILITY.—As soon as practicable after the receipt of a petition under section 311, the Director shall make the petition available to the public.

''§ 313. Preliminary response to petition

''If an inter partes review petition is filed under section 311, the patent owner shall have the right to file a preliminary response to the petition, within a time period set by the Director, that sets forth reasons why no inter partes review should be instituted based upon the failure of the petition to meet any requirement of this chapter.

''§ 314. Institution of inter partes review

''(a) THRESHOLD.—The Director may not authorize an inter partes review to commence unless the Director determines that the information

presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.

''(b) TIMING.—The Director shall determine whether to institute an inter partes review under this chapter pursuant to a petition filed under section 311 within 3 months after—

''(1) receiving a preliminary response to the petition under section 313; or

''(2) if no such preliminary response is filed, the last date on which such response may be filed.

''(c) NOTICE.—The Director shall notify the petitioner and patent owner, in writing, of the Director's determination under subsection (a), and shall make such notice available to the public as soon as is practicable. Such notice shall include the date on which the review shall commence.

''(d) NO APPEAL.—The determination by the Director whether to institute an inter partes review under this section shall be final and nonappealable.

''§315. Relation to other proceedings or actions

''(a) INFRINGER'S CIVIL ACTION.—

''(1) INTER PARTES REVIEW BARRED BY CIVIL ACTION.—An inter partes review may not be instituted if, before the date on which the petition for such a review is filed, the petitioner, real party in interest, or privy of the petitioner filed a civil action challenging the validity of a claim of the patent.

''(2) STAY OF CIVIL ACTION.—If the petitioner, real party in interest, or privy of the petitioner files a civil action challenging the validity of a claim of the patent on or after the date on which the petitioner files a petition for inter partes review of the patent, that civil action shall be automatically stayed until either—

''(A) the patent owner moves the court to lift the stay;

''(B) the patent owner files a civil action or counterclaim alleging that the petitioner, real party in interest, or privy of the petitioner has infringed the patent; or

''(C) the petitioner, real party in interest, or privy of the petitioner moves the court to dismiss the civil action.

''(3) TREATMENT OF COUNTERCLAIM.—A counterclaim challenging the validity of a claim of a patent does not constitute a civil action challenging the validity of a claim of a patent for purposes of this subsection.

''(b) PATENT OWNER'S ACTION.—An inter partes review may not be instituted if the petition requesting the proceeding is filed more than 1 year after the date on which the petitioner, real party in interest, or privy of the petitioner is served with a complaint alleging infringement of the patent. The time limitation set forth in the preceding sentence shall not apply to a request for joinder under subsection (c).

''(c) JOINDER.—If the Director institutes an inter partes review, the Director, in his or her discretion, may join as a party to that inter partes review any person who properly files a petition under section 311 that the Director, after receiving a preliminary response under section 313 or the expiration of the time for filing such a response, determines warrants the institution of an inter partes review under section 314.

''(d) MULTIPLE PROCEEDINGS.—Notwithstanding sections 135(a), 251, and 252, and chapter 30, during the pendency of an inter partes review, if another proceeding or matter involving the patent is before the Office, the Director may determine the manner in which the inter partes review or other proceeding or matter may proceed, including providing for stay, transfer, consolidation, or termination of any such matter or proceeding.

''(e) ESTOPPEL.—

''(1) PROCEEDINGS BEFORE THE OFFICE.—The petitioner in an inter partes review of a claim in a patent under this chapter that results in a final written decision under section 318(a), or the real party in interest or privy of the petitioner, may not request or maintain a proceeding before the Office with respect to that claim on any ground that the petitioner raised or reasonably could have raised during that inter partes review.

''(2) CIVIL ACTIONS AND OTHER PROCEEDINGS.—The petitioner in an inter partes review of a claim in a patent under this chapter that results in a final written decision under section 318(a), or the real party in interest or privy of the petitioner, may not assert either in a civil action arising in whole or in part under section 1338 of title 28 or in a proceeding before the International Trade Commission under section 337 of the Tariff Act of 1930 that the claim is invalid on any ground that the petitioner raised or reasonably could have raised during that inter partes review.

''§316. Conduct of inter partes review

''(a) REGULATIONS.—The Director shall prescribe regulations—

''(1) providing that the file of any proceeding under this chapter shall be made available to the public, except that any petition or document filed with the intent that it be sealed shall, if accompanied by a motion to seal, be treated as sealed pending the outcome of the ruling on the motion;

''(2) setting forth the standards for the showing of sufficient grounds to institute a review under section 314(a);

''(3) establishing procedures for the submission of supplemental information after the petition is filed;

''(4) establishing and governing inter partes review under this chapter and the relationship of such review to other proceedings under this title;

''(5) setting forth standards and procedures for discovery of relevant evidence, including that such discovery shall be limited to—

''(A) the deposition of witnesses submitting affidavits or declarations; and

''(B) what is otherwise necessary in the interest of justice;

''(6) prescribing sanctions for abuse of discovery, abuse of process, or any other improper use of the proceeding, such as to harass or to cause unnecessary delay or an unnecessary increase in the cost of the proceeding;

''(7) providing for protective orders governing the exchange and submission of confidential information;

''(8) providing for the filing by the patent owner of a response to the petition under section 313 after an inter partes review has been instituted, and requiring that the patent owner file with such response, through affidavits or declarations, any additional factual evidence and expert opinions on which the patent owner relies in support of the response;

''(9) setting forth standards and procedures for allowing the patent owner to move to amend the patent under subsection (d) to cancel a challenged claim or propose a reasonable number of substitute claims, and ensuring that any information submitted by the patent owner in support of any amendment entered under subsection (d) is made available to the public as part of the prosecution history of the patent;

''(10) providing either party with the right to an oral hearing as part of the proceeding;

''(11) requiring that the final determination in an inter partes review be issued not later than 1 year after the date on which the Director notices the institution of a review under this chapter, except that the Director may, for good cause shown, extend the 1-year period by not more than 6 months, and may adjust the time periods in this paragraph in the case of joinder under section 315(c);

''(12) setting a time period for requesting joinder under section 315(c); and

''(13) providing the petitioner with at least 1 opportunity to file written comments within a time period established by the Director.

''(b) CONSIDERATIONS.—In prescribing regulations under this section, the Director shall consider the effect of any such regulation on the economy, the integrity of the patent system, the efficient administration of the Office, and the ability of the Office to timely complete proceedings instituted under this chapter.

''(c) PATENT TRIAL AND APPEAL BOARD.—The Patent Trial and Appeal Board shall, in accordance with section 6, conduct each inter partes review instituted under this chapter.

''(d) AMENDMENT OF THE PATENT.—

''(1) IN GENERAL.—During an inter partes review instituted under this chapter, the patent owner may file 1 motion to amend the patent in 1 or more of the following ways:

''(A) Cancel any challenged patent claim.

''(B) For each challenged claim, propose a reasonable number of substitute claims.

''(2) ADDITIONAL MOTIONS.—Additional motions to amend may be permitted upon the joint request of the petitioner and the patent owner to materially advance the settlement of a proceeding under section 317, or as permitted by regulations prescribed by the Director.

''(3) SCOPE OF CLAIMS.—An amendment under this subsection may not enlarge the scope of the claims of the patent or introduce new matter.

''(e) EVIDENTIARY STANDARDS.—In an inter partes review instituted under this chapter, the petitioner shall have the burden of proving a proposition of unpatentability by a preponderance of the evidence.

''§317. Settlement

''(a) IN GENERAL.—An inter partes review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed. If the inter partes review is terminated with respect to a petitioner under this section, no estoppel under section 315(e) shall attach to the petitioner, or to the real party in interest or privy of the petitioner, on the basis of that petitioner's institution of that inter partes review. If no petitioner remains in the inter partes review, the Office may terminate the review or proceed to a final written decision under section 318(a).

''(b) AGREEMENTS IN WRITING.—Any agreement or understanding between the patent owner and a petitioner, including any collateral agreements referred to in such agreement or understanding, made in connection with, or in contemplation of, the termination of an inter partes review under this section shall be in writing and a true copy of such agreement or understanding shall be filed in the Office before the termination of the inter partes review as between the parties. At the request of a party to the proceeding, the agreement or understanding shall be treated as business confidential information, shall be kept separate from the file of the involved patents, and shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause.

''§318. Decision of the Board

''(a) FINAL WRITTEN DECISION.—If an inter partes review is instituted and not dismissed under this chapter, the Patent Trial and Appeal Board shall issue a final written decision with respect to the patentability of any patent claim challenged by the petitioner and any new claim added under section 316(d).

''(b) CERTIFICATE.—If the Patent Trial and Appeal Board issues a final written decision under subsection (a) and the time for appeal has expired or any appeal has terminated, the Director shall issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, and incorporating in the patent by operation of the certificate any new or amended claim determined to be patentable.

''(c) AMENDED OR NEW CLAIM.—Any proposed amended or new claim determined to be patentable and incorporated into a patent following an inter partes review under this chapter shall have the same effect as that specified in section 252 for reissued patents on the right of any person who made, purchased, or used within the United States, or imported into the United States, anything patented by such proposed amended or new claim, or who made substantial preparation therefor, before the issuance of a certificate under subsection (b).

''(d) DATA ON LENGTH OF REVIEW.—The Office shall make available to the public data describing the length of time between the institution of, and the issuance of a final written decision under subsection (a) for, each inter partes review.

''§ 319. Appeal

''A party dissatisfied with the final written decision of the Patent Trial and Appeal Board under section 318(a) may appeal the decision pursuant to sections 141 through 144. Any party to the inter partes review shall have the right to be a party to the appeal.''.

(b) CONFORMING AMENDMENT.—The table of chapters for part III of title 35, United States Code, is amended by striking the item relating to chapter 31 and inserting the following:

''31. Inter Partes Review ..... 311''.

(c) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—The Director shall, not later than the date that is 1 year after the date of the enactment of this Act, issue regulations to carry out chapter 31 of title 35, United States Code, as amended by subsection (a) of this section.

(2) APPLICABILITY.—

(A) IN GENERAL.—The amendments made by subsection (a) shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act and shall apply to any patent issued before, on, or after that effective date.

(B) GRADUATED IMPLEMENTATION.—The Director may impose a limit on the number of inter partes reviews that may be instituted under chapter 31 of title 35, United States Code, during each of the first 4 1-year periods in which the amendments made by subsection (a) are in effect, if such number in each year equals or exceeds the number of inter partes reexaminations that are ordered under chapter 31 of title 35, United States Code, in the last fiscal year ending before the effective date of the amendments made by subsection (a).

(d) POST-GRANT REVIEW.—Part III of title 35, United States Code, is amended by adding at the end the following:

''CHAPTER 32—POST-GRANT REVIEW

''§ 321. Post-grant review

''(a) IN GENERAL.—Subject to the provisions of this chapter, a person who is not the patent owner may file with the Office a petition to institute a post-grant review of a patent. The Director shall establish, by regulation, fees to be paid by the person requesting the review, in such amounts as the Director determines to be reasonable, considering the aggregate costs of the post-grant review.

''(b) SCOPE.—A petitioner in a post-grant review may request to cancel as unpatentable 1 or more claims of a patent on any ground that could be raised under paragraph (2) or (3) of section 282(b) (relating to invalidity of the patent or any claim).

''(c) FILING DEADLINE.—A petition for a post-grant review may only be filed not later than the date that is 1 year after the date of the grant of the patent or of the issuance of a reissue patent (as the case may be).

''§ 322. Petitions

''(a) REQUIREMENTS OF PETITION.—A petition filed under section 321 may be considered only if—

''(1) the petition is accompanied by payment of the fee established by the Director under section 321;

''(2) the petition identifies all real parties in interest;

''(3) the petition identifies, in writing and with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim, including—

''(A) copies of patents and printed publications that the petitioner relies upon in support of the petition; and

''(B) affidavits or declarations of supporting evidence and opinions, if the petitioner relies on other factual evidence or on expert opinions;

''(4) the petition provides such other information as the Director may require by regulation; and

''(5) the petitioner provides copies of any of the documents required under paragraphs (2), (3), and (4) to the patent owner or, if applicable, the designated representative of the patent owner.

''(b) PUBLIC AVAILABILITY.—As soon as practicable after the receipt of a petition under section 321, the Director shall make the petition available to the public.

''§ 323. Preliminary response to petition

''If a post-grant review petition is filed under section 321, the patent owner shall have the right to file a preliminary response to the petition, within a time period set by the Director, that sets forth reasons why no post-grant review should be instituted based upon the failure of the petition to meet any requirement of this chapter.

''§ 324. Institution of post-grant review

''(a) THRESHOLD.—The Director may not authorize a post-grant review to commence unless the Director determines that the information presented in the petition filed under section 321, if such information is not rebutted, would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable.

''(b) ADDITIONAL GROUNDS.—The determination required under subsection (a) may also be satisfied by a showing that the petition raises a novel or unsettled legal question that is important to other patents or patent applications.

''(c) TIMING.—The Director shall determine whether to institute a post-grant review under this chapter pursuant to a petition filed under section 321 within 3 months after—

''(1) receiving a preliminary response to the petition under section 323; or

''(2) if no such preliminary response is filed, the last date on which such response may be filed.

''(d) NOTICE.—The Director shall notify the petitioner and patent owner, in writing, of the Director's determination under subsection (a) or (b), and shall make such notice available to the public as soon as is practicable. The Director shall make each notice of the institution of a post-grant review available to the public. Such notice shall include the date on which the review shall commence.

''(e) NO APPEAL.—The determination by the Director whether to institute a post-grant review under this section shall be final and nonappealable.

''§ 325. Relation to other proceedings or actions

''(a) INFRINGER'S CIVIL ACTION.—

''(1) POST-GRANT REVIEW BARRED BY CIVIL ACTION.—A post-grant review may not be instituted under this chapter if, before the date on which the petition for such a review is filed, the petitioner, real party in interest, or privy of the petitioner filed a civil action challenging the validity of a claim of the patent.

''(2) STAY OF CIVIL ACTION.—If the petitioner, real party in interest, or privy of the petitioner files a civil action challenging the validity of a claim of the patent on or after the date on which the petitioner files a petition for post-grant review of the patent, that civil action shall be automatically stayed until either—

''(A) the patent owner moves the court to lift the stay;

''(B) the patent owner files a civil action or counterclaim alleging that the petitioner, real party in interest, or privy of the petitioner has infringed the patent; or

''(C) the petitioner, real party in interest, or privy of the petitioner moves the court to dismiss the civil action.

''(3) TREATMENT OF COUNTERCLAIM.—A counterclaim challenging the validity of a claim of a patent does not constitute a civil action challenging the validity of a claim of a patent for purposes of this subsection.

''(b) PRELIMINARY INJUNCTIONS.—If a civil action alleging infringement of a patent is filed within 3 months after the date on which the patent is granted, the court may not stay its consideration of the patent owner's motion for a preliminary injunction against infringement of the patent on the basis that a petition for post-grant review has been filed under this chapter or that such a post-grant review has been instituted under this chapter.

''(c) JOINDER.—If more than 1 petition for a post-grant review under this chapter is properly filed against the same patent and the Director determines that more than 1 of these petitions warrants the institution of a post-grant review under section 324, the Director may consolidate such reviews into a single post-grant review.

''(d) MULTIPLE PROCEEDINGS.—Notwithstanding sections 135(a), 251, and 252, and chapter 30, during the pendency of any post-grant review under this chapter, if another proceeding or matter involving the patent is before the Office, the Director may determine the manner in which the post-grant review or other proceeding or matter may proceed, including providing for the stay, transfer, consolidation, or termination of any such matter or proceeding. In determining whether to institute or order a proceeding under this chapter, chapter 30, or chapter 31, the Director may take into account whether, and reject the petition or request because, the same or substantially the same prior art or arguments previously were presented to the Office.

''(e) ESTOPPEL.—

''(1) PROCEEDINGS BEFORE THE OFFICE.—The petitioner in a post-grant review of a claim in a patent under this chapter that results in a final written decision under section 328(a), or the real party in interest or privy of the petitioner, may not request or maintain a proceeding before the Office with respect to that claim on any ground that the petitioner raised or reasonably could have raised during that post-grant review.

''(2) CIVIL ACTIONS AND OTHER PROCEEDINGS.—The petitioner in a post-grant review of a claim in a patent under this chapter that results in a final written decision under section 328(a), or the real party in interest or privy of the petitioner, may not assert either in a civil action arising in whole or in part under section 1338 of title 28 or in a proceeding before the International Trade Commission under section 337 of the Tariff Act of 1930 that the claim is invalid on any ground that the petitioner raised or reasonably could have raised during that post-grant review.

''(f) REISSUE PATENTS.—A post-grant review may not be instituted under this chapter if the petition requests cancellation of a claim in a reissue patent that is identical to or narrower

than a claim in the original patent from which the reissue patent was issued, and the time limitations in section 321(c) would bar filing a petition for a post-grant review for such original patent.

"§ 326. Conduct of post-grant review

"(a) REGULATIONS.—The Director shall prescribe regulations—

"(1) providing that the file of any proceeding under this chapter shall be made available to the public, except that any petition or document filed with the intent that it be sealed shall, if accompanied by a motion to seal, be treated as sealed pending the outcome of the ruling on the motion;

"(2) setting forth the standards for the showing of sufficient grounds to institute a review under subsections (a) and (b) of section 324;

"(3) establishing procedures for the submission of supplemental information after the petition is filed;

"(4) establishing and governing a post-grant review under this chapter and the relationship of such review to other proceedings under this title;

"(5) setting forth standards and procedures for discovery of relevant evidence, including that such discovery shall be limited to evidence directly related to factual assertions advanced by either party in the proceeding;

"(6) prescribing sanctions for abuse of discovery, abuse of process, or any other improper use of the proceeding, such as to harass or to cause unnecessary delay or an unnecessary increase in the cost of the proceeding;

"(7) providing for protective orders governing the exchange and submission of confidential information;

"(8) providing for the filing by the patent owner of a response to the petition under section 323 after a post-grant review has been instituted, and requiring that the patent owner file with such response, through affidavits or declarations, any additional factual evidence and expert opinions on which the patent owner relies in support of the response;

"(9) setting forth standards and procedures for allowing the patent owner to move to amend the patent under subsection (d) to cancel a challenged claim or propose a reasonable number of substitute claims, and ensuring that any information submitted by the patent owner in support of any amendment entered under subsection (d) is made available to the public as part of the prosecution history of the patent;

"(10) providing either party with the right to an oral hearing as part of the proceeding; and

"(11) requiring that the final determination in any post-grant review be issued not later than 1 year after the date on which the Director notices the institution of a proceeding under this chapter, except that the Director may, for good cause shown, extend the 1-year period by not more than 6 months, and may adjust the time periods in this paragraph in the case of joinder under section 325(c).

"(b) CONSIDERATIONS.—In prescribing regulations under this section, the Director shall consider the effect of any such regulation on the economy, the integrity of the patent system, the efficient administration of the Office, and the ability of the Office to timely complete proceedings instituted under this chapter.

"(c) PATENT TRIAL AND APPEAL BOARD.—The Patent Trial and Appeal Board shall, in accordance with section 6, conduct each post-grant review instituted under this chapter.

"(d) AMENDMENT OF THE PATENT.—

"(1) IN GENERAL.—During a post-grant review instituted under this chapter, the patent owner may file 1 motion to amend the patent in 1 or more of the following ways:

"(A) Cancel any challenged patent claim.

"(B) For each challenged claim, propose a reasonable number of substitute claims.

"(2) ADDITIONAL MOTIONS.—Additional motions to amend may be permitted upon the joint request of the petitioner and the patent owner to materially advance the settlement of a proceeding under section 327, or upon the request of the patent owner for good cause shown.

"(3) SCOPE OF CLAIMS.—An amendment under this subsection may not enlarge the scope of the claims of the patent or introduce new matter.

"(e) EVIDENTIARY STANDARDS.—In a post-grant review instituted under this chapter, the petitioner shall have the burden of proving a proposition of unpatentability by a preponderance of the evidence.

"§ 327. Settlement

"(a) IN GENERAL.—A post-grant review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed. If the post-grant review is terminated with respect to a petitioner under this section, no estoppel under section 325(e) shall attach to the petitioner, or to the real party in interest or privy of the petitioner, on the basis of that petitioner's institution of that post-grant review. If no petitioner remains in the post-grant review, the Office may terminate the post-grant review or proceed to a final written decision under section 328(a).

"(b) AGREEMENTS IN WRITING.—Any agreement or understanding between the patent owner and a petitioner, including any collateral agreements referred to in such agreement or understanding, made in connection with, or in contemplation of, the termination of a post-grant review under this section shall be in writing, and a true copy of such agreement or understanding shall be filed in the Office before the termination of the post-grant review as between the parties. At the request of a party to the proceeding, the agreement or understanding shall be treated as business confidential information, shall be kept separate from the file of the involved patents, and shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause.

"§ 328. Decision of the Board

"(a) FINAL WRITTEN DECISION.—If a post-grant review is instituted and not dismissed under this chapter, the Patent Trial and Appeal Board shall issue a final written decision with respect to the patentability of any patent claim challenged by the petitioner and any new claim added under section 326(d).

"(b) CERTIFICATE.—If the Patent Trial and Appeal Board issues a final written decision under subsection (a) and the time for appeal has expired or any appeal has terminated, the Director shall issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, and incorporating in the patent by operation of the certificate any new or amended claim determined to be patentable.

"(c) AMENDED OR NEW CLAIM.—Any proposed amended or new claim determined to be patentable and incorporated into a patent following a post-grant review under this chapter shall have the same effect as that specified in section 252 of this title for reissued patents on the right of any person who made, purchased, or used within the United States, or imported into the United States, anything patented by such proposed amended or new claim, or who made substantial preparation therefor, before the issuance of a certificate under subsection (b).

"(d) DATA ON LENGTH OF REVIEW.—The Office shall make available to the public data describing the length of time between the institution of, and the issuance of a final written decision under subsection (a) for, each post-grant review.

"§ 329. Appeal

"A party dissatisfied with the final written decision of the Patent Trial and Appeal Board under section 328(a) may appeal the decision pursuant to sections 141 through 144. Any party to the post-grant review shall have the right to be a party to the appeal.".

(e) CONFORMING AMENDMENT.—The table of chapters for part III of title 35, United States Code, is amended by adding at the end the following:

"32. Post-Grant Review ..... 321".

(f) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—The Director shall, not later than the date that is 1 year after the date of the enactment of this Act, issue regulations to carry out chapter 32 of title 35, United States Code, as added by subsection (d) of this section.

(2) APPLICABILITY.—

(A) IN GENERAL.—The amendments made by subsection (d) shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act and, except as provided in section 18 and in paragraph (3), shall apply to any patent that is described in section 3(n)(1).

(B) LIMITATION.—The Director may impose a limit on the number of post-grant reviews that may be instituted under chapter 32 of title 35, United States Code, during each of the first 4 1-year periods in which the amendments made by subsection (d) are in effect.

