Inglis (SC)	Miller (FL)	Scott (VA)
Israel	Miller (NC)	Sensenbrenner
Issa	Miller, Gary	Sessions
Jackson-Lee (TX)	Mitchell	Sestak
Jefferson	Moore (WI)	Shadegg
Johnson (GA)	Moran (KS)	Shays
Johnson (IL)	Moran (VA)	Shea-Porter
Johnson, E. B.	Murphy, Tim	Sherman
Johnson, Sam	Murtha	Shimkus
Jones (NC)	Musgrave	Shuler
Jones (OH)	Myrick	Shuster
Jordan	Nadler	Simpson
Kaptur	Napolitano	Skelton
Keller	Neal (MA)	Slaughter
Kilpatrick	Neugebauer	Smith (NE)
King (IA)	Nunes	Smith (NJ)
Kingston	Oberstar	Smith (TX)
Kirk	Obey	Souder
Klein (FL)	Pascrell	Spratt
Kline (MN)	Payne	Stark
Knollenberg	Pearce	Stearns
Kucinich	Pence	Sullivan
LaHood	Perlmutter	Tancredo
Lamborn	Peterson (MN)	Tauscher
Langevin	Petri	Taylor
Larsen (WA)	Pickering	Terry
Larson (CT)	Pitts	Thompson (CA)
Latham	Platts	Thompson (MS)
Latta	Poe	Thornberry
Lee	Porter	Tiahrt
Lewis (CA)	Price (GA)	Tiberi
Lewis (GA)	Pryce (OH)	Tsongas
Lewis (KY)	Radanovich	Turner
Linder	Ramstad	Udall (NM)
LoBiondo	Regula	Upton
Lofgren, Zoe	Rehberg	Van Hollen
Lucas	Richardson	Visclosky
Mack	Rogers (AL)	Walberg
Manzullo	Rogers (KY)	Walden (OR)
Marchant	Rogers (MI)	Walz (MN)
Markey	Roskam	Wamp
Marshall	Roybal-Allard	Waters
Matheson	Royce	Watt
McCarthy (CA)	Ruppersberger	Waxman
McCarthy (NY)	Ryan (OH)	Weiner
McCaul (TX)	Ryan (WI)	Weldon (FL)
McCollum (MN)	Salazar	Weller
McDermott	Sali	Westmoreland
McGovern	Sánchez, Linda T.	Wexler
McHenry	Sanchez, Loretta	Whitfield (KY)
McIntyre	Sarbanes	Wilson (NM)
McMorris Rodgers	Saxton	Wilson (SC)
McNerney	Scalise	Wittman (VA)
Meek (FL)	Schiff	Wolf
Meeks (NY)	Schmidt	Woolsey
Mica	Schwartz	Yarmuth
	Scott (GA)	Young (FL)

NOT VOTING—15

Cannon	Lampson	Ros-Lehtinen
Cubin	Mahoney (FL)	Rush
Cummings	McCotter	Snyder
Delahunt	Peterson (PA)	Speier
Fossella	Putnam	Sutton

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1614

Ms. GINNY BROWN-WAITE of Florida and Mr. PAYNE changed their vote from ''yea'' to ''nay.''

Mr. BUTTERFIELD changed his vote from ''nay'' to ''yea.''

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1615

ADA AMENDMENTS ACT OF 2008

Mr. GEORGE MILLER of California. Madam Speaker, pursuant to H. Res. 1299, I call up the bill (H.R. 3195) to restore the intent and protections of the Americans with Disabilities Act of 1990, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3195

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 ''ADA Restoration Act of 2007''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act ''establish a clear and comprehensive prohibition of discrimination on the basis of disability,'' and provide broad coverage and vigorous and effective remedies without unnecessary and obstructive defenses;

(2) decisions and opinions of the Supreme Court have unduly narrowed the broad scope of protection afforded in the ADA, eliminating protection for a broad range of individuals who Congress intended to protect;

(3) in enacting the ADA, Congress recognized that physical and mental impairments are natural parts of the human experience that in no way diminish a person's right to fully participate in all aspects of society, but Congress also recognized that people with physical or mental impairments having the talent, skills, abilities, and desire to participate in society are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;

(4) Congress modeled the ADA definition of disability on that of section 504 of the Rehabilitation Act of 1973, which, through the time of the ADA's enactment, had been construed broadly to encompass both actual and perceived limitations, and limitations imposed by society;

(5) the broad conception of the definition had been underscored by the Supreme Court's statement in its decision in School Board of Nassau County v. Arline, 480 U.S. 273, 284 (1987), that the section 504 definition ''acknowledged that society's accumulated myths and fears about disability and disease are as handicapping as are the physical limitations that flow from actual impairment'';

(6) in adopting the section 504 concept of disability in the ADA, Congress understood that adverse action based on a person's physical or mental impairment is often unrelated to the limitations caused by the impairment itself;

(7) instead of following congressional expectations that disability would be interpreted broadly in the ADA, the Supreme Court has ruled, in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184, 197 (2002), that the elements of the definition ''need to be interpreted strictly to create a demanding standard for qualifying as disabled,'' and, consistent with that view, has narrowed the application of the definition in various ways; and

(8) contrary to explicit congressional intent expressed in the ADA committee reports, the Supreme Court has eliminated from the Act's coverage individuals who have mitigated the effects of their impairments through the use of such measures as medication and assistive devices.

(b) PURPOSE.—The purposes of this Act are—

(1) to effect the ADA's objectives of providing ''a clear and comprehensive national mandate for the elimination of discrimination'' and ''clear, strong, consistent, enforceable standards addressing discrimination'' by restoring the broad scope of protection available under the ADA;

(2) to respond to certain decisions of the Supreme Court, including Sutton v. United Airlines, Inc., 527 U.S. 471 (1999), Murphy v. United Parcel Service, Inc., 527 U.S. 516 (1999), Albertson's, Inc. v. Kirkingburg, 527 U.S. 555 (1999), and Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), that have narrowed the class of people who can invoke the protection from discrimination the ADA provides; and

(3) to reinstate original congressional intent regarding the definition of disability by clarifying that ADA protection is available for all individuals who are subjected to adverse treatment based on actual or perceived impairment, or record of impairment, or are adversely affected by prejudiced attitudes, such as myths, fears, ignorance, or stereotypes concerning disability or particular disabilities, or by the failure to remove societal and institutional barriers, including communication, transportation, and architectural barriers, and the failure to provide reasonable modifications to policies, practices, and procedures, reasonable accommodations, and auxiliary aids and services.

SEC. 3. CODIFIED FINDINGS.

Section 2(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101) is amended—

(1) by amending paragraph (1) to read as follows:

''(1) physical or mental disabilities are natural parts of the human experience that in no way diminish a person's right to fully participate in all aspects of society, yet people with physical or mental disabilities having the talent, skills, abilities, and desires to participate in society frequently are precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;''.

(2) by amending paragraph (7) to read as follows:

''(7) individuals with disabilities have been subject to a history of purposeful unequal treatment, have had restrictions and limitations imposed upon them because of their disabilities, and have been relegated to positions of political powerlessness in society; classifications and selection criteria that exclude persons with disabilities should be strongly disfavored, subjected to skeptical and meticulous examination, and permitted only for highly compelling reasons, and never on the basis of prejudice, ignorance, myths, irrational fears, or stereotypes about disability;''.

SEC. 4. DISABILITY DEFINED.

Section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102) is amended—

(1) by amending paragraph (2) to read as follows:

''(2) DISABILITY.—

''(A) IN GENERAL.—The term 'disability' means, with respect to an individual—

''(i) a physical or mental impairment;

''(ii) a record of a physical or mental impairment; or

''(iii) being regarded as having a physical or mental impairment.

''(B) RULE OF CONSTRUCTION.—

''(i) The determination of whether an individual has a physical or mental impairment shall be made without considering the impact of any mitigating measures the individual may or may not be using or whether or not any manifestations of an impairment are episodic, in remission, or latent.

''(ii) The term 'mitigating measures' means any treatment, medication, device, or other measure used to eliminate, mitigate, or compensate for the effect of an impairment, and includes prescription and other medications, personal aids and devices (including assistive technology devices and services), reasonable accommodations, or auxiliary aids and services.

''(iii) Actions taken by a covered entity with respect to an individual because of that individual's use of a mitigating measure or because of a side effect or other consequence of the use of such a measure shall be considered actions taken on the basis of a disability under this Act.''.

