

# APPLAUDING DECISION ORDERING NEW WHOLESALE AND UNBUNDLING RULES

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

Mr. MEEKS of New York. Mr. Speaker, I rise this morning to applaud the D.C. Circuit Court's decision on Tuesday ordering the FCC to come up with new wholesale and unbundling rules that can pass legal approval. This decision sets U.S. telecom policy on the correct path as envisioned by both Chambers of Congress when we passed the Telecom Act of 1996.

This requirement that the regulated local phone companies lease their phone lines to competitors at below-cost rates, ensuring constant financial losses, as witnessed over the past 3 years, has severely hindered investment and service quality to many communities, both large and small.

The time for the FCC to act is now, and with the same sense of urgency the agency displayed after the Super Bowl half-time show. Quick action by Chairman Powell will help spur investment and job creation at a time when our Nation and this sluggish economy certainly need a boost.

# APPOINTMENT OF CONFEREES ON H.R. 3108, PENSION FUNDING EQ- UITY ACT OF 2003

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3108) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes, with House amendments to the Senate amendment thereto, insist on the House amendments to the Senate amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Ohio? The Chair hears none and, without objection, appoints the following conferees: From the Committee on Education and the Workforce for consideration of the House bill and the Senate amendment and modifications committed to conference: Messrs. BOEHNER, McKEON, JOHNSON of Texas, TIBERI, GEORGE MILLER of California and Mr. ANDREWS; from the Committee on Ways and Means for consideration of the House bill and Senate amendment and modifications committed to conference: Messrs. THOMAS, PORTMAN and RANGEL.

There was no objection.

# POSITIVE IMPACT OF NO CHILD LEFT BEHIND ON SPECIAL EDU- CATION STUDENTS

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

Mr. BOEHNER. Mr. Speaker, yesterday in the Committee on Education and the Workforce, we were pleased to have a hearing on No Child Left Behind and its impact on special education students. For the first time in history, those students in special education will be judged based on results and the fact that we know that children with disabilities can, in fact, learn.

We had four distinguished witnesses from around the country talking about how special education is changing as a result of No Child Left Behind. School districts now must focus in on results for our special needs children. These four witnesses, a parent, a school superintendent and two education experts, talked about how special education students are in fact learning more and improving their capability.

For most children with special needs, there really is no excuse that they cannot read and write and become literate like all other children. Many children in special education can do far more than that; and by focusing in on results for children with special needs, we can in fact meet our goal with No Child Left Behind, which is just that: let us leave no child in America behind.

# GENERAL LEAVE

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3752.

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

There was no objection.

# COMMERCIAL SPACE LAUNCH AMENDMENTS ACT OF 2004

The SPEAKER pro tempore (Mr. BOEHNER). Pursuant to House Resolution 546 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. 3752.

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# 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. 3752) to promote the development of the emerging commercial human space-flight industry, to extend the liability indemnification regime for the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation, and for

other purposes, with Mr. LATOURETTE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York (Mr. BOEHLERT) and the gentleman from Tennessee (Mr. GORDON) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me begin by thanking the gentleman from California (Mr. ROHRBACHER), the chairman of our Subcommittee on Space and Aeronautics, for introducing this measure, for continually pressing for its passage, and for working so cooperatively with us while crafting it. He has single-handedly made this a priority issue for the entire committee.

I have to admit, when the gentleman from California (Mr. ROHRBACHER) first came forward with the idea for this bill, I thought the notion was, well, a little flighty. But through our hearings and other work on this bill, I have come to see this as one of the most important measures this committee will move this year. Let me tell you why. This is about a lot more than joyrides in space, although there is nothing wrong with such an enterprise. This is about the future of the U.S. aerospace industry.

As in most areas of American enterprise, the greatest innovations in aerospace are most likely to come from small entrepreneurs. This is true whether we are talking about launching humans or cargo. The goal of this bill is to promote robust experimentation, to make sure that entrepreneurs and inventors have the incentives and the capabilities they need to pursue their ideas. That is important to our Nation's future.

Those entrepreneurs, the kinds of folks who are inventing new rockets for cargo and who are endowing and competing for the X Prize, are doing our Nation a tremendous service; and, I should add, they also seem to be enjoying themselves. That is a winning combination.

So what do these people need from us? The simplistic answer is they just need government to get out of the way. But, as usual, the truth is a little more complex. The innovators need and are seeking a government regulatory regime that will provide predictability, a regime that can offer stability and support to help them attract private capital; and the general public needs such a regime as well to ensure that the public at large faces no undue health or safety risk from any flights. In short, this industry requires government regulation, but not so much regulation as to stifle it.

This bill, which has been painstakingly negotiated with all interested parties, strikes the proper balance. It

recognizes the industry's need to experiment. Indeed, it creates a new regulatory instrument to encourage that experimentation, while recognizing the obligation to protect the crew and the general public.

I should add, since I know that the gentleman from Arizona (Mr. FLAKE) will bring this issue up a little later, that this regulation can be provided without any increase in the budget of the Federal Aviation Administration. That bears repeating: without any increase in the budget of the Federal Aviation Administration.