(3) PENDING INTERFERENCES.—

(A) PROCEDURES IN GENERAL.—The Director shall determine, and include in the regulations issued under paragraph (1), the procedures under which an interference commenced before the effective date set forth in paragraph (2)(A) is to proceed, including whether such interference—

(i) is to be dismissed without prejudice to the filing of a petition for a post-grant review under chapter 32 of title 35, United States Code; or

(ii) is to proceed as if this Act had not been enacted.

(B) PROCEEDINGS BY PATENT TRIAL AND APPEAL BOARD.—For purposes of an interference that is commenced before the effective date set forth in paragraph (2)(A), the Director may deem the Patent Trial and Appeal Board to be the Board of Patent Appeals and Interferences, and may allow the Patent Trial and Appeal Board to conduct any further proceedings in that interference.

(C) APPEALS.—The authorization to appeal or have remedy from derivation proceedings in sections 141(d) and 146 of title 35, United States Code, as amended by this Act, and the jurisdiction to entertain appeals from derivation proceedings in section 1295(a)(4)(A) of title 28, United States Code, as amended by this Act, shall be deemed to extend to any final decision in an interference that is commenced before the effective date set forth in paragraph (2)(A) of this subsection and that is not dismissed pursuant to this paragraph.

(g) CITATION OF PRIOR ART AND WRITTEN STATEMENTS.—

(1) IN GENERAL.—Section 301 of title 35, United States Code, is amended to read as follows:

"§ 301. Citation of prior art and written statements

"(a) IN GENERAL.—Any person at any time may cite to the Office in writing—

"(1) prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent; or

"(2) statements of the patent owner filed in a proceeding before a Federal court or the Office in which the patent owner took a position on the scope of any claim of a particular patent.

"(b) OFFICIAL FILE.—If the person citing prior art or written statements pursuant to subsection (a) explains in writing the pertinence and manner of applying the prior art or written statements to at least 1 claim of the patent, the citation of the prior art or written statements and the explanation thereof shall become a part of the official file of the patent.

''(c) ADDITIONAL INFORMATION.—A party that submits a written statement pursuant to subsection (a)(2) shall include any other documents, pleadings, or evidence from the proceeding in which the statement was filed that addresses the written statement.

''(d) LIMITATIONS.—A written statement submitted pursuant to subsection (a)(2), and additional information submitted pursuant to subsection (c), shall not be considered by the Office for any purpose other than to determine the proper meaning of a patent claim in a proceeding that is ordered or instituted pursuant to section 304, 314, or 324. If any such written statement or additional information is subject to an applicable protective order, such statement or information shall be redacted to exclude information that is subject to that order.

''(e) CONFIDENTIALITY.—Upon the written request of the person citing prior art or written statements pursuant to subsection (a), that person's identity shall be excluded from the patent file and kept confidential.''.

(2) CONFORMING AMENDMENT.—The item relating to section 301 in the table of sections for chapter 30 of title 35, United States Code, is amended to read as follows:

''301. Citation of prior art and written statements.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act and shall apply to any patent issued before, on, or after that effective date.

(h) REEXAMINATION.—

(1) DETERMINATION BY DIRECTOR.—

(A) IN GENERAL.—Section 303(a) of title 35, United States Code, is amended by striking ''section 301 of this title'' and inserting ''section 301 or 302''.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act and shall apply to any patent issued before, on, or after that effective date.

(2) APPEAL.—

(A) IN GENERAL.—Section 306 of title 35, United States Code, is amended by striking ''145'' and inserting ''144''.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect on the date of the enactment of this Act and shall apply to any appeal of a reexamination before the Board of Patent Appeals and Interferences or the Patent Trial and Appeal Board that is pending on, or brought on or after, the date of the enactment of this Act.

SEC. 7. PATENT TRIAL AND APPEAL BOARD.

(a) COMPOSITION AND DUTIES.—

(1) IN GENERAL.—Section 6 of title 35, United States Code, is amended to read as follows:

''§ 6. Patent Trial and Appeal Board

''(a) IN GENERAL.—There shall be in the Office a Patent Trial and Appeal Board. The Director, the Deputy Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges shall constitute the Patent Trial and Appeal Board. The administrative patent judges shall be persons of competent legal knowledge and scientific ability who are appointed by the Secretary, in consultation with the Director. Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Board of Patent Appeals and Interferences is deemed to refer to the Patent Trial and Appeal Board.

''(b) DUTIES.—The Patent Trial and Appeal Board shall—

''(1) on written appeal of an applicant, review adverse decisions of examiners upon applications for patents pursuant to section 134(a);

''(2) review appeals of reexaminations pursuant to section 134(b);

''(3) conduct derivation proceedings pursuant to section 135; and

''(4) conduct inter partes reviews and post-grant reviews pursuant to chapters 31 and 32.

''(c) 3-MEMBER PANELS.—Each appeal, derivation proceeding, post-grant review, and inter partes review shall be heard by at least 3 members of the Patent Trial and Appeal Board, who shall be designated by the Director. Only the Patent Trial and Appeal Board may grant rehearings.

''(d) TREATMENT OF PRIOR APPOINTMENTS.—The Secretary of Commerce may, in the Secretary's discretion, deem the appointment of an administrative patent judge who, before the date of the enactment of this subsection, held office pursuant to an appointment by the Director to take effect on the date on which the Director initially appointed the administrative patent judge. It shall be a defense to a challenge to the appointment of an administrative patent judge on the basis of the judge's having been originally appointed by the Director that the administrative patent judge so appointed was acting as a de facto officer.''.

(2) CONFORMING AMENDMENT.—The item relating to section 6 in the table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

''6. Patent Trial and Appeal Board.''.

(b) ADMINISTRATIVE APPEALS.—Section 134 of title 35, United States Code, is amended—

(1) in subsection (b), by striking ''any reexamination proceeding'' and inserting ''a reexamination''; and

(2) by striking subsection (c).

(c) CIRCUIT APPEALS.—

(1) IN GENERAL.—Section 141 of title 35, United States Code, is amended to read as follows:

''§ 141. Appeal to Court of Appeals for the Federal Circuit

''(a) EXAMINATIONS.—An applicant who is dissatisfied with the final decision in an appeal to the Patent Trial and Appeal Board under section 134(a) may appeal the Board's decision to the United States Court of Appeals for the Federal Circuit. By filing such an appeal, the applicant waives his or her right to proceed under section 145.

''(b) REEXAMINATIONS.—A patent owner who is dissatisfied with the final decision in an appeal of a reexamination to the Patent Trial and Appeal Board under section 134(b) may appeal the Board's decision only to the United States Court of Appeals for the Federal Circuit.

''(c) POST-GRANT AND INTER PARTES REVIEWS.—A party to an inter partes review or a post-grant review who is dissatisfied with the final written decision of the Patent Trial and Appeal Board under section 318(a) or 328(a) (as the case may be) may appeal the Board's decision only to the United States Court of Appeals for the Federal Circuit.

''(d) DERIVATION PROCEEDINGS.—A party to a derivation proceeding who is dissatisfied with the final decision of the Patent Trial and Appeal Board in the proceeding may appeal the decision to the United States Court of Appeals for the Federal Circuit, but such appeal shall be dismissed if any adverse party to such derivation proceeding, within 20 days after the appellant has filed notice of appeal in accordance with section 142, files notice with the Director that the party elects to have all further proceedings conducted as provided in section 146. If the appellant does not, within 30 days after the filing of such notice by the adverse party, file a civil action under section 146, the Board's decision shall govern the further proceedings in the case.''.

(2) JURISDICTION.—Section 1295(a)(4)(A) of title 28, United States Code, is amended to read as follows:

''(A) the Patent Trial and Appeal Board of the United States Patent and Trademark Office with respect to a patent application, derivation proceeding, reexamination, post-grant review, or inter partes review under title 35, at the instance of a party who exercised that party's right to participate in the applicable proceeding before or appeal to the Board, except that an applicant or a party to a derivation proceeding may also have remedy by civil action pursuant to section 145 or 146 of title 35; an appeal under this subparagraph of a decision of the Board with respect to an application or derivation proceeding shall waive the right of such applicant or party to proceed under section 145 or 146 of title 35;''.

(3) PROCEEDINGS ON APPEAL.—Section 143 of title 35, United States Code, is amended—

(A) by striking the third sentence and inserting the following: ''In an ex parte case, the Director shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all of the issues raised in the appeal. The Director shall have the right to intervene in an appeal from a decision entered by the Patent Trial and Appeal Board in a derivation proceeding under section 135 or in an inter partes or post-grant review under chapter 31 or 32.''; and

(B) by striking the last sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act and shall apply to proceedings commenced on or after that effective date, except that—

(1) the extension of jurisdiction to the United States Court of Appeals for the Federal Circuit to entertain appeals of decisions of the Patent Trial and Appeal Board in reexaminations under the amendment made by subsection (c)(2) shall be deemed to take effect on the date of the enactment of this Act and shall extend to any decision of the Board of Patent Appeals and Interferences with respect to a reexamination that is entered before, on, or after the date of the enactment of this Act;

(2) the provisions of sections 6, 134, and 141 of title 35, United States Code, as in effect on the day before the effective date of the amendments made by this section shall continue to apply to inter partes reexaminations that are requested under section 311 of such title before such effective date;

(3) the Patent Trial and Appeal Board may be deemed to be the Board of Patent Appeals and Interferences for purposes of appeals of inter partes reexaminations that are requested under section 311 of title 35, United States Code, before the effective date of the amendments made by this section; and

(4) the Director's right under the fourth sentence of section 143 of title 35, United States Code, as amended by subsection (c)(3) of this section, to intervene in an appeal from a decision entered by the Patent Trial and Appeal Board shall be deemed to extend to inter partes reexaminations that are requested under section 311 of such title before the effective date of the amendments made by this section.

SEC. 8. PREISSUANCE SUBMISSIONS BY THIRD PARTIES.

(a) IN GENERAL.—Section 122 of title 35, United States Code, is amended by adding at the end the following:

''(e) PREISSUANCE SUBMISSIONS BY THIRD PARTIES.—

''(1) IN GENERAL.—Any third party may submit for consideration and inclusion in the record of a patent application, any patent, published patent application, or other printed publication of potential relevance to the examination of the application, if such submission is made in writing before the earlier of—

''(A) the date a notice of allowance under section 151 is given or mailed in the application for patent; or

''(B) the later of—

''(i) 6 months after the date on which the application for patent is first published under section 122 by the Office, or

''(ii) the date of the first rejection under section 132 of any claim by the examiner during the examination of the application for patent.

''(2) OTHER REQUIREMENTS.—Any submission under paragraph (1) shall—

''(A) set forth a concise description of the asserted relevance of each submitted document;

''(B) be accompanied by such fee as the Director may prescribe; and

''(C) include a statement by the person making such submission affirming that the submission was made in compliance with this section.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act and shall apply to any patent application filed before, on, or after that effective date.

SEC. 9. VENUE.

(a) TECHNICAL AMENDMENTS RELATING TO VENUE.—Sections 32, 145, 146, 154(b)(4)(A), and 293 of title 35, United States Code, and section 21(b)(4) of the Trademark Act of 1946 (15 U.S.C. 1071(b)(4)), are each amended by striking ''United States District Court for the District of Columbia'' each place that term appears and inserting ''United States District Court for the Eastern District of Virginia''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to any civil action commenced on or after that date.

SEC. 10. FEE SETTING AUTHORITY.

(a) FEE SETTING.—

(1) IN GENERAL.—The Director may set or adjust by rule any fee established, authorized, or charged under title 35, United States Code, or the Trademark Act of 1946 (15 U.S.C. 1051 et seq.), for any services performed by or materials furnished by, the Office, subject to paragraph (2).

(2) FEES TO RECOVER COSTS.—Fees may be set or adjusted under paragraph (1) only to recover the aggregate estimated costs to the Office for processing, activities, services, and materials relating to patents (in the case of patent fees) and trademarks (in the case of trademark fees), including administrative costs of the Office with respect to such patent or trademark fees (as the case may be).

(b) SMALL AND MICRO ENTITIES.—The fees set or adjusted under subsection (a) for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents shall be reduced by 50 percent with respect to the application of such fees to any small entity that qualifies for reduced fees under section 41(h)(1) of title 35, United States Code, and shall be reduced by 75 percent with respect to the application of such fees to any micro entity as defined in section 123 of that title (as added by subsection (g) of this section).

(c) REDUCTION OF FEES IN CERTAIN FISCAL YEARS.—In each fiscal year, the Director—

(1) shall consult with the Patent Public Advisory Committee and the Trademark Public Advisory Committee on the advisability of reducing any fees described in subsection (a); and

(2) after the consultation required under paragraph (1), may reduce such fees.

(d) ROLE OF THE PUBLIC ADVISORY COMMITTEE.—The Director shall—

(1) not less than 45 days before publishing any proposed fee under subsection (a) in the Federal Register, submit the proposed fee to the Patent Public Advisory Committee or the Trademark Public Advisory Committee, or both, as appropriate;

(2)(A) provide the relevant advisory committee described in paragraph (1) a 30-day period following the submission of any proposed fee, in which to deliberate, consider, and comment on such proposal;

(B) require that, during that 30-day period, the relevant advisory committee hold a public hearing relating to such proposal; and

(C) assist the relevant advisory committee in carrying out that public hearing, including by offering the use of the resources of the Office to notify and promote the hearing to the public and interested stakeholders;

(3) require the relevant advisory committee to make available to the public a written report setting forth in detail the comments, advice, and recommendations of the committee regarding the proposed fee; and

(4) consider and analyze any comments, advice, or recommendations received from the relevant advisory committee before setting or adjusting (as the case may be) the fee.

(e) PUBLICATION IN THE FEDERAL REGISTER.—

(1) PUBLICATION AND RATIONALE.—The Director shall—

(A) publish any proposed fee change under this section in the Federal Register;

(B) include, in such publication, the specific rationale and purpose for the proposal, including the possible expectations or benefits resulting from the proposed change; and

(C) notify, through the Chair and Ranking Member of the Committees on the Judiciary of the Senate and the House of Representatives, the Congress of the proposed change not later than the date on which the proposed change is published under subparagraph (A).

(2) PUBLIC COMMENT PERIOD.—The Director shall, in the publication under paragraph (1), provide the public a period of not less than 45 days in which to submit comments on the proposed change in fees.

(3) PUBLICATION OF FINAL RULE.—The final rule setting or adjusting a fee under this section shall be published in the Federal Register and in the Official Gazette of the Patent and Trademark Office.

(4) CONGRESSIONAL COMMENT PERIOD.—A fee set or adjusted under subsection (a) may not become effective—

(A) before the end of the 45-day period beginning on the day after the date on which the Director publishes the final rule adjusting or setting the fee under paragraph (3); or

(B) if a law is enacted disapproving such fee.

(5) RULE OF CONSTRUCTION.—Rules prescribed under this section shall not diminish—

(A) the rights of an applicant for a patent under title 35, United States Code, or for a mark under the Trademark Act of 1946; or

(B) any rights under a ratified treaty.

(f) RETENTION OF AUTHORITY.—The Director retains the authority under subsection (a) to set or adjust fees only during such period as the Patent and Trademark Office remains an agency within the Department of Commerce.

(g) MICRO ENTITY DEFINED.—

(1) IN GENERAL.—Chapter 11 of title 35, United States Code, is amended by adding at the end the following new section:

''§ 123. Micro entity defined

''(a) IN GENERAL.—For purposes of this title, the term 'micro entity' means an applicant who makes a certification that the applicant—

''(1) qualifies as a small entity, as defined in regulations issued by the Director;

''(2) has not been named as an inventor on more than 4 previously filed patent applications, other than applications filed in another country, provisional applications under section 111(b), or international applications filed under the treaty defined in section 351(a) for which the basic national fee under section 41(a) was not paid;

''(3) did not, in the calendar year preceding the calendar year in which the examination fee for the application is being paid, have a gross income, as defined in section 61(a) of the Internal Revenue Code of 1986, exceeding 3 times the median household income for that preceding calendar year, as reported by the Bureau of the Census; and

''(4) has not assigned, granted, or conveyed, and is not under an obligation by contract or law to assign, grant, or convey, a license or other ownership interest in the application concerned to an entity that, in the calendar year preceding the calendar year in which the examination fee for the application is being paid, had a gross income, as defined in section 61(a) of the Internal Revenue Code of 1986, exceeding 3 times the median household income for that preceding calendar year, as reported by the Bureau of the Census.

''(b) APPLICATIONS RESULTING FROM PRIOR EMPLOYMENT.—An applicant is not considered to be named on a previously filed application for purposes of subsection (a)(2) if the applicant has assigned, or is under an obligation by contract or law to assign, all ownership rights in the application as the result of the applicant's previous employment.

''(c) FOREIGN CURRENCY EXCHANGE RATE.—If an applicant's or entity's gross income in the preceding calendar year is not in United States dollars, the average currency exchange rate, as reported by the Internal Revenue Service, during that calendar year shall be used to determine whether the applicant's or entity's gross income exceeds the threshold specified in paragraphs (3) or (4) of subsection (a).

''(d) PUBLIC INSTITUTIONS OF HIGHER EDUCATION.—

''(1) IN GENERAL.—For purposes of this section, a micro entity shall include an applicant who certifies that—

''(A) the applicant's employer, from which the applicant obtains the majority of the applicant's income, is an institution of higher education, as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001), that is a public institution; or

''(B) the applicant has assigned, granted, conveyed, or is under an obligation by contract or law to assign, grant, or convey, a license or other ownership interest in the particular application to such public institution.

''(2) DIRECTOR'S AUTHORITY.—The Director may, in the Director's discretion, impose income limits, annual filing limits, or other limits on who may qualify as a micro entity pursuant to this subsection if the Director determines that such additional limits are reasonably necessary to avoid an undue impact on other patent applicants or owners or are otherwise reasonably necessary and appropriate. At least 3 months before any limits proposed to be imposed pursuant to this paragraph take effect, the Director shall inform the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate of any such proposed limits.''.

(2) CONFORMING AMENDMENT.—Chapter 11 of title 35, United States Code, is amended by adding at the end the following new item:

''123. Micro entity defined.''.

(h) ELECTRONIC FILING INCENTIVE.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, a fee of $400 shall be established for each application for an original patent, except for a design, plant, or provisional application, that is not filed by electronic means as prescribed by the Director. The fee established by this subsection shall be reduced by 50 percent for small entities that qualify for reduced fees under section 41(h)(1) of title 35, United States Code. All fees paid under this subsection shall be deposited in the Treasury as an offsetting receipt that shall not be available for obligation or expenditure.

(2) EFFECTIVE DATE.—This subsection shall take effect upon the expiration of the 60-day period beginning on the date of the enactment of this Act.

(i) EFFECTIVE DATE; SUNSET.—

(1) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) SUNSET.—The authority of the Director to set or adjust any fee under subsection (a) shall terminate upon the expiration of the 6-year period beginning on the date of the enactment of this Act.

SEC. 11. FEES FOR PATENT SERVICES.

(a) GENERAL PATENT SERVICES.—Subsections (a) and (b) of section 41 of title 35, United States Code, are amended to read as follows:

''(a) GENERAL FEES.—The Director shall charge the following fees:

''(1) FILING AND BASIC NATIONAL FEES.—

''(A) On filing each application for an original patent, except for design, plant, or provisional applications, $330.

''(B) On filing each application for an original design patent, $220.

''(C) On filing each application for an original plant patent, $220.

''(D) On filing each provisional application for an original patent, $220.

''(E) On filing each application for the reissue of a patent, $330.

''(F) The basic national fee for each international application filed under the treaty defined in section 351(a) entering the national stage under section 371, $330.

''(G) In addition, excluding any sequence listing or computer program listing filed in an electronic medium as prescribed by the Director, for any application the specification and drawings of which exceed 100 sheets of paper (or equivalent as prescribed by the Director if filed in an electronic medium), $270 for each additional 50 sheets of paper (or equivalent as prescribed by the Director if filed in an electronic medium) or fraction thereof.

''(2) EXCESS CLAIMS FEES.—

''(A) IN GENERAL.—In addition to the fee specified in paragraph (1)—

''(i) on filing or on presentation at any other time, $220 for each claim in independent form in excess of 3;

''(ii) on filing or on presentation at any other time, $52 for each claim (whether dependent or independent) in excess of 20; and

''(iii) for each application containing a multiple dependent claim, $390.

''(B) MULTIPLE DEPENDENT CLAIMS.—For the purpose of computing fees under subparagraph (A), a multiple dependent claim referred to in section 112 or any claim depending therefrom shall be considered as separate dependent claims in accordance with the number of claims to which reference is made.

''(C) REFUNDS; ERRORS IN PAYMENT.—The Director may by regulation provide for a refund of any part of the fee specified in subparagraph (A) for any claim that is canceled before an examination on the merits, as prescribed by the Director, has been made of the application under section 131. Errors in payment of the additional fees under this paragraph may be rectified in accordance with regulations prescribed by the Director.

''(3) EXAMINATION FEES.—

''(A) IN GENERAL.—

''(i) For examination of each application for an original patent, except for design, plant, provisional, or international applications, $220.

''(ii) For examination of each application for an original design patent, $140.

''(iii) For examination of each application for an original plant patent, $170.

''(iv) For examination of the national stage of each international application, $220.

''(v) For examination of each application for the reissue of a patent, $650.

''(B) APPLICABILITY OF OTHER FEE PROVISIONS.—The provisions of paragraphs (3) and (4) of section 111(a) relating to the payment of the fee for filing the application shall apply to the payment of the fee specified in subparagraph (A) with respect to an application filed under section 111(a). The provisions of section 371(d) relating to the payment of the national fee shall apply to the payment of the fee specified in subparagraph (A) with respect to an international application.

''(4) ISSUE FEES.—

''(A) For issuing each original patent, except for design or plant patents, $1,510.

''(B) For issuing each original design patent, $860.

''(C) For issuing each original plant patent, $1,190.

''(D) For issuing each reissue patent, $1,510.

''(5) DISCLAIMER FEE.—On filing each disclaimer, $140.

''(6) APPEAL FEES.—

''(A) On filing an appeal from the examiner to the Patent Trial and Appeal Board, $540.

''(B) In addition, on filing a brief in support of the appeal, $540, and on requesting an oral hearing in the appeal before the Patent Trial and Appeal Board, $1,080.

''(7) REVIVAL FEES.—On filing each petition for the revival of an unintentionally abandoned application for a patent, for the unintentionally delayed payment of the fee for issuing each patent, or for an unintentionally delayed response by the patent owner in any reexamination proceeding, $1,620, unless the petition is filed under section 133 or 151, in which case the fee shall be $540.

''(8) EXTENSION FEES.—For petitions for 1-month extensions of time to take actions required by the Director in an application—

''(A) on filing a first petition, $130;

''(B) on filing a second petition, $360; and

''(C) on filing a third or subsequent petition, $620.

''(b) MAINTENANCE FEES.—

''(1) IN GENERAL.—The Director shall charge the following fees for maintaining in force all patents based on applications filed on or after December 12, 1980:

''(A) Three years and 6 months after grant, $980.

''(B) Seven years and 6 months after grant, $2,480.