(2) by redesignating paragraph (3) as paragraph (7) and inserting after paragraph (2) the following:

''(3) PHYSICAL IMPAIRMENT.—The term 'physical impairment' means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine.

''(4) MENTAL IMPAIRMENT.—The term 'mental impairment' means any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities.

''(5) RECORD OF PHYSICAL OR MENTAL IMPAIRMENT.—The term 'record of physical or mental impairment' means having a history of, or having been misclassified as having, a physical or mental impairment.

''(6) REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT.—The term 'regarded as having a physical or mental impairment' means being perceived or treated as having a physical or mental impairment whether or not the individual has an impairment.''.

SEC. 5. DISCRIMINATION ON THE BASIS OF DISABILITY.

Section 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112) is amended—

(1) in subsection (a), by striking ''against a qualified individual with a disability because of the disability of such individual'' and inserting ''against an individual on the basis of disability''; and

(2) in subsection (b), in the matter preceding paragraph (1), by striking ''discriminate'' and inserting ''discriminate against an individual on the basis of disability''.

SEC. 6. QUALIFIED INDIVIDUAL.

Section 103(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12113(a)) is amended by striking ''that an alleged application'' and inserting ''that—

''(1) the individual alleging discrimination under this title is not a qualified individual with a disability; or

''(2) an alleged application''.

SEC. 7. RULE OF CONSTRUCTION.

Section 501 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201) is amended by adding at the end the following:

''(e) BROAD CONSTRUCTION.—In order to ensure that this Act achieves its purpose of providing a comprehensive prohibition of discrimination on the basis of disability, the provisions of this Act shall be broadly construed to advance their remedial purpose.

''(f) REGULATIONS.—In order to provide for consistent and effective standards among the agencies responsible for enforcing this Act, the Attorney General shall promulgate regulations and guidance in alternate accessible formats implementing the provisions herein. The Equal Employment Opportunity Commission and Secretary of Transportation shall then issue appropriate implementing directives, whether in the nature of regulations or policy guidance, consistent with the requirements prescribed by the Attorney General.

''(g) DEFERENCE TO REGULATIONS AND GUIDANCE.—Duly issued Federal regulations and guidance for the implementation of this Act, including provisions implementing and interpreting the definition of disability, shall be entitled to deference by administrative bodies or officers and courts hearing any action brought under this Act.''.

The SPEAKER pro tempore. Pursuant to House Resolution 1299, the amendment in the nature of a substitute recommended by the Committee on Education and Labor, printed in the bill is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 3195

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 ''ADA Amendments Act of 2008''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act ''provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities'' and provide broad coverage;

(2) in enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person's right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;

(3) while Congress expected that the definition of disability under the ADA would be interpreted consistently with how courts had applied the definition of handicap under the Rehabilitation Act of 1973, that expectation has not been fulfilled;

(4) the holdings of the Supreme Court in Sutton v. United Airlines, Inc., 527 U.S. 471 (1999) and its companion cases, and in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002) have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect; and

(5) as a result of these Supreme Court cases, lower courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities.

(b) PURPOSES.—The purposes of this Act are—

(1) to carry out the ADA's objectives of providing ''a clear and comprehensive national mandate for the elimination of discrimination'' and ''clear, strong, consistent, enforceable standards addressing discrimination'' by reinstating a broad scope of protection to be available under the ADA;

(2) to reject the requirement enunciated by the Supreme Court in Sutton v. United Airlines, Inc., 527 U.S. 471 (1999) and its companion cases that whether an impairment substantially limits a major life activity is to be determined with reference to the ameliorative effects of mitigating measures;

(3) to reject the Supreme Court's reasoning in Sutton v. United Airlines, Inc., 527 U.S. 471 (1999) with regard to coverage under the third prong of the definition of disability and to reinstate the reasoning of the Supreme Court in School Board of Nassau County v. Arline, 480 U.S. 273 (1987) which set forth a broad view of the third prong of the definition of handicap under the Rehabilitation Act of 1973;

(4) to reject the standards enunciated by the Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), that the terms ''substantially'' and ''major'' in the definition of disability under the ADA ''need to be interpreted strictly to create a demanding standard for qualifying as disabled,'' and that to be substantially limited in performing a major life activity under the ADA ''an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people's daily lives''; and

(5) to provide a new definition of ''substantially limits'' to indicate that Congress intends to depart from the strict and demanding standard applied by the Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams and by numerous lower courts.

SEC. 3. CODIFIED FINDINGS.

Section 2(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101) is amended—

(1) by amending paragraph (1) to read as follows:

''(1) physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;''; and

(2) by striking paragraph (7).

SEC. 4. DISABILITY DEFINED AND RULES OF CONSTRUCTION.

(a) DEFINITION OF DISABILITY.—Section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102) is amended to read as follows:

''SEC. 3. DEFINITION OF DISABILITY.

''As used in this Act:

''(1) DISABILITY.—The term 'disability' means, with respect to an individual—

''(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

''(B) a record of such an impairment; or

''(C) being regarded as having such an impairment (as described in paragraph (4)).

''(2) SUBSTANTIALLY LIMITS.—The term 'substantially limits' means materially restricts.

''(3) MAJOR LIFE ACTIVITIES.—

''(A) IN GENERAL.—For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.

''(B) MAJOR BODILY FUNCTIONS.—For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

''(4) REGARDED AS HAVING SUCH AN IMPAIRMENT.—For purposes of paragraph (1)(C):

''(A) An individual meets the requirement of 'being regarded as having such an impairment' if the individual establishes that he or she has been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

''(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

''(5) RULES OF CONSTRUCTION REGARDING THE DEFINITION OF DISABILITY.—The definition of 'disability' in paragraph (1) shall be construed in accordance with the following:

''(A) To achieve the remedial purposes of this Act, the definition of 'disability' in paragraph (1) shall be construed broadly.

''(B) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

''(C) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

''(D)(i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as—

''(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

''(II) use of assistive technology;

''(III) reasonable accommodations or auxiliary aids or services; or

''(IV) learned behavioral or adaptive neurological modifications.

''(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

''(iii) As used in this subparagraph—

''(I) the term 'ordinary eyeglasses or contact lenses' means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

''(II) the term 'low-vision devices' means devices that magnify, enhance, or otherwise augment a visual image.''.

(b) CONFORMING AMENDMENT.—The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) is further amended by adding after section 3 the following:

''SEC. 4. ADDITIONAL DEFINITIONS.

''As used in this Act:

''(1) AUXILIARY AIDS AND SERVICES.—The term 'auxiliary aids and services' includes—

''(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

''(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

''(C) acquisition or modification of equipment or devices; and

''(D) other similar services and actions.

''(2) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.''

(c) AMENDMENT TO THE TABLE OF CONTENTS.—The table of contents contained in section 1(b) of the Americans with Disabilities Act of 1990 is amended by striking the item relating to section 3 and inserting the following items:

''Sec. 3. Definition of disability.
''Sec. 4. Additional definitions.''.

SEC. 5. DISCRIMINATION ON THE BASIS OF DISABILITY.

(a) ON THE BASIS OF DISABILITY.—Section 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112) is amended—

(1) in subsection (a), by striking ''with a disability because of the disability of such individual'' and inserting ''on the basis of disability''; and

(2) in subsection (b) in the matter preceding paragraph (1), by striking ''discriminate'' and inserting ''discriminate against a qualified individual on the basis of disability''.

(b) QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.—Section 103 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12113) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and inserting after subsection (b) the following new subsection:

''(c) QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.—Notwithstanding section 3(5)(D)(ii), a covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity.''.

(c) CONFORMING AMENDMENT.—Section 101(8) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(8)) is amended—

(1) in the paragraph heading, by striking ''WITH A DISABILITY''; and

(2) by striking ''with a disability'' after ''individual'' both places it appears.

SEC. 6. RULES OF CONSTRUCTION.

Title V of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201) is amended—

(1) by adding at the end of section 501 the following:

''(e) BENEFITS UNDER STATE WORKER'S COMPENSATION LAWS.—Nothing in this Act alters the standards for determining eligibility for benefits under State worker's compensation laws or under State and Federal disability benefit programs.

''(f) CLAIMS OF NO DISABILITY.—Nothing in this Act shall provide the basis for a claim by a person without a disability that he or she was subject to discrimination because of his or her lack of disability.

