

Ross	Serrano	Thompson (MS)
Rothman	Sherman	Tierney
Roybal-Allard	Skelton	Turner (TX)
Ruppersberger	Slaughter	Udall (CO)
Rush	Smith (WA)	Udall (NM)
Ryan (OH)	Snyder	Van Hollen
Sabo	Solis	Velázquez
Sánchez, Linda T.	Spratt	Visclosky
	Stark	Waters
Sanchez, Loretta	Stenholm	Watson
Sanders	Strickland	Watt
Sandlin	Stupak	Waxman
Schakowsky	Tanner	Weiner
Schiff	Tauscher	Woolsey
Scott (GA)	Taylor (MS)	Wu
Scott (VA)	Thompson (CA)	Wynn

## NOT VOTING—19

Andrews	Forbes	Shays
Berman	Istook	Tauzin
Boucher	Leach	Towns
Brown, Corrine	Lewis (GA)	Wexler
DeMint	Lowe	Young (AK)
Deutsch	Oberstar	
Dunn	Rangel	

□ 1154

Mr. CAPUANO, Mrs. TAUSCHER, Mr. ROTHMAN, Mrs. JONES of Ohio, Ms. DEGETTE, and Mr. MORAN of Virginia changed their vote from “yea” to “nay.”

Mr. PETERSON of Pennsylvania changed his vote from “nay” to “yea.” So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. GEORGE MILLER of California. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. BASS). The Clerk will report the motion.

The Clerk read as follows:

Mr. George Miller of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2660 be instructed to insist on reporting an amendment to prohibit the Department of Labor from using funds under the Act to implement any portion of a regulation that would make any employee ineligible for overtime pay who would otherwise qualify for overtime pay under regulations under section 13 of the Fair Labor Standards Act in effect September 3, 2003, except that nothing in the amendment shall affect the increased salary requirements provided in such regulations as specified in section 541 of title 29 of the Code of Federal Regulations, as promulgated on April 23, 2004.

## MOTION TO TABLE OFFERED BY MR. DELAY

Mr. DELAY. Mr. Speaker, I offer a preferential motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DELAY moves that the motion to instruct be laid on the table.

## PARLIAMENTARY INQUIRY

Mr. GEORGE MILLER of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEORGE MILLER of California. If a motion to table this motion on overtime pay prevails, will it have the effect of denying the Members any debate on this issue?

The SPEAKER pro tempore. As the Chair indicated in the same circumstances on May 12, 2004, if the motion to table were adopted, the motion of the gentleman from California would not be before the House.

Mr. GEORGE MILLER of California. Further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEORGE MILLER of California. Then to be clear, let me understand that this means that we will not have the hour of debate on the Department of Labor's efforts to deny millions of workers currently eligible for overtime from receiving overtime in the future?

The SPEAKER pro tempore. The motion of the gentleman from California will not be before the House.

The question is on the motion offered by the gentleman from Texas (Mr. DELAY).

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

## RECORDED VOTE

Mr. GEORGE MILLER of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on tabling the motion to instruct will be followed by a 5-minute vote on suspending the rules and passing H.R. 3722.

The vote was taken by electronic device, and there were—ayes 216, noes 199, not voting 18, as follows:

[Roll No. 181]

AYES—216

Aderholt	Castle	Gingrey
Akin	Chabot	Goode
Bachus	Chocola	Goodlatte
Baker	Coble	Goss
Ballenger	Cole	Granger
Barrett (SC)	Collins	Graves
Bartlett (MD)	Cox	Green (WI)
Barton (TX)	Crane	Greenwood
Bass	Crenshaw	Gutknecht
Beauprez	Cubin	Hall
Bereuter	Culberson	Harris
Biggett	Cunningham	Hart
Bilirakis	Davis, Jo Ann	Hastings (WA)
Bishop (UT)	Davis, Tom	Hayes
Blackburn	Deal (GA)	Hayworth
Blunt	DeLay	Hefley
Boehlert	Diaz-Balart, L.	Hensarling
Boehner	Diaz-Balart, M.	Hergert
Bonilla	Doolittle	Hobson
Bonner	Dreier	Hoekstra
Bono	Duncan	Hostettler
Boozman	Dunn	Houghton
Bradley (NH)	Ehlers	Hulshof
Brady (TX)	Emerson	Hunter
Brown (SC)	English	Hyde
Brown-Waite,	Everett	Isakson
Ginny	Feeney	Issa
Burgess	Ferguson	Jenkins
Burns	Flake	Johnson (CT)
Burr	Foley	Johnson, Sam
Burton (IN)	Fossella	Jones (NC)
Buyer	Frelinghuysen	Keller
Calvert	Gallegly	Kelly
Camp	Garrett (NJ)	Kennedy (MN)
Cannon	Gerlach	King (IA)
Cantor	Gibbons	King (NY)
Capito	Gilchrest	Kingston
Carter	Gillmor	Kirk