''(C) Eleven years and 6 months after grant, $4,110.

''(2) GRACE PERIOD; SURCHARGE.—Unless payment of the applicable maintenance fee under paragraph (1) is received in the Office on or before the date the fee is due or within a grace period of 6 months thereafter, the patent shall expire as of the end of such grace period. The Director may require the payment of a surcharge as a condition of accepting within such 6-month grace period the payment of an applicable maintenance fee.

''(3) NO MAINTENANCE FEE FOR DESIGN OR PLANT PATENT.—No fee may be established for maintaining a design or plant patent in force.''.

(b) DELAYS IN PAYMENT.—Subsection (c) of section 41 of title 35, United States Code, is amended—

(1) by striking ''(c)(1) The Director'' and inserting:

''(c) DELAYS IN PAYMENT OF MAINTENANCE FEES.—

''(1) ACCEPTANCE.—The Director''; and

(2) by striking ''(2) A patent'' and inserting:

''(2) EFFECT ON RIGHTS OF OTHERS.—A patent''.

(c) PATENT SEARCH FEES.—Subsection (d) of section 41 of title 35, United States Code, is amended to read as follows:

''(d) PATENT SEARCH AND OTHER FEES.—

''(1) PATENT SEARCH FEES.—

''(A) IN GENERAL.—The Director shall charge the fees specified under subparagraph (B) for the search of each application for a patent, except for provisional applications. The Director shall adjust the fees charged under this paragraph to ensure that the fees recover an amount not to exceed the estimated average cost to the Office of searching applications for patent either by acquiring a search report from a qualified search authority, or by causing a search by Office personnel to be made, of each application for patent.

''(B) SPECIFIC FEES.—The fees referred to in subparagraph (A) are—

''(i) $540 for each application for an original patent, except for design, plant, provisional, or international applications;

''(ii) $100 for each application for an original design patent;

''(iii) $330 for each application for an original plant patent;

''(iv) $540 for the national stage of each international application; and

''(v) $540 for each application for the reissue of a patent.

''(C) APPLICABILITY OF OTHER PROVISIONS.—The provisions of paragraphs (3) and (4) of section 111(a) relating to the payment of the fee for filing the application shall apply to the payment of the fee specified in this paragraph with respect to an application filed under section 111(a). The provisions of section 371(d) relating to the payment of the national fee shall apply to the payment of the fee specified in this paragraph with respect to an international application.

''(D) REFUNDS.—The Director may by regulation provide for a refund of any part of the fee specified in this paragraph for any applicant who files a written declaration of express abandonment as prescribed by the Director before an examination has been made of the application under section 131.

''(E) APPLICATIONS SUBJECT TO SECRECY ORDER.—A search of an application that is the subject of a secrecy order under section 181 or otherwise involves classified information may be conducted only by Office personnel.

''(F) CONFLICTS OF INTEREST.—A qualified search authority that is a commercial entity may not conduct a search of a patent application if the entity has any direct or indirect financial interest in any patent or in any pending or imminent application for patent filed or to be filed in the Office.

''(2) OTHER FEES.—

''(A) IN GENERAL.—The Director shall establish fees for all other processing, services, or materials relating to patents not specified in this section to recover the estimated average cost to the Office of such processing, services, or materials, except that the Director shall charge the following fees for the following services:

''(i) For recording a document affecting title, $40 per property.

''(ii) For each photocopy, $.25 per page.

''(iii) For each black and white copy of a patent, $3.

''(B) COPIES FOR LIBRARIES.—The yearly fee for providing a library specified in section 12 with uncertified printed copies of the specifications and drawings for all patents in that year shall be $50.''.

(d) FEES FOR SMALL ENTITIES.—Subsection (h) of section 41 of title 35, United States Code, is amended to read as follows:

''(h) FEES FOR SMALL ENTITIES.—

''(1) REDUCTIONS IN FEES.—Subject to paragraph (3), fees charged under subsections (a), (b), and (d)(1) shall be reduced by 50 percent with respect to their application to any small business concern as defined under section 3 of the Small Business Act, and to any independent inventor or nonprofit organization as defined in regulations issued by the Director.

''(2) SURCHARGES AND OTHER FEES.—With respect to its application to any entity described in paragraph (1), any surcharge or fee charged under subsection (c) or (d) shall not be higher than the surcharge or fee required of any other entity under the same or substantially similar circumstances.

''(3) REDUCTION FOR ELECTRONIC FILING.—The fee charged under subsection (a)(1)(A) shall be reduced by 75 percent with respect to its application to any entity to which paragraph (1) applies, if the application is filed by electronic means as prescribed by the Director.''.

(e) TECHNICAL AMENDMENTS.—Section 41 of title 35, United States Code, is amended—

(1) in subsection (e), in the first sentence, by striking ''The Director'' and inserting ''WAIVER OF FEES; COPIES REGARDING NOTICE.—The Director'';

(2) in subsection (f), by striking ''The fees'' and inserting ''ADJUSTMENT OF FEES.—The fees'';

(3) by repealing subsection (g); and

(4) in subsection (i)—

(A) by striking ''(i)(1) The Director'' and inserting the following:

''(i) ELECTRONIC PATENT AND TRADEMARK DATA.—

''(1) MAINTENANCE OF COLLECTIONS.—The Director'';

(B) by striking ''(2) The Director'' and inserting the following:

''(2) AVAILABILITY OF AUTOMATED SEARCH SYSTEMS.—The Director'';

(C) by striking ''(3) The Director'' and inserting the following:

''(3) ACCESS FEES.—The Director''; and

(D) by striking ''(4) The Director'' and inserting the following:

''(4) ANNUAL REPORT TO CONGRESS.—The Director''.

(f) ADJUSTMENT OF TRADEMARK FEES.—Section 802(a) of division B of the Consolidated Appropriations Act, 2005 (Public Law 108–447) is amended—

(1) in the first sentence, by striking ''During fiscal years 2005, 2006, and 2007,'', and inserting ''Until such time as the Director sets or adjusts the fees otherwise,''; and

(2) in the second sentence, by striking ''During fiscal years 2005, 2006, and 2007, the'' and inserting ''The''.

(g) EFFECTIVE DATE, APPLICABILITY, AND TRANSITION PROVISIONS.—Section 803(a) of division B of the Consolidated Appropriations Act, 2005 (Public Law 108–447) is amended by striking ''and shall apply only with respect to the remaining portion of fiscal year 2005 and fiscal year 2006''.

(h) REDUCTION IN FEES FOR SMALL ENTITY PATENTS.—The Director shall reduce fees for providing prioritized examination of utility and plant patent applications by 50 percent for small entities that qualify for reduced fees under section 41(h)(1) of title 35, United States Code, so long as the fees of the prioritized examination program are set to recover the estimated cost of the program.

(i) EFFECTIVE DATE.—Except as provided in subsection (h), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 12. SUPPLEMENTAL EXAMINATION.

(a) IN GENERAL.—Chapter 25 of title 35, United States Code, is amended by adding at the end the following:

''§257. Supplemental examinations to consider, reconsider, or correct information

''(a) REQUEST FOR SUPPLEMENTAL EXAMINATION.—A patent owner may request supplemental examination of a patent in the Office to consider, reconsider, or correct information believed to be relevant to the patent, in accordance with such requirements as the Director may establish. Within 3 months after the date a request for supplemental examination meeting the requirements of this section is received, the Director shall conduct the supplemental examination and shall conclude such examination by issuing a certificate indicating whether the information presented in the request raises a substantial new question of patentability.

''(b) REEXAMINATION ORDERED.—If the certificate issued under subsection (a) indicates that a substantial new question of patentability is raised by 1 or more items of information in the request, the Director shall order reexamination of the patent. The reexamination shall be conducted according to procedures established by chapter 30, except that the patent owner shall not have the right to file a statement pursuant to section 304. During the reexamination, the Director shall address each substantial new question of patentability identified during the supplemental examination, notwithstanding the limitations in chapter 30 relating to patents and printed publication or any other provision of such chapter.

''(c) EFFECT.—

''(1) IN GENERAL.—A patent shall not be held unenforceable on the basis of conduct relating to information that had not been considered, was inadequately considered, or was incorrect in a prior examination of the patent if the information was considered, reconsidered, or corrected during a supplemental examination of the patent. The making of a request under subsection (a), or the absence thereof, shall not be relevant to enforceability of the patent under section 282.

''(2) EXCEPTIONS.—

''(A) PRIOR ALLEGATIONS.—Paragraph (1) shall not apply to an allegation pled with particularity in a civil action, or set forth with particularity in a notice received by the patent owner under section 505(j)(2)(B)(iv)(II) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(2)(B)(iv)(II)), before the date of a supplemental examination request under subsection (a) to consider, reconsider, or correct information forming the basis for the allegation.

''(B) PATENT ENFORCEMENT ACTIONS.—In an action brought under section 337(a) of the Tariff Act of 1930 (19 U.S.C. 1337(a)), or section 281 of this title, paragraph (1) shall not apply to any defense raised in the action that is based upon information that was considered, reconsidered, or corrected pursuant to a supplemental examination request under subsection (a), unless the supplemental examination, and any reexamination ordered pursuant to the request, are concluded before the date on which the action is brought.

''(C) FRAUD.—No supplemental examination may be commenced by the Director on, and any pending supplemental examination shall be immediately terminated regarding, an application or patent in connection with which fraud on the Office was practiced or attempted. If the Director determines that such a fraud on the Office was practiced or attempted, the Director shall also refer the matter to the Attorney General for such action as the Attorney General may deem appropriate.

''(d) FEES AND REGULATIONS.—

''(1) FEES.—The Director shall, by regulation, establish fees for the submission of a request for supplemental examination of a patent, and to consider each item of information submitted in the request. If reexamination is ordered under subsection (b), fees established and applicable to ex parte reexamination proceedings under chapter 30 shall be paid, in addition to fees applicable to supplemental examination.

''(2) REGULATIONS.—The Director shall issue regulations governing the form, content, and other requirements of requests for supplemental examination, and establishing procedures for reviewing information submitted in such requests.

''(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) to preclude the imposition of sanctions based upon criminal or antitrust laws (including section 1001(a) of title 18, the first section of the Clayton Act, and section 5 of the Federal Trade Commission Act to the extent that section relates to unfair methods of competition);

''(2) to limit the authority of the Director to investigate issues of possible misconduct and impose sanctions for misconduct in connection with matters or proceedings before the Office; or

''(3) to limit the authority of the Director to issue regulations under chapter 3 relating to sanctions for misconduct by representatives practicing before the Office.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 25 of title 35, United States Code, is amended by adding at the end the following new item:

''257. Supplemental examinations to consider, reconsider, or correct information.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act and shall apply to any patent issued before, on, or after that effective date.

SEC. 13. FUNDING AGREEMENTS.

(a) IN GENERAL.—Section 202(c)(7)(E)(i) of title 35, United States Code, is amended—

(1) by striking ''75 percent'' and inserting ''15 percent'';

(2) by striking ''25 percent'' and inserting ''85 percent''; and

(3) by striking ''as described above in this clause (D);'' and inserting ''described above in this clause;''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to any patent issued before, on, or after that date.

SEC. 14. TAX STRATEGIES DEEMED WITHIN THE PRIOR ART.

(a) IN GENERAL.—For purposes of evaluating an invention under section 102 or 103 of title 35, United States Code, any strategy for reducing, avoiding, or deferring tax liability, whether known or unknown at the time of the invention or application for patent, shall be deemed insufficient to differentiate a claimed invention from the prior art.

(b) DEFINITION.—For purposes of this section, the term ''tax liability'' refers to any liability for a tax under any Federal, State, or local law, or the law of any foreign jurisdiction, including any statute, rule, regulation, or ordinance that levies, imposes, or assesses such tax liability.

(c) EXCLUSIONS.—This section does not apply to that part of an invention that—

(1) is a method, apparatus, technology, computer program product, or system, that is used solely for preparing a tax or information return or other tax filing, including one that records, transmits, transfers, or organizes data related to such filing; or

(2) is a method, apparatus, technology, computer program product, or system used solely for financial management, to the extent that it is severable from any tax strategy or does not limit the use of any tax strategy by any taxpayer or tax advisor.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to imply that other business methods are patentable or that other business method patents are valid.

(e) EFFECTIVE DATE; APPLICABILITY.—This section shall take effect on the date of the enactment of this Act and shall apply to any patent application that is pending on, or filed on or after, that date, and to any patent that is issued on or after that date.

SEC. 15. BEST MODE REQUIREMENT.

(a) IN GENERAL.—Section 282 of title 35, United States Code, is amended in the second undesignated paragraph by striking paragraph (3) and inserting the following:

''(3) Invalidity of the patent or any claim in suit for failure to comply with—

''(A) any requirement of section 112, except that the failure to disclose the best mode shall not be a basis on which any claim of a patent may be canceled or held invalid or otherwise unenforceable; or

''(B) any requirement of section 251.''.

(b) CONFORMING AMENDMENT.—Sections 119(e)(1) and 120 of title 35, United States Code, are each amended by striking ''the first paragraph of section 112 of this title'' and inserting ''section 112(a) (other than the requirement to disclose the best mode)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of the enactment of this Act and shall apply to proceedings commenced on or after that date.

SEC. 16. MARKING.

(a) VIRTUAL MARKING.—

(1) IN GENERAL.—Section 287(a) of title 35, United States Code, is amended by striking ''or when,'' and inserting ''or by fixing thereon the word 'patent' or the abbreviation 'pat.' together with an address of a posting on the Internet, accessible to the public without charge for accessing the address, that associates the patented article with the number of the patent, or when,''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to any case that is pending on, or commenced on or after, the date of the enactment of this Act.

(3) REPORT.—Not later than the date that is 3 years after the date of the enactment of this Act, the Director shall submit a report to Congress that provides—

(A) an analysis of the effectiveness of ''virtual marking'', as provided in the amendment made by paragraph (1) of this subsection, as an alternative to the physical marking of articles;

(B) an analysis of whether such virtual marking has limited or improved the ability of the general public to access information about patents;

(C) an analysis of the legal issues, if any, that arise from such virtual marking; and

(D) an analysis of the deficiencies, if any, of such virtual marking.

(b) FALSE MARKING.—

(1) CIVIL PENALTY.—Section 292(a) of title 35, United States, Code, is amended by adding at the end the following: ''Only the United States may sue for the penalty authorized by this subsection.''.

(2) CIVIL ACTION FOR DAMAGES.—Subsection (b) of section 292 of title 35, United States Code, is amended to read as follows:

''(b) A person who has suffered a competitive injury as a result of a violation of this section may file a civil action in a district court of the United States for recovery of damages adequate to compensate for the injury.''.

(3) EXPIRED PATENTS.—Section 292 of title 35, United States Code, is amended by adding at the end the following:

''(c) Whoever engages in an activity under subsection (a) for which liability would otherwise be imposed shall not be liable for such activity—

''(1) that is engaged in during the 3-year period beginning on the date on which the patent at issue expires; or

''(2) that is engaged in after the end of that 3-year period if the word 'expired' is placed before the word 'patent', 'patented', the abbreviation 'pat', or the patent number, either on the article or through a posting on the Internet, as provided in section 287(a).''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any case that is pending on, or commenced on or after, the date of the enactment of this Act.

SEC. 17. ADVICE OF COUNSEL.

(a) IN GENERAL.—Chapter 29 of title 35, United States Code, is amended by adding at the end the following:

''§ 298. Advice of counsel

''The failure of an infringer to obtain the advice of counsel with respect to any allegedly infringed patent, or the failure of the infringer to present such advice to the court or jury, may not be used to prove that the accused infringer willfully infringed the patent or that the infringer intended to induce infringement of the patent.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 29 of title 35, United States Code, is amended by adding at the end the following:

''298. Advice of counsel.''.

SEC. 18. TRANSITIONAL PROGRAM FOR COVERED BUSINESS METHOD PATENTS.

(a) TRANSITIONAL PROGRAM.—

(1) ESTABLISHMENT.—Not later than the date that is 1 year after the date of the enactment of this Act, the Director shall issue regulations establishing and implementing a transitional post-grant review proceeding for review of the validity of covered business method patents. The transitional proceeding implemented pursuant to this subsection shall be regarded as, and shall employ the standards and procedures of, a post-grant review under chapter 32 of title 35, United States Code, subject to the following:

(A) Section 321(c) of title 35, United States Code, and subsections (b), (e)(2), and (f) of section 325 of such title shall not apply to a transitional proceeding.

(B) A person may not file a petition for a transitional proceeding with respect to a covered business method patent unless the person or the person's real party in interest has been sued for infringement of the patent or has been charged with infringement under that patent.

(C) A petitioner in a transitional proceeding who challenges the validity of 1 or more claims in a covered business method patent on a ground raised under section 102 or 103 of title 35, United States Code, as in effect on the day before the effective date set forth in section 3(n)(1), may support such ground only on the basis of—

(i) prior art that is described by section 102(a) of such title of such title (as in effect on the day before such effective date); or

(ii) prior art that—

(I) discloses the invention more than 1 year before the date of the application for patent in the United States; and

(II) would be described by section 102(a) of such title (as in effect on the day before the effective date set forth in section 3(n)(1)) if the disclosure had been made by another before the invention thereof by the applicant for patent.

(D) The petitioner in a transitional proceeding, or the petitioner's real party in interest, may not assert, either in a civil action arising in whole or in part under section 1338 of title 28, United States Code, or in a proceeding before the International Trade Commission under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), that a claim in a patent is invalid on any ground that the petitioner raised during a transitional proceeding that resulted in a final written decision.

(E) The Director may institute a transitional proceeding only for a patent that is a covered business method patent.

(2) EFFECTIVE DATE.—The regulations issued under paragraph (1) shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act and shall apply to any covered business method patent issued before, on, or after that effective date, except that the regulations shall not apply to a patent described in section 6(f)(2)(A) of this Act during the period in which a petition for post-grant review of that patent would satisfy the requirements of section 321(c) of title 35, United States Code.

(3) SUNSET.—

(A) IN GENERAL.—This subsection, and the regulations issued under this subsection, are repealed effective upon the expiration of the 10-year period beginning on the date that the regulations issued under to paragraph (1) take effect.

(B) APPLICABILITY.—Notwithstanding subparagraph (A), this subsection and the regulations issued under this subsection shall continue to apply, after the date of the repeal under subparagraph (A), to any petition for a transitional proceeding that is filed before the date of such repeal.

(b) REQUEST FOR STAY.—

(1) IN GENERAL.—If a party seeks a stay of a civil action alleging infringement of a patent under section 281 of title 35, United States Code, relating to a transitional proceeding for that patent, the court shall decide whether to enter a stay based on—

(A) whether a stay, or the denial thereof, will simplify the issues in question and streamline the trial;

(B) whether discovery is complete and whether a trial date has been set;

(C) whether a stay, or the denial thereof, would unduly prejudice the nonmoving party or present a clear tactical advantage for the moving party; and

(D) whether a stay, or the denial thereof, will reduce the burden of litigation on the parties and on the court.

(2) REVIEW.—A party may take an immediate interlocutory appeal from a district court's decision under paragraph (1). The United States Court of Appeals for the Federal Circuit shall review the district court's decision to ensure consistent application of established precedent, and such review may be de novo.

(c) ATM EXEMPTION FOR VENUE PURPOSES.—In an action for infringement under section 281 of title 35, United States Code, of a covered business method patent, an automated teller machine shall not be deemed to be a regular and established place of business for purposes of section 1400(b) of title 28, United States Code.

(d) DEFINITION.—

(1) IN GENERAL.—For purposes of this section, the term ''covered business method patent'' means a patent that claims a method or corresponding apparatus for performing data processing or other operations used in the practice, administration, or management of a financial product or service, except that the term does not include patents for technological inventions.

(2) REGULATIONS.—To assist in implementing the transitional proceeding authorized by this subsection, the Director shall issue regulations for determining whether a patent is for a technological invention.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as amending or interpreting categories of patent-eligible subject matter set forth under section 101 of title 35, United States Code.

SEC. 19. JURISDICTION AND PROCEDURAL MATTERS.

(a) STATE COURT JURISDICTION.—Section 1338(a) of title 28, United States Code, is amended by striking the second sentence and inserting the following: ''No State court shall have jurisdiction over any claim for relief arising under any Act of Congress relating to patents, plant variety protection, or copyrights. For purposes of this subsection, the term 'State' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.''.

(b) COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 1295(a)(1) of title 28, United States Code, is amended to read as follows:

''(1) of an appeal from a final decision of a district court of the United States, the District Court of Guam, the District Court of the Virgin Islands, or the District Court of the Northern Mariana Islands, in any civil action arising under, or in any civil action in which a party has asserted a compulsory counterclaim arising under, any Act of Congress relating to patents or plant variety protection;''.

(c) REMOVAL.—

(1) IN GENERAL.—Chapter 89 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 1454. Patent, plant variety protection, and copyright cases

''(a) IN GENERAL.—A civil action in which any party asserts a claim for relief arising under any Act of Congress relating to patents, plant variety protection, or copyrights may be removed to the district court of the United States for the district and division embracing the place where the action is pending.

''(b) SPECIAL RULES.—The removal of an action under this section shall be made in accordance with section 1446, except that if the removal is based solely on this section—

''(1) the action may be removed by any party; and

''(2) the time limitations contained in section 1446(b) may be extended at any time for cause shown.

''(c) CLARIFICATION OF JURISDICTION IN CERTAIN CASES.—The court to which a civil action is removed under this section is not precluded from hearing and determining any claim in the civil action because the State court from which the civil action is removed did not have jurisdiction over that claim.

''(d) REMAND.—If a civil action is removed solely under this section, the district court—

''(1) shall remand all claims that are neither a basis for removal under subsection (a) nor within the original or supplemental jurisdiction of the district court under any Act of Congress; and

''(2) may, under the circumstances specified in section 1367(c), remand any claims within the supplemental jurisdiction of the district court under section 1367.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 89 of title 28, United States Code, is amended by adding at the end the following new item:

''1454. Patent, plant variety protection, and copyright cases.''.

(d) TRANSFER BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—

(1) IN GENERAL.—Chapter 99 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 1632. Transfer by the Court of Appeals for the Federal Circuit

''When a case is appealed to the Court of Appeals for the Federal Circuit under section 1295(a)(1), and no claim for relief arising under any Act of Congress relating to patents or plant variety protection is the subject of the appeal by any party, the Court of Appeals for the Federal Circuit shall transfer the appeal to the court of appeals for the regional circuit embracing the district from which the appeal has been taken.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 99 of title 28, United States Code, is amended by adding at the end the following new item:

''1632. Transfer by the Court of Appeals for the Federal Circuit.''.

(e) PROCEDURAL MATTERS IN PATENT CASES.—

(1) JOINDER OF PARTIES AND STAY OF ACTIONS.—Chapter 29 of title 35, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

''§ 299. Joinder of parties

''(a) JOINDER OF ACCUSED INFRINGERS.—In any civil action arising under any Act of Congress relating to patents, other than an action or trial in which an act of infringement under section 271(e)(2) has been pled, parties that are accused infringers may be joined in one action as defendants or counterclaim defendants only if—

''(1) any right to relief is asserted against the parties jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused product or process; and

''(2) questions of fact common to all defendants or counterclaim defendants will arise in the action.