We will be accepting the amendment of the gentleman from Arizona (Mr. FLAKE). I would note that the Congressional Budget Office reached the same conclusion, that no additional funding is needed to carry out this bill.

I should also add that under this bill the government will go beyond creating a stable environment for these entrepreneurs. The bill extends the existing provision of law under which the government indemnifies the companies undertaking these flights for set amounts and purposes. In keeping with past congressional practice, we are extending indemnification temporarily for 3 years, in this case; and we are also asking for a study to determine how to end indemnification without harming the industry. I do not think the government should be taking on the risk of this enterprise forever.

So this is a very fair, balanced, carefully crafted bill that will help a budding industry and protect the public. The result, over time, should be the development of new ideas and ways to take humans into space on sub-orbital rockets.

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We are still a long way off from making rockets common carriers like airplanes, but we need to promote the experimental work. I want to thank the gentleman from Alaska (Mr. YOUNG) of the Committee on Transportation and Infrastructure for working with us on the jurisdictional issues that the bill presented. I also want to thank the staff who worked on this bill, particularly one of our new staffers, Tim Hughes, who has become an expert in this area of law. I wish to thank both sides of the aisle, Democrats under the gentleman from Tennessee (Mr. GORDON), my fellow Republicans under me, for working so cooperatively for so long to bring forward a product that results in encouragement for a budding industry and gives optimism as we look to the future. I urge my colleagues to support this bill.

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

Mr. GORDON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to speak in support of H.R. 3752, the Commercial Space Launch Amendment Act of 2004. The gentleman from California (Mr. ROHRABACHER) is to be congratulated for his efforts on this bill and I am pleased to be an original cosponsor.

The main provisions of the bill have already been described so I will not take time to discuss them further at this point. Instead, I would just like to make the following observations:

First, the basic purpose of the bill is to establish a framework for regulating the commercial human space flight industry. We have ample testimony that such a framework is needed if the companies are to make their plans and attract needed capital. I believe that this bill addresses that need in a practical and balanced manner.

Second, we are talking about an emerging industry. No one has yet flown a private passenger-carrying space vehicle, and we are far from knowing how the market for such a launch service will develop. As a result, we may need to revisit some of the issues covered by this legislation after we have accumulated some actual experience with commercial operations. Yet that reality should not prevent us from taking the steps that are included in this bill to provide at least an initial regulatory framework.

Third, while I believe this is a good bill, I think there are still some areas that could be improved. The gentleman from New York (Mr. BOEHLERT) and I intend to offer a joint managers' amendment that will deal with several of them, and I hope that Members will join us in supporting that amendment.

Other issues will warrant further discussion over the coming weeks. For example, I do not believe that the testimony and studies received by the Committee on Science over the last several years agree with the bill's bias towards eliminating the existing liability indemnification regime, and I hope that we will revisit that issue when we are in conference on this legislation with the Senate.

Mr. Chairman, H.R. 3752 was reported out of the Committee on Science on a bipartisan basis. I urge my colleagues to support my bill when it comes up for a vote.

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

Mr. BOEHLERT. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. ROHRABACHER), the distinguished chairman of the Subcommittee on Space and Aeronautics, the driver behind this legislation.

Mr. ROHRABACHER. Mr. Chairman, I would like to thank the gentleman from New York (Mr. BOEHLERT) for all his help and energy and creativity and that of his staff as well. We have worked long and hard on this and I am very happy that it is coming to fruition today. I would also like to thank my colleagues on the other side of the aisle who have been working on this with us in a great spirit of bipartisanship and love of country and love of technology and innovation.

Mr. Chairman, the Commercial Space Launch Amendment Act of 2004 represents the fruit of a long and thorough analysis of the commercial human

space flight industry beginning in July with a joint House-Senate hearing on this subject, a Subcommittee on Space and Aeronautics markup, a policy roundtable with experts in the commercial space transportation industry late last year, and a full committee markup early in February. So we have been through the rings on this particular piece of legislation.

The bill before us today, H.R. 3752, creates a clear and balanced regulatory regime to govern the emerging commercial human space flight industry. It is my sincere hope that this bill will encourage individuals like Burt Rutan and others to continue leading the way in pushing the boundaries of technology and safety by building and flight testing hardware, something NASA has yet to do.

This fine piece of legislation carries forward my goal of promoting this new industry and cutting back bureaucratic red tape while protecting public health and safety.

H.R. 3752 eliminates confusion as to who regulates reusable suborbital rockets by directing a regulatory regime for licensing commercial human space flight activities to be established under the jurisdiction of the FAA's Office of Commercial Space Transportation.

The bill makes it easier for entrepreneurs to launch new types of reusable suborbital rockets by directing the Secretary of Transportation to create experimental flight permits, which are separate and distinct from existing commercial launch licenses.

H.R. 3752 also extends the existing commercial space transportation indemnification regime by 3 years, as the chairman noted, through December 31, 2007, and calls for a study in determining how best to gradually eliminate the indemnification regime for the commercial space transportation industry by 2008. Overall, the bill will help get this new industry on its way and on its feet and give the existing space launch industry more time to grow.