''(g) REASONABLE ACCOMMODATIONS AND MODIFICATIONS.—A covered entity under title I, a public entity under title II, and any person who owns, leases (or leases to), or operates a place of public accommodation under title III, need not provide a reasonable accommodation or a reasonable modification to policies, practices, or procedures to an individual who meets the definition of disability in section 3(1) solely under subparagraph (C).'';

(2) by redesignating section 506 through 514 as sections 507 through 515, respectively, and adding after section 505 the following:

''SEC. 506. RULE OF CONSTRUCTION REGARDING REGULATORY AUTHORITY.

''The authority to issue regulations granted to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation under this Act includes the authority to issue regulations implementing the definitions contained in sections 3 and 4.''; and

(3) in the table of contents contained in section 1(b), by redesignating the items relating to sections 506 through 514 as sections 507 through 515, respectively, and by inserting after the item relating to section 505 the following new item:

''Sec. 506. Rule of construction regarding regulatory authority.''.

SEC. 7. CONFORMING AMENDMENTS.

Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended—

(1) in paragraph (9)(B), by striking ''a physical'' and all that follows through ''major life activities'', and inserting ''the meaning given it in section 3 of the Americans with Disabilities Act of 1990''; and

(2) in paragraph (20)(B), by striking ''any person who'' and all that follows through the period at the end, and inserting ''any person who has a disability as defined in section 3 of the Americans with Disabilities Act of 1990.''.

SEC. 8. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on January 1, 2009.

SECTION 1. SHORT TITLE.

This Act may be cited as the "ADA Amendments Act of 2008".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities" and provide broad coverage;

(2) in enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person's right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;

(3) while Congress expected that the definition of disability under the ADA would be interpreted consistently with how courts had applied the definition of handicap under the Rehabilitation Act of 1973, that expectation has not been fulfilled;

(4) the holdings of the Supreme Court in Sutton v. United Airlines, Inc., 527 U.S. 471 (1999) and its companion cases, and in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002) have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect; and

(5) as a result of these Supreme Court cases, lower courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities.

(b) PURPOSES.—The purposes of this Act are—

(1) to carry out the ADA's objectives of providing "a clear and comprehensive national mandate for the elimination of discrimination" and "clear, strong, consistent, enforceable standards addressing discrimination" by reinstating a broad scope of protection to be available under the ADA;

(2) to reject the requirement enunciated by the Supreme Court in Sutton v. United Airlines, Inc., 527 U.S. 471 (1999) and its companion cases that whether an impairment substantially limits a major life activity is to be determined with reference to the ameliorative effects of mitigating measures;

(3) to reject the Supreme Court's reasoning in Sutton v. United Airlines, Inc., 527 U.S. 471 (1999) with regard to coverage under the third prong of the definition of disability and to reinstate the reasoning of the Supreme Court in School Board of Nassau County v. Arline, 480 U.S. 273 (1987) which set forth a broad view of the third prong of the definition of handicap under the Rehabilitation Act of 1973;

(4) to reject the standards enunciated by the Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), that the terms "substantially" and "major" in the definition of disability under the ADA "need to be interpreted strictly to create a demanding standard for qualifying as disabled," and that to be substantially limited in performing a major life activity under the ADA "an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people's daily lives"; and

(5) to provide a new definition of "substantially limits" to indicate that Congress intends to depart from the strict and demanding standard applied by the Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams and by numerous lower courts.

SEC. 3. CODIFIED FINDINGS.

Section 2(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;"; and

(2) by striking paragraph (7).

SEC. 4. DISABILITY DEFINED AND RULES OF CONSTRUCTION.

(a) DEFINITION OF DISABILITY.—Section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102) is amended to read as follows:

"SEC. 3. DEFINITION OF DISABILITY.

"As used in this Act:

"(1) DISABILITY.—The term 'disability' means, with respect to an individual—

"(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

"(B) a record of such an impairment; or

"(C) being regarded as having such an impairment (as described in paragraph (4)).

"(2) SUBSTANTIALLY LIMITS.—The term 'substantially limits' means materially restricts.

"(3) MAJOR LIFE ACTIVITIES.—

"(A) IN GENERAL.—For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.

"(B) MAJOR BODILY FUNCTIONS.—For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

"(4) REGARDED AS HAVING SUCH AN IMPAIRMENT.—For purposes of paragraph (1)(C):

"(A) An individual meets the requirement of 'being regarded as having such an impairment' if the individual establishes that he or she has been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

"(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

"(5) RULES OF CONSTRUCTION REGARDING THE DEFINITION OF DISABILITY.—The definition of 'disability' in paragraph (1) shall be construed in accordance with the following:

"(A) To achieve the remedial purposes of this Act, the definition of 'disability' in paragraph (1) shall be construed broadly.

"(B) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

"(C) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

"(D)(i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as—

"(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

"(II) use of assistive technology;

"(III) reasonable accommodations or auxiliary aids or services; or

"(IV) learned behavioral or adaptive neurological modifications.

"(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

"(iii) As used in this subparagraph—

"(I) the term 'ordinary eyeglasses or contact lenses' means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

"(II) the term 'low-vision devices' means devices that magnify, enhance, or otherwise augment a visual image.".

(b) CONFORMING AMENDMENT.—The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) is further amended by adding after section 3 the following:

"SEC. 4. ADDITIONAL DEFINITIONS.

"As used in this Act:

"(1) AUXILIARY AIDS AND SERVICES.—The term 'auxiliary aids and services' includes—

"(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

"(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

"(C) acquisition or modification of equipment or devices; and

"(D) other similar services and actions.

"(2) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

(c) AMENDMENT TO THE TABLE OF CONTENTS.—The table of contents contained in section 1(b) of the Americans with Disabilities Act of 1990 is amended by striking the item relating to section 3 and inserting the following items:

"Sec. 3. Definition of disability.

"Sec. 4. Additional definitions.".

SEC. 5. DISCRIMINATION ON THE BASIS OF DISABILITY.

(a) ON THE BASIS OF DISABILITY.—Section 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112) is amended—

(1) in subsection (a), by striking "with a disability because of the disability of such individual" and inserting "on the basis of disability"; and

(2) in subsection (b) in the matter preceding paragraph (1), by striking "discriminate" and inserting "discriminate against a qualified individual on the basis of disability".

(b) QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.—Section 103 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12113) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and inserting after subsection (b) the following new subsection:

"(c) QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.—Notwithstanding section 3(5)(D)(ii), a covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity.".

(c) CONFORMING AMENDMENT.—Section 101(8) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(8)) is amended—

(1) in the paragraph heading, by striking "WITH A DISABILITY"; and

(2) by striking "with a disability" after "individual" both places it appears.

SEC. 6. RULES OF CONSTRUCTION.

Title V of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201) is amended—

(1) by adding at the end of section 501 the following:

"(e) BENEFITS UNDER STATE WORKER'S COMPENSATION LAWS.—Nothing in this Act alters the standards for determining eligibility for benefits under State worker's compensation laws or under State and Federal disability benefit programs.

"(f) CLAIMS OF NO DISABILITY..—Nothing in this Act shall provide the basis for a claim by a person without a disability that he or she was subject to discrimination because of his or her lack of disability.

"(g) REASONABLE ACCOMMODATIONS AND MODIFICATIONS.—A covered entity under title I, a public entity under title II, and any person who owns, leases (or leases to), or operates a place of public accommodation under title III, need not provide a reasonable accommodation or a reasonable modification to policies, practices, or procedures to an individual who meets the definition of disability in section 3(1) solely under subparagraph (C).";

(2) by redesignating sections 506 through 514 as sections 507 through 515, respectively, and adding after section 505 the following:

"SEC. 506. RULE OF CONSTRUCTION REGARDING REGULATORY AUTHORITY.

"The authority to issue regulations granted to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation under this Act includes the authority to issue regulations implementing the definitions contained in sections 3 and 4."; and

(3) in the table of contents contained in section 1(b), by redesignating the items relating to sections 506 through 514 as sections 507 through 515, respectively, and by inserting after the item relating to section 505 the following new item:

"Sec. 506. Rule of construction regarding regulatory authority.".

SEC. 7. CONFORMING AMENDMENTS.

Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended—

(1) in paragraph (9)(B), by striking "a physical" and all that follows through "major life activities", and inserting "the meaning given it in section 3 of the Americans with Disabilities Act of 1990"; and

(2) in paragraph (20)(B), by striking "any person who" and all that follows through the period at the end, and inserting "any person who has a disability as defined in section 3 of the Americans with Disabilities Act of 1990.".

