

are felt far beyond scientific and academic spheres. Space technologies provide practical, tangible benefits to society, and NASA provides valuable opportunities to businesses in our community.

I strongly urge my colleagues to join me in support of this legislation, and in support of the future of American innovation and exploration.

The material previously referred to by Mr. LINCOLN DIAZ-BALART of Florida is as follows:

AMENDMENT TO H. RES. 1257

OFFERED BY MR. DIAZ-BALART OF FLORIDA

At the end of the resolution, add the following:

SEC. 3. Notwithstanding any other provision of this resolution or the operation of the previous question, it shall be in order to consider any amendment to the bill which the proponent asserts, if enacted, would have the effect of lowering the national average price per gallon of regular unleaded gasoline. Such amendments shall be considered as read, shall be debatable for thirty minutes 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 except those arising under clause 9 of rule XXI. For purposes of compliance with clause 9(a)(3) of rule XXI, a statement submitted for printing in the Congressional Record by the proponent of such amendment prior to its consideration shall have the same effect as a statement actually printed.

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

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

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

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

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy im-

plications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's "American Congressional Dictionary": "If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

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

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

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

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

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

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

□ 1900

#### AUTHORITY TO ACCEPT DIESEL EMISSION REDUCTION SUPPLEMENTAL ENVIRONMENTAL PROJECTS

Mr. BOUCHER. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 2146) to authorize the Administrator of the Environmental Protection Agency to accept, as part of a settlement, diesel emission reduction Supplemental Environmental Projects, and for other purposes, as amended.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

S. 2146

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

#### SECTION 1. EPA AUTHORITY TO ACCEPT DIESEL EMISSIONS REDUCTION SUPPLEMENTAL ENVIRONMENTAL PROJECTS.

The Administrator of the Environmental Protection Agency (hereinafter, the "Agen-

cy") may accept (notwithstanding sections 3302 and 1301 of title 31, United States Code) diesel emissions reduction Supplemental Environmental Projects if the projects, as part of a settlement of any alleged violations of environmental law—

(1) protect human health or the environment;

(2) are related to the underlying alleged violations;

(3) do not constitute activities that the defendant would otherwise be legally required to perform; and

(4) do not provide funds for the staff of the Agency or for contractors to carry out the Agency's internal operations.

#### SEC. 2. SETTLEMENT AGREEMENT PROVISIONS.

In any settlement agreement regarding alleged violations of environmental law in which a defendant agrees to perform a diesel emissions reduction Supplemental Environmental Project, the Administrator of the Environmental Protection Agency shall require the defendant to include in the settlement documents a certification under penalty of law that the defendant would have agreed to perform a comparably valued, alternative project other than a diesel emissions reduction Supplemental Environmental Project if the Administrator were precluded by law from accepting a diesel emission reduction Supplemental Environmental Project. A failure by the Administrator to include this language in such a settlement agreement shall not create a cause of action against the United States under the Clean Air Act or any other law or create a basis for overturning a settlement agreement entered into by the United States.

#### SEC. 3. INCLUSION OF THE DISTRICT OF COLUMBIA IN CERTAIN STATE AND LOCAL GRANT PROGRAMS FOR DIESEL EMISSION REDUCTIONS.

(a) IN GENERAL.—Section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131) is amended by adding at the end thereof the following:

"(9) DEFINITION OF STATE.—The term 'State' includes the District of Columbia."

(b) CONFORMING AMENDMENTS.—(1) Section 793(d)(2) of such Act (42 U.S.C. 16133(d)(2)) is amended by striking "Governor" and inserting "chief executive".

(2) Subparagraphs (A) and (B) of section 793(c)(2) of such Act are each amended by striking "50" and inserting "51" and by striking "2 percent" and inserting "1.96 percent" in each place such terms appear.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. BOUCHER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill now under consideration.

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

There was no objection.

Mr. BOUCHER. Madam Speaker, I yield myself such time as I may consume.

I rise to urge the passage of S. 2146, a measure which was previously approved by the Senate. The House counterpart legislation was sponsored by our California colleague, Mr. COSTA,

and has been approved by the House Committee on Energy and Commerce.

The bill allows the Environmental Protection Agency to continue using supplemental environmental projects funds to retrofit existing diesel powered engines with emission reduction controls. Diesel emissions from on and off-road vehicles and engines account for more than one-half of the nitrogen oxide and particulate matter emissions from all mobile sources. The Environmental Protection Agency has issued regulations to limit emissions from new diesel engines and vehicles, but those rules only apply to the new vehicles, not to the heavy duty diesel fleet that is on America's roads today. And given the long life of many diesel vehicles and engines, it's estimated that the existing fleet of vehicles will not be entirely cycled out of existence until about the year 2030.