Let me note that in the past we have seen spin-offs from the Department of Defense helping people in the private sector and the commercial sector do their business, whether it is GPS satellites or whatever type of technology that was developed over with the DOD in order to help our national security meet those needs. We have seen those spin-offs come to the private sector and help us commercially. I think today that this piece of legislation will launch a new industry where we will see the commercial industry developing technologies that will have spin-offs for the Department of Defense. The spin-offs are going to start going in the other direction where our great space entrepreneurs like Rutan and others are going to be developing aerospace technologies that can be put to use in our national security while they are developing them originally for use in the commercial and private sector.

It is this type of cooperation that should be going on and we should be

encouraging it in both directions. That is what this bill does. I would like to thank the gentleman from New York (Mr. BOEHLERT) again and the industry, my colleagues on the other side of the aisle, the ranking member, the gentleman from Tennessee (Mr. GORDON) and the FAA for their help in developing the bill. Their tremendous efforts will ensure that the regulatory barriers do not hinder the promises and potential of commercial human space flight and all the potential it holds for our Nation.

I urge my colleagues to vote for H.R. 3752.

Mr. BOEHLERT. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma (Mr. LUCAS) for the purposes of a colloquy.

Mr. LUCAS of Oklahoma. Mr. Chairman, I appreciate the gentleman from New York (Mr. BOEHLERT) and the gentleman from Tennessee (Mr. GORDON) bringing this important bill to the floor, because the emerging commercial human space flight industry presents tremendous opportunities for my State of Oklahoma and our Nation as a whole. I am particularly appreciative of this bill's intent to ease the regulatory burdens for entrepreneurs who are developing new suborbital reusable launch vehicles.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. LUCAS of Oklahoma. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I thank the gentleman for his kind words. He is correct in stating that this legislation seeks to put in place sufficient Federal regulation to protect the general public while also promoting this important new industry.

Mr. LUCAS of Oklahoma. As you know, Mr. Chairman, some suborbital reusable launch vehicles that will be used in commercial human space flight activities may have some attributes normally associated with airplanes as well as many attributes of rockets. My hope is that such hybrid vehicles would not have to be regulated under two separate regimes. What are the chairman's views on this matter?

Mr. BOEHLERT. I thank the gentleman for that question.

This is a very important issue on which we have worked extensively with industry and the executive branch in developing this bill. As currently drafted, H.R. 3752 incorporates definitions promulgated by the Federal Aviation Administration to distinguish between suborbital rockets, which are under the jurisdiction of FAA's Associate Administrator for Commercial Space Transport, and other aerospace vehicles which are regulated by another part of the FAA. That said, I would be happy to keep working with the gentleman from Oklahoma (Mr. LUCAS) and other interested parties as the bill moves forward to revisit the important issue of how best to regulate hybrid vehicles that are engaged in commercial human space flight.

Mr. LUCAS of Oklahoma. I thank the chairman and I look forward to continuing to work with him and our colleagues in the other body to see if we can create a single regime for hybrid commercial space flight vehicles.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the Commercial Space Launch Amendments Act. I would like to commend my colleague from California for his leadership, encouraging interest and activity in space exploration. I also commend Ranking Member BART GORDON and the new Ranking Member of the Space Subcommittee NICK LAMPSON of Houston, for helping make this important bill much better.

Commercial space flight is at a crossroads—as is our federal space exploration mission at NASA. Space tourism could revolutionize the human experience and could potentially become billion-dollar industry, creating numerous jobs in high-tech manufacturing and design. I believe that that will indeed happen someday, although I would not go out on a limb and predict whether it will be in two decades, or two centuries. But I do believe that mankind's natural curiosity and hunger for excitement will ultimately enable us to break through the gravitational bond that holds us to the surface of this planet. And I am confident that the American spirit will allow United States companies and scientists and explorers to be on the forefront of that great endeavor.

As those companies develop, they may also come to play a more integral role in complementing the NASA mission—allowing NASA to focus on cutting edge exploration, while they fulfill the more-mundane heavy lifting and transport functions. This could be extremely valuable and cost-effective.

The question before us though, is "What should be the role of the federal government in the development of commercial space flight?" I have always been a great supporter of the NASA mission, and its non-commercial manned and unmanned exploration of space. I feel the search for knowledge and understanding in this universe is noble and worthwhile. I believe that the NASA mission inspires our children to excel in the sciences and math, and thus helps stimulate the development of American leaders in technology. And NASA is a source of discovery and innovation that drives our economy and development. All of these things make NASA well worth strong federal investment.

Commercial space activity is often associated with space tourism—a potential thrill for the multi-millionaires of this world. I have no problem with that. But if that is all that industry is, an expensive amusement ride, then perhaps the federal government should limit its role to issuing safety guidelines and regulations for liability insurance requirements and waivers and then let the private sector do the rest.

But if this industry has the potential to be a huge source of jobs and revenues in the United States, or if there can be some fruitful collaboration with NASA, helping in education and science, or training of astronauts, or tech development—perhaps more federal financial investment would be appropriate.