''(b) ALLEGATIONS INSUFFICIENT FOR JOINDER.—For purposes of this subsection, accused infringers may not be joined in one action or trial as defendants or counterclaim defendants based solely on allegations that they each have infringed the patent or patents in suit.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 29 of title 35, United States Code, as amended by this Act, is further amended by adding at the end the following new item:

''299. Joinder of parties.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any civil action commenced on or after the date of the enactment of this Act.

SEC. 20. TECHNICAL AMENDMENTS.

(a) JOINT INVENTIONS.—Section 116 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph, by striking ''When'' and inserting ''(a) JOINT INVENTIONS.—When'';

(2) in the second undesignated paragraph, by striking ''If a joint inventor'' and inserting ''(b) OMITTED INVENTOR.—If a joint inventor''; and

(3) in the third undesignated paragraph—

(A) by striking ''Whenever'' and inserting ''(c) CORRECTION OF ERRORS IN APPLICATION.—Whenever''; and

(B) by striking ''and such error arose without any deceptive intention on his part,''.

(b) FILING OF APPLICATION IN FOREIGN COUNTRY.—Section 184 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking ''Except when'' and inserting ''(a) FILING IN FOREIGN COUNTRY.—Except when''; and

(B) by striking ''and without deceptive intent'';

(2) in the second undesignated paragraph, by striking ''The term'' and inserting ''(b) APPLICATION.—The term''; and

(3) in the third undesignated paragraph, by striking ''The scope'' and inserting ''(c) SUBSEQUENT MODIFICATIONS, AMENDMENTS, AND SUPPLEMENTS.—The scope''.

(c) FILING WITHOUT A LICENSE.—Section 185 of title 35, United States Code, is amended by striking ''and without deceptive intent''.

(d) REISSUE OF DEFECTIVE PATENTS.—Section 251 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking ''Whenever'' and inserting ''(a) IN GENERAL.—Whenever''; and

(B) by striking ''without any deceptive intention'';

(2) in the second undesignated paragraph, by striking ''The Director'' and inserting ''(b) MULTIPLE REISSUED PATENTS.—The Director'';

(3) in the third undesignated paragraph, by striking ''The provisions'' and inserting ''(c) APPLICABILITY OF THIS TITLE.—The provisions''; and

(4) in the last undesignated paragraph, by striking ''No reissued patent'' and inserting ''(d) REISSUE PATENT ENLARGING SCOPE OF CLAIMS.—No reissued patent''.

(e) EFFECT OF REISSUE.—Section 253 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph, by striking ''Whenever, without any deceptive intention,'' and inserting ''(a) IN GENERAL.—Whenever''; and

(2) in the second undesignated paragraph, by striking ''In like manner'' and inserting ''(b) ADDITIONAL DISCLAIMER OR DEDICATION.—In the manner set forth in subsection (a),''.

(f) CORRECTION OF NAMED INVENTOR.—Section 256 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking ''Whenever'' and inserting ''(a) CORRECTION.—Whenever''; and

(B) by striking ''and such error arose without any deceptive intention on his part''; and

(2) in the second undesignated paragraph, by striking ''The error'' and inserting ''(b) PATENT VALID IF ERROR CORRECTED.—The error''.

(g) PRESUMPTION OF VALIDITY.—Section 282 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking ''A patent'' and inserting ''(a) IN GENERAL.—A patent''; and

(B) by striking the third sentence;

(2) in the second undesignated paragraph—

(A) by striking ''The following'' and inserting ''(b) DEFENSES.—The following'';

(B) in paragraph (1), by striking ''uneforceability,'' and inserting ''unenforceability.''; and

(C) in paragraph (2), by striking ''patentability,'' and inserting ''patentability.'' ; and

(3) in the third undesignated paragraph—

(A) by striking ''In actions involving the validity or infringement of a patent'' and inserting ''(c) NOTICE OF ACTIONS; ACTIONS DURING EXTENSION OF PATENT TERM.—In an action involving the validity or infringement of patent, the party asserting infringement shall identify, in the pleadings or otherwise in writing to the adverse party, all of its real parties in interest, and''; and

(B) by striking ''Claims Court'' and inserting ''Court of Federal Claims''.

(h) ACTION FOR INFRINGEMENT.—Section 288 of title 35, United States Code, is amended by striking '', without deceptive intention,''.

(i) REVISER'S NOTES.—

(1) Section 3(e)(2) of title 35, United States Code, is amended by striking ''this Act,'' and inserting ''that Act,''.

(2) Section 202 of title 35, United States Code, is amended—

(A) in subsection (b)(3), by striking ''the section 203(b)'' and inserting ''section 203(b)''; and

(B) in subsection (c)(7)(D), by striking ''except where it proves'' and all that follows through ''small business firms; and'' and inserting: ''except where it is determined to be infeasible following a reasonable inquiry, a preference in the licensing of subject inventions shall be given to small business firms; and''.

(3) Section 209(d)(1) of title 35, United States Code, is amended by striking ''nontransferrable'' and inserting ''nontransferable''.

(4) Section 287(c)(2)(G) of title 35, United States Code, is amended by striking ''any state'' and inserting ''any State''.

(5) Section 371(b) of title 35, United States Code, is amended by striking ''of the treaty'' and inserting ''of the treaty.''.

(j) UNNECESSARY REFERENCES.—

(1) IN GENERAL.—Title 35, United States Code, is amended by striking ''of this title'' each place that term appears.

(2) EXCEPTION.—The amendment made by paragraph (1) shall not apply to the use of such term in the following sections of title 35, United States Code:

(A) Section 1(c).

(B) Section 101.

(C) Subsections (a) and (b) of section 105.

(D) The first instance of the use of such term in section 111(b)(8).

(E) Section 161.

(F) Section 164.

(G) Section 171.

(H) Section 251(c), as so designated by this section.

(I) Section 261.

(J) Subsections (g) and (h) of section 271.

(K) Section 287(b)(1).

(L) Section 289.

(M) The first instance of the use of such term in section 375(a).

(k) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act and shall apply to proceedings commenced on or after that effective date.

SEC. 21. TRAVEL EXPENSES AND PAYMENT OF ADMINISTRATIVE JUDGES.

(a) AUTHORITY TO COVER CERTAIN TRAVEL RELATED EXPENSES.—Section 2(b)(11) of title 35, United States Code, is amended by inserting '', and the Office is authorized to expend funds to cover the subsistence expenses and travel-related expenses, including per diem, lodging costs, and transportation costs, of persons attending such programs who are not Federal employees'' after ''world''.

(b) PAYMENT OF ADMINISTRATIVE JUDGES.—Section 3(b) of title 35, United States Code, is amended by adding at the end the following:

''(6) ADMINISTRATIVE PATENT JUDGES AND ADMINISTRATIVE TRADEMARK JUDGES.—The Director may fix the rate of basic pay for the administrative patent judges appointed pursuant to section 6 and the administrative trademark judges appointed pursuant to section 17 of the Trademark Act of 1946 (15 U.S.C. 1067) at not greater than the rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5. The payment of a rate of basic pay under this paragraph shall not be subject to the pay limitation under section 5306(e) or 5373 of title 5.''.

SEC. 22. PATENT AND TRADEMARK OFFICE FUNDING.

(a) DEFINITION.—In this section, the term ''Fund'' means the United States Patent and

Trademark Office Public Enterprise Fund established under subsection (c).

(b) FUNDING.—

(1) IN GENERAL.—Section 42 of title 35, United States Code, is amended—

(A) in subsection (b), by striking ''Patent and Trademark Office Appropriation Account'' and inserting ''United States Patent and Trademark Office Public Enterprise Fund''; and

(B) in subsection (c), in the first sentence—

(i) by striking ''To the extent'' and all that follows through ''fees'' and inserting ''Fees''; and

(ii) by striking ''shall be collected by and shall be available to the Director'' and inserting ''shall be collected by the Director and shall be available until expended''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the later of—

(A) October 1, 2011; or

(B) the first day of the first fiscal year that begins after the date of the enactment of this Act.

(c) USPTO REVOLVING FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the ''United States Patent and Trademark Office Public Enterprise Fund''. Any amounts in the Fund shall be available for use by the Director without fiscal year limitation.

(2) DERIVATION OF RESOURCES.—There shall be deposited into the Fund and recorded as offsetting receipts, on and after the effective date set forth in subsection (b)(2)—

(A) any fees collected under sections 41, 42, and 376 of title 35, United States Code, except that—

(i) notwithstanding any other provision of law, if such fees are collected by, and payable to, the Director, the Director shall transfer such amounts to the Fund; and

(ii) no funds collected pursuant to section 10(h) of this Act or section 1(a)(2) of Public Law 111–45 shall be deposited in the Fund; and

(B) any fees collected under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113).

(3) EXPENSES.—Amounts deposited into the Fund under paragraph (2) shall be available, without fiscal year limitation, to cover—

(A) all expenses to the extent consistent with the limitation on the use of fees set forth in section 42(c) of title 35, United States Code, including all administrative and operating expenses, determined in the discretion of the Director to be ordinary and reasonable, incurred by the Director for the continued operation of all services, programs, activities, and duties of the Office relating to patents and trademarks, as such services, programs, activities, and duties are described under—

(i) title 35, United States Code; and

(ii) the Trademark Act of 1946; and

(B) all expenses incurred pursuant to any obligation, representation, or other commitment of the Office.

(d) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Director shall submit a report to Congress which shall—

(1) summarize the operations of the Office for the preceding fiscal year, including financial details and staff levels broken down by each major activity of the Office;

(2) detail the operating plan of the Office, including specific expense and staff needs for the upcoming fiscal year;

(3) describe the long-term modernization plans of the Office;

(4) set forth details of any progress towards such modernization plans made in the previous fiscal year; and

(5) include the results of the most recent audit carried out under subsection (f).

(e) ANNUAL SPENDING PLAN.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the Director shall notify the Committees on Appropriations of both Houses of Congress of the plan for the obligation and expenditure of the total amount of the funds for that fiscal year in accordance with section 605 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2334).

(2) CONTENTS.—Each plan under paragraph (1) shall—

(A) summarize the operations of the Office for the current fiscal year, including financial details and staff levels with respect to major activities; and

(B) detail the operating plan of the Office, including specific expense and staff needs, for the current fiscal year.

(f) AUDIT.—The Director shall, on an annual basis, provide for an independent audit of the financial statements of the Office. Such audit shall be conducted in accordance with generally acceptable accounting procedures.

(g) BUDGET.—The Director shall prepare and submit each year to the President a business-type budget for the Fund in a manner, and before a date, as the President prescribes by regulation for the Federal budget.

SEC. 23. SATELLITE OFFICES.

(a) ESTABLISHMENT.—Subject to available resources, the Director shall, by not later than the date that is 3 years after the date of the enactment of this Act, establish 3 or more satellite offices in the United States to carry out the responsibilities of the Office.

(b) PURPOSES.—The purposes of the satellite offices established under subsection (a) are to—

(1) increase outreach activities to better connect patent filers and innovators with the Office;

(2) enhance patent examiner retention;

(3) improve recruitment of patent examiners;

(4) decrease the number of patent applications waiting for examination; and

(5) improve the quality of patent examination.

(c) REQUIRED CONSIDERATIONS.—

(1) IN GENERAL.—In selecting the location of each satellite office to be established under subsection (a), the Director—

(A) shall ensure geographic diversity among the offices, including by ensuring that such offices are established in different States and regions throughout the Nation;

(B) may rely upon any previous evaluations by the Office of potential locales for satellite offices, including any evaluations prepared as part of the Office's Nationwide Workforce Program that resulted in the 2010 selection of Detroit, Michigan, as the first satellite office of the Office.

(2) OPEN SELECTION PROCESS.—Nothing in paragraph (1) shall constrain the Office to only consider its evaluations in selecting the Detroit, Michigan, satellite office.

(d) REPORT TO CONGRESS.—Not later than the end of the third fiscal year that begins after the date of the enactment of this Act, the Director shall submit a report to Congress on—

(1) the rationale of the Director in selecting the location of any satellite office required under subsection (a);

(2) the progress of the Director in establishing all such satellite offices; and

(3) whether the operation of existing satellite offices is achieving the purposes under subsection (b).

SEC. 24. DESIGNATION OF DETROIT SATELLITE OFFICE.

(a) DESIGNATION.—The satellite office of the United States Patent and Trademark Office to be located in Detroit, Michigan, shall be known and designated as the ''Elijah J. McCoy United States Patent and Trademark Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the satellite office of the United States Patent and Trademark Office to be located in Detroit, Michigan, referred to in subsection (a) shall be deemed to be a reference to the ''Elijah J. McCoy United States Patent and Trademark Office''.

SEC. 25. PATENT OMBUDSMAN PROGRAM FOR SMALL BUSINESS CONCERNS.

Using available resources, the Director shall establish and maintain in the Office a Patent Ombudsman Program. The duties of the Program's staff shall include providing support and services relating to patent filings to small business concerns.

SEC. 26. PRIORITY EXAMINATION FOR TECHNOLOGIES IMPORTANT TO AMERICAN COMPETITIVENESS.

Section 2(b)(2) of title 35, United States Code, is amended—

(1) in subparagraph (E), by striking ''and'' after the semicolon;

(2) in subparagraph (F), by inserting ''and'' after the semicolon; and

(3) by adding at the end the following:

''(G) may, subject to any conditions prescribed by the Director and at the request of the patent applicant, provide for prioritization of examination of applications for products, processes, or technologies that are important to the national economy or national competitiveness without recovering the aggregate extra cost of providing such prioritization, notwithstanding section 41 or any other provision of law;''.

SEC. 27. CALCULATION OF 60-DAY PERIOD FOR APPLICATION OF PATENT TERM EXTENSION.

(a) IN GENERAL.—Section 156(d)(1) of title 35, United States Code, is amended by adding at the end the following flush sentence:

''For purposes of determining the date on which a product receives permission under the second sentence of this paragraph, if such permission is transmitted after 4:30 P.M., Eastern Time, on a business day, or is transmitted on a day that is not a business day, the product shall be deemed to receive such permission on the next business day. For purposes of the preceding sentence, the term 'business day' means any Monday, Tuesday, Wednesday, Thursday, or Friday, excluding any legal holiday under section 6103 of title 5.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to any application for extension of a patent term under section 156 of title 35, United States Code, that is pending on, that is filed after, or as to which a decision regarding the application is subject to judicial review on, the date of the enactment of this Act.

SEC. 28. STUDY ON IMPLEMENTATION.

(a) PTO STUDY.—The Director shall conduct a study on the manner in which this Act and the amendments made by this Act are being implemented by the Office, and on such other aspects of the patent policies and practices of the Federal Government with respect to patent rights, innovation in the United States, competitiveness of United States markets, access by small businesses to capital for investment, and such other issues, as the Director considers appropriate.

(b) REPORT TO CONGRESS.—The Director shall, not later than the date that is 4 years after the date of the enactment of this Act, submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the results of the study conducted under subsection (a), including recommendations for any changes to laws and regulations that the Director considers appropriate.

SEC. 29. PRO BONO PROGRAM.

(a) IN GENERAL.—The Director shall work with and support intellectual property law associations across the country in the establishment of pro bono programs designed to assist financially under-resourced independent inventors and small businesses.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 30. EFFECTIVE DATE.

Except as otherwise provided in this Act, the provisions of this Act shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act and shall apply to any patent issued on or after that effective date.

SEC. 31. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The Acting CHAIR. No amendment to the committee amendment is in order except those printed in part B of House Report 112–111. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. SMITH OF TEXAS

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in part B of House Report 112–111.

Mr. SMITH of Texas. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, line 5, strike ''America Invents Act'' and insert ''Leahy-Smith America Invents Act''.

Page 4, lines 10 and 22, strike ''5(a)(1)'' and insert ''5(a)''.

Page 16, line 1, insert after the period the following: ''In appropriate circumstances, the Patent Trial and Appeal Board may correct the naming of the inventor in any application or patent at issue.''.

Page 25, strike line 13 and all that follows through page 27, line 2, and redesignate the succeeding subsections accordingly.

Page 27, line 4, strike ''registration''.

Page 27, line 5, strike ''inventor to use'' and insert ''to invent''.

Page 27, line 6, insert ''and the useful arts'' after ''science''.

Page 27, line 9, strike ''granted by the'' and insert ''provided by the grant of''.

Page 27, line 12, strike ''registration''.

Page 27, line 13, strike ''inventor to use'' and insert ''to invent''.

Page 27, lines 14 and 15, strike ''harmonize the United States patent registration system with the patent registration systems'' and insert ''improve the United States patent system and promote harmonization of the United States patent system with the patent systems''.

Page 27, line 18, strike ''a greater sense of'' and insert ''greater''.

Page 36, strike line 10 and all that follows through page 40, line 5, and insert the following (and conform the table of contents) accordingly:

SEC. 5. DEFENSE TO INFRINGEMENT BASED ON PRIOR COMMERCIAL USE.

(a) IN GENERAL.—Section 273 of title 35, United States Code, is amended to read as follows:

''§ 273. Defense to infringement based on prior commercial use

''(a) IN GENERAL.—A person shall be entitled to a defense under section 282(b) with respect to subject matter consisting of a process, or consisting of a machine, manufacture, or composition of matter used in a manufacturing or other commercial process, that would otherwise infringe a claimed invention being asserted against the person if—

''(1) such person, acting in good faith, commercially used the subject matter in the United States, either in connection with an internal commercial use or an actual arm's length sale or other arm's length commercial transfer of a useful end result of such commercial use; and

''(2) such commercial use occurred at least 1 year before the earlier of either—

''(A) the effective filing date of the claimed invention; or

''(B) the date on which the claimed invention was disclosed to the public in a manner that qualified for the exception from prior art under section 102(b).

''(b) BURDEN OF PROOF.—A person asserting a defense under this section shall have the burden of establishing the defense by clear and convincing evidence.

''(c) ADDITIONAL COMMERCIAL USES.—

''(1) PREMARKETING REGULATORY REVIEW.—Subject matter for which commercial marketing or use is subject to a premarketing regulatory review period during which the safety or efficacy of the subject matter is established, including any period specified in section 156(g), shall be deemed to be commercially used for purposes of subsection (a)(1) during such regulatory review period.

''(2) NONPROFIT LABORATORY USE.—A use of subject matter by a nonprofit research laboratory or other nonprofit entity, such as a university or hospital, for which the public is the intended beneficiary, shall be deemed to be a commercial use for purposes of subsection (a)(1), except that a defense under this section may be asserted pursuant to this paragraph only for continued and noncommercial use by and in the laboratory or other nonprofit entity.

''(d) EXHAUSTION OF RIGHTS.—Notwithstanding subsection (e)(1), the sale or other disposition of a useful end result by a person entitled to assert a defense under this section in connection with a patent with respect to that useful end result shall exhaust the patent owner's rights under the patent to the extent that such rights would have been exhausted had such sale or other disposition been made by the patent owner.

''(e) LIMITATIONS AND EXCEPTIONS.—

''(1) PERSONAL DEFENSE.—

''(A) IN GENERAL.—A defense under this section may be asserted only by the person who performed or directed the performance of the commercial use described in subsection (a), or by an entity that controls, is controlled by, or is under common control with such person.

''(B) TRANSFER OF RIGHT.—Except for any transfer to the patent owner, the right to assert a defense under this section shall not be licensed or assigned or transferred to another person except as an ancillary and subordinate part of a good-faith assignment or transfer for other reasons of the entire enterprise or line of business to which the defense relates.

''(C) RESTRICTION ON SITES.—A defense under this section, when acquired by a person as part of an assignment or transfer described in subparagraph (B), may only be asserted for uses at sites where the subject matter that would otherwise infringe a claimed invention is in use before the later of the effective filing date of the claimed invention or the date of the assignment or transfer of such enterprise or line of business.

''(2) DERIVATION.—A person may not assert a defense under this section if the subject matter on which the defense is based was derived from the patentee or persons in privity with the patentee.

''(3) NOT A GENERAL LICENSE.—The defense asserted by a person under this section is not a general license under all claims of the patent at issue, but extends only to the specific subject matter for which it has been established that a commercial use that qualifies under this section occurred, except that the defense shall also extend to variations in the quantity or volume of use of the claimed subject matter, and to improvements in the claimed subject matter that do not infringe additional specifically claimed subject matter of the patent.

''(4) ABANDONMENT OF USE.—A person who has abandoned commercial use (that qualifies under this section) of subject matter may not rely on activities performed before the date of such abandonment in establishing a defense under this section with respect to actions taken on or after the date of such abandonment.

''(5) UNIVERSITY EXCEPTION.—

''(A) IN GENERAL.—A person commercially using subject matter to which subsection (a) applies may not assert a defense under this section if the claimed invention with respect to which the defense is asserted was, at the time the invention was made, owned or subject to an obligation of assignment to either an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), or a technology transfer organization whose primary purpose is to facilitate the commercialization of technologies developed by one or more such institutions of higher education.

''(B) EXCEPTION.—Subparagraph (A) shall not apply if any of the activities required to reduce to practice the subject matter of the claimed invention could not have been undertaken using funds provided by the Federal Government.

''(f) UNREASONABLE ASSERTION OF DEFENSE.—If the defense under this section is pleaded by a person who is found to infringe the patent and who subsequently fails to demonstrate a reasonable basis for asserting the defense, the court shall find the case exceptional for the purpose of awarding attorney fees under section 285.

''(g) INVALIDITY.—A patent shall not be deemed to be invalid under section 102 or 103 solely because a defense is raised or established under this section.''.

(b) CONFORMING AMENDMENT.—The item relating to section 273 in the table of sections for chapter 28 of title 35, United States Code, is amended to read as follows:

''273. Defense to infringement based on prior commercial use.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any patent issued on or after the date of the enactment of this Act.

Page 41, line 5, strike ''1 year'' and insert ''9 months''.

Page 42, line 22, strike ''commence'' and insert ''be instituted''.

Page 43, line 24, and page 44, line 1, strike ''petitioner, real party in interest, or privy of the petitioner'' and insert ''petitioner or real party in interest''.

Page 44, lines 3 and 4, strike ''petitioner, real party in interest, or privy of the petitioner'' and insert ''petitioner or real party in interest''.

Page 44, lines 13 and 14, strike ''petitioner, real party in interest, or privy of the petitioner'' and insert ''petitioner or real party in interest''.

Page 44, lines 16 and 17, strike ''petitioner, real party in interest, or privy of the petitioner'' and insert ''petitioner or real party in interest''.

Page 52, line 10, strike ''AMENDED OR NEW CLAIM'' and insert ''INTERVENING RIGHTS''.

