budget plan; yet President Bush has presided over the biggest budget deficit in our Nation's history.

Now it appears all the domestic proposals President Bush listed off during his convention acceptance speech will cost $3 trillion over 10 years. That is at least $1 trillion more than the initiatives that Senator KERRY has proposed.

And despite this huge price tag, President Bush continues to deceive the American people by telling them that this can all be done without raising taxes on one single American. Over the past 4 years, we have gone from record surpluses to record deficits. It is because we have a man in the White House and leaders here in Congress who simply cannot balance a checkbook.

It is time for the President to level with the American people. He simply cannot afford all these new proposals without either raising taxes or increasing the deficit even more.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE). The Chair will remind all Members that remarks in debate may not engage in personalities toward the President or the Vice President, or the acknowledged candidates for those offices.

Policies may be addressed in critical terms. But personal references of an offensive or accusatory nature are not proper.

PROVIDING FOR CONSIDERATION OF H.R. 4571, LAWSUIT ABUSE REDUCTION ACT OF 2004

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 766 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 766

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 4571) to amend rule 11 of the Federal Rules of Civil Procedure to improve attorney accountability, and for other purposes. The bill shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) the further amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Turner of Texas or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for 40 minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

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

The resolution before us is a well-balanced, modified closed rule that provides for 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule waives all points of order against consideration of the bill and provides that the bill shall be considered as read for amendment. The rule provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as adopted and also makes in order the amendment printed in the Committee on Rules report accompanying the resolution, if offered by the gentleman from Texas (Mr. TURNER) or his designee. This amendment shall be considered as read and shall be debatable for 40 minutes equally divided and controlled by the proponent and the opponent.

Finally, this rule waives all points of order against the amendment printed in that report and provides for one motion to recommit with or without instructions.

Mr. Speaker, I rise today in strong support of the rule for H.R. 4571, the Lawsuit Abuse Reduction Act of 2004, as well as the underlying legislation. This bill offered by the gentleman from San Antonio, Texas (Mr. SMITH), my good friend, is carefully constructed legislation that will create a disincentive for attorneys and plaintiffs to file many of the frivolous lawsuits that currently clog our court system and act as a drain on our Nation's economy.

Just 6 months ago almost to the day, I came to the floor to manage the rule for H.R. 339, the Personal Responsibility in Food Consumption Act. Later that day the House voted overwhelmingly by a vote of 267 to 139 to require courts to dismiss frivolous lawsuits seeking damages for injuries resulting from obesity and its intended health problems that are filed against the producers and sellers of food. Through passing this legislation today, we have another opportunity to help bring our tort system back to reality by amending the Federal Rules of Civil Procedure to impose greater attorney and client accountability for pursuing other frivolous or nuisance lawsuits.

Our current tort system costs American consumers well over $200 billion a year, the equivalent of a 5 percent tax on wages. Our courts today handle cases ranging from legitimate claims to those that are highly suspect and wasteful of time and resources. Some of these examples of lawsuit abuse include a woman in Knoxville, Tennessee, who sought $125,000 in damage against McDonald's, claiming a hot pickle dropped from a hamburger, burned her chin and caused her mental injury. Her husband also sued for $15,000 for loss of consortium. Or the case of the Girl Scouts of America in metro Detroit, who have to sell 36,000 boxes of cookies each year just to pay for their liability insurance. In fact, according to a former Girl Scout from the greater Philadelphia, Pennsylvania area, frivolous litigation is making it increasingly hard for them to even sell their cookies and their local convenience stores will no longer allow these girls to set up their booths anymore for fear of liability issues.

This economic drain, created by frivolous lawsuits on American productivity, is unacceptable and prevents the American economy from being as competitive as it should be with the rest of the world.

H.R. 4571 will help to discourage the filing of frivolous lawsuits by restating several important provisions to rule 11 of the Federal Rules of Civil Procedure that were changed in 1993 and add several new deterrents against baseless claims. In short, this legislation will make rule 11 sanctions against attorneys or parties who file frivolous lawsuits mandatory rather than discretionary. It will remove rule 11 safe harbor provisions that currently allow parties and their attorneys to avoid sanctions for making frivolous claims by withdrawing them within 21 days after motions for sanctions that have been filed. It implements a ''three strikes and you're out'' provision that would disbar any lawyer for at least 1 year that filed three frivolous lawsuits in Federal court. It allows for rule 11 sanctions for frivolous or harassing conduct during discovery, and it allows monetary sanctions, including attorney fees and compensation against a represented party.