In order to achieve emission reductions from that very large existing diesel fleet, a number of actions have been taken in order to retrofit those vehicles with emission reduction technologies. For example, the Environmental Protection Agency has administered the Clean School Bus Program for a number of years, providing grants to school districts across the Nation for the purpose of retrofitting diesel powered school buses.

As another example, Congress has provided funding for diesel retrofits under the Congestion Mitigation and Air Quality Program. And in addition, the Diesel Emissions Reduction Act was included as part of the Energy Policy Act of 2005. That Act authorizes the expenditure of \$200 million annually over a 5-year period for grant and for loan programs funding diesel project retrofits.

Most recently, \$49.2 million was appropriated by the Congress for that program as a part of the fiscal year 2008 appropriations bill.

In addition to these programs administered by EPA, private entities have also often funded clean diesel programs as part of settlement agreements that have been reached with the Environmental Protection Agency in cases in which the agency had alleged that the private entity had committed violations of the environmental laws. These supplemental environmental projects used for diesel emission reductions have totaled \$45.5 million from fiscal year 2001 through fiscal year 2006, and they've been a very valuable source of obtaining emission reductions from the existing diesel fleet.

But as matters now stand, this very valuable tool to obtain diesel emission reductions from the older vehicles can no longer be used. The Environmental Protection Agency has concluded that because Congress appropriated funds for the Diesel Emissions Reduction Act, which is targeted toward older vehicle retrofits, supplemental environmental projects for diesel retrofits may no longer be used.

That decision interprets the Miscellaneous Receipts Act, which pro-

hibits agencies from augmenting from other sources their budgets as approved by the Congress. Because of that Act, the EPA has determined that it can no longer use private funding from case settlements to accomplish diesel retrofits since Congress has directly appropriated some funds for that purpose.

In view of the fact that there are 10 million heavy duty diesel vehicles and other engines in use today, the continued use of supplemental environmental projects in case settlements is both cost effective and environmentally beneficial.

Mr. COSTA's bill would assure their continued use. The measure enjoys bipartisan support and has been endorsed by more than 45 interested organizations, including a broad range of health, environmental and industry groups.

The measure would simply grant to EPA specific authority to accept diesel emission reduction supplemental environmental projects as part of settling alleged violations of environmental laws, provided that the projects protect human health or the environment, are related to the underlying violation, do not constitute activities the defendant would otherwise legally be required to perform, and do not provide funds for the staff of the agency or contractors in order to carry out internal EPA operations.

I commend Mr. COSTA for his fine work in bringing this measure to the House, and I urge passage of the Senate bill which incorporates his legislation.

Madam Speaker, I reserve the balance of my time.

Mr. TERRY. I yield myself as much time as I may consume.

Madam Speaker, I rise in support of Senate bill 2146, a very commonsense based solution to dealing with older diesel technology.

Retrofitting simply is a cost-effective way to address the issues. It produces immediate emissions reductions and eliminates these really unnecessary infrastructure requirements.

So with that, I'm going to urge all of my colleagues to support us in this measure.

Before I reserve my time, I yield to the gentleman to answer if he has any other speakers.

Mr. BOUCHER. I thank the gentleman for yielding. Mr. COSTA will be speaking. He is the only other speaker which we have. After he finishes, I will be yielding back our time as well.

Mr. TERRY. Since they have the right to close, anyway, I'm going to yield back our time and let them wrap it up.

Mr. BOUCHER. Madam Speaker, I yield 5 minutes to the gentleman from California (Mr. COSTA). He is the author of the legislation we are considering.

Mr. COSTA. Congressman BOUCHER and Congressman TERRY, I want to thank you and your staffs for the hard work that you've done with your colleagues. The Energy and Commerce

Committee has made a significant difference in bringing this legislation to the floor.

This measure, along with its companion measure, Senate bill 2146, is, I think, very important to ensuring that we provide improved opportunities for air quality, as well as throughout the country.

I also want to thank my cosponsors in the House bill, which includes the original cosponsors, Congressmen CARDOZA, MCNERNEY, Congressman NUNES, as well as Representative BUTTERFIELD, Representatives HILL, KIND, MATHESON, MATSUI, BONO MACK, SHIMKUS and again Congressman TERRY.