Page 54, insert the following after line 10:

(3) TRANSITION.—

(A) IN GENERAL.—Chapter 31 of title 35, United States Code, is amended—

(i) in section 312—

(I) in subsection (a)—

(aa) in the first sentence, by striking ''a substantial new question of patentability affecting any claim of the patent concerned is raised by the request,'' and inserting ''the information presented in the request shows that there is a reasonable likelihood that the requester would prevail with respect to at least 1 of the claims challenged in the request,''; and

(bb) in the second sentence, by striking ''The existence of a substantial new question of patentability'' and inserting ''A showing that there is a reasonable likelihood that the requester would prevail with respect to at least 1 of the claims challenged in the request''; and

(II) in subsection (c), in the second sentence, by striking ''no substantial new question of patentability has been raised,'' and inserting ''the showing required by subsection (a) has not been made,''; and

(ii) in section 313, by striking ''a substantial new question of patentability affecting a claim of the patent is raised'' and inserting ''it has been shown that there is a reasonable likelihood that the requester would prevail with respect to at least 1 of the claims challenged in the request''.

(B) APPLICATION.—The amendments made by this paragraph—

(i) shall take effect on the date of the enactment of this Act; and

(ii) shall apply to requests for inter partes reexamination that are filed on or after such date of enactment, but before the effective date set forth in paragraph (2)(A) of this subsection.

(C) CONTINUED APPLICABILITY OF PRIOR PROVISIONS.—The provisions of chapter 31 of title 35, United States Code, as amended by this paragraph, shall continue to apply to requests for inter partes reexamination that are filed before the effective date set forth in paragraph (2)(A) as if subsection (a) had not been enacted.

Page 54, line 17, strike ''patent owner'' and insert ''owner of a patent''.

Page 54, line 18, strike ''of a'' and insert ''of the''.

Page 55, line 10, strike ''1 year'' and insert ''9 months''.

Page 57, line 3, strike ''commence'' and insert ''be instituted''.

Page 57, line 25, strike ''The'' and all that follows through ''public.'' on page 58, line 1.

Page 58, lines 11 and 12, strike ''petitioner, real party in interest, or privy of the petitioner'' and insert ''petitioner or real party in interest''.

Page 58, lines 15 and 16, strike ''petitioner, real party in interest, or privy of the petitioner'' and insert ''petitioner or real party in interest''.

Page 58, line 25 and page 59, line 1, strike ''petitioner, real party in interest, or privy of the petitioner'' and insert ''petitioner or real party in interest''.

Page 59, lines 3 and 4, strike ''petitioner, real party in interest, or privy of the petitioner'' and insert ''petitioner or real party in interest''.

Page 63, line 15, strike ''and''.

Page 63, line 23, strike the period and insert ''; and''.

Page 63, insert the following after line 23:

''(12) providing the petitioner with at least 1 opportunity to file written comments within a time period established by the Director.''.

Page 66, line 24, strike ''AMENDED OR NEW CLAIM'' and insert ''INTERVENING RIGHTS''.

Page 68, line 10, strike ''to any patent that is'' and insert ''only to patents''.

Page 78, insert the following after line 1 and redesignate the succeeding subsection accordingly:

(d) CONFORMING AMENDMENTS.—

(1) ATOMIC ENERGY ACT OF 1954.—Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182) is amended in the third undesignated paragraph—

(A) by striking ''Board of Patent Appeals and Interferences'' each place it appears and inserting ''Patent Trial and Appeal Board''; and

(B) by inserting ''and derivation'' after ''established for interference''.

(2) TITLE 51.—Section 20135 of title 51, United States Code, is amended—

(A) in subsections (e) and (f), by striking ''Board of Patent Appeals and Interferences'' each place it appears and inserting ''Patent Trial and Appeal Board''; and

(B) in subsection (e), by inserting ''and derivation'' after ''established for interference''.

Page 86, lines 11 and 12, strike ''examination fee for the application'' and insert ''applicable fee''.

Page 86, line 15, insert ''most recently'' after ''as''.

Page 86, line 22, strike ''examination fee for the application'' and insert ''applicable fee''.

Page 87, line 1, insert ''most recently'' after ''as''.

Page 87, strike line 18 and all that follows through page 88, line 8, and insert the following:

''(d) INSTITUTIONS OF HIGHER EDUCATION.—For purposes of this section, a micro entity shall include an applicant who certifies that—

''(1) the applicant's employer, from which the applicant obtains the majority of the applicant's income, is an institution of higher education as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); or

''(2) the applicant has assigned, granted, conveyed, or is under an obligation by contract or law, to assign, grant, or convey, a license or other ownership interest in the particular applications to such an institution of higher education.

Page 88, line 9, strike ''(2) DIRECTOR'S AUTHORITY.—The Director'' and insert ''(e) DIRECTOR'S AUTHORITY.—In addition to the limits imposed by this section, the Director''.

Page 88, move the text of lines 9 through 21 2 ems to the left.

Page 88, line 12, strike ''subsection'' and insert ''section''.

Page 88, line 18, strike ''paragraph'' and insert ''subsection''.

Page 89, line 2, strike ''a fee'' and insert ''an additional fee''.

Page 89, line 17, strike ''This'' and insert ''Except as provided in subsection (h), this''.

Page 89, line 22, strike ''6-year'' and insert ''7-year''.

Page 89, add the following after line 23:

(3) PRIOR REGULATIONS NOT AFFECTED.—The termination of authority under this subsection shall not affect any regulations issued under this section before the effective date of such termination or any rulemaking proceeding for the issuance of regulations under this section that is pending on such date.

Page 96, line 15, strike ''either'' and all that follows through ''patent'' on line 19 and inserting ''by Office personnel''.

Page 98, strike lines 3 through 14.

Page 102, insert the following after line 7 and redesignate the succeeding subsection accordingly:

(i) APPROPRIATION ACCOUNT TRANSITION FEES.—

(1) SURCHARGE.—

(A) IN GENERAL.—There shall be a surcharge of 15 percent, rounded by standard arithmetic rules, on all fees charged or authorized by subsections (a), (b), and (d)(1) of section 41, and section 132(b), of title 35, United States Code. Any surcharge imposed under this subsection is, and shall be construed to be, separate from and in addition to any other surcharge imposed under this Act or any other provision of law.

(B) DEPOSIT OF AMOUNTS.—Amounts collected pursuant to the surcharge imposed under subparagraph (A) shall be credited to the United States Patent and Trademark Appropriation Account, shall remain available until expended, and may be used only for the purposes specified in section 42(c)(3)(A) of title 35, United States Code.

(2) EFFECTIVE DATE AND TERMINATION OF SURCHARGE.—The surcharge provided for in paragraph (1)—

(A) shall take effect on the date that is 10 days after the date of the enactment of this Act; and

(B) shall terminate, with respect to a fee to which paragraph (1)(A) applies, on the effective date of the setting or adjustment of that fee pursuant to the exercise of the authority under section 10 for the first time with respect to that fee.

Page 102, strike lines 1 through 7 and insert the following:

(h) PRIORITIZED EXAMINATION FEE.—

(1) IN GENERAL.—

(A) FEE.—

(i) PRIORITIZED EXAMINATION FEE.—A fee of $4,800 shall be established for filing a request, pursuant to section 2(b)(2)(G) of title 35, United States Code, for prioritized examination of a nonprovisional application for an original utility or plant patent.

(ii) ADDITIONAL FEES.—In addition to the prioritized examination fee under clause (i), the fees due on an application for which prioritized examination is being sought are the filing, search, and examination fees (including any applicable excess claims and application size fees), processing fee, and publication fee for that application.

(B) REGULATIONS; LIMITATIONS.—

(i) REGULATIONS.—The Director may by regulation prescribe conditions for acceptance of a request under subparagraph (A) and a limit on the number of filings for prioritized examination that may be accepted.

(ii) LIMITATION ON CLAIMS.— Until regulations are prescribed under clause (i), no application for which prioritized examination is requested may contain or be amended to contain more than 4 independent claims or more than 30 total claims.

(iii) LIMITATION ON TOTAL NUMBER OF REQUESTS.—The Director may not accept in any fiscal year more than 10,000 requests for prioritization until regulations are prescribed under this subparagraph setting another limit.

(2) REDUCTION IN FEES FOR SMALL ENTITIES.—The Director shall reduce fees for providing prioritized examination of nonprovisional applications for original utility and plant patents by 50 percent for small entities that qualify for reduced fees under section 41(h)(1) of title 35, United States Code.

(3) DEPOSIT OF FEES.—All fees paid under this subsection shall be credited to the United States Patent and Trademark Office Appropriation Account, shall remain available until expended, and may be used only for the purposes specified in section 42(c)(3)(A) of title 35, United States Code.

(4) EFFECTIVE DATE AND TERMINATION.—

(A) EFFECTIVE DATE.—This subsection shall take effect on the date that is 10 days after the date of the enactment of this Act.

(B) TERMINATION.—The fee imposed under paragraph (1)(A)(i), and the reduced fee under paragraph (2), shall terminate on the effective date of the setting or adjustment of

the fee under paragraph (1)(A)(i) pursuant to the exercise of the authority under section 10 for the first time with respect to that fee.

Page 102, lines 8 and 9, strike ''Except as provided in subsection (h),'' and insert ''Except as otherwise provided in this section,''.

Page 105, strike lines 1 through 11.

Page 105, add the following after line 25 and redesignate the succeeding subsection accordingly:

''(e) FRAUD.—If the Director becomes aware, during the course of a supplemental examination or reexamination proceeding ordered under this section, that a material fraud on the Office may have been committed in connection with the patent that is the subject of the supplemental examination, then in addition to any other actions the Director is authorized to take, including the cancellation of any claims found to be invalid under section 307 as a result of a reexamination ordered under this section, the Director shall also refer the matter to the Attorney General for such further action as the Attorney General may deem appropriate. Any such referral shall be treated as confidential, shall not be included in the file of the patent, and shall not be disclosed to the public unless the United States charges a person with a criminal offense in connection with such referral.

Page 111, strike lines 13 through 24 and insert the following:

''(c) The marking of a product, in a manner described in subsection (a), with matter relating to a patent that covered that product but has expired is not a violation of this section.''.

Page 112, line 2, strike ''any case that is'' and insert ''all cases, without exception, that are''.

Page 113, line 13, insert ''or privy'' after ''interest''.

Page 114, lines 15 and 16, strike ''The petitioner in a transitional proceeding,'' and insert the following: ''The petitioner in a transitional proceeding that results in a final written decision under section 328(a) of title 35, United States Code, with respect to a claim in a covered business method patent,''.

Page 114, line 22, strike ''a claim in a patent'' and insert ''the claim''.

Page 114, lines 23-25, strike ''a transitional proceeding that resulted in a final decision'' and insert ''that transitional proceeding''.

Page 115, line 18, strike ''10-'' and insert ''8-''.

Page 120, strike line 17 and all that follows through the matter following line 10 on page 121 and redesignate succeeding subsections accordingly.

Page 121, line 17, strike ''In any'' and insert ''With respect to any''.

Page 121, line 22, insert '', or have their actions consolidated for trial,'' after ''defendants''.

Page 122, line 9, strike ''or trial''.

Page 122, line 10, insert '', or have their actions consolidated for trial,'' after ''defendants''.

Page 122, line 11, strike the quotation marks and second period.

Page 122, insert the following after line 11:

''(c) WAIVER.—A party that is an accused infringer may waive the limitations set forth in this section with respect to that party.''.

Page 126, line 13, strike ''patent,'' and all that follows through the first appearance of ''and'' on line 17 and insert ''a patent,''.

Page 128, insert the following after line 23 and redesignate the succeeding subsection accordingly:

(k) ADDITIONAL TECHNICAL AMENDMENTS.—Sections 155 and 155A of title 35, United States Code, and the items relating to those sections in the table of sections for chapter 14 of such title, are repealed.

Page 130, strike line 3 and all that follows through page 134, line 17, and insert the following:

SEC. 22. PATENT AND TRADEMARK OFFICE FUNDING.

(a) IN GENERAL.—Section 42(c) of title 35, United States Code, is amended—

(1) by striking ''(c)'' and inserting ''(c)(1)'';

(2) in the first sentence, by striking ''shall be available'' and inserting ''shall, subject to paragraph (3), be available'';

(3) by striking the second sentence; and

(4) by adding at the end the following:

''(2) There is established in the Treasury a Patent and Trademark Fee Reserve Fund. If fee collections by the Patent and Trademark Office for a fiscal year exceed the amount appropriated to the Office for that fiscal year, fees collected in excess of the appropriated amount shall be deposited in the Patent and Trademark Fee Reserve Fund. To the extent and in the amounts provided in appropriations Acts, amounts in the Fund shall be made available until expended only for obligation and expenditure by the Office in accordance with paragraph (3).

''(3)(A) Any fees that are collected under sections 41, 42, and 376, and any surcharges on such fees, may only be used for expenses of the Office relating to the processing of patent applications and for other activities, services, and materials relating to patents and to cover a share of the administrative costs of the Office relating to patents.

''(B) Any fees that are collected under section 31 of the Trademark Act of 1946, and any surcharges on such fees, may only be used for expenses of the Office relating to the processing of trademark registrations and for other activities, services, and materials relating to trademarks and to cover a share of the administrative costs of the Office relating to trademarks.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2011.

Page 137, strike lines 1 through 7 and redesignate the succeeding sections (and conform the table of contents) accordingly.

Page 137, lines 8 and 9, strike ''**TECHNOLOGIES IMPORTANT TO AMERICAN COMPETITIVENESS**'' and insert ''**IMPORTANT TECHNOLOGIES**'' (and conform the table of contents accordingly).

Page 138, strike lines 1 through 21 and redesignate succeeding sections (and conform the table of contents) accordingly.

Page 139, insert the following after line 12 and redesignate the succeeding sections (and conform the table of contents) accordingly:

SEC. 27. STUDY ON GENETIC TESTING.

(a) IN GENERAL.—The Director shall conduct a study on effective ways to provide independent, confirming genetic diagnostic test activity where gene patents and exclusive licensing for primary genetic diagnostic tests exist.

(b) ITEMS INCLUDED IN STUDY.—The study shall include an examination of at least the following:

(1) The impact that the current lack of independent second opinion testing has had on the ability to provide the highest level of medical care to patients and recipients of genetic diagnostic testing, and on inhibiting innovation to existing testing and diagnoses.

(2) The effect that providing independent second opinion genetic diagnostic testing would have on the existing patent and license holders of an exclusive genetic test.

(3) The impact that current exclusive licensing and patents on genetic testing activity has on the practice of medicine, including but not limited to: the interpretation of testing results and performance of testing procedures.

(4) The role that cost and insurance coverage have on access to and provision of genetic diagnostic tests.

(c) CONFIRMING GENETIC DIAGNOSTIC TEST ACTIVITY DEFINED.—For purposes of this section, the term ''confirming genetic diagnostic test activity'' means the performance of a genetic diagnostic test, by a genetic diagnostic test provider, on an individual solely for the purpose of providing the individual with an independent confirmation of results obtained from another test provider's prior performance of the test on the individual.

(d) REPORT.—Not later than 9 months after the date of enactment of this Act, the Director shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the findings of the study and provide recommendations for establishing the availability of such independent confirming genetic diagnostic test activity.

SEC. 28. PATENT OMBUDSMAN PROGRAM FOR SMALL BUSINESS CONCERNS.

Using available resources, the Director shall establish and maintain in the Office a Patent Ombudsman Program. The duties of the Program's staff shall include providing support and services relating to patent filings to small business concerns and independent inventors.

Page 139, insert the following after line 20 and redesignate the succeeding sections (and conform the table of contents) accordingly:

SEC. 30. LIMITATION ON ISSUANCE OF PATENTS.

(a) LIMITATION.—Notwithstanding any other provision of law, no patent may issue on a claim directed to or encompassing a human organism.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsection (a) shall apply to any application for patent that is pending on, or filed on or after, the date of the enactment of this Act.

(2) PRIOR APPLICATIONS.—Subsection (a) shall not affect the validity of any patent issued on an application to which paragraph (1) does not apply.

SEC. 31. STUDY OF PATENT LITIGATION.

(a) GAO STUDY.—The Comptroller General of the United States shall conduct a study of the consequences of litigation by non-practicing entities, or by patent assertion entities, related to patent claims made under title 35, United States Code, and regulations authorized by that title.

(b) CONTENTS OF STUDY.—The study conducted under this section shall include the following:

(1) The annual volume of litigation described in subsection (a) over the 20-year period ending on the date of the enactment of this Act.

(2) The volume of cases comprising such litigation that are found to be without merit after judicial review.

(3) The impacts of such litigation on the time required to resolve patent claims.

(4) The estimated costs, including the estimated cost of defense, associated with such litigation for patent holders, patent licensors, patent licensees, and inventors, and for users of alternate or competing innovations.

(5) The economic impact of such litigation on the economy of the United States, including the impact on inventors, job creation, employers, employees, and consumers.

(6) The benefit to commerce, if any, supplied by non-practicing entities or patent assertion entities that prosecute such litigation.

(c) REPORT TO CONGRESS.—The Comptroller General shall, not later than the date that is 1 year after the date of the enactment of this Act, submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the results of the study required under this section, including recommendations for any changes to laws and regulations that will minimize any negative impact of patent litigation that was the subject of such study.

The Acting CHAIR. Pursuant to House Resolution 316, the gentleman from Texas (Mr. SMITH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. SMITH of Texas. I yield myself such time as I may consume.

Madam Chair, the manager's amendment consists of numerous technical edits and other improvements to the bill. Some of the highlights include the following provisions:

Expansion and clarification of prior-user rights under section 273 of the Patent Act.

Institutions of higher education qualify for ''micro-entity'' status when paying fees. In other words, an inventor who works for a university or who assigns or conveys an invention to a university qualifies for lower micro-entity fee status.

Consolidation of numerous PTO reporting requirements.

Inclusion of ''Weldon amendment'' language that forbids the patenting of inventions ''directed to or encompassing a human organism.'' This language has been part of the CJS appropriations legislation for years. It's directed as preventing the PTO from approving inventions related to human cloning.

And deletion of a provision that provides special treatment to one company that wants to get additional patent term protection from the PTO.

These and other changes in the manager's amendment smooth out a few rough edges and improve the overall bill.

I reserve the balance of my time.

Mr. WATT. Madam Chair, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from North Carolina is recognized for 5 minutes.

Mr. WATT. I yield 2 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Madam Chair, this manager's amendment is substantive. It contains provisions that should not be buried in a manager's amendment, and it should be defeated.

First of all, it does maintain the fee diversion. It maintains the fee diversion because of an alleged lock box. We've heard about this before, and I have in my hand the CONGRESSIONAL RECORD of June 23, 2000, where the chairman, at the time, of the State, Justice, Commerce Subcommittee stated that the fees that are generated by the Patent Office are not to be used by any other agency or any other purpose. They remain in that account to be used in succeeding years. We are not siphoning off Patent Office fees for other expenditures.

Well, guess what? It happened. And it's happened in the last 10 to 12 years to the tune of $1 billion. And this is exactly the same promise that they're making now. Fool us once, shame on them. Fool us twice, shame on us.

Now, this change relative to the reported bill to what is in the manager's amendment is the thing that is subject to the waiver of CutGo to the tune of $717 million over the next 5 years. The proponents of this amendment say this is a mere technical waiver of CutGo.

□ 2110

$717 million is no mere technical waiver of CutGo.

If you believe in CutGo, you've got to vote down the manager's amendment where this change was protected by the waiver granted for the Rules Committee. The amendment is substantive, it ought to be defeated.

Mr. SMITH of Texas. Madam Chair, I continue to reserve the balance of my time.

Mr. WATT. I yield myself the balance of my time.

Let me first say I agree with Mr. SENSENBRENNER. The Rules Committee says that this is a technical amendment, that it would make technical edits and a few necessary changes to more substantive issues. This is a very substantive manager's amendment; there is no question about that.

There are many good parts to this bill, and a broad coalition of people supported the bill which was reported out of committee. But the one and only necessary part of the bill is the ability to give the Patent and Trademark Office its full funding. That was the whole purpose for which we started off this process.

This whole reform process was conceived to address poor-quality patents and to reduce the backlog of patent applications, which now exceeds a 700,000 backlog of patent applications. And the reason it exceeds 700,000 is because the Patent and Trademark Office has not had the money because their fees that they have been charging have been diverted to the general fund. Without a clear path to access its own collection of fees, the PTO cannot properly plan or implement the other changes in the bill and fulfill its primary function of reducing the backlog and examining patent applications.

The compromise that this manager's amendment proposes has been described by a patent news blog as, it says, It's still Lucy—that's the appropriators—holding the football that it will never let Charlie Brown have. That's really what we see here.

This is a mirage, a promise that they are going to do something that, if they just did it in the bill the way we reported the bill out of the committee, you wouldn't need this subterfuge. There is no reason to be doing this. The Senate reported it out clean, no diversion, 95–4 they voted it out of the Senate.

I don't even know why we're here debating this at this point. If we believe that the one primary purpose of patent reform is to deal with the fee diversion, then we need to deal with that first, and that's exactly what we did in the Judiciary Committee.

I don't know why I'm here defending what we, on a broad, bipartisan basis, reported out of our committee. It ought to be the chairman of the committee that's defending what we reported out of the committee. Yet we are here, instead of defending what we reported out of the committee, the manager's amendment waters it down and makes it ineffective, and that's not what we should be doing here.

Now they said they got these letters of support, but the letters came supporting what came out of the committee, not the manager's amendment. The manager's amendment is going to destroy what came out of the committee. It is inconsistent with what came out of the committee.

So we've got to defeat the manager's amendment and go back to the bill that came out of the Judiciary Committee, and that's what I'm advocating.

Mr. SMITH of Texas. I yield myself the balance of my time.

Madam Chair, let me address some of the criticisms that have been made about the manager's amendment. There are some who want to make more changes to the business method patent provision in the bill. This topic is the primary reason the Judiciary Committee launched patent reform back in 2005.

In response to a number of poor-quality, business-method patents issued over the past decade, the bill creates a transitional program within PTO to evaluate these patents using the best prior art available. Bad patents will be weeded out, but good ones will become gold-plated based on their enhanced legal integrity.

There are others who have sought changes to the prior art provisions in the First-Inventor-to-File section. The language in our bill which replicates that in the Senate version has drawn support from a large cross-range of industries and investors.

Some colleagues have complained during this debate about the treatment of PTO funding in the manager's amendment. The bill that the House Judiciary Committee reported would allow the PTO to keep all the revenue it raises without having to request funding through the normal appropriations process. This is treated as mandatory spending and scored savings in excess of $700 million.

Because of concerns raised by the Appropriations Committee members, we worked with them to develop a compromise that eliminates fee diversion while permitting the appropriators to retain oversight through the traditional appropriations process. The manager's amendment accomplishes this goal, but it means that the mandatory spending provisions of the revolving fund become discretionary spending under the reserved fund. Because this change is contrary to CutGo requirements, we need a waiver for consideration of H.R. 1249.

I want to emphasize that the bill includes user fees paid by inventors and trademark filers to the PTO in return

for services. This isn't the same thing as using tax revenue from the general treasury to fund the agency, so I am not sure that the CutGo rules even apply.

Very importantly, there is no impact on the deficit. The manager's amendment is constitutionally sound, improves the base text of the bill, and incorporates a funding agreement approved by the leadership to get this bill to the floor. It's important to pass it and then move on to the other amendments.