Kline	Oxley	Shimkus
Knollenberg	Paul	Shuster
Kolbe	Pearce	Simmons
LaHood	Pence	Simpson
Latham	Petri	Smith (NJ)
LaTourette	Pickering	Smith (TX)
Lewis (CA)	Pitts	Souder
Lewis (KY)	Platts	Stearns
Linder	Pombo	Sullivan
LoBiondo	Porter	Sweeney
Lucas (OK)	Portman	Tancred
Manzullo	Pryce (OH)	Taylor (NC)
McCotter	Putnam	Terry
McCrery	Quinn	Thomas
McHugh	Radanovich	Thornberry
McInnis	Ramstad	Tiahrt
McKeon	Regula	Tiberi
Mica	Rehberg	Toomey
Miller (FL)	Renzi	Turner (OH)
Miller (MI)	Reynolds	Upton
Miller, Gary	Rogers (AL)	Vitter
Moran (KS)	Rogers (KY)	Walden (OR)
Murphy	Rogers (MI)	Walsh
Musgrave	Rohrabacher	Wamp
Myrick	Ros-Lehtinen	Weldon (FL)
Nethercutt	Royce	Weldon (PA)
Neugebauer	Ryan (WI)	Weller
Ney	Ryun (KS)	Whitfield
Northup	Saxton	Wicker
Norwood	Schrock	Wilson (NM)
Nunes	Sensenbrenner	Wilson (SC)
Nussle	Sessions	Wolf
Osborne	Shadegg	Young (FL)
Ose	Shaw	
Otter	Sherwood	

## NOES—199

Abercrombie	Gephardt	Meek (FL)
Ackerman	Gonzalez	Meeks (NY)
Alexander	Gordon	Menendez
Allen	Green (TX)	Michaud
Baca	Grijalva	Millender-
Baird	Gutierrez	McDonald
Baldwin	Harman	Miller (NC)
Ballance	Hastings (FL)	Miller, George
Becerra	Hill	Mollohan
Bell	Hinchey	Moore
Berkley	Hinojosa	Moran (VA)
Berry	Hoeffel	Murtha
Bishop (GA)	Holden	Nadler
Bishop (NY)	Holt	Napolitano
Blumenauer	Honda	Neal (MA)
Boswell	Hooley (OR)	Obey
Boucher	Hoyer	Olver
Boyd	Inslee	Ortiz
Brady (PA)	Israel	Owens
Brown (OH)	Jackson (IL)	Pallone
Capps	Jackson-Lee	Pascrell
Capuano	(TX)	Pastor
Cardin	Jefferson	Payne
Cardoza	John	Pelosi
Carson (IN)	Johnson (IL)	Peterson (MN)
Carson (OK)	Johnson, E. B.	Pomeroy
Case	Jones (OH)	Price (NC)
Chandler	Kanjorski	Rahall
Clay	Kaptur	Reyes
Clyburn	Kennedy (RI)	Rodriguez
Conyers	Kildee	Ross
Cooper	Kilpatrick	Rothman
Costello	Kind	Roybal-Allard
Cramer	Kleccka	Ruppersberger
Crowley	Kucinich	Rush
Cummings	Lampson	Ryan (OH)
Davis (AL)	Langevin	Sabo
Davis (CA)	Lantos	Sánchez, Linda T.
Davis (FL)	Larsen (WA)	
Davis (IL)	Larson (CT)	Sanchez, Loretta
Davis (TN)	Lee	Sanders
DeFazio	Levin	Sandlin
DeGette	Lewis (GA)	Schakowsky
Delahunt	Lipinski	Schiff
DeLauro	Lofgren	Scott (GA)
Dicks	Lowey	Scott (VA)
Dingell	Lucas (KY)	Serrano
Doggett	Lynch	Sherman
Dooley (CA)	Majette	Skelton
Doyle	Maloney	Slaughter
Edwards	Markey	Smith (WA)
Emanuel	Marshall	Snyder
Engel	Matheson	Solis
Eshoo	Matsui	Spratt
Etheridge	McCarthy (MO)	Stark
Evans	McCarthy (NY)	Stenholm
Farr	McCollum	Strickland
Fattah	McDermott	Stupak
Filner	McGovern	Tanner
Ford	McIntyre	Tauscher
Frank (MA)	McNulty	Taylor (MS)
Frost	Meehan	Thompson (CA)