SEC. 8. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on January 1, 2009.

The SPEAKER pro tempore. Debate shall not exceed 1 hour, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The gentleman from California (Mr. GEORGE MILLER) and the gentleman from California (Mr. MCKEON) each will control 20 minutes, and the gentleman from Michigan (Mr. CONYERS) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

GENERAL LEAVE

Mr. GEORGE MILLER of California. Madam Speaker, I ask unanimous consent for all Members to have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 3195.

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

There was no objection.

Mr. GEORGE MILLER of California. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H.R. 3195, the Americans with Disabilities Act Amendments Act of 2008.

Since 1990, the Americans with Disabilities Act has made it possible for millions of productive, hardworking Americans to participate in our Nation's economy. Among other rights, the law guaranteed that workers with disabilities would be judged on their merits, not on their employer's prejudices.

But since the ADA's enactment, several Supreme Court rulings have dramatically reduced the number of workers with disabilities who are protected from discrimination under the law. Workers with diabetes, cancer, epilepsy, the very workers for whom the Americans with Disabilities Act was intended to protect, can be legally fired or passed over for promotion just because of their disability.

In January, the Education and Labor Committee heard testimony from Carey McClure. Although he was diagnosed with muscular dystrophy at age 15, Carey had been working as an electrician for more than 20 years. Like so many other Americans with disabilities, Carey was able to find his way to successfully perform his job and all of life's daily tasks despite his disability.

Carey received an initial job offer from General Motors pending a physical. During the physical, the doctor asked Carey to hold his arms above his head. Carey could not. The doctor asked how he would perform his job if it required reaching over his head. Carey gave a commonsense answer: he would use a ladder. When General Motors learned that Carey had a disability, it rescinded the job offer. Carey challenged General Motors' decision because he thought the Americans with Disabilities Act would protect him. He was wrong. The court ruled that, since Carey had adapted to his condition by modifying the way he performed everyday tasks, like washing his hair, he was not disabled; and, therefore, was not protected by the Americans with Disabilities Act.

Because of Supreme Court rulings, Carey and many others are now caught in a legal Catch-22. The court has determined that, for individuals whose disabilities do not ''prevent or severely restrict'' major life activities and for those who mitigate their impairments through means such as hearings aids or with medications, they should not be considered disabled.

In other words, an employer could fire or refuse to hire a fully qualified worker simply on the basis of his or her disability, while maintaining in court that the worker was not ''disabled enough'' to qualify for protection under the law.

H.R. 3195, the legislation before us today, a bipartisan legislation, was introduced by Majority Leader HOYER and Congressman JIM SENSENBRENNER, and it remedies this problem. The bill reverses the flawed court decision and restores the original congressional intent of the Americans with Disabilities Act.

H.R. 3195 clarifies the definition of a ''disability,'' ensuring that anyone with a physical or with a mental impairment that materially restricts a major life activity is covered under ADA.

In 2004, workers with disabilities lost 97 percent of the employment cases that went to trial. There has been no balance in the courts, putting workers at a distinct disadvantage. Too often, these cases have turned solely on the question of whether someone is an individual with a disability; too rarely have courts considered the merits of the discrimination claim itself.

H.R. 3195 stops the erosion of civil rights protections for people with disabilities while maintaining a reasonable solution supported by the business community.

The U.S. Chamber of Commerce states that H.R. 3195 ''represents a balanced approach to ensure appropriate coverage under ADA.''

The Human Resource Policy Association, whose members employ 12 percent of the U.S. private-sector workforce, also supports the bill. The organization says that the ADA amendment ''would maintain the functionality of the workplace while providing important protections to individuals with disabilities.''

H.R. 3195 makes it clear that the Americans with Disabilities Act protects anyone who faces discrimination on the basis of disability and that Congress intended the law to be constructed broadly.

Many of our Nation's injured veterans returning from the battlefield will also need the protections guaranteed by the ADA. When injured soldiers return to civilian life, whether they go back to a job or to school, they should not be subject to discrimination. This legislation will ensure that they will not have to fight another battle, this time for their economic livelihood.

The Supreme Court rulings have also reduced protections for students with disabilities. The ADA Amendments Act ensures that students with physical and mental impairments will be free from discrimination and that they will have access to the accommodations and to the modifications they need to successfully pursue an education.

This legislation has broad support: Democrats and Republicans, businesses and advocates for individuals with disabilities. I am pleased we were able to work together to get to this point.

It is time to restore the original intent of the ADA and to ensure that the tens of millions of Americans with disabilities who want to work and to attend school and to participate in our communities will have the chance to do so. I urge my colleagues to support this legislation.

Again, I would like to give a special thanks to Majority Leader HOYER of Maryland and to Representative JIM SENSENBRENNER of Wisconsin for their outstanding efforts on behalf of the Members of this House during these negotiations, to bring those negotiations between the civil rights community, the disabilities community, and the employer community to a successful conclusion, which is embodied in this legislation today.

I reserve the balance of my time.

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

I want to associate myself with the remarks that Chairman MILLER just made of thanking Leader HOYER and Mr. SENSENBRENNER for the work that they began in the last Congress and persevered to bring us to this point today.

The Americans with Disabilities Act was enacted in 1990 with broad bipartisan support. Among the bill's most important purposes was the protecting of individuals with disabilities from discrimination in the workplace.

By many measures, the law has been a success. I firmly believe that the employer community has taken the ADA to heart with businesses adopting policies specifically aimed at providing meaningful opportunities to individuals with disabilities.

However, despite the law's many success stories, it is clear today that, for some, the ADA is failing to live up to its promise. For example, the Education and Labor Committee heard testimony earlier this year from individuals who, I would stipulate, were intended to be covered under the original ADA. But in a perverse fashion, someone who was able to treat the effects of his or her disability through medication or technology was left without protection because they weren't ''disabled'' enough.

I don't think that is what the authors of the original ADA intended. I don't believe it is what we intend today, and I am glad that the bill before us addresses and corrects this issue.

Madam Speaker, we are here today because some individuals have been left outside the scope of the act's protections by court cases and by narrow interpretations of the law. Still, others have sought to massively expand the law's protections, an equally dangerous proposition.

Our task with this legislation is to focus relief where it is needed, while still maintaining the delicate balance embodied in the original ADA.

In the months since this bill was first introduced, I am pleased to say we were able to do so. Because the ADA extends its protections to so many facets of American life, there were four separate committees with the responsibility for moving the process forward. Equally important, this compromise was forged with representatives of many of the stakeholders who will be

affected by this bill. It was truly a process of give-and-take.

For instance, even as we work to ensure the law's protections are extended to some who are currently excluded, such as those I mentioned earlier who were wrongly considered to be not ''disabled enough,'' we define that expansion cautiously. Through the carefully crafted language of the bill, we will ensure, for example, that someone is not ''disabled'' under the ADA simply because he or she wears eyeglasses or contact lenses. That's an important limitation, and it is necessary to maintaining the intent and integrity of the ADA.

Also importantly, this version of the legislation maintains a requirement of the ADA, which is that, to be considered a disability, a physical or a mental impairment must ''substantially limit'' an individual.

As introduced, H.R. 3195 threatened to gut any meaningful limitation on the ADA by simply calling any impairment, no matter how trivial or minor, a disability. That was not the intent of Congress in 1990, nor should it be today.

Madam Speaker, I support this bill, not because I think it is perfect but because I think it represents our best efforts to ensure that meaningful relief will be extended to those most in need, while the ADA's careful balance is maintained as fully as possible.

In recognition of that achievement, let me simply thank my colleagues on both sides of the aisle for honoring our shared commitment to work together on this issue that has the potential to touch the lives of millions of Americans. And I also want to thank all of the people who worked so hard—the members of the community most affected by this—and thank them for their efforts and patience in working with us.

I reserve the balance of my time.

Mr. GEORGE MILLER of California. Madam Speaker, I yield 3 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

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

Mr. LANGEVIN. Madam Speaker, I rise in strong support of the ADA Amendments Act, and I thank the gentleman for yielding. I want to recognize the fact that this act is championed by my good friend and colleague from Maryland, Majority Leader STENY HOYER.

□ 1630

This crucial legislation would not have been possible without his leadership and that of Mr. SENSENBRENNER and so many of my other colleagues, and I thank all of them for their tireless efforts to ensure the continued inclusion and protection of people with disabilities in our society.