These are the questions we have been grappling with in the Science Committee over the past year. Regardless of the answer, the fact is that this industry is at a crossroads, and it is time that we in Congress make it clear

what the federal role shall be, whether we will obstruct their development, help drive this industry, or simply get out of the way.

H.R. 3752 makes great progress in defining the federal role for commercial space launch, and encouraging this industry to get off the ground, if you'll pardon the expression.

This Act will establish a framework for regulating the emerging commercial human space flight industry, giving the responsibility to FAA's Office of Commercial Space Transportation, which currently licenses unmanned expendable launch vehicles that put commercial satellites into orbit. It also creates a "permit" system to facilitate experimental test flights of new vehicles, while retaining a full licensing system for operational systems. H.R. 3752 will also extend the existing liability indemnification regime for the commercial space transportation industry for another three years and require a study of how to ultimately phase out that temporary regime.

These are prudent steps, worked out in a bipartisan way in the Space Subcommittee and the whole Committee. I support this approach, and will vote for this bill.

However, space flight is intrinsically risky, and we must make safety our primary consideration. We do not want a burgeoning space industry to follow the example NASA has set of late—and make safety an afterthought. I have been calling for a change in the culture at NASA, to one of openness and commitment to the well being of our spacecraft and crews. We must ensure that such a philosophy is adhered to in the private space sector as well.

I have authored two bills that I will introduce soon, to make NASA safer. One will protect employees from retaliation by managers when they come forward and bring to light safety problems that could lead to the loss of a NASA spacecraft or the lives of crewmembers. These worker protections would also extend to contractors for NASA. I hope in the future to work with the FAA, to ensure that such protections are in place in the commercial space industry.

First, we will need to pass this bill, and start putting the regulatory structure in place. I support the bill and urge my colleagues to do the same.

Mr. GORDON. Mr. Chairman, I have no further speakers, and I yield back the balance of my time.

Mr. BOEHLERT. Mr. Chairman, I have no further speakers, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 3752 is as follows:

H.R. 3752

*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 "Commercial Space Launch Amendments Act of 2004".

#### SEC. 2. FINDINGS.

The Congress finds that—

(1) the goal of opening space to the American people and their private commercial, scientific, and cultural enterprises should guide Federal space investments, policies, and regulations;

(2) private industry has begun to develop commercial launch vehicles capable of carrying human beings into space, and greater

private investment in these efforts will stimulate the Nation's commercial space transportation industry as a whole;

(3) space transportation is inherently risky;

(4) a critical area of responsibility for the Office of the Associate Administrator for Commercial Space Transportation is to regulate the emerging commercial human space flight industry; and

(5) the public interest is served by creating a clear legal and regulatory regime for commercial human space flight.

### SEC. 3. AMENDMENTS.

(a) FINDINGS AND PURPOSES.—Section 70101 of title 49, United States Code, is amended—

(1) in subsection (a)(3), by inserting “human space flight,” after “microgravity research,”; and

(2) in subsection (a)(4)—

(A) by striking “satellite”; and

(B) by striking “services now available from” and inserting “capabilities of”.

(b) DEFINITIONS.—Section 70102 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (2) through (17) as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (12), (13), (14), (15), (16), (18), (21), and (22), respectively;

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

“(2) ‘crew’ means any employee of a licensee or transferee, or of a contractor or subcontractor of a licensee or transferee, who performs activities in the course of that employment directly relating to the launch, reentry, or other operation of or in a launch vehicle or reentry vehicle that carries human beings.”;

(3) in paragraph (4), as so redesignated by paragraph (1) of this subsection, by inserting “, crew, or space flight participant” after “any payload”;

(4) in paragraph (6)(A), as so redesignated by paragraph (1) of this subsection, by striking “and payload” and inserting “, payload, crew (including crew training), or space flight participant”;

(5) in paragraph (8)(A), as so redesignated by paragraph (1) of this subsection, by inserting “or human beings” after “place a payload”;

(6) by inserting after paragraph (10), as so redesignated by paragraph (1) of this subsection, the following new paragraph:

“(11) ‘permit’ means an experimental permit issued under section 70105.”.

(7) in paragraph (13), as so redesignated by paragraph (1) of this subsection, by inserting “crew, or space flight participants,” after “and its payload,”;

(8) in paragraph (14)(A), as so redesignated by paragraph (1) of this subsection, by striking “and its payload” inserting “and payload, crew (including crew training), or space flight participant”;

(9) by inserting after paragraph (16), as so redesignated by paragraph (1) of this subsection, the following new paragraph:

“(17) ‘space flight participant’ means an individual, who is not crew, carried within a launch vehicle or reentry vehicle.”;

(10) by inserting after paragraph (18), as so redesignated by paragraph (1) of this subsection, the following new paragraphs:

“(19) ‘suborbital rocket’ means a rocket-propelled vehicle intended for flight on a suborbital trajectory whose thrust is greater than its lift for the majority of the powered portion of its flight.

“(20) ‘suborbital trajectory’ means the intentional flight path of a launch vehicle, reentry vehicle, or any portion thereof, whose vacuum instantaneous impact point does not leave the surface of the Earth.”; and

(11) in paragraph (21), as so redesignated by paragraph (1) of this subsection—

(A) by striking “or” at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting “; or”; and

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

“(E) crew or space flight participants.”.