The Lawsuit Abuse Reduction Act also provides new protections against frivolous lawsuits such as extending rule 11 sanctions to State cases that affect interstate commerce, and reducing forum shopping by requiring that a plaintiff in a civil tort action may sue only where he or she lives or was injured or where the defendant's principal place of business is located.

A recent poll found that 83 percent of likely voters believe that there are too many lawsuits in America and 76 percent believe that lawsuit abuse results in higher prices for goods and services. Another poll found that 73 percent of Americans support requiring sanctions against attorneys who file frivolous lawsuits, just as H.R. 4571 would do.

Small businesses, the engine of job growth in our economy, rank the cost and availability of liability insurance as second only to the costs of health care as their top priority, and both problems are fueled by frivolous lawsuits. A recent report by AEI-Brookings Joint Center for Regulatory Studies has concluded: ''The tort liability

price tag for small businesses in America is $88 billion a year'' and that ''small businesses bear 68 percent of the business tort liability cost but only take in 25 percent of the business revenue.'' The small businesses studied in this report account for 98 percent of the total number of small businesses with employees in the United States.

Mr. Speaker, I believe it is time for Congress to listen to what the average Americans say about frivolous lawsuits. It is time for us to hear the concerns of small businessmen and -women in our communities, along with consumers, who list frivolous lawsuits as one of their greatest impediments to success.

And it is time for us to get serious about encouraging economic growth, job creation, and international competitiveness by ending the practice that keeps our economy from thriving. The choice presented by this legislation is stark and clear and will demonstrate whether we support the frivolous actions of the trial lawyer and the drain that they place on the American economy or whether we support American workers and businesses.

I encourage all of my colleagues to stand up for our economy and for consumers by supporting this rule and the underlying legislation.

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

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

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

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes.

Mr. Speaker, I rise in opposition to this rule and in opposition to H.R. 4571, the so-called Frivolous Lawsuit Protection Act.

Today the Republican leadership of this body continues willful disregard for the American public. Once again we are considering legislation in the shadow of the November elections, and once again the Republican leadership is catering to big business at the expense of the public good. And once again that leadership is squandering the House's limited time with foolish, misguided special interest legislation.

This is a bill that attempts to turn back the judicial clock by over a decade; and in the process, more pressing issues and priorities are ignored. Mr. Speaker, this simply is not needed.

Yesterday the Federal Assault Weapons Ban died at the hands of the Republican leadership. President Bush, who, during his first campaign, said he saw no reason for such weapons to be on the street, indicated on more than one occasion that he would sign a new bill if the Republican-controlled Congress sent him one. But the Republican leadership refused to bring the reauthorization up for a vote. I believe they prevented a vote to protect President Bush from having to sign or veto the reauthorization of the Federal Assault Weapons Ban. Why? Because doing the bidding of the gun lobby is their priority. Apparently the Republican strategy in homeland security includes defying law enforcement by making these military-style assault weapons more available.

□ 1030

Mr. Speaker, in addition to failing to act on the Federal assault weapons ban this week, the Republican leadership has scheduled zero time, that is zero time, to consider the 9/11 Commission's recommendations. The Commission took a hard and comprehensive look at the intelligence and homeland security needs of our country. They asked Congress to do its job, to take a hard look at the way this House organizes and carries out its works, ways that potentially undercut the security of our Nation and our people. Yet, today, in this House, it is business as usual, with special interest legislation on the House floor. Six weeks have passed since the Commission's report was first issued, and we still have no firm date as to when this House will take up legislation and debate the Commission's recommendations.

Will it be before Congress breaks for elections? Will we have to wait for another September 11 anniversary to come and go before we take up the Commission's findings? Or, like today, will this body continue to waste its time on frivolous legislation?