I would also like to extend my gratitude to all of the advocates of disability and business communities who have united behind this important cause and worked diligently with Members of Congress to ensure a fair and strong compromise.

The American Disabilities Act, or ADA, was truly one of the most significant pieces of civil rights legislation of the 20th century. As someone who has lived with the challenges of a disability both before and after the ADA's enactment in 1990, I have experienced firsthand the profound transformation this law has created in our society.

I remember well what it was like before the passage of the ADA and where accommodations were seen as personal courtesies or privileges as opposed to a civil right. I can remember what it was like coming down to Washington as a young intern for Senator Pell from Rhode Island and how challenging it was to find good, reasonable public accommodations. And I remember what it was like in Rhode Island before the ADA was passed in terms of voting, and I was not able to vote independently on my own. I had to have help in the voting machine. And it wasn't until after the ADA was passed and I became Secretary of State and changed our election system that it was truly possible to vote independently on my own.

The ADA has broken down countless barriers and helped millions of Americans to flourish in their personal and professional lives. It has also served as a vital tool against discrimination in the workplace and in public life. Unfortunately, a number of court decisions over the years have diluted the definition of what constitutes a disability, effectively limiting the ADA's coverage and excluding from its protections people with diabetes, epilepsy, muscular dystrophy, and various developmental disabilities.

The bill before us today reaffirms the protections of the ADA and renews our promise of equality for every American. The ADA has as its fundamental goal the inclusion of people in all aspects of society, and I am very pleased to say that the ADA Amendments Act brings us one step closer to that goal.

I urge my colleagues to support this bill and send a strong message that discrimination in any form will never be tolerated in this great Nation.

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

Mr. GEORGE MILLER of California. I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. I would like to thank the chairman for the time and for this legislation that is bipartisan.

When Congress passed the Americans with Disabilities Act nearly two decades ago, we did so to ensure that persons with disabilities can learn, work, and live their lives just like everyone else. People with disabilities just want the same opportunities as everyone else. And if their disabilities can be reasonably accommodated, we must make it possible and make sure that they are given the chance to do so.

By saying that people with disabilities who use medication or prosthetics to manage their disabilities are no longer considered disabled under the ADA Act, the courts have prevented many with disabilities from receiving the protections Congress intended for them.

H.R. 3195, the ADA Amendments Act, would ensure that the ADA protects all people with disabilities from workplace discrimination by clarifying the definition of discrimination. This bill further clarifies that individuals who are able to manage their disabilities enough to participate in major life activities, like holding a job, should still be entitled to protections from discrimination.

The ADA was passed to ensure that all people with disabilities have equal access and opportunities, and it's time that we bring back its original intent. Today we can do that. It's a matter of doing what is right.

I urge my colleagues to support H.R. 3195, the ADA Amendments Act of 2008.

Mr. MCKEON. Madam Speaker, I continue to reserve.

Mr. GEORGE MILLER of California. Madam Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS), a member of the committee.

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

Mr. ANDREWS. I thank my chairman for yielding.

I would like to thank and congratulate him and Mr. MCKEON and Mr. SENSENBRENNER and others for their hard work on this. Mr. HOYER in particular.

Words have meaning. And when the original Americans with Disabilities Act was enacted, the word ''disability'' had a commonsense meaning. It meant if someone had a substantial impairment, mentally or physically, that would interfere with their ability to do something important, that was a disability. I think a hundred of Americans, if you stopped them on the street and asked them if they agreed with that, they would say ''yes.'' Unfortunately, not enough of those Americans served on the United States Supreme Court, and we wound up with a tortured rendition of the definition of ''disability'' where people that we clearly would think were disabled were excluded from the protections of this law.

The authors of this bill worked long and hard to clear up that confusion and strike the right balance between the opportunities of Americans with disabilities and a fair set of ground rules for employers and other institutions in our society. I believe this legislation clearly strikes the right balance.

Something else is very important, too. It liberates the talents of people who have been heretofore kept out of the workplace and out of other institutions: the person in a wheelchair who might be the best computer programmer, the blind person who might be the best financial analyst, the person with tuberculosis who might be the best financial planner or health care technician. The talents of these individuals have too often been kept out of the fray.

This bill will put them back in the fray, put them back on the playing field and help not only Americans with a disability but all of us who will benefit from the liberation of their talent.

I congratulate the authors and urge a ''yes'' vote on this necessary and important piece of legislation.

Mr. MCKEON. Madam Speaker, I am happy to yield at this time to the Republican whip, who was so important in getting this bill here to the floor, such time as he may consume, the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Madam Speaker, I am grateful to the gentleman for yielding me the time and the hard work he and Mr. SENSENBRENNER have done to bring this bill to this point.

Certainly, this bill does a lot to restore the original intention of the Congress as to what the Congress had hoped at the time that the Americans with Disabilities Act would be. I am pleased to be a cosponsor of the bill that's on the floor today. I think it strikes the right balance between protection for individuals with disabilities and the obligations of the requirements of employers themselves.

Ultimately, that partnership is the partnership that makes the most of people in the workplace and the skills they bring to the workplace. This ensures that people with disabilities, whom the Congress intended to cover by the original Americans with Disabilities Act long before I came to Congress, are now covered, as I understand it, by these changes, and that's important. It is better when there is a conflict between the courts and the Congress for the Congress to come back and say, ''No, that's not what we meant. This is what we meant, and this is what we hope to happen in the country.''

This prohibits consideration of mitigating circumstances in the determination of whether an individual has a disability. Of course, it continues to allow the normal eyeglasses and contacts and things like that as an exception in those circumstances.

Most of all, Madam Speaker, this bill puts people to work. This bill creates opportunity. This bill creates a workplace where the skills people can bring to the workplace are maximized, not minimized, where what they add to the total product of America makes America a more productive country and for them establishes a totally different set of goals, a set of aspirations, a set of ways that they look at the world every day and brings their skills in new ways to the workplace.

Madam Speaker, I am pleased to support this bill. I urge my colleagues to do the same and think that the approach we've taken here of the Congress itself going back and trying to clarify what the Congress meant is certainly better than letting the court determine perpetually what the Congress intended to do.

The SPEAKER pro tempore. The gentleman from California (Mr. GEORGE MILLER) has 7 minutes remaining.

Mr. GEORGE MILLER of California. Madam Chairman, does the gentleman from California have any further speakers?

Mr. MCKEON. We have one more. They're not here yet. I reserve my time.

Mr. GEORGE MILLER of California. If we can reserve our time and let Judiciary go ahead and start using their time.

The SPEAKER pro tempore. The gentleman from California (Mr. MCKEON) continues to reserve, and the gentleman from California (Mr. GEORGE MILLER) continues to reserve.

The Chair recognizes the gentleman from Michigan.

Mr. CONYERS. Thank you, Madam Speaker.

It is a pleasure to join the Education and Labor Committee. I would like to begin by recognizing the chairman of the Constitution Committee on Judiciary which held the hearings on the bill in the Judiciary Committee. I yield, therefore, to the gentleman from New York, JERRY NADLER, for 3 minutes.

Mr. NADLER. I thank the gentleman.

Madam Speaker, I want to commend the distinguished majority leader and the gentleman from Wisconsin (Mr. SENSENBRENNER) as well as the chairman of the Judiciary Committee and the chairman of the Education and Labor Committee for their leadership on this important legislation.

This bill would help to restore the Americans with Disabilities Act to its rightful place among this Nation's great civil rights laws.

This legislation is long overdue. Countless Americans with disabilities have already been deprived of the opportunity to prove that they have been victims of discrimination, that they are qualified for a job, or that a reasonable accommodation would afford them an opportunity to participate fully at work and in community life.

This bill fixes the absurd Catch-22 created by the Supreme Court in which an individual can face discrimination on the basis of an actual past or perceived disability and yet not be considered sufficiently disabled to be protected against that discrimination by the ADA. That was never Congress' intent, and this bill cures this problem.

Some of my colleagues from across the aisle have raised concerns that this bill might cover minor or trivial conditions. They worry about covering stomachaches, the common cold, mild seasonal allergies, or even a hangnail. I have yet to see a case where the ADA covered an individual with a hangnail. But I have seen scores of cases where the ADA was construed not to cover individuals with cancer, epilepsy, diabetes, severe intellectual impairment, HIV, muscular dystrophy, and multiple sclerosis.

These people have too often been excluded because their impairment, however serious or debilitating, was mischaracterized by the courts as temporary or its impact considered too short-lived and not permanent enough.