(c) COMMERCIAL HUMAN SPACE FLIGHT.—(1) Section 70103(a) of title 49, United States Code, is amended by inserting “, through the Associate Administrator for Commercial Space Transportation,” after “Secretary of Transportation”.

(2) Section 70103(b)(1) of title 49, United States Code, is amended by inserting “, including those involving space flight participants” after “private sector”.

(3) Section 70104(a) of title 49, United States Code, is amended—

(A) by striking “LICENSE REQUIREMENT.—A license issued or transferred under this chapter” and inserting “REQUIREMENT.—A license issued or transferred under this chapter, or a permit,”; and

(B) by inserting after paragraph (4) the following:

“Notwithstanding this subsection, a permit shall not authorize a person to operate a launch site or reentry site.”.

(4) Section 70104(b) of title 49, United States Code, is amended by inserting “or permit” after “holder of a license”.

(5) The section heading of section 70105 of title 49, United States Code, is amended by striking “LICENSE APPLICATIONS” and inserting “APPLICATIONS”, and the item relating to that section in the table of sections for chapter 701 of title 49, United States Code, is amended accordingly.

(6) Section 70105(a) of title 49, United States Code, is amended—

(A) by striking “APPLICATIONS.—” and inserting “LICENSES.—”;

(B) in paragraph (1), by striking “subsection (b)(2)(D)” both places it appears and inserting “subsection (c)(2)(D)”;

(C) in paragraph (2), by inserting “, including crews,” after “or personnel”.

(7) Section 70105 of title 49, United States Code, is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

“(b) EXPERIMENTAL PERMITS.—(1) A person may apply to the Secretary of Transportation for an experimental permit under this subsection in the form and manner the Secretary prescribes. Consistent with the public health and safety, safety of property, and national security and foreign policy interests of the United States, the Secretary, not later than 90 days after receiving an application pursuant to this subsection, shall issue a permit if the Secretary decides in writing that the applicant complies, and will continue to comply, with this chapter and regulations prescribed under this chapter. The Secretary shall inform the applicant of any pending issue and action required to resolve the issue if the Secretary has not made a decision not later than 60 days after receiving an application. The Secretary shall transmit to the Committee on Science of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 15 days after any occurrence when a permit is not issued within the deadline established by this subsection.

“(2) In carrying out paragraph (1), the Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel, including crews, that may be used in conducting commercial space launch or reentry activities pursuant to a permit.

“(3) In order to encourage the development of a commercial space flight industry, the

Secretary, to the greatest extent practicable, shall when issuing permits use the authority granted under subsection (c)(2)(C).

“(4) The Secretary may issue a permit only for reusable suborbital rockets that will be launched or reentered solely for—

“(A) research and development to test new design concepts, new equipment, or new operating techniques;

“(B) showing compliance with requirements as part of the process for obtaining a license under this chapter; or

“(C) crew training prior to obtaining a license for a launch or reentry using the design of the rocket for which the permit would be issued.

“(5) Permits issued under this subsection shall—

“(A) authorize an unlimited number of launches and reentries for a particular suborbital rocket design for the uses described in paragraph (4); and

“(B) specify the modifications that may be made to the suborbital rocket without changing the design to an extent that would invalidate the permit.

“(6) Permits shall not be transferable.

“(7) A permit may not be issued for, and a permit that has already been issued shall cease to be valid for, a particular design for a reusable suborbital rocket after a license has been issued for the launch or reentry of a rocket of that design.

“(8) No person may operate a reusable suborbital rocket under a permit for carrying any property or human being for compensation or hire.

“(9) For the purposes of sections 70106, 70107, 70108, 70109, 70110, 70112, 70115, 70116, 70117, and 70121 of this chapter—

“(A) a permit shall be considered a license;

“(B) the holder of a permit shall be considered a licensee;

“(C) a vehicle operating under a permit shall be considered to be licensed; and

“(D) the issuance of a permit shall be considered licensing.

This paragraph shall not be construed to allow the transfer of a permit.”.

(8) Section 70105(c)(1) of title 49, United States Code, as so redesignated by paragraph (7) of this subsection, is amended by inserting “or permit” after “for a license”.

(9) Section 70105(c)(2)(B) of title 49, United States Code, as so redesignated by paragraph (7) of this subsection, is amended by striking “an additional requirement” and inserting “any additional requirement”.

(10) Section 70105(c)(2)(C) of title 49, United States Code, as so redesignated by paragraph (7) of this subsection, is amended by inserting “or permit” after “for a license”.

(11) Section 70105(c)(2)(D) of title 49, United States Code, as so redesignated by paragraph (7) of this subsection, is amended by inserting “or permit” after “for a license”.

(12) Section 70105(c)(3) of title 49, United States Code, as so redesignated by paragraph (7) of this subsection, is amended—

(A) by striking “, including the requirement to obtain a license,”; and

(B) by adding at the end the following: “Nothing in this paragraph shall be construed to allow the launch or reentry of a launch vehicle or a reentry vehicle without a license or permit if a human being will be on board.”.