I urge my colleagues to vote ''aye'' on the amendment.

Mr. RYAN of Wisconsin. Madam Chair, I rise today to provide an explanation of my support for a waiver of the Cut-go point of order on the Manager's Amendment to H.R. 1249, the America Invents Act. No matter how well-crafted a budget enforcement tool may be it can never be immune from all unintended consequences.

There are two reasons I support this waiver. First, the violation arises from an anomaly associated with converting this program from discretionary to mandatory. Second, the Manager's Amendment does not cause an increase in direct spending relative to current law.

With respect to the first point, CB0 currently records PTO fee collections on an annual basis with the enactment of the relevant appropriations bill. As a result, CBO shows no deficit impact from PTO for fiscal years after FY 2011 if the funding and fee collections remain subject to the appropriations process—what we call ''discretionary spending.''

The reported bill would have provided permanent authority to the PTO to collect fees and spend the fee collections. We call spending that is provided through permanent law ''mandatory spending.'' CBO estimated this permanent authority for FY 2012–2021 would reduce mandatory spending by $712 million. The savings, however, are the result of CBO's estimate that the agency will not be able to spend the fees as quickly as they are collected, not from spending reduction.

This should be obvious because the whole rationale of this bill was to ensure the expenditure of all PTO fee collections. If the reported bill was mandating that all PTO collections be spent, how can it produce budgetary savings? It doesn't. The only savings are paper savings, resulting from an accounting change and not an actual reduction in spending.

The Cut-go rule was designed to prevent the total amount of mandatory spending in the Federal Budget from increasing by requiring a corresponding spending reduction for any proposal to increase direct spending, and not offset with an increase in revenue as was common practice under Pay-Go.

Ironically, the Manager's Amendment would prevent a discretionary program from turning into mandatory spending, but because Cut-go is measured relative to the reported bill and not to the baseline, it triggers a Cut-go violation. Cut-go was not intended to favor mandatory spending over discretionary spending.

With respect to the second point, the Manager's Amendment maintains the same basic fee and spending structure as the underlying legislation but keeps the program discretionary. CBO estimates the bill, with the Manager's Amendment, would decrease the deficit by $5 million over ten years, unrelated to the PTO classification. The Committee could have avoided a Cut-go point of order if it reported out a separate bill that reflected the Manager's Amendment.

I do not take waiving budget points of order lightly, but in this case it is justified.

Mr. SMITH of Texas. Madam Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. SMITH).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. SMITH of Texas. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

Mr. SMITH of Texas. Madam Chair, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GOODLATTE) having assumed the chair, Ms. FOXX, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1249) to amend title 35, United States Code, to provide for patent reform, had come to no resolution thereon.

□ 2120

AMERICAN INVOLVEMENT IN LIBYA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from Indiana (Mr. BURTON) is recognized for half the time before 10 p.m. as the designee of the majority leader.

Mr. BURTON of Indiana. Mr. Speaker, I am not going to take all of the time that is allocated for my Special Order tonight, but I did want to talk about the problem that we are facing in Libya right now.

The President of the United States has the authority under the Constitution to be the Commander in Chief in the event that we have to go into a military conflict. What the President does not have the right to do is to take us into a military conflict without consulting with the Congress of the United States, unless there is an imminent threat to the United States or an attack on the United States.

The Constitution is pretty clear on this subject. Unfortunately, during the Nixon administration there was some question about whether or not President Nixon exceeded his authority, so the Congress of the United States passed what was called the War Powers Act. The War Powers Act was designed to clarify very clearly for President Nixon and all future presidents the authority granted them under the Constitution in the event that there was to be a conflict.

The President vetoed that bill because he thought it was an infringement. I am talking about President Nixon now. He vetoed that bill because he thought it was an infringement of the constitutional powers of the President. The Congress overwhelmingly overrode the President's veto, and so the War Powers Act became law.

Now, there has been a lot of question from some of my colleagues about the constitutionality of the War Powers Act. I have heard some of my friends in the other body say it is not constitutional. I have heard friends of mine within the House of Representatives say that the War Powers Act is not constitutional. The fact of the matter is it has never been tested in court. It has never gone to the U.S. Supreme Court and, as a result, the War Powers Act is the law of the land. It is the law of the United States of America, and it is intended, as I said before, to clarify the constitutional powers of the President of the United States where war is concerned.

Now, the President of the United States, Mr. Obama, decided that we ought to go into Libya for humanitarian purposes. There is nothing in the Constitution or the War Powers Act that gives him the authority to do that unless he has the express approval and support of the Congress of the United States.

When President Bush was the President and he went into Iraq, he first consulted with the Congress. When he went into Afghanistan, he first consulted with Congress. But President Obama said because of the time elements and the time concerns about the humanitarian problems in Libya, that he had to act expeditiously, and he did not have the time to consult with Congress.

Well, for 2 weeks or thereabouts he had time to consult with the French, the English, the United Nations, NATO, and the Arab league, but he did not have the time to come and talk to the Congress of the United States. So I think that was a red herring. I think the President did have the time, but he chose to move of his own volition into Libya and to put the United States in effect at war again. They say it is not a war, but it is a war. They said it was a NATO operation, but if you look at the facts, you find that the United States is carrying the vast amount of the burden of this war.

Let me give you some figures. These figures are a couple of weeks old, so they could be a little outdated.

First of all, of the number of personnel that has been involved in the Libyan conflict, there are about almost 13,000 military personnel that have been involved. Of that 13,000, 8,500 of them are American military. That is over two-thirds.

When you talk about the number of aircraft involved, there is a total of 309, but 153 of those aircraft are United States aircraft.

When you talk about the number of sorties being flown, that is, military actions taken by aircraft, there have been 5,857 sorties, and over 2,000 of those are with American pilots and American planes. That is almost 35 percent.

Then when you talk about the number of cruise missiles that have been fired, the total is about 246, and of the 246, over 90 percent are America's, 228.

So the President has taken us into war in Libya for humanitarian purposes, he said, without consulting with the Congress of the United States, which in my opinion is a direct violation of the Constitution of the United States and the War Powers Act, and we have spent well over $1 billion conducting this war. They say it is NATO's war. We heard the other day that our NATO allies are running short on ammunition and other military equipment, and they are asking the United States to shoulder more of the burden.

One of my colleagues from Virginia, who sits in the Chair tonight, brought up today that many of the countries in Europe, many of the countries in NATO haven't been paying their fair share of the NATO burden, and it has been falling upon the United States to carry out these NATO operations. That just isn't right.

So this isn't a NATO war, in my opinion. This is an American war, and the President has taken us into this conflict without any consultation with the Congress of the United States.

We have talked about this in our conference, and I won't go into all the details of our conference because I think some of that, if not classified, is something that shouldn't be talked about in the public domain. But what I would say tonight is that we need to send a very strong message to the President that we don't want him to do this again.

Many, myself included, believe we ought to give him a timeline within which to withdraw forces from Libya. I am talking about the people flying the military aircraft, the people on the ships offshore, the classified security people that are inside Libya. They say there are no boots on the ground. I guarantee you there are intelligence officers on the ground directing some of the fire from the air and some of the missile targets.

The cruise missiles that are costing over $1 million per copy, we shouldn't be paying for those with taxpayer money to the tune of, I don't know how many million, but over $1 billion total for the military expenditures, at a time when this country is $1.5 trillion short this fiscal year in money to pay for the country's expenses and over $14 trillion in debt.

This is not the time during the history of the United States that we ought to be looking for a war. There is no question probably that there are humanitarian problems in Libya, but there are also humanitarian problems in the Ivory Coast and Syria and many other countries, and if you are looking for a war of opportunity, I am sure the President can find a lot of places to send our troops.

But the Congress of the United States I do not believe would have given him the authority to go into Libya unless it was a direct threat to the United States. So what did he do? He did it without consulting with Congress; not the Senate, not the House, not with any of us.

Now that we are in there, many people in the Congress feel like we can't summarily withdraw because we will be leaving our allies, the French and the English and others in NATO there, to carry the ball. But as one of my colleagues said today, when we take the oath of allegiance to the Constitution, we don't take the oath of allegiance to NATO. We don't take the oath of allegiance to any other country. It is to the Constitution of the United States, and the Constitution says the President does not have the authority to declare war and go into a combat situation without consulting with Congress.

I am very confident that all of the people in this country, if consulted, would overwhelmingly say the President should not have done that, and he didn't have the authority to do that. Now, I know tomorrow or Friday we are going to have some legislation on the floor that will say very clearly to the President that not only he shouldn't have done that, that it wasn't constitutional, but that he shouldn't do it again.

That is the thing that I am concerned about. The legislation that we are going to have on the floor will confront the President on his ability or his authority to go ahead and do what he did in Libya, but it doesn't say anything about any future expeditions that he may want to undertake.

□ 2130

I really hope that during the debate that takes place tomorrow or on Friday that we make it very clear to the White House and to the President and to anybody at the White House that may be listening to this Special Order tonight that we do not want the President—and if I were talking to him, I would say, Mr. President, we do not want you to take us into a military conflict without consulting with the Congress and without consulting with the American people because the American people and Congress have a right to be involved in the decisionmaking process. Once a war is started, you're the Commander in Chief and you must do whatever has to be done to win that conflict. But you do not have the authority, Mr. President, if I were talking to him, under the Constitution or the War Powers Act. And Friday or tomorrow we need to make that very clear to him so that he doesn't do it again.

There are problems right now in Syria, and a lot of people say there's humanitarian tragedies that are taking place. But that is not a direct threat to the United States. It's not an attack on the United States. And the Congress of the United States should be involved in the decisionmaking process if we were to do something like go into Syria.

And so I hope the President and the White House is getting this message tonight. They may say, Well, that's just DAN BURTON talking on the floor in a Special Order. But I have talked to my colleagues on both sides of the aisle, and I think overwhelmingly they do not agree with what the President has done; and overwhelmingly in the Senate I don't believe they support what the President has done in Libya. And I think very clearly they don't want this to happen again.

I believe that most of the Members of both the House and the Senate would like to see us extricate ourselves from Libya as quickly as possible.

With that, Madam Speaker, I would like to say that I have a letter to the editor that I wrote that was in The Wall Street Journal that I will put in the RECORD, as well as the statistical data that I just mentioned.

[From the Wall Street Journal, June 11, 2011]

THE GOP IS RIGHT TO CHALLENGE OBAMA ON WAR IN LIBYA

I am disappointed by your editorial ''The Kucinich Republicans'' (June 6) questioning the House of Representatives's rebuke of President Obama's actions in Libya. I cannot speak for my colleagues, but my opposition to President Obama's actions is motivated by the Constitution.

President Obama has the authority to manage a war but not the power to start a war. Article 1, Section 8 of the Constitution gives Congress the power to declare war, and the War Powers Resolution was enacted to fulfill that intent, unless there is: ''(1) a declaration of war, (2) specific authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.'' None of these conditions existed with Libya.

Instead, the president argues he couldn't consult with Congress because immediate action was needed to protect civilians from massacre. If true, a surgical engagement in Libya might be justified. But the president's claim is false. He spent one month consulting with NATO, the Arab League and the U.N. Security Council. This fact is inescapable. The president sought permission from foreign leaders but not the U.S. Congress. Yet Congress is expected to pay for his folly even as we strive to cut spending to avoid defaulting on debts.

On September 11, 2001, our nation was attacked. President George W. Bush still sought authorization from Congress before going into Afghanistan. Similarly, President Bush sought congressional authorization before invading Iraq. President Bush respected

the authority of Congress and the limitations of the Constitution. President Obama does not.

The Constitution is not a list of suggestions; it is the law of the land. If members of Congress do not stand up for Congress's right to declare war, as enumerated in the Constitution, who will?

REP. DAN BURTON (R., Ind.),
Indianapolis.

You miss the point of the Kucinich and Boehner resolutions and misstate the Founders' intentions.

Our Founders did not expect Congress would ''run a war,'' but they did expect Congress (e.g., the people) would determine if we would go to war. Implicit in the constitutional provision that ''Congress shall have power to . . . declare war'' is that the people would become informed on why the war was necessary and in the national interest, and thereby come to support the decision.

The War Powers Resolution and its reasonable attempt to allow our commander and chief to respond to emergencies is moot in this case because, after almost three patient months, we the people are still waiting for an explanation of why we are in Libya. Is it an emergency? If we are in Libya, why not Yemen or Syria? As our representatives, the people's house is asking for an answer. Not to demand an answer would continue the bad precedents of allowing our commander in chief to assume unilateral non-constitutional powers. If an answer is not appropriately vetted by Congress, then the logical conclusion is to withdraw.

CONWAY G. IVY,
Beaufort, S.C.

In case people haven't noticed, the U.S. government is broke, and Libya did not attack us. As long as Republicans remain the party of perpetual war, they will likely continue to lose elections. There appears to be a dawning awareness among some in Congress that the American people are fed up with these unending wars that have nothing to do with defending America. That is the reason some House Republicans supported the Kucinich resolution, and I applaud them. Congress should never have gone along with President Bush's war on Iraq, and Congress should not go along with President Obama's war on Libya. You cannot have limited government and unlimited war. The two are mutually exclusive.

SUSAN R. BERGE,
Johnston, R.I.

Your editorial fails to mention that each president since Richard Nixon could have taken the War Powers Resolution of 1973 to the Supreme Court, where the Founders set up a mechanism to decide matters like this.

We may not like some of the heads of other countries, and there are awful individuals ruling many countries, but that shouldn't cause us to ignore our own laws and Constitution to pound on them just because we can.

LARRY STEWART,
Vienna, Va.

NATO OPERATIONS IN LIBYA BY COUNTRY

Country	No. of personnel	No. of aircraft	Est No. of sorties flown, from beg of war until 5 May 2011	No. of cruise missiles fired	Main air base
Belgium	170	6	60		Araxos base in south-western Greece.
Bulgaria	160	0	0		
Canada	560	11	358		Trapani-Birgi and Signonella.
Denmark	120	4	161	0	Sigonella, Sicily.
France	800	29	1,200		currently operating from French Air Bases of Avord, Nancy, St. Dizier, Dijon and Istres, as well as Evreux and Orleans for planes engaged in logistics.
Greece		0	0	0	Aktion and Andravida military air fields in Crete.
Italy		12	600		Gioia del Colle, Trapani, Signonella, Decimomannu, Amendola, Aviano, Pantelleria.
Jordan	30	12			Cerenecia, Libya.
Netherlands	200	7			sardinian base, decimomannu.
Norway	140	6	100		Souda Bay, Crete.
Qatar	60	8			Souda Bay, Crete.
Romania	205				
Spain	500	7			
Sweden	122	8	78	0	Sigonella.
Turkey		6			Sigonella Air Base in Italy.
UAE	35	12			Decimomannu, Sardinia.
UK	1300	28	1,300	18	Gioia del Colle, Italy and RAF Akrotiri, Cyprus.
US	8507	153	2,000	228	
TOTALS	12,909	309	5,857	246	

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

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GINGREY of Georgia (at the request of Mr. CANTOR) for today from 3:30 p.m. and for the balance of the week on account of a death in the family.

SENATE ENROLLED BILLS SIGNED

The Speaker announced his signature to enrolled bills of the Senate of the following titles:

S. 349. An act to designate the facility of the United States Postal Service located at 4865 Tallmadge Road in Rootstown, Ohio, as the ''Marine Sgt. Jeremy E. Murray Post Office''.

S. 655. An act to designate the facility of the United States Postal Service located at 95 Dogwood Street in Cary, Mississippi, as the ''Spencer Byrd Powers, Jr. Post Office''.

ADJOURNMENT

Mr. BURTON of Indiana. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 32 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, June 23, 2011, at 10 a.m. for morning-hour debate.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

2126. A letter from the Under Secretary, Department of Defense, transmitting a report presenting the specific amount of staff-years of technical effort to be allocated for each defense Federally Funded Research and Development Center (FFRDC) during FY 2012, pursuant to Public Law 112-10, section 8026(e); to the Committee on Armed Services.

2127. A letter from the Secretary, Department of Health and Human Services, transmitting Report to Congress: 2006 National Estimates of the Number of Boarder Babies, Abandoned Infants, Discarded Infants and Infant Homicides; to the Committee on Education and the Workforce.

2128. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; Reclassification of the Topical Oxygen Chamber for Extremities; Correction [Docket No.: FDA-2006-N-0045; Formerly Docket No. 2006N-0109] received June 7, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2129. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Determination of Attainment for the 1997 8-Hour Ozone Standard: States of Missouri and Illinois [EPA-R07-OAR-2010-0416; FRL-9317-4] received June 6, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2130. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Idaho [EPA-R10-OAR-2007-0406; FRL-9316-7] received June 6, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2131. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Oregon; Interstate Transport of Pollution; Significant Contribution to Nonattainment and Interference with Maintenance Requirements [EPA-R10-OAR-2011-0003; FRL-9316-9] received June 6, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2132. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Revisions and Additions to Motor Vehicle Fuel Economy Label [EPA-HQ-OAR-2009-0865; FRL-9315-1; NHTSA-2010-0087] (RIN: 2060-AQ09; RIN: 2127-AK73) received June 6, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2133. A letter from the Deputy Bureau Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting the Commission's final rule — Jurisdictional Separations and Referral to the Federal-State Joint Board [CC Docket No.: 80-286] received May 25, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2134. A letter from the Deputy General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule — Natural Gas Pipelines; Project Cost and Annual Limits [Docket No.: RM81-19-000] received June 7, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2135. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Administrative Practices in Radiation Surveys and Monitoring, Regulatory Guide 8.2, Revision 1 received May 26, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2136. A letter from the Secretary, Department of Transportation, transmitting the Semiannual Report of the Office of Inspector General for the period ending March 31, 2011, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Oversight and Government Reform.

2137. A letter from the Assistant General Counsel, General Law, Ethiccs, and Regulation, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

2138. A letter from the Chairman, Merit Systems Protection Board, transmitting a report entitled ''Women in the Federal Government: Ambitions and Achievements''; to the Committee on Oversight and Government Reform.

2139. A letter from the Director, Office of Personnel Management, transmitting the Office's Federal Equal Opportunity Recruitment Program Report for Fiscal Year 2010, pursuant to 5 U.S.C. 7201(e); to the Committee on Oversight and Government Reform.

2140. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Wyoming Regulatory Program [STATS No.: WY-038-FOR; Docket ID: OSM-2009-0012] received June 7, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

2141. A letter from the Wildlife Biologist, U.S. Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2011 Season [Docket No.: FWS-R9-MB-2010-0082] (RIN: 1018-AX30) received June 3, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

2142. A letter from the Chief, Branch of Recovery and Delisting, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Reclassification of the Tulotoma Snail from Endangered to Threatened [Docket No.: FWS-R4-ES-2008-0119] (RIN: 1018-AX01) received June 2, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

2143. A letter from the Chief, Branch of Listing, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Final Revised Designation of Critical Habitat for Astragalus jaegerianus (Land Mountain milk-vetch) [Docket No.: FWS-R8-ES-2009-0078] (RIN: 1018-AW53) received June 2, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

2144. A letter from the Acting Chief, Branch of Listing, USFWS, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Roswell Springsnail, Koster's Springsnail, Noel's Amphipod, and Pecos Assiminea [Docket No.: FWS-R2-ES-2009-0014] (RIN: 1018-AW50) received June 2, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

2145. A letter from the Clerk of the House of Representatives, transmitting the annual compilation of personal financial disclosure statements and amendments thereto required to be filed by Members of the House with the Clerk of the House of Representatives, pursuant to Rule XXVI, clause 1, of the House Rules; (H. Doc. No. 112-38); to the Committee on Ethics and ordered to be printed.

2146. A letter from the Clerk of the House of Representatives, transmitting annual compilation of financial disclosure statements of the members of the Office of Congressional Ethics; (H. Doc. No. 112-39); to the Committee on Ethics and ordered to be printed.

2147. A letter from the Chief, Border Security Regulations Branch, Department of Homeland Security, transmitting the Department's final rule — Technical Amendment to List of User Fee Airports: Addition of Dallas Love Field Municipal Airport, Dallas Texas (CBP Dec. 11-13) received May 27, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2148. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Regulations Governing Practice Before the Internal Revenue Service [TD 9527] (RIN: 1545-BH01) received June 8, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2149. A letter from the Inspector General, Department of Health and Human Services, transmitting a report entitled ''Part D Plans Generally Include Drugs Commonly Used By Dual Eligibles''; jointly to the Committees on Energy and Commerce and Ways and Means.

2150. A letter from the Director, Federal Bureau of Investigation, Department of Justice, transmitting a letter regarding the funding of the Foreign Intelligence Surveillance Act; jointly to the Committees on the Judiciary and Intelligence (Permanent Select).

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:

Mr. HALL: Committee on Science, Space, and Technology. First Semiannual Report of Activities (Rept. 112–112). Referred to the Committee of the Whole House on the State of the Union.

Mr. NUGENT: Committee on Rules. House Resolution 320. Resolution providing for consideration of the bill (H.R. 2219) making appropriations for the Department of Defense for the fiscal year ending September 30, 2012, and for other purposes (Rept. 112–113). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. PASCRELL, Mr. KING of New York, Mr. REICHERT, Mr. HOYER, Mr. LATOURETTE, Mr. ANDREWS, Mr. CRITZ, Mr. WU, Mr. LUJÁN, Mr. LIPINSKI, Mr. CLARKE of Michigan, Mr. SARBANES, Mr. MICHAUD, and Mr. GRIMM):

H.R. 2269. A bill to amend sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974, and for other purposes; to the Committee on Science, Space, and Technology, and in addition to the Committee on Homeland Security, 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 Ms. ROS-LEHTINEN:

H.R. 2270. A bill to amend section 1605A of title 28, United States Code, to provide that the statute of limitations must be raised as an affirmative defense; to the Committee on the Judiciary.

By Mr. ROYCE (for himself and Mr. CONNOLLY of Virginia):

H.R. 2271. A bill to prohibit the awarding of contracts by the Federal Government to Chinese entities until the People's Republic of China signs the WTO Agreement on Government Procurement; to the Committee on Oversight and Government Reform.

By Mr. YARMUTH (for himself, Mr. POLIS, Ms. BERKLEY, Mr. SABLAN, Mr. BRADY of Pennsylvania, Mr. GRIJALVA, Mr. CONNOLLY of Virginia, Mr. BERMAN, Mr. COHEN, and Ms. HIRONO):

H.R. 2272. A bill to establish a comprehensive literacy program, and for other purposes; to the Committee on Education and the Workforce.

By Mr. MCKINLEY (for himself, Mr. WHITFIELD, Mr. RAHALL, Mrs. CAPITO, Mrs. MYRICK, Mr. OLSON, Mrs. LUMMIS, Mr. ROSS of Florida, Mr. BARTON of Texas, Mr. JOHNSON of Ohio, Mr. PITTS, Mr. ROGERS of Kentucky, Mrs. MCMORRIS RODGERS, Mr. WOMACK, Mr. SULLIVAN, Mr. PALAZZO, and Mr. BUCSHON):

H.R. 2273. A bill to amend subtitle D of the Solid Waste Disposal Act to facilitate recovery and beneficial use, and provide for the proper management and disposal, of materials generated by the combustion of coal and other fossil fuels; to the Committee on Energy and Commerce.