That's what happened to Mary Ann Pimental, a nurse with breast cancer who challenged her employer's failure to rehire her into her position when she returned from treatment. Ms. Pimental was told by the court that her cancer was not a disability and that she was not covered by the ADA. The court recognized that ''there is no question that her cancer has dramatically affected her life, and that the associated impairment has been real and extraordinarily difficult for her and her family.'' Yet the court still denied her coverage because it characterized the impact of her cancer ''short-lived''—meaning that it ''did not have a substantial lasting effect'' on her.

Mary Ann Pimental died as a result of her breast cancer 4 months after the court issued its decision. I am sure that her husband and two children disagreed with the court that her cancer was short-lived and not sufficiently permanent.

This bill ensures that individuals like Mary Ann Pimental are covered by the law when they need it. The bill requires the courts—and the Federal agencies providing expert guidance—to lower the burden for obtaining coverage under this landmark civil rights law. This new standard is not onerous and is meant to reduce needless litigation over the threshold question of coverage.

It is our sincere hope that, with the passage of this bill, we will finally be able to focus on the important questions: Is an individual qualified? Might a reasonable accommodation afford that person the same opportunities that his or her neighbors enjoy?

I therefore urge my colleagues to join me in voting for passage of H.R. 3195 as reported unanimously by the Judiciary Committee. I thank everyone associated with its passage.

Madam Speaker, I want to commend the distinguished majority leader and gentleman from Wisconsin, Mr. SENSENBRENNER, for their leadership on this important legislation.

H.R. 3195 would help to restore the Americans with Disabilities Act to its rightful place among this Nation's great civil rights laws.

This legislation is necessary to correct Supreme Court decisions that have created an absurd Catch-22 in which an individual can face discrimination on the basis of an actual, past, or perceived disability and yet not be considered sufficiently disabled to be protected against that discrimination by the ADA. That was never Congress's intent, and H.R. 3195 cures this problem.

H.R. 3195 lowers the burden of proving that one is disabled enough to qualify for coverage. It does this by directing courts to read the definition broadly, as is appropriate for remedial civil rights legislation. It also redefines the term ''substantially limits,'' which was restrictively interpreted by the courts to set a demanding standard for qualifying as disabled. An individual now must show that his or her impairment ''materially restricts'' performance of major life activities. While the impact of the impairment must still be important, it need not severely or significantly restrict one's ability to engage in those activities central to most people's daily lives, including working.

Under this new standard, for example, it should be considered a material restriction if an individual is disqualified from his or her job of choice because of an impairment. An individual should not need to prove that he or she is unable to perform a broad class or range of jobs. We fully expect that the courts, and the Federal agencies providing expert guidance, will revisit prior rulings and guidance and adjust the burden of proving the requisite ''material'' limitation to qualify for coverage.

This legislation is long overdue. Countless Americans with disabilities have already been deprived of the opportunity to prove that they have been victims of discrimination, that they are qualified for a job, or that a reasonable accommodation would afford them an opportunity to participate fully at work and in community life.

Some of my colleagues from across the aisle have raised concerns that this bill would cover ''minor'' or ''trivial'' conditions. They worry about covering ''stomach aches, the common cold, mild seasonal allergies, or even a hangnail.''

I have yet to see a case where the ADA covered an individual with a hangnail. But I have seen scores of cases where the ADA was construed not to cover individuals with cancer, epilepsy, diabetes, severe intellectual impairment, HIV, muscular dystrophy, and multiple sclerosis.

These people have too often been excluded because their impairment, however serious or debilitating, was mis-characterized by the courts as temporary, or its impact considered too short-lived and not permanent enough—although it was serious enough to cost them the job.

That's what happened to Mary Ann Pimental, a nurse who was diagnosed with breast cancer after being promoted at her job. Mrs. Pimental had a mastectomy and underwent chemotherapy and radiation therapy. She suffered radiation burns and premature menopause. She had difficulty concentrating, and experienced extreme fatigue and shortness of breath. And when she felt well enough to return to work, she discovered that her job was gone and the only position available for her was part-time, with reduced benefits.

When Ms. Pimental challenged her employer's failure to rehire her into a better position, the court told her that her breast cancer was not a disability and that she was not covered by the ADA. The court recognized the ''terrible effect the cancer had upon'' her and even said that ''there is no question that her cancer has dramatically affected her life, and that the associated impairment has been real and extraordinarily difficult for her and her family.''

Yet the court still denied her coverage under the ADA because it characterized the impact of her cancer as ''short-lived''—meaning that it ''did not have a substantial and lasting effect'' on her.

Mary Ann Pimental died as a result of her breast cancer 4 months after the court issued its decision. I am sure that her husband and two children disagree with the court's characterization of her cancer as ''short-lived,'' and not sufficiently permanent.

This House should also disagree—and does—as is shown by the broad bipartisan support for H.R. 3195.

H.R. 3195 ensures that individuals like Mary Ann Pimental are covered by the law when they need it. It directs the courts to interpret the definition of disability broadly, as is appropriate for remedial civil rights legislation. H.R. 3195 requires the courts—and the Federal agencies providing expert guidance—to lower the burden for obtaining coverage under this landmark civil rights law. This new standard is not onerous, and is meant to reduce needless litigation over the threshold question of coverage.

It is our sincere hope that, with less battling over who is or is not disabled, we will finally be able to focus on the important questions—is an individual qualified? And might a reasonable accommodation afford that person the same opportunities that his or her neighbors enjoy.

I urge my colleagues to join me in voting for passage of H.R. 3195, as reported unanimously by the House Judiciary Committee.

□ 1645

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

Madam Speaker, 18 years have passed since President George H.W. Bush signed the Americans with Disabilities Act into law. While that bill struck down many barriers affecting disabled Americans, its potential has yet to be realized. This is due to a number of Supreme Court decisions that have restricted ADA coverage for people suffering from illnesses such as diabetes, epilepsy, and cancer, to name a few. Today, this House takes the first step to finally secure the full promise of the original bill.

The bill that the House is voting on this afternoon has undergone a number of changes since I first introduced it in the 109th Congress. Today's ADA Amendments Act of 2008 is a compromise that has the support of a broad and balanced coalition. Business groups such as the U.S. Chamber of Commerce, the HR Policy Association, and the National Association of Manufacturers all back this bill. In addition, advocates for the disability community, including the American Association of People with Disabilities, the Epilepsy Foundation, and the National Disability Rights Network, join in support.

Majority Leader HOYER and I introduced the ADA Restoration Act last summer. We did so to enable disabled Americans utilizing the ADA to focus on the discrimination that they have experienced rather than having to first prove that they fall within the scope of the ADA's protection. Today's bill makes it clear that Congress intended the ADA's coverage to be broad and to cover anyone who faces unfair discrimination because of a disability. To that end, we are submitting for the RECORD a statement outlining our legal intent and analysis of the new definition, as changed by the ADA Amendments Act of 2008.

The ADA Amendments Act makes changes to the original ADA, the primary one being that it will be easier for people with disabilities to qualify for protection under the ADA. This is done by establishing that the definition of disability is to be interpreted broadly. Another important change clarifies that the ameliorative efforts of mitigating measures are not to be considered in determining whether a person has a disability. This provision eliminates the Catch-22 that currently exists, as described by the gentleman from New York (Mr. NADLER), where individuals subjected to discrimination on the basis of their disabilities are unable to invoke the ADA's protections because they are not considered people with disabilities when the effects of their medication or other interventions are considered.

It is important to note that this bill is not one-sided. It is a fair product that is workable for employers and businesses. The bill contains the requirement that an impairment be defined as one that substantially limits a major life activity in order to be considered a disability. There is also an exception in the mitigating measures provision for ordinary eyeglasses and contact lenses. Further, the bill excludes from coverage impairments that are transitory and minor.

The ADA has been one of the most effective civil rights laws passed by Congress. Its continued effectiveness is paramount to ensuring that the transformation that our Nation has undergone and continues in the future and that the guarantees and promises on which this country was established continue to be recognized on behalf of all of its citizens.

I appreciate Majority Leader HOYER's efforts to bring the ADA Amendments Act to the floor, and I encourage my colleagues to vote in favor of it.

Finally, I'd like to pay tribute to my wife, Cheryl, who is the national chairman of the board of the American Association for People with Disabilities. Her tireless efforts have really spread the word amongst many Members of this House and a few of the other body that this legislation is necessary so that people like her do not have barriers in terms of seeking employment. And I appreciate, also, my colleagues on both sides of the aisle listening to her, even when they didn't have a choice.