The Republican leadership in both parties of Congress has failed to pass a budget resolution, but we are not talking about that today. And today we begin one more legislative week without a transportation bill. We certainly are not working on a bill to increase the minimum wage, even though wages are stagnant and over 4 million Americans have fallen out of the middle class into poverty since George Bush became President. In fact, the Bush administration and the Republican Congress are on track to have the worst jobs record since the Great Depression, all the way back to Herbert Hoover. The average length of unemployment is at a 10-year high, and manufacturing employment remains at a 53-year low. Yet, this House does not seem to have the time to do anything to help the millions of Americans who have lost their jobs. No extension of unemployment benefits, no help for the millions of uninsured Americans, and certainly, no effort to reduce gas prices or lower the cost of college tuition, or pass a highway bill that might create good-paying jobs.

No, Mr. Speaker, we are not taking up legislation to address these issues today.

Mr. Speaker, if the American public wants real leadership on real issues, they should not look here for help. Indeed, this body is guilty of willful neglect of America's priorities. Why do we not work on a bill to help the millions of uninsured Americans? Over 70 percent of the uninsured live in households with at least one worker, and yet we sit idly by as more and more Americans work in jobs that provide little or no health care benefits.

Instead, here we are, taking up H.R. 4571, the so-called Frivolous Lawsuit Reduction Act, a bill that does nothing to address the real problems facing working families of America, yet does so much to help the special interests who fill the campaign coffers of the majority.

Among its provisions, H.R. 4571 would turn back the clock to the pre-1993 provision of Rule 11 of the Federal Rules of Civil Procedure, provisions that were changed on the recommendation of the Judicial Conference after years of study, approved by the U.S. Supreme Court, and reviewed by Congress in accordance with the Rules Enabling Act.

What will this bill change? The supporters of H.R. 4571 contend that it would help reduce frivolous lawsuits. That is what they say. But in reality, the bill would have a terrible effect on credible claims brought by families, workers, consumers, and senior citizens.

Without many of these civil lawsuits, the following changes in consumer products would likely never have occurred: The redesign of defective baby cribs so that they no longer strangle infants; flammable children's pajamas taken off the market; the redesign of harmful medical devices; the strengthening of auto fuel systems so that they do not blow up upon impact; the addition of basic safeguards to dangerous farm machinery; and the elimination of asbestos so that workers are no longer poisoned in their workplaces.

Mr. Speaker, instead of providing more protections for the average American, the Republican leadership actually provides protections for, get this, the ''Benedict Arnold corporations'' who reincorporate in a foreign tax shelter only to avoid paying U.S. taxes. Specifically, this bill protects these Benedict Arnold corporations from lawsuits American citizens could file if they are injured by those corporations' products. Unbelievable. The bill limits the venue of a lawsuit against a corporate defendant to either the place the injury happened or the jurisdiction where ''the defendant's principal place of business is located.'' If a foreign corporation does not do significant business in a place where the injury occurred, a plaintiff cannot sue a corporation headquartered outside the United States. In other words, a person injured by a defective product would be able to sue a U.S. corporation in its principal place of business, but he or she would often have no way to seek redress against a foreign corporation.

Now, the gentleman from Texas (Mr. TURNER) attempted to fix this provision. While the Republican leadership actually made the Turner amendment in order, they did so only after a provision intended to hold these Benedict Arnold corporations accountable for

their actions in the United States was removed from the amendment. The provision the Republican leadership removed from the Turner amendment defines Benedict Arnold corporations as U.S. companies that set up corporate shells in foreign countries in order to escape U.S. tax liability and other U.S. regulatory duties.

In other words, Mr. Speaker, the one proposal that was intended to protect people, not corporations, was left on the Committee on Rules floor last night. The Republican leadership does not want the American people to know that their bill puts Benedict Arnold corporations ahead of American consumers. This is just one example of the Republican leadership bending over backwards for special interests, while ignoring the real issues facing the American people. I hope my friend, the gentleman from Texas (Mr. SESSIONS), will take the time during this debate to explain to the American people why the Republican leadership continues to protect Benedict Arnold companies instead of fighting for American jobs here at home.

But, then again, today's debate is not about the real issues confronting the American people; it is all about distraction. If we waste enough time on this bill, maybe the American people will not have time to ponder the failures and the lack of action by the Republican-controlled Congress on our most pressing priorities. It is a cynical ploy, and I hope that the American people recognize it.

I urge my colleagues to reject H.R. 4571.

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

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

Republicans do listen to Democrats, and we have had a number of times where the Republican Party, the majority party, has talked about tort reforms and other issues that are important to consumers.