(13) Section 70105(c) of title 49, United States Code, as so redesignated by paragraph (7) of this subsection, is amended by adding at the end the following new paragraphs:

“(4) The holder of a license or a permit under this chapter may launch or reenter crew only if—

“(A) the crew has received training and has satisfied medical or other standards specified in the license or permit in accordance with

regulations promulgated by the Secretary; and

"(B) the holder of the license or permit and crew have complied with all requirements of the laws of the United States that apply to crew.

"(5) The holder of a license or a permit under this chapter may launch or reenter a space flight participant only if—

"(A) in accordance with regulations promulgated by the Secretary, the holder of the license or permit has informed the space flight participant in writing about the risks of the launch or reentry, including the safety record of the launch or reentry vehicle type, and the space flight participant has provided written informed consent to participation in the launch or reentry; and

"(B) the holder of the license or permit and space flight participant have complied with all requirements of the laws of the United States related to launching or reentering a space flight participant."

(14) Section 70105(d) of title 49, United States Code, as so redesignated by paragraph (7) of this subsection, is amended by inserting "or permit" after "of a license".

(15) Section 70106(a) of title 49, United States Code, is amended—

(A) by inserting "at a site used for crew training," after "assemble a launch vehicle or reentry vehicle,"; and

(B) by striking "section 70104(c)" and inserting "sections 70104(c) and 70105(c)(4)".

(16) Section 70110(a)(1) of title 49, United States Code, is amended by striking "70105(a)" and inserting "70105".

(17) Section 70112(b)(1) of title 49, United States Code, is amended—

(A) by inserting "crew, space flight participants," after "its contractors, subcontractors,"; and

(B) by inserting "or by space flight participants," after "its own employees,".

(18) Section 70112(b)(2) of title 49, United States Code, is amended—

(A) by inserting "crew, space flight participants," after "transferee, contractors, subcontractors,"; and

(B) by inserting "or by space flight participants," after "its own employees,".

(19) Section 70113(a) of title 49, United States Code, is amended by inserting ", but not against a space flight participant," after "subcontractor of a customer,".

(20) Section 70113(f) of title 49, United States Code, is amended by striking "December 31, 2004," and inserting "December 31, 2007. This section does not apply to permits."

(21) Section 70115(b)(1)(D)(i) of title 49, United States Code, is amended by inserting "crew training site," after "site of a launch vehicle or reentry vehicle,".

(22) Section 70119 of title 49, United States Code, is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) such sums as may be necessary for fiscal year 2005;

"(2) such sums as may be necessary for fiscal year 2006; and

"(3) such sums as may be necessary for fiscal year 2007."

(23) Section 70120 of title 49, United States Code, is amended by adding at the end the following new subsections:

"(c) AMENDMENTS.—Not later than 12 months after the date of enactment of the Commercial Space Launch Amendments Act of 2004, the Secretary shall publish proposed regulations to carry out that Act, including regulations relating to crew, space flight participants, and permits for launch or reentry of reusable suborbital rockets. Not later than 18 months after such date of enactment, the Secretary shall issue final regulations.

"(d) EFFECTIVE DATE.—(1) Licenses for the launch or reentry of launch vehicles or re-

entry vehicles with human beings on board and permits may be issued by the Secretary prior to the issuance of the regulations described in subsection (c).

"(2) As soon as practicable after the date of enactment of the Commercial Space Launch Amendments Act of 2004, the Secretary shall issue guidelines or advisory circulars to guide the implementation of that Act until regulations are issued.

(3) Notwithstanding paragraphs (1) and (2), no licenses for the launch or reentry of launch vehicles or reentry vehicles with human beings on board or permits may be issued starting three years after the date of enactment of the Commercial Space Launch Amendments Act of 2004 unless the final regulations described in subsection (c) have been issued."

#### SEC. 4. STUDY ON THE GRADUAL ELIMINATION OF COMMERCIAL SPACE TRANSPORTATION LIABILITY RISK SHARING REGIME.

Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation shall enter into an appropriate arrangement with the National Academy of Public Administration to conduct a study of how best to gradually eliminate the liability risk sharing regime in the United States for commercial space transportation under section 70113 of title 49, United States Code. The study shall assess methods by which the liability risk sharing regime could be eliminated by 2008 or as soon as possible thereafter and the impact those methods would be likely to have on the commercial space transportation industry. The methods examined shall include incremental approaches.

#### SEC. 5. TECHNICAL AMENDMENT.

Section 102(c) of the Commercial Space Act of 1998 is repealed.

The CHAIRMAN. No amendment to the bill shall be in order except those printed in the designated place in the CONGRESSIONAL RECORD and pro forma amendments for the purpose of debate. Amendments printed in the RECORD may be offered only by the Member who caused it to be printed or his designee and shall be considered read.

Are there any amendments to the bill?

AMENDMENT NO. 1 OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BOEHLERT:

In section 3(c)(5), strike "by striking" and all that follows through ", and the item" and insert "by striking 'License applications' and inserting 'Applications', and the item".

In section 3(c)(12), strike "is amended" and all that follows through "by adding" and insert "is amended by adding".