I reserve the balance of my time.

Mr. CONYERS. Madam Speaker, I am pleased to recognize the distinguished majority leader, who was an original sponsor of the bill some 18 years ago, for 1 minute.

Mr. HOYER. I thank the distinguished chairman of the Judiciary Committee for yielding, and I thank him for his efforts.

I want to thank his staff, as well, who have been extraordinary. Heather, in particular, has had her virtues regaled by Dr. Abouchar of my staff, and I thank her.

I want to thank JIM SENSENBRENNER. I want to thank Cheryl, as well, who has been an extraordinary help on the Americans with Disabilities Act and with this Restoration Act. She has been a giant in her leadership. And I

want to thank JIM SENSENBRENNER, with whom I've worked now for many years on this issue, and he has been, of course, a giant, as chairman of the Judiciary Committee in years past and one of the senior Members of this House, extraordinarily helpful and a partner in this effort.

I also want to thank BUCK MCKEON, the ranking member. At the time we testified, he said, you know, we want to see this pass but we want to work together and make sure we can all be for it. And I assured him that we would do that, and I was pleased today that he said, in fact, we had done that. And I think the result that we will see in the vote will show that clearly. And I thank him for his work and effort and good faith in working towards a bill that we could all support.

I want to thank GEORGE MILLER, the chairman of the Education and Labor Committee, whose committee had primary jurisdiction over this bill, for his efforts in assuring that this bill moves forward.

Madam Speaker, I would like to submit for the RECORD a list of people, particularly in the disabilities community and also in the business community, who spent countless hours, days, weeks and, yes, even months trying to come to an agreement on a bill that both the business community and the disability community would feel comfortable with. We have accomplished that, but it was the work of these people as well who did that, and I would submit this at this time in the RECORD to thank them for their efforts and their success which they are so responsible for today.

PEOPLE TO RECOGNIZE

Chai Feldblum, Georgetown University; Former U.S. Rep. Tony Coelho; Former U.S. Rep. Steve Bartlett; Sandy Finucane, Epilepsy Foundation; Andy Imparato, American Association of People with Disabilities; Randy Johnson, Mike Eastman, U.S. Chamber of Commerce; John Lancaster, National Council on Independent Living; Mike Peterson, HR Policy Association; Curt Decker, National Disability Rights Network;

Jeri Gillespie, Ryan Modlin, National Association of Manufacturers; Nancy Zirkin, Lisa Borenstein, Leadership Conference on Civil Rights; Mike Aitken, Mike Layman, Society for Human Resource Management; Abby Bownas, American Diabetes Association; Jennifer Mathis, Bazelon Center for Mental Health Law; Kevin Barry, Georgetown University; Jim Flug, Georgetown University; Claudia Center, Employment Law Center; Shereen Arent, American Diabetes Association; Brian East, Advocacy Inc.

Madam Speaker, 18 years ago next month, the first President Bush signed into law one of the most consequential pieces of civil rights legislation in recent memory, in over a quarter of a century in fact. In the ceremony on the south lawn of the White House President Bush said this:

''With today's signing of the landmark Americans with Disabilities Act, every man, woman, and child with a disability can now pass through once-closed doors into a bright new era of equality, independence, and freedom.''

In large measure, President Bush was right. Those doors have, in fact, come open. Tens of millions of Americans with disabilities now enjoy rights the rest of us have long taken for granted: The right to use the same streets, theaters, restrooms, or offices; the right to prove themselves in the workplace, to succeed on their talent and drive alone.

We all understand why there are cuts in the sidewalk at every street corner, kneeling buses on our city streets, elevators on the Metro, ramps at movie theaters, and accessible restrooms and handicapped parking almost everywhere. By now, they have become part of our lives' fabric. And we wouldn't have it, I think, any other way, because each one is the sign of a pledge, the promise of an America that excludes none of its people from our shared life and opportunities.

That was the promise of the ADA. That was the promise of the ADA that President George Bush signed on July 26, 1990. But looking back 18 years, the hard truth is that we were, in some ways, perhaps too optimistic.

The door President Bush spoke of is still not entirely open, and every year, millions of us are caught on the wrong side. In interpreting the law over these 18 years, the courts have consistently chipped away at Congress' very clear intent, and I know what the intent was because I was there as so many of you were.

I know that many of my colleagues were as well, and I know that they share my disappointment in a series of narrow rulings that have had the effect of excluding millions of Americans from the law's protection for no good reason. We said we wanted broad coverage for people with disabilities and people regarded as disabled, but the courts narrowed that coverage with a ''strict and demanding standard,'' a severely restrictive measure that virtually excluded entire classes of people, even though we had specifically mentioned their impairments as objects of the law's protections.

Civil rights acts have historically been urged to be interpreted liberally to accomplish their objective of protecting the rights of individuals. Unfortunately, in this instance, the courts did not follow that premise.

We never expected that people with disabilities who worked to mitigate their conditions would have their efforts held against them. Imagine, somebody with epilepsy who takes medication to preclude seizures would be told that we're not going to hire you because you have epilepsy, but then be told by the court that that was not discrimination because prescription drugs mitigated the ability or the disability that you had. No one on this floor would have thought in their wildest assertions that that would be an interpretation.

The courts did exactly that, however, throwing their cases out on the grounds that they were no longer disabled enough to suffer discrimination. The discrimination, of course, was determining that somebody had epilepsy, and notwithstanding their ability to perform the job in question, that they would not be hired. That is the essence of discrimination.

That is what we sought to preclude, and I want to again congratulate the business community and the disabilities community for coming together on legislation that will right that misinterpretation because none of what has been held was our intent.

We are here today because a truly wide coalition—members of the disability community ready to claim their equal share, Members of both parties who were tired of seeing constituents shut out, and business groups eager to unlock new pools of talent—an alliance as broad as the one that joined forces to pass the original ADA, has come together to help the courts get this right. I know some of them are watching, and I want to thank them, through my colleagues and through the Speaker, for their efforts.

With the ADA Amendments Act, we make it clear today that a cramped reading of disability rights will be replaced with a definition that is broad and fair—fair to the disability community and fair to the business community—that those who manage to mitigate their disabilities are still subject to discrimination and still entitled to redress, and that those regarded as having disability are equally at risk and deserve to be equally protected.

I am proud, Madam Speaker, to have worked for so long with my colleague JIM SENSENBRENNER, as I said earlier. He has been a leader in advancing this legislation, and we've joined together to submit for the RECORD a legal analysis of the bill that we've worked so hard to bring to fruition.

And I want to thank my good friend, former Congressman Tony Coelho for originally enlisting me in this effort. Very frankly, Tony is one of my very close friends, and when he left the Congress, the ADA had not yet been accomplished. But it was his leadership that got it to the point where, in fact, we could proceed, and he gave me the responsibility of ensuring its passage. Working with GEORGE MILLER and JOHN CONYERS and JIM OBERSTAR and so many others, we were able to accomplish that objective. But Tony Coelho was our leader on this effort, and very frankly, Madam Speaker, our former whip remains our leader today.

Finally, it is my honor to dedicate this bill to the late Justin Dart, the pioneering disability advocate and inspiration behind the ADA, as well as to his wife, Yoshiko Dart.

Madam Speaker, few kinds of discrimination, in all of our history, have been more widespread than the exclusion of those with disabilities. But it was America, America that passed a pioneering law to help end that exclusion. We were the first in the world to do so.

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We were the world's model on this central challenge to human rights. Eighteen years later, we cannot afford to fall behind.

Let us pass this bill and bring us one step closer to the days when the fruits of life in America are at last available to all.

Mr. GEORGE MILLER of California. Will the gentleman yield?

Mr. HOYER. I will yield to my friend.

Mr. GEORGE MILLER of California. I thank the gentleman for yielding, and certainly thank him for all his leadership on this bill. But I want to thank him on behalf of the Chairs and the ranking members of the two committees, you and Mr. SENSENBRENNER, for the leadership that you both provided throughout these difficult and visionary negotiations to restore this act to the place that it should be. I just want to publicly, on behalf, I think, of everybody in the Congress, thank you and Mr. SENSENBRENNER for your leadership on this.

Mr. HOYER. I thank the chairman on behalf of Mr. SENSENBRENNER and myself, and for all those who have been involved in this effort.