One of the persons that we have listened to repeatedly in this debate is perhaps one of the most successful trial lawyers who is now a United States Senator, and his name is JOHN EDWARDS. Senator EDWARDS has written in Newsweek that ''lawyers who bring frivolous lawsuits should face tough mandatory sanctions with the '3-strikes' penalty.'' That is what Mr. EDWARDS has said. Senator EDWARDS has also said that he ''believes we need a national system in place that will weed out meritless lawsuits.'' That is exactly what H.R. 4571 would do.

We are listening to the American people. We are listening to people who are lawyers who are engaged in the business of advocating on behalf of people who have been harmed. But sometimes those people know most about the system, as Senator JOHN EDWARDS, who knows best that we need to reform the system. That is what we are doing here today. I do appreciate the opportunity to have Senator EDWARDS' remarks that were in Newsweek magazine included today, because I think it is important for the American public to hear that.

Mr. Speaker, I yield 3 minutes to the gentleman from Bristol, Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in support of this rule and in support of the Lawsuit Abuse Reduction Act, and I do so because I have seen firsthand the very destructive nature that frivolous lawsuits have on our country, on our job creation, and on our health care costs.

Before coming to Congress I was in the private sector and ran a business, and every year we spent hundreds of thousands of dollars on liability insurance in an attempt to protect ourselves and our employees from frivolous lawsuits. We spent millions of dollars every year on inflated health care costs for our employees, and those suits that were filed against us were usually settled and they were usually settled in a fashion where the lawyers got millions of dollars and the plaintiffs essentially got pennies. In the end, we spent millions of dollars every single year to protect ourselves against frivolous lawsuits and to get rid of frivolous lawsuits.

Instead of spending millions of dollars on frivolous lawsuits, it would have been much more productive to spend that money on creating more jobs and lowering the health care costs for our employees. Every year frivolous lawsuits cost our economy $233 billion. That is 2.23 percent of our GDP, and it costs $109 for every single person in America.

Mr. Speaker, I do not think there are many things that we could do to give our economy a boost, to help American companies compete better in a global marketplace, than ending frivolous lawsuits. So I encourage all of my colleagues to support this rule and to support the Lawsuit Abuse Reduction Act.

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

The gentleman from Texas (Mr. SESSIONS), I am happy to yield to him 30 seconds to answer the question that I asked in my opening statement and that is, why did you remove this section of the Turner amendment that held Benedict Arnold corporations accountable? Why do you feel that we need to protect companies who purposely open up P.O. boxes in Bermuda so that they can escape paying U.S. taxes? Even if you support paying Benedict Arnold corporations, why can we not have at least an up or down vote on an amendment so that the House can decide?

I am happy to yield to the gentleman 30 seconds so that he can clarify that for me.

Mr. SESSIONS. Mr. Speaker, I thank the gentleman for yielding, and I am pleased to respond. First of all, I would like to say that the gentleman from Texas (Mr. TURNER) requested its removal.

Secondly, I would like to say that the provision actually allows a covered company under this provision that they have the absolute right not only to remove their case to Federal court, but they can remove the case to any Federal court in the country that they would like, and that they can pick the Federal court if they have one, wherever the Federal court is, and have the case there; whereas our bill prevents unfair forum shopping by making sure that cases are actually brought in States that actually have a connection to the case.

As the gentleman may be aware, there are abuses that take place all across this country, including in Illinois and Mississippi, where there are cases that are accepted by courts where no one actually even lives in those jurisdictions.

I thank the gentleman for asking for a response.

Mr. MCGOVERN. Mr. Speaker, reclaiming my time, I appreciate the gentleman's response, but it really did not answer my question, and I yield myself such time as I may consume.

The bottom line is the gentleman from Texas (Mr. TURNER) decided not to pursue his amendment only after he was told by the leadership of this House that he could not have the language he wanted, and the companies that we are talking about here, these Benedict Arnold companies, are not in individual States, they are in places like Bermuda.

I just think it is outrageous that these companies that really skirt U.S. tax law, and I think are not the kind of corporations that deserve to be protected, are in fact protected in this bill, and I think it is wrong.

Mr. Speaker, I would like to insert in the RECORD the complete text of the amendment that the gentleman from Texas (Mr. TURNER) wanted to offer and was told that he could not offer because I think it is instructive for the American people to at least have on record what he tried to do.