Thompson (MS)	Velázquez	Weiner
Turney	Visclosky	Woolsey
Turner (TX)	Waters	Wu
Udall (CO)	Watson	Wynn
Udall (NM)	Watt	
Van Hollen	Waxman	

## NOT VOTING—18

Andrews	Franks (AZ)	Shays
Berman	Istook	Smith (MI)
Brown, Corrine	Leach	Tauzin
DeMint	Oberstar	Towns
Deutsch	Peterson (PA)	Wexler
Forbes	Rangel	Young (AK)

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1214

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3722.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 3722, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 88, nays 331, not voting 14, as follows:

[Roll No. 182]

## YEAS—88

Aderholt	Goode	Paul
Akin	Goodlatte	Pence
Bachus	Gutknecht	Pitts
Barrett (SC)	Hall	Platts
Bass	Hayes	Radanovich
Bereuter	Hayworth	Ramstad
Bishop (UT)	Hefley	Rehberg
Blackburn	Hoekstra	Rogers (AL)
Boozman	Hostettler	Rohrabacher
Boucher	Hulshof	Royce
Bradley (NH)	Hunter	Schrock
Burton (IN)	Isakson	Sensenbrenner
Buyer	Jenkins	Shimkus
Carter	Johnson, Sam	Shuster
Coble	Jones (NC)	Simpson
Collins	Keller	Smith (TX)
Cox	Kelly	Stearns
Culberson	King (IA)	Sullivan
Cunningham	Kingston	Tancredo
Deal (GA)	Kline	Taylor (MS)
Doolittle	Manzullo	Taylor (NC)
Duncan	McCotter	Toomey
Everett	McCrery	Vitter
Feeney	Mica	Wamp
Franks (AZ)	Miller (FL)	Weldon (FL)
Gallely	Miller, Gary	Whitfield
Garrett (NJ)	Musgrave	Wicker
Gerlach	Myrick	Wilson (SC)
Gibbons	Norwood	
Gingrey	Otter	

## NAYS—331

Abercrombie	Ballance	Berman
Ackerman	Ballenger	Berry
Alexander	Bartlett (MD)	Biggert
Allen	Barton (TX)	Bilirakis
Baca	Beauprez	Bishop (GA)
Baird	Becerra	Bishop (NY)
Baker	Bell	Blumenauer
Baldwin	Berkley	Blunt