By Mr. BILIRAKIS:

H.R. 2274. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs and the Secretary of Defense to submit to Congress annual reports on the Post-9/11 Educational Assistance Program, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, 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. PRICE of North Carolina (for himself and Mr. COBLE):

H.R. 2275. A bill to support innovation and research in the United States textile and fiber products industry; to the Committee on Science, Space, and Technology, and in addition to the Committees on Ways and Means, and Foreign Affairs, 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 Ms. WASSERMAN SCHULTZ:

H.R. 2276. A bill to require the Director of the United States Patent and Trademark Office to conduct a study on effective ways to provide confirming genetic diagnostic test activity where gene patents and exclusive licensing exist, and for other purposes; to the

Committee on the Judiciary, 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. DOGGETT (for himself, Mr. LEVIN, Mr. LEWIS of Georgia, Ms. BERKLEY, Mr. MCDERMOTT, Mr. GENE GREEN of Texas, Ms. JACKSON LEE of Texas, Mr. REYES, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. AL GREEN of Texas, Mr. HINOJOSA, Mr. GONZALEZ, Mr. CUELLAR, Mr. GRIJALVA, and Mr. HASTINGS of Florida):

H.R. 2277. A bill to extend through the end of fiscal year 2011 the authority to make supplemental grants for population increases in certain States under the program of block grants to States for temporary assistance for needy families; to the Committee on Ways and Means.

By Mr. ROONEY:

H.R. 2278. A bill to limit the use of funds appropriated to the Department of Defense for United States Armed Forces in support of North Atlantic Treaty Organization Operation Unified Protector with respect to Libya, unless otherwise specifically authorized by law; to the Committee on Armed Services.

By Mr. MICA (for himself, Mr. CAMP, and Mr. PETRI):

H.R. 2279. A bill to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend the airport improvement program, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, 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. CICILLINE:

H.R. 2280. A bill to amend the Internal Revenue Code of 1986 to provide for the taxation of income of controlled foreign corporations attributable to imported property; to the Committee on Ways and Means.

By Ms. ESHOO:

H.R. 2281. A bill to require accurate disclosures to consumers of the terms and conditions of 4G service and other advanced wireless mobile broadband service; to the Committee on Energy and Commerce.

By Mr. FALEOMAVAEGA (for himself, Ms. NORTON, Mr. PIERLUISI, Ms. BORDALLO, Mr. SABLAN, and Mrs. CHRISTENSEN):

H.R. 2282. A bill to require the Secretary of the Interior to ensure that the flags of the several States, the District of Columbia, and the territories of the United States encircle the Washington Monument; to the Committee on Natural Resources.

By Mr. GOHMERT (for himself, Mr. PITTS, Mrs. SCHMIDT, Mr. MANZULLO, and Mr. WEST):

H.R. 2283. A bill to restrict funds for operations in Libya, and for other purposes; to the Committee on Foreign Affairs, and in addition to the Committees on Armed Services, and Appropriations, 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. GENE GREEN of Texas (for himself, Mr. THOMPSON of California, Mr. LATOURETTE, and Mr. TERRY):

H.R. 2284. A bill to prohibit the export from the United States of certain electronic waste, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Science, Space, and Technology, 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. HASTINGS of Florida:

H.R. 2285. A bill to amend the War Powers Resolution to require the President to develop a post-deployment strategy when introducing the United States Armed Forces into hostilities, and for other purposes; to the Committee on Foreign Affairs.

By Mr. HERGER (for himself and Mr. THOMPSON of California):

H.R. 2286. A bill to amend the Internal Revenue Code of 1986 to provide tax credit parity for electricity produced from renewable resources; to the Committee on Ways and Means.

By Ms. KAPTUR:

H.R. 2287. A bill to assess the impact of the North American Free Trade Agreement (NAFTA), to require further negotiation of certain provisions of the NAFTA, and to provide for the withdrawal from the NAFTA unless certain conditions are met; to the Committee on Ways and Means.

By Mr. LARSON of Connecticut (for himself, Mr. JONES, and Mr. DOYLE):

H.R. 2288. A bill to amend title 10, United States Code, to provide for certain treatment of autism under TRICARE; to the Committee on Armed Services.

By Mr. LATTA:

H.R. 2289. A bill to amend the Communications Act of 1934 to reform the Federal Communications Commission by requiring an analysis of benefits and costs during the rule making process; to the Committee on Energy and Commerce.

By Mrs. LOWEY:

H.R. 2290. A bill to amend title II of the Social Security Act to credit prospectively individuals serving as caregivers of dependent relatives with deemed wages for up to five years of such service; to the Committee on Ways and Means.

By Mrs. LOWEY:

H.R. 2291. A bill to amend title II of the Social Security Act to repeal the 7-year restriction on eligibility for widow's and widower's insurance benefits based on disability; to the Committee on Ways and Means.

By Mrs. LOWEY:

H.R. 2292. A bill to amend title II of the Social Security Act to eliminate the two-year waiting period for divorced spouse's benefits following the divorce; to the Committee on Ways and Means.

By Mrs. LOWEY:

H.R. 2293. A bill to amend title II of the Social Security Act to provide for full benefits for disabled widows and widowers without regard to age; to the Committee on Ways and Means.

By Mrs. LOWEY:

H.R. 2294. A bill to amend title II of the Social Security Act to provide for increases in widow's and widower's insurance benefits by reason of delayed retirement; to the Committee on Ways and Means.

By Mr. MCKEON (for himself, Mr. GUTHRIE, Mr. ROE of Tennessee, and Mr. THOMPSON of Pennsylvania):

H.R. 2295. A bill to reform and strengthen the workforce investment system of the Nation to put Americans back to work and make the United States more competitive in the 21st Century; to the Committee on Education and the Workforce.

By Mr. MICHAUD (for himself, Mr. HINCHEY, Ms. PINGREE of Maine, and Mr. JACKSON of Illinois):

H.R. 2296. A bill to establish an America Rx program to establish fairer pricing for prescription drugs for individuals without access to prescription drugs at discounted prices; to the Committee on Energy and Commerce.

By Ms. NORTON:

H.R. 2297. A bill to promote the development of the Southwest waterfront in the District of Columbia, and for other purposes; to the Committee on Oversight and Government Reform.

By Mr. REYES (for himself, Mr. GENE GREEN of Texas, Mr. FILNER, Mr. CUELLAR, Mr. GRIJALVA, and Mr. HINOJOSA):

H.R. 2298. A bill to establish grant programs to improve the health of border area residents and for all hazards preparedness in the border area including bioterrorism and infectious disease, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Foreign Affairs, 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 Ms. ROS-LEHTINEN (for herself, Mr. KING of Iowa, Mr. BILIRAKIS, Mrs. SCHMIDT, Mr. BARTLETT, Mr. FRANKS of Arizona, Mr. ROE of Tennessee, Mr. BRADY of Texas, Mr. PETERSON, Mr. BUCHANAN, Mr. SMITH of New Jersey, Mr. CULBERSON, Mr. MCCAUL, Mr. ADERHOLT, Mr. AKIN, Mr. FORTENBERRY, Mr. JONES, Mr. MICA, Mr. POSEY, Mr. MCCOTTER, Mr. OLSON, Mr. PITTS, Mrs. HARTZLER, Mr. HENSARLING, Mr. RIVERA, Mr. NEUGEBAUER, Mr. LIPINSKI, Mr. WEST, Mr. DANIEL E. LUNGREN of California, Mr. SOUTHERLAND, Mrs. BACHMANN, Mr. DAVIS of Kentucky, Mr. CANSECO, Mr. JORDAN, Mr. SHUSTER, Mr. DIAZ-BALART, Mr. CARTER, Mr. FLEMING, Mrs. BLACKBURN, Mr. SMITH of Texas, Mr. TERRY, Mr. WOLF, Mr. CRENSHAW, Mr. PENCE, Mr. ROGERS of Michigan, Mr. LAMBORN, Mr. LATOURETTE, Mr. GARRETT, Mr. KINZINGER of Illinois, Mr. CRAWFORD, Mr. SULLIVAN, Mr. TIBERI, Mr. ROSKAM, Mr. DONNELLY of Indiana, Mr. SCALISE, Ms. FOXX, Mrs. MILLER of Michigan, Mr. SENSENBRENNER, Mr. SHIMKUS, Mr. COFFMAN of Colorado, Mr. BACHUS, Mr. CHABOT, Ms. BUERKLE, Mr. HUIZENGA of Michigan, Mr. JOHNSON of Ohio, Mrs. BLACK, Mr. BURTON of Indiana, Mr. GOWDY, Mr. WILSON of South Carolina, Mr. YOUNG of Florida, Mr. LATTA, Mrs. ADAMS, Mr. DESJARLAIS, Mr. BENISHEK, Mr. FINCHER, Mr. CONAWAY, Mrs. MCMORRIS RODGERS, Mr. ROGERS of Kentucky, Mrs. ELLMERS, Mr. AUSTRIA, Mr. FARENTHOLD, Mr. HERGER, Mr. BARLETTA, Mr. MANZULLO, Mr. KING of New York, Mr. MILLER of Florida, and Mr. STEARNS):

H.R. 2299. A bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; to the Committee on the Judiciary.

By Mr. STUTZMAN:

H.R. 2300. A bill to amend title 38, United States Code, to extend the authorization of appropriations for the Secretary of Veterans Affairs to pay a monthly assistance allowance to disabled veterans training or competing for the Paralympic Team; to the Committee on Veterans' Affairs.

By Mr. STUTZMAN:

H.R. 2301. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to make payments to educational institutions under the Post-9/11 Educational Assistance Program at the end of a quarter, semester, or term, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. STUTZMAN:

H.R. 2302. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to notify Congress of conferences sponsored by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Ms. WATERS (for herself, Mr. COHEN, Ms. JACKSON LEE of Texas, Mr. CARSON of Indiana, Ms. SCHAKOWSKY, Mr. PAYNE, Mr. SCOTT of Virginia, Mr. FRANK of Massachusetts, and Mr. FILNER):

H.R. 2303. A bill to concentrate Federal resources aimed at the prosecution of drug offenses on those offenses that are major; to the Committee on the Judiciary, 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. WITTMAN (for himself, Mr. MILLER of Florida, Mr. ROSS of Arkansas, Mr. LATTA, Mr. SHULER, Mr. LANDRY, Mr. SOUTHERLAND, Mr. CASSIDY, Mr. BOUSTANY, Mr. HEINRICH, Mr. BOREN, Mr. HUNTER, Mr. GUINTA, Mr. FLEMING, Mr. BONNER, Mr. RIGELL, Mr. DUNCAN of South Carolina, and Mr. HARRIS):

H.R. 2304. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 to provide the necessary scientific information to properly implement annual catch limits, and for other purposes; to the Committee on Natural Resources.

By Mr. HASTINGS of Florida:

H.J. Res. 68. A joint resolution authorizing the limited use of the United States Armed Forces in support of the NATO mission in Libya; to the Committee on Foreign Affairs, and in addition to the Committee on Armed Services, 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 Mrs. MALONEY (for herself, Mrs. BIGGERT, Mr. JOHNSON of Georgia, Mr. RANGEL, Mr. SARBANES, Mr. ANDREWS, Mr. BACA, Ms. BALDWIN, Ms. BASS of California, Mr. BISHOP of New York, Ms. BROWN of Florida, Mr. BUTTERFIELD, Ms. CASTOR of Florida, Mr. CLARKE of Michigan, Ms. CLARKE of New York, Mr. CLYBURN, Mr. COHEN, Mr. CONYERS, Mr. COOPER, Mr. CROWLEY, Mr. CUELLAR, Mr. DAVIS of Illinois, Mrs. DAVIS of California, Ms. DEGETTE, Ms. DELAURO, Mr. DICKS, Mr. DINGELL, Mr. DOGGETT, Ms. EDWARDS, Mr. ENGEL, Mr. FARR, Mr. FATTAH, Mr. GONZALEZ, Mr. GRIJALVA, Ms. HANABUSA, Mr. HINCHEY, Mr. HINOJOSA, Ms. HIRONO, Mr. HOLT, Mr. HONDA, Mr. INSLEE, Ms. JACKSON LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KILDEE, Mr. LANGEVIN, Ms. LEE of California, Mr. LEVIN, Mr. LEWIS of Georgia, Mrs. LOWEY, Mr. MARKEY, Ms. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNERNEY, Mr. MEEKS, Mr. MILLER of North Carolina, Mr. NADLER, Mrs. NAPOLITANO, Mr. PALLONE, Mr. PASCRELL, Mr. POLIS, Mr. REYES, Ms. RICHARDSON, Mr. RICHMOND, Mr. RUPPERSBERGER, Ms. LORETTA SANCHEZ of California, Ms. LINDA T. SÁNCHEZ of California, Mr. DAVID SCOTT of Georgia, Ms. SEWELL, Mr. STARK, Ms. SUTTON, Mr. THOMPSON of Mississippi, Mr. TONKO, Ms. TSONGAS, Mr. WATT, Mr. WELCH, Ms. WILSON of Florida, Ms. WOOLSEY, Mr. ACKERMAN, Mr. BECERRA, Ms. BERKLEY, Mr. BERMAN, Mr. BISHOP of Georgia, Mr. BLUMENAUER, Mr. BOSWELL, Mr. BRADY of Pennsylvania, Mr. BRALEY of Iowa, Mrs. CAPPS, Mr. CAPUANO, Mr. CARDOZA, Mr. CARSON of Indiana, Ms. CHU, Mr. CICILLINE, Mr. CLAY, Mr. CONNOLLY of Virginia, Mr. COSTA, Mr. COSTELLO, Mr. COURTNEY, Mr. CUMMINGS, Mr. DEFAZIO, Mr. DEUTCH, Mr. DOYLE, Mr. ELLISON, Ms. ESHOO, Mr. FILNER, Mr. FRANK of Massachusetts, Ms. FUDGE, Mr. GARAMENDI, Mr. AL GREEN of Texas, Mr. GENE GREEN of Texas, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HIGGINS, Mr. HIMES, Ms. HOCHUL, Mr. HOLDEN, Mr. ISRAEL, Mr. JACKSON of Illinois, Ms. KAPTUR, Mr. KEATING, Mr. KIND, Mr. KUCINICH, Mr. LARSEN of Washington, Mr. LARSON of Connecticut, Mr. LOEBSACK, Ms. ZOE LOFGREN of California, Mr. LYNCH, Ms. MATSUI, Mrs. MCCARTHY of New York, Mr. GEORGE MILLER of California, Ms. MOORE, Mr. MORAN, Mr. MURPHY of Connecticut, Mr. OLVER, Mr. PASTOR of Arizona, Mr. PAYNE, Mr. PETERS, Mr. PETERSON, Ms. PINGREE of Maine, Mr. PRICE of North Carolina, Mr. QUIGLEY, Mr. ROTHMAN of New Jersey, Ms. ROYBAL-ALLARD, Ms. SCHAKOWSKY, Mr. SCHIFF, Ms. SCHWARTZ, Mr. SHERMAN, Mr. SMITH of Washington, Ms. SPEIER, Mr. THOMPSON of California, Mr. TIERNEY, Mr. TOWNS, Mr. VAN HOLLEN, Ms. VELÁZQUEZ, Ms. WASSERMAN SCHULTZ, Ms. WATERS, Mr. WAXMAN, Mr. WU, and Mr. YARMUTH):

H.J. Res. 69. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. LARSON of Connecticut:

H. Res. 321. A resolution Electing a Member to a certain standing committee of the House of Representatives; considered and agreed to.

By Mr. BRADY of Pennsylvania (for himself and Mr. GERLACH):

H. Res. 322. A resolution recognizing the National Center for the American Revolution for its role in telling the story of the American Revolution and its continuing impact on struggles for freedom, self-government, and the rule of law throughout the world and encouraging the Center in its efforts to build a new Museum of the American Revolution; to the Committee on Natural Resources.

By Mr. DAVIS of Illinois:

H. Res. 323. A resolution observing the historical significance of Juneteenth Independence Day; to the Committee on Oversight and Government Reform.

By Mr. HONDA (for himself, Ms. MCCOLLUM, Mr. COHEN, Mr. FALEOMAVAEGA, Mr. FILNER, Mr. ISRAEL, Mr. AL GREEN of Texas, Mr. BILBRAY, Mr. HINCHEY, Mr. NADLER, Mr. CICILLINE, Mr. YOUNG of Florida, Mr. MORAN, Mr. PLATTS, and Mrs. DAVIS of California):

H. Res. 324. A resolution welcoming and commending the Government of Japan for extending an official apology to all United States former prisoners of war from the Pacific War and moving forward in planning to invite surviving members to Japan; to the Committee on Foreign Affairs.

By Mr. LATOURETTE:

H. Res. 325. A resolution congratulating Hungary on the series of events commemorating the centennial anniversary of former U.S. President Ronald Reagan and welcoming the establishment of the Hungarian Freedom Dinner and the Hungarian Freedom Award to celebrate the lasting idea of freedom and the principle of responsible liberty cherished by Hungary and the United States alike; to the Committee on Foreign Affairs.

By Ms. WATERS:

H. Res. 326. A resolution honoring Bishop Noel Jones for his 17 years of service to the City of Refuge Church; to the Committee on Oversight and Government Reform.

MEMORIALS

Under clause 4 of Rule XXII, memorials were presented and referred as follows:

67. The SPEAKER presented a memorial of the Senate of the State of Michigan, relative to Senate Concurrent Resolution No. 7 urging the Department of Energy and the Nuclear Regulatory Commission to establish a permanent repository for high-level nuclear waste; to the Committee on Energy and Commerce.

68. Also, a memorial of the Senate of the State of California, relative to Senate Joint Resolution 5 that recognizes every Sunday, so long as it does not conflict with person beliefs, as ''Cooking with Kids Day''; to the Committee on Energy and Commerce.

69. Also, a memorial of the Senate of the State of New Hampshire, relative to Senate Resolution 10 declaring that the death of Osama bin Laden represents a measure of justice and relief for the families and friends of the nearly 3,000 people who lost their lives on September 11, 2001; jointly to the Committees on Armed Services and Intelligence (Permanent Select).

70. Also, a memorial of the Senate of the State of Michigan, relative to Senate Concurrent Resolution No. 6 urging the Congress to adopt legislation prohibiting the EPA from unilaterally regulating greenhouse gas emissions; jointly to the Committees on Energy and Commerce and Transportation and Infrastructure.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Ms. EDDIE BERNICE JOHNSON of Texas:

H.R. 2269.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8 of the Constitution of the United States.

By Ms. ROS-LEHTINEN:

H.R. 2270.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8.

By Mr. ROYCE:

H.R. 2271.

Congress has the power to enact this legislation pursuant to the following:

''Article 1, section 8, clauses 3 and 18 of the Constitution.''

By Mr. YARMUTH:

H.R. 2272.

Congress has the power to enact this legislation pursuant to the following:

Clause 3 of Section 8 of Article 1 of the Constitution.

By Mr. MCKINLEY:

H.R. 2273.

Congress has the power to enact this legislation pursuant to the following:

According to Article I, Section 8, Clause 3 of the Constitution: The Congress shall have power to enact this legislation to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

By Mr. BILIRAKIS:

H.R. 2274.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8 of the United States Constitution (clauses 12, 13, 14, and 16), which grants Congress the power to raise and support an Army; to provide and maintain a Navy; to make rules for the government and regulation of the land and naval forces; and to provide for organizing, arming, and disciplining the militia.

By Mr. PRICE of North Carolina:

H.R. 2275.

Congress has the power to enact this legislation pursuant to the following:

Congress has the power to enact this legislation under Article I, Section 8, clause 3 of the United States Constitution, ''to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.'' This authority is consistent with the bill's goal of promoting growth, innovation and research in the United States textile and fiber products industry.

By Ms. WASSERMAN SCHULTZ:

H.R. 2276.

Congress has the power to enact this legislation pursuant to the following:

This bill is enacted pursuant to the power granted to Congress under Article I, Section 8, Clause 3 of the United States Constitution.

By Mr. DOGGETT:

H.R. 2277.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the Constitution that grants Congress the authority, ''To make all Laws which shall be necessary and proper for carrying into Execution the forgoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.''

By Mr. ROONEY:

H.R. 2278.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8, clauses 11 through 13, relating to Congress' authority to declare war, raise and support armies, and provide and maintain a Navy, respectively.

By Mr. MICA:

H.R. 2279.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the United States Constitution, specifically Clause 1, Clause 3, and Clause 18.

By Mr. CICILLINE:

H.R. 2280.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8.

By Ms. ESHOO:

H.R. 2281.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 18: To make all laws which shall be necessary and proper.

Article IV, Section 3: ''. . . Congress shall have the power to dispose of and make all needful Rules and Regulations respecting the . . . property belonging to the United States.''

By Mr. FALEOMAVAEGA:

H.R. 2282.

Congress has the power to enact this legislation pursuant to the following:

Article IV, Section 3, Clause 2—The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

By Mr. GOHMERT:

H.R. 2283.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1.

''The Congress shall have Power to . . . provide for the common Defense and general Welfare a the United States . . .''

Article I, Section 8, Clause 11.

''The Congress shall have power . . . To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water.''

Article I, Section 8, Clause 12.

''The Congress shall have power . . . To raise and support Armies . . .''

Article I, Section 8, Clause 18.

''Congress shall have the power . . . [t]o make all Laws which shall be necessary and proper for carrying into Execution . . . all other Powers vested by this Constitution in the Government of the United States.''

By Mr. GENE GREEN of Texas:

H.R. 2284.

Congress has the power to enact this legislation pursuant to the following:

The Commerce Clause (Art. I, §8, cl. 3) of the United States Constitution.

By Mr. HASTINGS of Florida:

H.R. 2285.

Congress has the power to enact this legislation pursuant to the following:

Section 8 of article I of the Constitution.

By Mr. HERGER:

H.R. 2286.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1.

By Ms. KAPTUR:

H.R. 2287.

Congress has the power to enact this legislation pursuant to the following:

Article I. Section 8. Clause 3. and Article I. Section 8. Clause 18.

By Mr. LARSON of Connecticut:

H.R. 2288.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 14

To make Rules for the Government and Regulation of the land and naval Forces.

By Mr. LATTA:

H.R. 2289.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3: Congress shall have the Power . . . ''to regulate Commerce with foreign Nations, and among the several States, and with the Indian tribes.''

By Mrs. LOWEY:

H.R. 2290.

Congress has the power to enact this legislation pursuant to the following:

Article I

By Mrs. LOWEY:

H.R. 2291.

Congress has the power to enact this legislation pursuant to the following:

Article I

By Mrs. LOWEY:

H.R. 2292.

Congress has the power to enact this legislation pursuant to the following:

Article I

By Mrs. LOWEY:

H.R. 2293.

Congress has the power to enact this legislation pursuant to the following:

Article I

By Mrs. LOWEY:

H.R. 2294.