This measure, combined with Senate 2146, will allow the Environmental Protection Agency to continue the prior practice of accepting diesel emission reduction projects as part of an environmental settlement agreement. These settlement agreements are important when you're trying to reach an accord with the private sector and still, at the same time, clean up the air.

For many years the Environmental Protection Agency has funded diesel retrofit projects through the Supplemental Environment Projects, otherwise known as SEPS with the corporations as part of overall settlement agreements. From fiscal year 2001 to fiscal year 2006, the Environmental Protection Agency entered into diesel emission reductions with these settlement environment projects valued at over \$45 million. This bill will help maintain this separate private funding source as a part of a private/public partnership for these projects and, at the same time, improve air quality in basins throughout the country that have regional air issues that they are in noncompliance with.

This is particularly of importance in my own district that I share with my colleagues, Congressmen NUNES and MCCARTHY and Congressmen RADANOVICH and CARDOZA, as well as MCNERNEY. The San Joaquin Valley area is a non attainment area, and consequently, we have difficult challenges trying to become an attainment area, especially when we consider that we are one of the fastest growing regions in California.

The air basin is 250 miles long, but it's shaped in a valley where you have mountain ranges on each side. Therefore, we not only have our own stationary and mobile sources of emission that we create, but because we're in the center of the transportation hub between Northern and Southern California, actually, all the way along the west coast, we have interstate transportation on 99 and Highway 5, which is no contribution of ours, but it's part of interstate transportation that contributes to the emissions that we have to deal with. So, therefore, this is an important measure.

We have among the highest rates of childhood asthma in the State. We

have other issues that we are continuing to deal with.

Today, 90 percent of the commercial trucks are powered by diesel engines. Two-thirds of all farm and construction equipment run on diesel engines. Therefore, this measure can make a difference.

California does lead the Nation in clean diesel technology, and some of the cleanest types of diesel fuel anywhere in the world. But even retrofit projects have their role and play a significant contribution to improving air quality, not only in our district but throughout the country.

Finally, in addition, retrofitting clean diesel technologies for diesel vehicles and equipment, I think, is one of the most cost effective strategies for achieving tangible and immediate air quality benefits. The Environmental Protection Agency estimates that these retrofit projects have a 13:1 benefit-to-cost ratio, meaning that the \$45 million invested between 2001 and 2006 translates to over \$600 million of health benefits that also benefit young people, children who have asthma cases, those who have cardiovascular issues and the like.

I want to again thank my colleagues, Congressman TERRY, Congressman BOUCHER and your staffs and all those who are cosponsors of this important measure. This is cost effective. It's meaningful. It will improve air quality throughout the country.

At this time I want to urge all of my colleagues to support the passage of this measure.

Mr. BOUCHER. Madam Speaker, I have no further requests for time, and yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. BOUCHER) that the House suspend the rules and pass the Senate bill, S. 2146, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1915

#### CAROLINE PRYCE WALKER CONQUER CHILDHOOD CANCER ACT OF 2008

Mr. PALLONE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1553) to amend the Public Health Service Act to advance medical research and treatments into pediatric cancers, ensure patients and families have access to the current treatments and information regarding pediatric cancers, establish a population-based

national childhood cancer database, and promote public awareness of pediatric cancers, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1553

*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 "Caroline Pryce Walker Conquer Childhood Cancer Act of 2008".*

#### SEC. 2. FINDINGS.

*Congress makes the following findings:*

(1) Cancer kills more children than any other disease.

(2) Each year cancer kills more children between 1 and 20 years of age than asthma, diabetes, cystic fibrosis, and AIDS, combined.

(3) Every year, over 12,500 young people are diagnosed with cancer.

(4) Each year about 2,300 children and teenagers die from cancer.

(5) One in every 330 Americans develops cancer before age 20.

(6) Some forms of childhood cancer have proven to be so resistant that even in spite of the great research strides made, most of those children die. Up to 75 percent of the children with cancer can now be cured.

(7) The causes of most childhood cancers are not yet known.

(8) Childhood cancers are mostly those of the white blood cells (leukemias), brain, bone, the lymphatic system, and tumors of the muscles, kidneys, and nervous system. Each of these behaves differently, but all are characterized by an uncontrolled proliferation of abnormal cells.

(9) Eighty percent of the children who are diagnosed with cancer have disease which has already spread to distant sites in the body.

(10) Ninety percent of children with a form of pediatric cancer are treated at one of the more than 200 Children's Oncology Group member institutions throughout the United States.