SEC. 6. ACCOUNTABILITY FOR BENEDICT ARNOLD CORPORATIONS.

(a) JURISDICTION.—In any civil action concerning an injury that was sustained in the United States and in which the defendant is a Benedict Arnold corporation, any Federal court in which such action is brought shall have jurisdiction over such defendant.

(b) SERVICE OF PROCESS.—Process in an action described in subsection (a) may be served wherever the Benedict Arnold corporation is located, has an agent, or transacts business.

(c) DEFINITIONS.—For purposes of this subsection:

(1) The term ''Benedict Arnold corporation'' means a foreign corporation that acquires a domestic corporation in a corporate repatriation transaction.

(2) The term ''corporate repatriation transaction'' means any transaction in which—

(A) a foreign corporation acquires substantially all of the properties held by a domestic corporation;

(B) shareholders of the domestic corporation, upon such acquisition, are the beneficial owners of securities in the foreign corporation that are entitled to 50 percent or more of the votes on any issue requiring shareholder approval; and

(C) the foreign corporation does not have substantial business activities (when compared to the total business activities of the corporate affiliated group) in the foreign country in which the foreign corporation is organized.

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

Mr. SESSIONS. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. LINDER), a member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of H. Res. 766, a modified, closed rule for H.R. 4571, the Lawsuit Abuse Reduction Act of 2004. This is a fair rule which provides for consideration of this important legislation and gives the minority an opportunity to offer a substitute amendment for the full House to consider.

With regard to the underlying measure, I support placing some level of accountability upon those who would otherwise unnecessarily burden our Nation's judicial system. While most tort reform measures focus primarily on the amount of damages one can collect through civil actions, little is ever said, much less done, to admonish the individuals who are the cause of the unnecessary litigation. As a matter of reason, we all agree that individuals should be given the right to seek redresses for certain grievances through civil litigation, as long as those claims are legitimate in their nature. After all, it is the responsibility of this Nation's judicial system to uphold the rights and liberties of the American citizen.

Our system of justice is flawed, however, in that it fails to incorporate checks upon those who would use it for other either malevolent means or personal gain. Under current law, for example, a lawyer who files a blatantly frivolous lawsuit in violation of Rule 11 may actually avoid punishment as long as he or she withdraws the filing within 21 days after the opposing party has filed a motion for sanctions. Judicial filings, whether legitimate or frivolous, bring cost burdens to both parties involved and the government, and these costs, most notably attorneys fees, do not evaporate once the frivolous claim has been withdrawn.

H.R. 4571, however, corrects these shortcomings by imposing reasonable standards of responsibility on the legal community and preventing lawyers from circumventing Rule 11. Most importantly, this legislation sends out a clear message that our judicial system was intended to protect the rights of the aggrieved, not to provide wealth to those who would profit from the aggrieved. As such, I am hopeful that my colleagues will join me in support of this bill.

□ 1045

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

Mr. Speaker, I urge my colleagues to reject H.R. 4571, and I ask that they support the substitute that will be offered by the gentleman from Texas (Mr. TURNER).

The Turner substitute is a stronger bill and addresses the real needs of the American public. The Turner substitute respects all Americans by setting up other three strikes and you are out systems while protecting civil rights lawsuits. The Turner substitute also prevents corporate wrongdoers from sealing their activities in court records. And the Turner substitute requires States to put into action a system to speed up the trial process and eliminate junk lawsuits.

Let me again state for the record, Mr. Speaker, that it is frustrating and it is mind boggling to me that the Republican leadership insists that the Turner substitute not include language that would hold Benedict Arnold corporations accountable. What is the deal?

Why does the Republican leadership not only on this bill but on so many other bills in which we try to hold these companies accountable insist on bending over backwards to protect them. These are companies that purposefully set up P.O. boxes in places like Bermuda to avoid paying U.S. taxes. There is no citizen in this country that can do that. But these corporations that make millions and millions, if not billions of dollars get to do that, get to take advantage of all the benefits of this country, but do not have to pay U.S. taxes and here they are being protect from lawsuits if in fact they produce a damaging product.

It is wrong. It is outrageous. This should not be happening, and I would again just say that it is sad that we are at this point.