Congress has the power to enact this legislation pursuant to the following:

Article I

By Mr. McKEON:

H.R. 2295.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the Constitution, which states ''The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States;''

By Mr. MICHAUD:

H.R. 2296.

Congress has the power to enact this legislation pursuant to the following:

The Congress enacts this bill pursuant to Clause 3 of Section 8 of Article 1 of the United States Constitution.

By Ms. NORTON:

H.R. 2297.

Congress has the power to enact this legislation pursuant to the following:

Clause 17 of section 8 of article I of the Constitution.

By Mr. REYES:

H.R. 2298.

Congress has the power to enact this legislation pursuant to the following:

The Congress enacts this bill pursuant to Article I, Section 8 of the United States Constitution.

Text:

Article I, Section 8.

Clause 1: The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

Clause 2: To borrow Money on the credit of the United States;

Clause 3: To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

Clause 4: To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

Clause 5: To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

Clause 6: To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

Clause 7: To establish Post Offices and post Roads;

Clause 8: To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

Clause 9: To constitute Tribunals inferior to the supreme Court;

Clause 10: To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

Clause 11: To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

Clause 12: To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

Clause 13: To provide and maintain a Navy;

Clause 14: To make Rules for the Government and Regulation of the land and naval Forces;

Clause 15: To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

Clause 16: To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

Clause 17: To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

Clause 18: To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

By Ms. ROS-LEHTINEN:

H.R. 2299.

Congress has the power to enact this legislation pursuant to the following:

clause 3 of section 8 of article I of the Constitution

By Mr. STUTZMAN:

H.R. 2300.

Congress has the power to enact this legislation pursuant to the following:

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for H.R. XXX is provided by Article I, section 8 of the Constitution of the United States.

By Mr. STUTZMAN:

H.R. 2301.

Congress has the power to enact this legislation pursuant to the following:

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for H.R. XXX is provided by Article I, section 8 of the Constitution of the United States.

By Mr. STUTZMAN:

H.R. 2302.

Congress has the power to enact this legislation pursuant to the following:

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for H.R. XXX is provided by Article I, section 8 of the Constitution of the United States.

By Ms. WATERS:

H.R. 2303.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3

The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

Article I, Section 8, Clause 9

The Congress shall have Power . . . To constitute Tribunals inferior to the supreme Court.

Article III, Section 1

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Article III, Section 2

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the Supreme Court shall have original Jurisdiction. In all other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Article IV, Section 1

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records, and Proceedings shall be proved, and the Effect thereof.

Article I, Section 9, Clause 2

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

Article I, Section 8, Clause 18

The Congress shall have Power . . . To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof.

By Mr. WITTMAN:

H.R. 2304.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

By Mr. HASTINGS of Florida:

H.J. Res. 68.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8, clauses 11 through 13, relating to Congress' authority to declare war, raise and support armies, and provide and maintain a Navy, respectively.

By Mrs. MALONEY:

H.J. Res. 69.

Congress has the power to enact this legislation pursuant to the following:

Article V—Amendment.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. BERG.

H.R. 23: Mr. PLATTS.

H.R. 27: Mr. WALDEN.

H.R. 298: Mr. HALL, Mr. HINOJOSA, and Mr. BARTON of Texas.

H.R. 300: Mr. COHEN.

H.R. 389: Mr. GOSAR.

H.R. 402: Mr. BISHOP of New York, Mr. HIGGINS, and Mr. DICKS.

H.R. 420: Mr. MCKINLEY, Mr. COSTELLO, and Mr. FINCHER.

H.R. 421: Mr. COBLE.

H.R. 436: Mr. AUSTRIA, Mr. BILIRAKIS, Mr. JONES, Mr. CRENSHAW, and Mr. SOUTHERLAND.

H.R. 459: Mr. WELCH and Mr. BONNER.

H.R. 547: Mr. GOODLATTE.

H.R. 605: Mr. LATHAM, Ms. BROWN of Florida, Mr. DAVIS of Kentucky, and Mr. WOMACK.

H.R. 645: Mrs. SCHMIDT, Ms. BUERKLE, Mr. HULTGREN, and Mr. COSTELLO.

H.R. 676: Mrs. LOWEY and Mr. FALEOMAVAEGA.

H.R. 711: Mr. DAVIS of Illinois.

H.R. 719: Mr. HECK, Mrs. MYRICK, Ms. HIRONO, Mr. WU, and Mr. ROSS of Arkansas.

H.R. 721: Mr. GARY G. MILLER of California, Mr. BROOKS, Mr. BARTLETT, Mr. NUNNELEE, Mr. STIVERS, Mr. BRALEY of Iowa, Mr. KING of Iowa, and Mr. PETERSON.

H.R. 735: Mr. MCCLINTOCK.

H.R. 743: Mr. WEST.

H.R. 750: Mr. LONG and Mr. FLAKE.

H.R. 756: Mr. LIPINSKI, Mrs. NAPOLITANO, Mr. TONKO, and Mr. CAPUANO.

H.R. 763: Mr. WALDEN.

H.R. 774: Mr. TOWNS.

H.R. 812: Mr. BLUMENAUER.

H.R. 831: Ms. ZOE LOFGREN of California.

H.R. 835: Mr. MEEHAN.

H.R. 860: Mr. WALBERG, Mr. CARNAHAN, Mr. WELCH, Mr. MURPHY of Pennsylvania, Mr. OLSON, and Mr. LYNCH.

H.R. 905: Mr. MARINO.

H.R. 912: Mr. ROTHMAN of New Jersey and Ms. MCCOLLUM.

H.R. 942: Mr. SAM JOHNSON of Texas.

H.R. 952: Mr. LIPINSKI.

H.R. 975: Mr. QUIGLEY.

H.R. 1041: Mr. GRAVES of Georgia.

H.R. 1058: Mr. MCCOTTER.

H.R. 1063: Mr. TIBERI and Mr. BRALEY of Iowa.

H.R. 1084: Mr. CAPUANO, Mr. RANGEL, and Mr. JACKSON of Illinois.

H.R. 1173: Mr. FLEMING, Mr. LAMBORN, and Mr. ISSA.

H.R. 1188: Mr. YOUNG of Indiana, Mr. GRIJALVA, and Mr. MICHAUD.

H.R. 1195: Mr. WOMACK and Mr. LATTA.

H.R. 1200: Ms. LEE of California.

H.R. 1206: Mr. CONAWAY and Mr. POE of Texas.

H.R. 1234: Mr. RANGEL.

H.R. 1256: Mr. FRANK of Massachusetts.

H.R. 1259: Mr. SCALISE, Mr. JOHNSON of Ohio, Mr. SCOTT of South Carolina, and Mr. NEUGEBAUER.

H.R. 1262: Mr. RUSH.

H.R. 1324: Mr. ROSS of Florida.

H.R. 1358: Mr. CRENSHAW.

H.R. 1370: Mr. POSEY, Mr. SHULER, Mr. FRANKS of Arizona, and Mr. BISHOP of Utah.

H.R. 1375: Mrs. MCCARTHY of New York, Mr. CLEAVER, Mr. DOGGETT, Mr. RANGEL, Mr. MEEKS, Mr. BUTTERFIELD, Mr. FATTAH, and Mr. BRALEY of Iowa.

H.R. 1394: Mr. BISHOP of Georgia, Mr. DAVID SCOTT of Georgia, Mr. TIERNEY, Ms. FUDGE, and Mr. CONYERS.

H.R. 1416: Mr. LATHAM.

H.R. 1418: Ms. RICHARDSON, Ms. WOOLSEY, Mrs. MILLER of Michigan, Mr. HONDA, and Mr. WU.

H.R. 1456: Ms. LEE of California, Ms. SCHAKOWSKY, and Ms. BORDALLO.

H.R. 1488: Mr. WU, Mr. BRADY of Pennsylvania, and Mr. FARR.

H.R. 1489: Ms. LEE of California and Mr. COFFMAN of Colorado.

H.R. 1505: Mr. JOHNSON of Ohio and Mr. POSEY.

H.R. 1543: Mr. LARSEN of Washington.

H.R. 1561: Ms. RICHARDSON.

H.R. 1564: Mr. ROTHMAN of New Jersey.

H.R. 1574: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1588: Mr. BOUSTANY.

H.R. 1620: Mr. BRALEY of Iowa.

H.R. 1639: Mr. WU and Mr. MICA.

H.R. 1645: Mr. CONNOLLY of Virginia and Mr. SABLAN.

H.R. 1656: Mr. MURPHY of Connecticut.

H.R. 1683: Mr. JOHNSON of Ohio.

H.R. 1735: Mr. LUJÁN, Ms. NORTON, and Ms. DELAURO.

H.R. 1739: Mr. PETRI.

H.R. 1742: Mr. BOSWELL, Mr. KISSELL, Mr. RYAN of Ohio, and Mr. WITTMAN.

H.R. 1744: Mr. CHAFFETZ.

H.R. 1749: Mr. MCGOVERN.

H.R. 1750: Mr. LAMBORN, Mr. FLEMING, Mr. THORNBERRY, Mr. ROGERS of Alabama, Mr. RIGELL, Mr. BROOKS, Mr. FRANKS of Arizona, and Mr. AUSTIN. SCOTT of Georgia.

H.R. 1755: Mr. OLSON.

H.R. 1792: Mr. PAUL, Mr. MICHAUD, and Mr. COSTELLO.

H.R. 1845: Mr. SESSIONS and Mr. WEST.

H.R. 1856: Mr. PITTS.

H.R. 1864: Mr. ROONEY and Mr. JORDAN.

H.R. 1880: Mr. HINCHEY.

H.R. 1897: Mr. ELLISON, Mr. TURNER, Mr. KISSELL, Mr. CARTER, Mr. SESSIONS, Mr. ROTHMAN of New Jersey, and Mr. BISHOP of New York.

H.R. 1912: Mr. MCGOVERN.
H.R. 1941: Mr. MURPHY of Pennsylvania.
H.R. 1946: Mr. JONES.
H.R. 1980: Mr. FORBES, Mr. MICHAUD, Mr. SIMPSON, Mr. DANIEL E. LUNGREN of California, Mr. CARTER, and Mr. CANSECO.
H.R. 2005: Mr. STIVERS, Mr. SIRES, Mr. ROTHMAN of New Jersey, Mr. ELLISON, Mr. RICHMOND, Ms. LEE of California, Mr. BISHOP of Georgia, Mr. BURTON of Indiana, Mr. PAYNE, Mr. RUSH, Ms. BASS of California, Ms. EDWARDS, Ms. RICHARDSON, Mr. HASTINGS of Florida, Mr. MEEKS, Mr. LEWIS of Georgia, Mr. CLEAVER, Ms. NORTON, Mrs. CHRISTENSEN, and Mr. RANGEL.
H.R. 2010: Mr. GOSAR and Mr. SESSIONS.
H.R. 2014: Mr. GALLEGLY, Mr. SHULER, and Mr. CRITZ.
H.R. 2016: Ms. DELAURO, Mr. MORAN, Mr. ROTHMAN of New Jersey, and Mr. MICHAUD.
H.R. 2018: Mr. HULTGREN.
H.R. 2020: Mrs. CAPPS, Mrs. BLACKBURN, Mr. GONZÁLEZ, Mr. BOSWELL, Mrs. MILLER of Michigan, Ms. CASTOR of Florida, Mrs. ELLMERS, Mr. PASCRELL, and Mr. OLVER.
H.R. 2030: Ms. RICHARDSON, Mr. GARAMENDI, and Mrs. NAPOLITANO.
H.R. 2032: Mr. NEAL, Mr. RANGEL, Ms. SLAUGHTER, Mr. COBLE, Ms. CLARKE of New York, and Mr. CAPUANO.
H.R. 2036: Mr. BARTON of Texas and Mr. ROGERS of Kentucky.
H.R. 2068: Mr. BARTON of Texas.
H.R. 2082: Mr. PAUL.
H.R. 2104: Mr. WITTMAN.
H.R. 2115: Ms. SCHAKOWSKY.
H.R. 2146: Mr. KELLY.
H.R. 2150: Mr. RIVERA and Mr. LANDRY.
H.R. 2152: Ms. SCHAKOWSKY and Mr. BISHOP of Georgia.
H.R. 2164: Mr. WEST and Mr. WOMACK.
H.R. 2170: Mr. MCCLINTOCK, Mr. LANDRY, and Mr. DUNCAN of South Carolina.
H.R. 2171: Mr. DUNCAN of South Carolina.
H.R. 2173: Mr. LANDRY and Mr. DUNCAN of South Carolina.
H.R. 2190: Mr. HINCHEY.
H.R. 2193: Mr. BISHOP of Georgia, Mr. LEWIS of Georgia, Mr. RICHMOND, Ms. NORTON, and Mr. JOHNSON of Georgia.
H.R. 2194: Ms. NORTON.
H.R. 2198: Mr. PENCE.
H.R. 2206: Mr. PAUL.
H.R. 2214: Mr. PLATTS.
H.R. 2215: Ms. BERKLEY, Mr. ROTHMAN of New Jersey, Mr. BURTON of Indiana, and Mr. GRIMM.
H.R. 2218: Mr. GOWDY.
H.R. 2236: Mr. MICHAUD and Mr. YOUNG of Indiana.
H.R. 2238: Mr. LATHAM, Mr. BOSWELL, and Mr. BRALEY of Iowa.
H.R. 2248: Mr. OWENS.
H.R. 2250: Mr. KINZINGER of Illinois, Mr. HERGER, Mr. BOREN, Mr. HOLDEN, and Mr. RIBBLE.
H.R. 2259: Mr. FINCHER, Mr. GRIFFIN of Arkansas, Mr. WEST, Mr. RIBBLE, Mr. CHAFFETZ, and Mr. LONG.
H.R. 2268: Mr. PETRI, Mr. WITTMAN, Mr. GOHMERT, and Mr. COBLE.
H.J. Res. 47: Mr. MICHAUD and Mr. JACKSON of Illinois.
H. Con. Res. 25: Mr. WOLF and Mrs. EMERSON.
H. Con. Res. 38: Mr. SOUTHERLAND.
H. Con. Res. 60: Mr. BERMAN, Mr. JONES, Mr. CARDOZA, Mr. LUETKEMEYER, Mr. WOLF, and Mr. KLINE.
H. Res. 25: Mr. GOHMERT.
H. Res. 134: Mr. BILIRAKIS, Mr. FITZPATRICK, and Mr. LUETKEMEYER.
H. Res. 137: Mr. RICHMOND.
H. Res. 220: Mr. FARR, Mr. CALVERT, Mr. ADERHOLT, Mr. CONNOLLY of Virginia, and Mr. COHEN.
H. Res. 228: Mr. PITTS.
H. Res. 295: Mr. YOUNG of Florida, Mr. ANDREWS, and Mr. BISHOP of Georgia.
H. Res. 304: Mr. CARDOZA, Mr. POLIS, Mr. CALVERT, Mr. ISRAEL, Mr. DOGGETT, Mr. BRADY of Pennsylvania, Mr. PERLMUTTER, Mr. GARDNER, Mr. FILNER, Mr. MARKEY, Mr. NADLER, and Ms. BASS of California.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1380: Mr. PITTS.

PETITIONS, ETC.

Under clause 3 of rule XII,

12. The SPEAKER presented a petition of the City of Santa Fe, New Mexico, relative to Resolution No. 2011–29 requesting that the Postal Service issue a commemorative stamp honoring the Sesquicentennial anniversary of the Battle of Glorieta Pass; which was referred to the Committee on Oversight and Government Reform.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2219

OFFERED BY: MR. SHERMAN

AMENDMENT NO. 8: At the end of the bill, before the short title, insert the following:

SEC. ____. None of the funds made available by this Act may be used in contravention of the War Powers Resolution (50 U.S.C. 1541 et seq.).

H.R. 2219

OFFERED BY: MR. BLUMENAUER

AMENDMENT NO. 9: Page 9, line 6, after the dollar amount, insert ''(reduced by $15,000,000)''.

Page 31, line 17, after the dollar amount, insert ''(increased by $15,000,000)''.

H.R. 2219

OFFERED BY: MR. BLUMENAUER

AMENDMENT NO. 10: Page 127, line 18, after the dollar amount, insert ''(reduced by $15,000,000) (increased by $15,000,000)''.

H.R. 2219

OFFERED BY: MRS. CHRISTENSEN

AMENDMENT NO. 11: Page 124, after line 23, insert the following:

SEC. ____. The Secretary of Defense, in coordination with the Secretary of Health and Human Services and the Secretary of Veterans Affairs, shall develop a lung cancer mortality reduction program for members of the Armed Forces and veterans whose smoking history and exposure to carcinogens during active duty service has increased their risk for lung cancer and shall implement a program of coordinated care for members of the Armed Forces and veterans diagnosed with lung cancer.

H.R. 2219

OFFERED BY: MR. COLE

AMENDMENT NO. 12: At the end of the bill (before the short title), add the following:

SEC. ____. None of the funds made available by this Act may be used by the Department of Defense for the use of military force in or against Libya until such a time that the President formally requests and receives from Congress an authorization for the use of military force in or against Libya.

H.R. 2219

OFFERED BY: MR. COLE

AMENDMENT NO. 13: At the end of the bill (before the short title), add the following:

SEC. ____. None of the funds made available by this Act may be used by the Department of Defense to furnish military equipment, military training or advice, or other support for military activities, to any group or individual, not part of a country's armed forces, for the purpose of assisting that group or individual in carrying out military activities in or against Libya.

H.R. 2219

OFFERED BY: MR. BERMAN

AMENDMENT NO. 14: AT THE END OF THE BILL (BEFORE THE SHORT TITLE), ADD THE FOLLOWING:

SEC. ____. (a) None of the funds made available by this Act may be obligated or expended for assistance for the benefit of a Hezbollah-dependent Government of Lebanon, including assistance provided pursuant to section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3456).

(b) The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if the Secretary of Defense determines and certifies in writing to the appropriate congressional committees that such waiver is vital to the national security interests of the United States.

(c)(1) Not more than 15 days after the exercise of any waiver under subsection (b), the Secretary of Defense shall submit to the appropriate congressional committees a report describing—

(A) the vital national security interests requiring the waiver; and

(B) a description of the potential impact of the waiver on United States regional interests.

(2) The report required under paragraph (1) may include a classified annex.

(d) In this section—

(1) the term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and

(2) the term ''Hezbollah-dependent Government of Lebanon'' means—

(A) a Lebanese government in which Hezbollah is the majority element in a governing coalition;

(B) a Lebanese government in which Hezbollah is the architect or primary forger of the governing coalition; or

(C) a Lebanese government which depends on Hezbollah, even from outside that government, for its parliamentary majority.

H.R. 2219

OFFERED BY: MR. QUAYLE

AMENDMENT NO. 15: PAGE 12, LINE 17, INSERT AFTER THE DOLLAR AMOUNT THE FOLLOWING: ''(INCREASED BY $144,000,000)''.

Page 31, line 17, insert after the dollar amount the following: ''(reduced by $144,000,000)''.

H.R. 2219

OFFERED BY: MR. BURTON OF INDIANA

AMENDMENT NO. 16: At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available by this Act may be used to make a contribution to the military budget of the North Atlantic Treaty Organization in excess of $408,100,000.

H.R. 2219

OFFERED BY: MR. BURTON OF INDIANA

AMENDMENT NO. 17: At the end of the bill (before the short title), add the following:

SEC. ____. None of the funds made available by this Act may be used to directly or indirectly support operations in Libya.

H.R. 2219

OFFERED BY: MR. BURTON OF INDIANA

AMENDMENT NO. 18: At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available by this Act for a military mission of the Armed Forces may be diverted from such military mission to achieve non-mission related objectives for members of the Armed Forces serving in combat zones.

H.R. 2219

OFFERED BY: MR. BURTON OF INDIANA

AMENDMENT NO. 19: At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available by this Act may be used to perform (or to permit the performance of) a marriage or civil union ceremony that does not comply with the definition of marriage in section 7 of title 1, United States Code (the Defense of Marriage Act) or to permit the use of a military installation or other land under the jurisdiction of the Department of Defense as the site of a marriage or civil union ceremony that does not comply with the definition of marriage in such section.

H.R. 2219

OFFERED BY: MR. BURTON OF INDIANA

AMENDMENT NO. 20: Page 35, line 15, after the dollar amount insert the following: ''(reduced by $51,865,000)''.

H.R. 2219

OFFERED BY: MR. BROUN OF GEORGIA

AMENDMENT NO. 21: Page 30, line 18, after the dollar amount insert ''(reduced by $9,140,000)''.

Page 31, line 17, after the dollar amount insert ''(increased by $9,140,000)''.

H.R. 2219

OFFERED BY: MR. BROUN OF GEORGIA

AMENDMENT NO. 22: Page 31, line 6, after the dollar amount insert ''(reduced by $4,424,000)''.

Page 31, line 17, after the dollar amount insert ''(increased by $4,424,000)''.

H.R. 2219

OFFERED BY: MR. BROUN OF GEORGIA

AMENDMENT NO. 23: Page 9, line 6, after the dollar amount insert ''(reduced by $216,556,400)''.

Page 161, line 12, after the dollar amount insert ''(increased by $216,556,400)''.

H.R. 2219

OFFERED BY: MR. BROUN OF GEORGIA

AMENDMENT NO. 24: Page 30, line 11, after the dollar amount insert ''(reduced by $25,798,000)''.

Page 161, line 12, after the dollar amount insert ''(increased by $25,798,000)''.

H.R. 2219

OFFERED BY: MR. BROUN OF GEORGIA

AMENDMENT NO. 25: Page 30, line 11, after the dollar amount insert ''(reduced by $22,796,000)''.

Page 161, line 12, after the dollar amount insert ''(increased by $22,796,000)''.

H.R. 2219

OFFERED BY: MR. BROUN OF GEORGIA

AMENDMENT NO. 26: Page 30, line 18, after the dollar amount insert ''(reduced by $21,714,000)''.

Page 161, line 12, after the dollar amount insert ''(increased by $21,714,000)''.

H.R. 2219

OFFERED BY: MRS. MILLER OF MICHIGAN

AMENDMENT NO. 27: Page 12, line 17, insert after the dollar amount the following: ''(increased by $144,000,000)''.

Page 31, line 17, insert after the dollar amount the following: ''(reduced by $144,000,000)''.

H.R. 2219

OFFERED BY: MRS. MILLER OF MICHIGAN

AMENDMENT NO. 28: Page 8, line 2, insert after the dollar amount the following: ''(reduced by $449,901,000)''.

Page 161, line 12, insert after the dollar amount the following: ''(increased by $449,901,000)''.

H.R. 2219

OFFERED BY: MR. KUCINICH

AMENDMENT NO. 29: At the end of the bill (before the short title), add the following:

SEC. ____. None of the funds made available by this Act may be used for military operations against Libya.

H.R. 2219

OFFERED BY: MR. FLORES

AMENDMENT NO. 30: At the end of the bill (before the short title), add the following new section:

SEC. ____. None of the funds made available by this Act may be used to enforce section 526 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 42 U.S.C. 17142).