#### SEC. 3. PURPOSES.

*It is the purpose of this Act to authorize appropriations to—*

(1) encourage the support for pediatric cancer research and other activities related to pediatric cancer;

(2) establish a comprehensive national childhood cancer registry; and

(3) provide informational services to patients and families affected by childhood cancer.

#### SEC. 4. PEDIATRIC CANCER RESEARCH AND AWARENESS; NATIONAL CHILDHOOD CANCER REGISTRY.

(a) PEDIATRIC CANCER RESEARCH AND AWARENESS.—Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following:

#### "SEC. 417E. PEDIATRIC CANCER RESEARCH AND AWARENESS.

"(a) PEDIATRIC CANCER RESEARCH.—

"(1) PROGRAMS OF RESEARCH EXCELLENCE IN PEDIATRIC CANCER.—The Secretary, in collaboration with the Director of NIH and other Federal agencies with interest in prevention and treatment of pediatric cancer, shall continue to enhance, expand, and intensify pediatric cancer research and other activities related to pediatric cancer, including therapeutically applicable research to generate effective treatments, pediatric preclinical testing, and pediatric clinical trials through National Cancer Institute-supported pediatric cancer clinical trial groups and their member institutions. In enhancing, expanding, and intensifying such research and other activities, the Secretary is encouraged to take into consideration the application of such research and other activities for minority, health disparity, and medically underserved communities. For purposes of this section, the term 'pediatric cancer research' means research on the causes, prevention, diagnosis, recognition, treatment, and long-term effects of pediatric cancer.

"(2) PEER REVIEW REQUIREMENTS.—All grants awarded under this subsection shall be awarded in accordance with section 492.

"(b) PUBLIC AWARENESS OF PEDIATRIC CANCERS AND AVAILABLE TREATMENTS AND RESEARCH.—

"(1) IN GENERAL.—The Secretary may award grants to childhood cancer professional and direct service organizations for the expansion and widespread implementation of—

"(A) activities that provide available information on treatment protocols to ensure early access to the best available therapies and clinical trials for pediatric cancers;

"(B) activities that provide available information on the late effects of pediatric cancer treatment to ensure access to necessary long-term medical and psychological care; and

"(C) direct resource services such as educational outreach for parents, peer-to-peer and parent-to-parent support networks, information on school re-entry and postsecondary education, and resource directories or referral services for financial assistance, psychological counseling, and other support services.

In awarding grants under this paragraph, the Secretary is encouraged to take into consideration the extent to which an entity would use such grant for purposes of making activities and services described in this paragraph available to minority, health disparity, and medically underserved communities.

"(2) PERFORMANCE MEASUREMENT, TRANSPARENCY, AND ACCOUNTABILITY.—For each grant awarded under this subsection, the Secretary shall develop and implement metrics-based performance measures to assess the effectiveness of activities funded under such grant.

"(3) INFORMATIONAL REQUIREMENTS.—Any information made available pursuant to a grant awarded under paragraph (1) shall be—

"(A) culturally and linguistically appropriate as needed by patients and families affected by childhood cancer; and

"(B) approved by the Secretary.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as being inconsistent with the goals and purposes of the Minority Health and Health Disparities Research and Education Act of 2000 (42 U.S.C. 202 note).

"(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section and section 399E–1, there are authorized to be appropriated \$30,000,000 for each of fiscal years 2009 through 2013. Such authorization of appropriations is in addition to the authorization of appropriations established in section 402A with respect to such purpose. Funds appropriated under this subsection shall remain available until expended."

(b) NATIONAL CHILDHOOD CANCER REGISTRY.—Part M of title III of the Public Health Service Act (42 U.S.C. 280e et seq.) is amended—

(1) by inserting after section 399E the following:

#### "SEC. 399E–1. NATIONAL CHILDHOOD CANCER REGISTRY.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award a grant to enhance and expand infrastructure to track the epidemiology of pediatric cancer into a comprehensive nationwide registry of actual occurrences of pediatric cancer. Such registry shall be updated to include an actual occurrence within weeks of the date of such occurrence.

"(b) INFORMED CONSENT AND PRIVACY REQUIREMENTS AND COORDINATION WITH EXISTING PROGRAMS.—The registry established pursuant to subsection (a) shall be subject to section 552a of title 5, United States Code, the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996, applicable Federal and State informed consent regulations, any other applicable Federal and State laws relating to the privacy of patient information, and section 399B(d)(4) of this Act."; and