Mr. Speaker, I would urge the adoption again of the Turner substitute and the rejection of this ill-conceived, ill-advised bill, and I would urge my colleagues to vote no on H.R. 4571.

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

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

Mr. Speaker, today, as I had stated, this is balanced legislation that is important to consumers. It is important to judges who sit to make themselves ready for those lawsuits that are necessary to make wise decisions on. But frivolous lawsuits are clogging our courts.

Mr. Speaker, I would remind this body that we have debated numerous tort reform issues, and one which was decided as a local issue in Texas was about medical malpractice, tort reform for medical malpractice. It was passed last year. It became law in January of this year. And one of the most important health care systems in Texas, a company called Christus HealthCare Systems, has announced earlier this month that as a result of those tort reform changes in Texas, they are able to put $21 million that previously they had set aside for lawsuits, that would go right back into their hospitals, to health care, to retraining of their employees, to make their system better, to make health care work better for every single consumer, and most of all to hire more nurses which is where the shortage was in their hospital.

Tort reform issues and ideas work but so do those things like we are doing today, H.R. 4571, that says we are going to alleviate and stop frivolous lawsuits from clogging our courts. I would remind this wonderful body that the young chairman, the gentleman from San Antonio, Texas (Mr. SMITH), has worked very diligently to ensure that this is balanced legislation that was brought to the floor, as he appeared yesterday in the Committee on Rules to talk about the need for this. I think we are listening to the special interests and we admit in the Republican Party we do have a specialty interest, they are call consumers. They are called taxpayers. And those special interest people that the Republican Party represents, we will continue to do so with common sense legislation that will allow the United States Congress to speak on issues that are important.

Mr. Speaker, I encourage all of my colleagues to stand up to support not only this rule but also the underlying legislation that is good for consumers. It is good for small businesses. It is good to ensure that America's economic growth continues. And most of all, it is good for the people, like Senator EDWARDS noted, who are there on the front line in our courts who say that frivolous lawsuits must end. The United States Congress will speak today. Every single Member of this body will have a chance to make that firm decision whether we want to end frivolous lawsuits or whether we are going to allow the status quo.

I urge my fellow Members to please support this underlying legislation and we will make a strong statements on behalf of consumers.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to the rule issued by the Committee on Rules for H.R. 4571, the Lawsuit Abuse Reduction Act of 2004.

As I mentioned during the Committee on the Judiciary's oversight hearing on this legislation and reiterated in my statement for the markup, one of the main functions of that body's oversight is to analyze potentially negative impact against the benefits that a legal process or piece of legislation will have on those affected. The base bill before the House today does not represent the product of careful analysis and therefore, it is critical that Members be given the ability to offer amendments to improve its provisions.

In the case of H.R. 4571, the Lawsuit Abuse Reduction Act, the oversight functions of the Judiciary Committee allowed us to craft a bill that will protect those affected from negative impacts of the shield from liability that it proposes. This legislation requires an overhaul in

order to make it less of a misnomer—to reduce abuse rather than encourage it.

The goal of the tort reform legislation is to allow businesses to externalize, or shift, some of the cost of the injuries they cause to others. Tort law always assigns liability to the party in the best position to prevent an injury in the most reasonable and fair manner. In looking at the disparate impact that the new tort reform laws will have on ethnic minority groups, it is unconscionable that the burden will be placed on these groups—that are in the worst position to bear the liability costs.

When Congress considers pre-empting State laws, it must strike the appropriate balance between two competing values—local control and national uniformity. Local control is extremely important because we all believe, as did the Founders two centuries ago, that State governments are closer to the people and better able to assess local needs and desires. National uniformity is also an important consideration in federalism—Congress's exclusive jurisdiction over interstate commerce has allowed our economy to grow dramatically over the past 200 years.

This legislation would reverse the changes to Rule 11 of the Federal Rules of Civil Procedure (FRCP) that were made by the Judicial Conference in 1993 such that (1) sanctions against an attorney whose litigation tactics are determined to harass or cause unnecessary delay or cost or who has been determined to have made frivolous legal arguments or unwarranted factual assertions would become mandatory rather than discretionary to the court, (2) discovery-related activity would be included within the scope of the rule, and (3) the rule would be extended to State cases affecting interstate commerce so that if a State judge decides that a case affects interstate commerce, he or she must apply rule 11 if violations are found.