In section 3(c)(17)—

(1) in subparagraph (A)—

(A) strike "crew,"; and

(B) strike "and";

(2) in subparagraph (B), strike "employees," and insert "employees"; and

(3) add at the end the following new subparagraph:

(C) by adding at the end the following: "The requirement for space flight participants to make a reciprocal waiver of claims with the licensee or transferee shall expire 3 years after the first licensed launch of a launch vehicle carrying a space flight participant."

In section 3(c)(18)(B), strike "employees," and insert "employees".

In section 3(c)(19)—

(1) insert "(1)" after "70113(a)"; and

(2) strike ", but not" and insert "but not".

Mr. BOEHLERT. Mr. Chairman, I rise to support my amendment. I am offering this amendment on behalf of myself and the gentleman from Tennessee (Mr. GORDON). This is a straightforward managers' amendment.

The amendment makes technical changes to the bill. It also creates one inadvertent but substantive drafting error. Correcting the bill will make it clear that the Federal Aviation Administration retains its current authority to waive the requirements to obtain a license, while also making it clear that that authority does not extend to flights that carry humans.

Finally, the amendment removes the requirement that crews sign reciprocal waivers of liability. This amendment is not controversial. It is bipartisan, and I urge its adoption.

Mr. GORDON. Mr. Chairman, I rise in support of the amendment.

The gentleman from New York (Mr. BOEHLERT) has already described the amendment so I will not repeat his explanation. I will simply say that I believe our amendment makes a good bill better. It makes certain necessary technical corrections. However, more importantly, it ensures that employee rights will be protected in the case of an accident or other major incident, and it provides a sunset on the bill's treatment of the passengers of these new commercial spacecraft looking towards the day when such flights will become relatively routine.

Mr. Chairman, I believe that our amendment is noncontroversial, and I urge my colleagues to support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BOEHLERT).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. FLAKE:

In section 3(c)(22), in each of the proposed paragraphs (1), (2), and (3), strike "such sums as may be necessary" and insert "\$11,776,000".

Mr. FLAKE. Mr. Chairman, I rise today to offer an amendment to H.R. 3752. My amendment holds current funding for commercial space activities within FAA for the next 3 years. Current language of the bill authorizes such sums as necessary for the next 3 years. My amendment specifies \$11.8 million authorization level each year for the next 3 years. This is the same level appropriated for 2004.

I believe that by holding funding at current levels Congress will be able to monitor space tourism and other commercial space activities. If demand for these activities does in fact rise over the next couple of years, Congress will be able to revisit the issue as needed.

In a time of large deficits this amendment will show that Congress is getting serious about holding the line on nondefense, nonhomeland security spending.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I am pleased to accept the amendment. We accept the rationale and the intent and we are pleased to accept this amendment.

Mr. FLAKE. I thank the Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The amendment was agreed to.

The CHAIRMAN. There being no further amendments in order, under the rule, the Committee rises.

□ 1215

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LATHAM) having assumed the chair, Mr. LATOURETTE, Chairman 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. 3752) to promote the development of the emerging commercial human spaceflight industry, to extend the liability indemnification regime for the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation, and for other purposes, pursuant to House Resolution 546, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. BOEHLERT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This will be a 15-minute vote followed by two 5-minute votes on motions to suspend the rules.

The vote was taken by electronic device, and there were—yeas 402, nays 1, not voting 30, as follows:

[Roll No. 39]