Boehrlert	Harris	Neugebauer
Boehner	Hart	Ney
Bonilla	Hastings (FL)	Northup
Bonner	Hastings (WA)	Nunes
Bono	Hensarling	Nussle
Boswell	Hill	Obey
Boyd	Hinchey	Olver
Brady (PA)	Hinojosa	Ortiz
Brady (TX)	Hobson	Osborne
Brown (OH)	Hoeffel	Ose
Brown (SC)	Holden	Owens
Brown-Waite,	Holt	Oxley
Ginny	Honda	Pallone
Burgess	Hooley (OR)	Pascarell
Burns	Houghton	Pastor
Burr	Hoyer	Payne
Calvert	Hyde	Pearce
Camp	Inslee	Pelosi
Cannon	Israel	Peterson (MN)
Cantor	Issa	Peterson (PA)
Capito	Jackson (IL)	Petri
Capps	Jackson-Lee	Pickering
Capuano	(TX)	Pombo
Cardin	Jefferson	Pomeroy
Cardoza	John	Porter
Carson (IN)	Johnson (CT)	Portman
Carson (OK)	Johnson (IL)	Price (NC)
Case	Johnson, E. B.	Pryce (OH)
Castle	Jones (OH)	Putnam
Chabot	Kanjorski	Quinn
Chandler	Kaptur	Rahall
Chocola	Kennedy (MN)	Regula
Clay	Kennedy (RI)	Renzi
Clyburn	Kildee	Reyes
Cole	Kilpatrick	Reynolds
Conyers	Kind	Rodriguez
Cooper	King (NY)	Rogers (KY)
Costello	Kirk	Rogers (MI)
Cramer	Klecza	Ros-Lehtinen
Crane	Knollenberg	Ross
Crenshaw	Kolbe	Rothman
Crowley	Kucinich	Roybal-Allard
Cubin	LaHood	Ruppersberger
Cummings	Lampson	Rush
Davis (AL)	Langevin	Ryan (OH)
Davis (CA)	Lantos	Ryan (WI)
Davis (FL)	Larsen (WA)	Ryun (KS)
Davis (IL)	Larson (CT)	Sabo
Davis (TN)	Latham	Sánchez, Linda
Davis, Jo Ann	LaTourette	T.
Davis, Tom	Lee	Sanchez, Loretta
DeFazio	Levin	Sanders
DeGette	Lewis (CA)	Sandlin
DeLaunt	Lewis (GA)	Saxton
DeLauro	Lewis (KY)	Schakowsky
DeLay	Linder	Schiff
Diaz-Balart, L.	Lipinski	Scott (GA)
Diaz-Balart, M.	LoBiondo	Scott (VA)
Dicks	Lofgren	Serrano
Dingell	Lowey	Sessions
Doggett	Lucas (KY)	Shadeegg
Dooley (CA)	Lucas (OK)	Shaw
Doyle	Lynch	Sherman
Dreier	Majette	Sherwood
Dunn	Maloney	Simmons
Edwards	Markey	Skelton
Ehlers	Marshall	Slaughter
Emanuel	Matheson	Smith (MI)
Emerson	Matsui	Smith (NJ)
Engel	McCarthy (MO)	Smith (WA)
English	McCarthy (NY)	Snyder
Eshoo	McCollum	Solis
Etheridge	McDermott	Souder
Evans	McGovern	Spratt
Farr	McHugh	Stark
Fattah	McInnis	Stenholm
Ferguson	McIntyre	Strickland
Filner	McKeon	Stupak
Flake	McNulty	Sweeney
Foley	Meehan	Tanner
Ford	Meek (FL)	Tauscher
Fossella	Meeks (NY)	Terry
Frank (MA)	Menendez	Thomas
Frelinghuysen	Michaud	Thompson (CA)
Frost	Millender-	Thompson (MS)
McDonald	McDonald	Thornberry
Miller (MI)	Miller (MI)	Tiahrt
Miller (NC)	Miller (NC)	Tiberi
Miller, George	Miller, George	Tierney
Mollohan	Mollohan	Towns
Moore	Moore	Turner (OH)
Moran (KS)	Moran (KS)	Turner (TX)
Moran (VA)	Moran (VA)	Udall (CO)
Murphy	Murphy	Udall (NM)
Murtha	Murtha	Upton
Nadler	Nadler	Van Hollen
Napolitano	Napolitano	Velázquez
Neal (MA)	Neal (MA)	Visclosky
Nethercutt	Nethercutt	Walden (OR)

Walsh	Weiner	Woolsey
Waters	Weldon (PA)	Wu
Watson	Weller	Wynn
Watt	Wilson (NM)	Young (FL)
Waxman	Wolf	

## NOT VOTING—14

Andrews	Herger	Shays
Brown, Corrine	Istook	Tauzin
DeMint	Leach	Wexler
Deutsch	Oberstar	Young (AK)
Forbes	Rangel	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS) (during the vote). There are 2 minutes remaining in this vote.

□ 1224

Mrs. JOHNSON of Connecticut, Mr. FOSSELLA, and Mr. BURNS changed their vote from “yea” to “nay.”

Messrs. WHITEFIELD, TAYLOR of North Carolina, and TANCREDO changed their vote from “nay” to “yea.”

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

## PERSONAL EXPLANATION

Ms. CORRINE BROWN of Florida. Mr. Speaker, on rollcall Nos. 180, 181, and 182, I was unavoidably detained and unable to make the vote.

Had I been present, I would have voted: “No” on No. 180, joint rule for consideration of H.R. 2728, 2729, 2730, 2731; “No” on No. 181, tabling Miller motion to instruct conferees on overtime; “No” on No. 182, H.R. 3722, Un- documented Alien Emergency Assistance Amendments of 2004.

# OCCUPATIONAL SAFETY AND HEALTH SMALL BUSINESS DAY IN COURT ACT OF 2004

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 645, I call up the bill (H.R. 2728) to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to an employer filing of a notice of contest following the issuance of a citation by the Occupational Safety and Health Administration, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. TERRY). Pursuant to House Resolution 645, the bill is considered read for amendment.

The text of H.R. 2728 is as follows:

## H.R. 2728

*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 “Occupational Safety and Health Small Business Day in Court Act of 2003”.

# SEC. 2. CONTESTING CITATIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT.

(a) CITATION.—The second sentence of section 10(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 659(a)) is amended by inserting “(unless such failure results from mistake, inadvertence, surprise, or excusable neglect)” after “assessment of penalty”.