This legislation strips State and Federal judges of their discretion in the area of applying rule 11 sanctions. Furthermore, it infringes States' rights by forcing State courts to apply the rule if interstate commerce is affected. Why is the discretion of the judge not sufficient in discerning whether rule 11 sanctions should be assessed?

If this legislation moves forward in this body, it will be important for us to find out its effect on indigent plaintiffs or those who must hire an attorney strictly on a contingent-fee basis. Because the application of rule 11 would be mandatory, attorneys will pad their legal fees to account for the additional risk that they will have to incur in filing lawsuits and the fact that they will have no opportunity to withdraw the suit due to a mistake. Overall, this legislation will deter indigent plaintiffs from seeking counsel to file meritorious claims given the extremely high legal fees.

Furthermore, H.R. 4571, as drafted, would allow corporations that perform sham and noneconomic transactions in order to enjoy economic benefits in this country.

This is a bad rule that will have terrible implications on our legislative branch, and I ask that my colleagues defeat the rule, defeat the bill, and support the substitute offered by Mr. TURNER. We must carefully consider the long-term implications that this bill, as drafted, will have on indigent claimants, the trial attorney community, and facilitation of corporate fraud.

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

The previous question was ordered.

The SPEAKER pro tempore (Mr. OSE). The question is on the resolution.

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

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

The yeas and nays were ordered.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded voted or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

NONPROFIT ATHLETIC ORGANIZATION PROTECTION ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3369) to provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage or adoption of rules for athletic competitions and practices.

The Clerk read as follows:

H.R. 3369

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 ''Nonprofit Athletic Organization Protection Act of 2003''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) HARM.—The term ''harm'' includes physical, nonphysical, economic, and noneconomic losses.

(3) NONECONOMIC LOSS.—The term ''noneconomic loss'' means any loss resulting from physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(4) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means—

(A) any organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization which is organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(5) NONPROFIT ATHLETIC ORGANIZATION.—The term ''nonprofit athletic organization'' means a nonprofit organization that has as one of its primary functions the adoption of rules for sanctioned or approved athletic competitions and practices. The term includes the employees, agents, and volunteers of such organization, provided such individuals are acting within the scope of their duties with the nonprofit athletic organization.

(6) STATE.—The term ''State'' includes the District of Columbia, and any commonwealth, territory, or possession of the United States.

SEC. 3. LIMITATION ON LIABILITY FOR NONPROFIT ATHLETIC ORGANIZATIONS.

(a) LIABILITY PROTECTION FOR NONPROFIT ATHLETIC ORGANIZATIONS.—Except as provided in subsections (b) and (c), a nonprofit athletic organization shall not be liable for harm caused by an act or omission of the nonprofit athletic organization in the adoption of rules for sanctioned or approved athletic competitions or practices if—

(1) the nonprofit athletic organization was acting within the scope of the organization's duties at the time of the adoption of the rules at issue;

(2) the nonprofit athletic organization was, if required, properly licensed, certified, or authorized by the appropriate authorities for the competition or practice in the State in which the harm occurred or where the competition or practice was undertaken; and

(3) the harm was not caused by willful or criminal misconduct, gross negligence, or reckless misconduct on the part of the nonprofit athletic organization.

(b) RESPONSIBILITY OF EMPLOYEES, AGENTS, AND VOLUNTEERS TO NONPROFIT ATHLETIC ORGANIZATIONS.—Nothing in this section shall be construed to affect any civil action brought by any nonprofit athletic organization against any employee, agent, or volunteer of such organization.

(c) EXCEPTIONS TO NONPROFIT ATHLETIC ORGANIZATION LIABILITY PROTECTION.—If the laws of a State limit nonprofit athletic organization liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit athletic organization to adhere to risk management procedures, including mandatory training of its employees, agents, or volunteers.

(2) A State law that makes the nonprofit athletic organization liable for the acts or omissions of its employees, agents, and volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

SEC. 4. PREEMPTION.

This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to the rule-making activities of nonprofit athletic organizations.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect on the date of enactment of this Act.

(b) APPLICATION.—This Act applies to any claim for harm caused by an act or omission of a nonprofit athletic organization that is filed on or after the effective date of this Act