YEAS—402

Abercrombie	Diaz-Balart, L.	Kennedy (MN)
Ackerman	Diaz-Balart, M.	Kildee
Akin	Dicks	Kilpatrick
Alexander	Dingell	Kind
Allen	Doolittle	King (IA)
Andrews	Doyle	Kingston
Baca	Dreier	Kirk
Bachus	Duncan	Kline
Baird	Dunn	Knollenberg
Baker	Edwards	LaHood
Baldwin	Ehlers	Lampson
Ballance	Emanuel	Langevin
Ballenger	Emerson	Larsen (WA)
Barrett (SC)	English	Larson (CT)
Bartlett (MD)	Eshoo	Latham
Barton (TX)	Etheridge	LaTourette
Bass	Evans	Leach
Beauprez	Everett	Lee
Becerra	Farr	Levin
Bereuter	Fattah	Lewis (CA)
Berkley	Feeney	Lewis (GA)
Berman	Ferguson	Lewis (KY)
Biggert	Filner	Linder
Billakis	Flake	Lipinski
Bishop (GA)	Foley	LoBiondo
Bishop (NY)	Forbes	Lofgren
Bishop (UT)	Ford	Lowey
Blackburn	Fossella	Lucas (KY)
Blumenauer	Frank (MA)	Lucas (OK)
Boehlert	Franks (AZ)	Lynch
Boehner	Frelinghuysen	Majette
Bonilla	Frost	Maloney
Bonner	Galleghy	Manzullo
Bono	Garrett (NJ)	Markey
Boozman	Gephardt	Marshall
Boswell	Gibbons	Matheson
Boucher	Gilchrest	Matsui
Boyd	Gillmor	McCarthy (MO)
Bradley (NH)	Gingrey	McCarthy (NY)
Brady (PA)	Gonzalez	McCollum
Brady (TX)	Goode	McCotter
Brown (OH)	Goodlatte	McCrery
Brown (SC)	Gordon	McDermott
Brown, Corrine	Goss	McGovern
Brown-Waite,	Granger	McHugh
Ginny	Graves	McInnis
Burgess	Green (TX)	McIntyre
Burns	Green (WI)	McKeon
Burr	Greenwood	McNulty
Burton (IN)	Grijalva	Meehan
Buyer	Gutierrez	Meek (FL)
Camp	Gutknecht	Meeks (NY)
Cannon	Hall	Menendez
Cantor	Harman	Mica
Capito	Harris	Michaud
Capps	Hart	Millender-
Capuano	Hastings (FL)	McDonald
Cardin	Hastings (WA)	Miller (FL)
Cardoza	Hayes	Miller (MI)
Carson (IN)	Hayworth	Miller (NC)
Carson (OK)	Hefley	Miller, Gary
Carter	Hensarling	Miller, George
Case	Herger	Mollohan
Castle	Hill	Moore
Chabot	Hinchev	Moran (KS)
Chandler	Hobson	Moran (VA)
Chocola	Hoeffel	Murphy
Clay	Hoekstra	Murtha
Clyburn	Holden	Musgrave
Coble	Holt	Myrick
Cole	Honda	Nadler
Collins	Hostettler	Napolitano
Conyers	Hoyer	Neal (MA)
Cooper	Hulshof	Nethercutt
Costello	Hunter	Neugebauer
Cox	Hyde	Ney
Cramer	Inslee	Northup
Crane	Israel	Norwood
Crenshaw	Issa	Nunes
Crowley	Istook	Nussle
Cubin	Jackson (IL)	Oberstar
Cunningham	Jackson-Lee	Obey
Davis (AL)	(TX)	Olver
Davis (CA)	Jefferson	Ortiz
Davis (FL)	Jenkins	Osborne
Davis (TN)	John	Ose
Davis, Jo Ann	Johnson (CT)	Otter
Davis, Tom	Johnson (IL)	Owens
Deal (GA)	Johnson, E. B.	Oxley
DeFazio	Johnson, Sam	Pallone
DeGette	Jones (NC)	Pascrell
DeLahunt	Jones (OH)	Pastor
DeLauro	Kanjorski	Payne
DeLay	Kaptur	Pearce
DeMint	Keller	Pelosi
Deutsch	Kelly	Peterson (MN)

Peterson (PA)	Sandlin	Taylor (NC)
Petri	Saxton	Terry
Pickering	Schakowsky	Thomas
Pitts	Schiff	Thompson (CA)
Platts	Schrock	Thompson (MS)
Pombo	Scott (GA)	Thornberry
Pomeroy	Scott (VA)	Tiahrt
Porter	Sensenbrenner	Tiberi
Portman	Serrano	Tierney
Price (NC)	Shadegg	Towns
Pryce (OH)	Shaw	Turner (OH)
Putnam	Shays	Turner (TX)
Quinn	Sherman	Udall (CO)
Radanovich	Sherwood	Udall (NM)
Rahall	Shimkus	Upton
Ramstad	Shuster	Van Hollen
Rangel	Simmons	Velázquez
Regula	Simpson	Visclosky
Rehberg	Skelton	Vitter
Renzi	Slaughter	Walden (OR)
Reyes	Smith (MI)	Walsh
Reynolds	Smith (NJ)	Wamp
Rogers (AL)	Smith (TX)	Waters
Rogers (KY)	Smith (WA)	Watson
Rogers (MI)	Snyder	Watt
Rohrabacher	Solis	Waxman
Ros-Lehtinen	Souder	Weiner
Ross	Spratt	Weldon (FL)
Rothman	Stark	Weldon (PA)
Roybal-Allard	Stearns	Wexler
Royce	Stenholm	Wicker
Ruppersberger	Strickland	Wilson (NM)
Ryan (OH)	Stupak	Wilson (SC)
Ryan (WI)	Sullivan	Woolsey
Ryun (KS)	Sweeney	Wu
Sabo	Tancred	Wynn
Sánchez, Linda	Tanner	Young (AK)
T.	Tauscher	Young (FL)
Sanchez, Loretta	Tauzin	
Sanders	Taylor (MS)	

NAYS—1

Paul

NOT VOTING—30

Aderholt	Engel	Kucinich
Bell	Gerlach	Lantos
Berry	Hinojosa	Pence
Blunt	Hoolley (OR)	Rodriguez
Calvert	Houghton	Rush
Culberson	Isakson	Sessions
Cummings	Kennedy (RI)	Toomey
Davis (IL)	King (NY)	Weller
Doggett	Kleczka	Whitefield
Dooley (CA)	Kolbe	Wolf

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1239

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 for:

Mr. KENNEDY of Rhode Island. Mr. Chairman, on rollcall No. 39, passage of H.R. 3752, had I been present, I would have voted "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed. Votes will be taken in the following order:

H. Res. 412, by the yeas and nays; and

H. Res. 56, by the yeas and nays.

These will be 5-minute votes.