JOINT STATEMENT OF REPRESENTATIVES HOYER AND SENSENBRENNER ON THE ORIGINS OF THE ADA RESTORATION ACT OF 2008, H.R. 3195

On September 29, 2006, we introduced H.R. 6258, entitled the Americans with Disabilities Act Restoration Act of 2006. This bill was a response to decisions of the Supreme Court and lower courts narrowing the group of people whom Congress had intended to protect under the Americans with Disabilities Act (ADA). The Supreme Court had interpreted the ADA to impose a ''demanding'' standard for coverage. It had also held that the ameliorative effects of ''mitigating measures'' that people use to control the effects of their disabilities must be considered in determining whether a person has an impairment that substantially limits a major life activity and is protected by the ADA. This holding was contrary to Congress's stated intent in several committee reports.

We introduced H.R. 6258, which was designed to reverse these holdings, at the end of the 2006 legislative session. We intended this bill to serve as a marker of our intent to introduce future legislation to address this issue. On July 26, 2007, we introduced similar legislation, H.R. 3195, the ADA Restoration Act of 2007, which ultimately garnered over 240 cosponsors. A nearly identical bill, S. 1881, was introduced in the Senate on the same day by Senators Harkin and Specter.

H.R. 3195 as introduced would have amended the ADA to provide protection for any individual who had a physical or mental impairment or a record of such an impairment, or who was treated as having such an impairment. The purpose of this legislation was to restore the intent of Congress to cover a broad group of individuals with disabilities under the ADA and to eliminate the problem of courts focusing too heavily on whether individuals were covered by the law rather than on whether discrimination occurred. The bill as introduced, however, was seen by many as extending the protections of the ADA beyond those that Congress originally intended to provide.

In order to craft a more balanced bill with broad support, we urged that representatives of the disability and business communities enter into negotiations to try to reach an acceptable compromise. We maintained contact with these communities over the course of their negotiations and supported them in their efforts to understand the needs and concerns of each community. After several months of intensive discussions, negotiators for the two communities reached consensus on a set of protections for people with disabilities that garnered broad support from both communities. These protections would significantly expand the group of individuals protected by the ADA beyond what the courts have held, while at the same time ensuring that the expansion does not extend beyond the original intent of the ADA.

This compromise formed the basis of the amendment in the nature of a substitute for H.R. 3195 that was voted out of the House Education and Labor and Judiciary Committees with overwhelming support on June 18, 2008. The substitute bill was reported out of the Education and Labor Committee by a vote of 43–1, and out of the Judiciary Committee by a vote of 27–0.

THE PROVISIONS OF THE COMMITTEE SUBSTITUTE TO H.R. 3195

The primary purpose of H.R. 3195, as amended by the committee substitute, is to make it easier for people with disabilities to qualify for protection under the ADA. The bill does this in several ways. First, it establishes that the definition of disability must be interpreted broadly to achieve the remedial purposes of the ADA. The bill rejects the Supreme Court's holdings that the ADA's definition of disability must be read ''strictly to create a demanding standard for qualifying as disabled,'' and that an individual must have an impairment that ''prevents or severely restricts the individual from doing activities that are of central importance to most people's daily lives'' in order to qualify for protection. The bill also provides a new definition of ''substantially limits'' to make clear Congress's intent to depart from the standard applied by the Supreme Court in *Toyota Motor Mfg. of Kentucky, Inc.* v. *Williams*, 534 U.S. 184, 197 (2002), and to apply a lower standard.

Second, the bill provides that the ameliorative effects of mitigating measures are not to be considered in determining whether a person has a disability. This provision is intended to eliminate the catch-22 that exists under current law, where individuals who are subjected to discrimination on the basis of their disabilities are frequently unable to invoke the ADA's protections because they are not considered people with disabilities when the effects of their medication, medical supplies, behavioral adaptations, or other interventions are considered. The one exception to the rule about mitigating measures is that ordinary eyeglasses and contact lenses are to be considered in determining whether a person has a disability. The rationale behind this exclusion is that the use of ordinary eyeglasses or contact lenses, without more, is not significant enough to warrant protection under the ADA.

Third, the bill provides that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. This provision is intended to reject the reasoning of court decisions concluding that certain individuals with certain conditions—such as epilepsy or post traumatic stress disorder—were not protected by the ADA because their conditions were episodic or intermittent.

Fourth, the bill provides for broad coverage under the ''regarded as'' prong of the definition of disability. It clarifies that an individual can establish coverage under the ''regarded as'' prong by establishing that he or she was subjected to an action prohibited by the ADA because of an actual or perceived impairment, whether or not the impairment limits or is perceived to limit a major life activity. This provision does not apply to impairments that are both transitory (lasting six months or less) and minor.

The purpose of the broad ''regarded as'' provision is to reject court decisions that had required an individual to establish that a covered entity perceived him or her to have an impairment that substantially limited a major life activity. This provision is designed to restore Congress's intent to allow individuals to establish coverage under the ''regarded as'' prong by showing that they were treated adversely because of an impairment, without having to establish the covered entity's beliefs concerning the severity of the impairment.

Impairments that are transitory and minor are excluded from coverage in order to provide some limit on the reach of the ''regarded as'' prong. The intent of this exception is to prevent litigation over minor illnesses and injuries, such as the common cold, that were never meant to be covered by the ADA.

A similar exception is not necessary for the first two prongs of the definition of disability as the functional limitation requirement adequately prevents claims by individuals with ailments that do not materially restrict a major life activity. In other words, there is no need for the transitory and minor exception under the first two prongs because it is clear from the statute and the legislative history that a person can only bring a claim if the impairment substantially limits one or more major life activities or the individual has a record of an impairment that substantially limits one or more major life activities.

The bill also provides that a covered entity has no obligation to provide reasonable accommodations, or reasonable modifications to policies, practices or procedures, for an individual who qualifies as a person with a disability solely under the ''regarded as'' prong. Under current law, a number of courts have required employers to provide reasonable accommodations for individuals who are covered solely under the ''regarded as'' prong.

Fifth, the bill modifies the ADA to conform to the structure of Title VII and other civil rights laws by requiring an individual to demonstrate discrimination ''on the basis of disability'' rather than discrimination ''against an individual with a disability'' because of the individual's disability. We hope this will be an important signal to both lawyers and courts to spend less time and energy on the minutia of an individual's impairment, and more time and energy on the merits of the case—including whether discrimination occurred because of the disability, whether an individual was qualified for a job or eligible for a service, and whether a reasonable accommodation or modification was called for under the law.

In exchange for the enhanced coverage afforded by these provisions, the bill contains important limitations that will make the bill workable from the perspective of businesses that are governed by the law. We have already noted some of these limitations: there is an exception in the mitigating measures provision for ordinary eyeglasses and contact lenses, and the ''regarded as'' provision includes two important limitations, as described above.

Of key importance, the bill retains the requirement that a person's impairment must substantially limit a major life activity in order to be considered a disability. ''Substantially limits'' has been defined as ''materially restricts'' in order to communicate to the courts that we believe that their interpretation of ''significantly limits'' was stricter than we had intended. On the severity spectrum, ''materially restricts'' is meant to be less than ''severely restricts,'' and less than ''significantly restricts,'' but more serious than a moderate impairment which would be in the middle of the spectrum.

The key point in establishing this standard is that we expect this prong of the definition to be used only by people who are affirmatively seeking reasonable accommodations or modifications. Any individual who has been discriminated against because of an impairment—short of being granted a reasonable accommodation or modification—should be bringing a claim under the third prong of the definition which will require no showing with regard to the severity of his or her impairment. However, for an individual who is asking an employer or a business to make a reasonable accommodation or modification, the bill appropriately requires that the individual demonstrate a level of seriousness of the impairment—that is, that it materially restricts a major life activity.

The bill also retains the requirement in Title I of the ADA that an individual must be ''qualified'' for the position in question. The original version of H.R. 3195 contained language which could have been interpreted to alter the burden-shifting analysis concerning whether an individual is ''qualified'' under the ADA. The substitute bill makes clear that there was no intent to place a greater burden on the employer and that the burdens remain the same as under current law.

ADDITIONAL LEGAL ISSUES

We would like to clarify the intent of the bill with respect to particular legal issues. First, some higher education trade associations have raised questions about whether the bill will eviscerate academic standards. This bill will have absolutely no effect on the ability of higher education institutions to set academic standards. It addresses only the standards for determining who qualifies as an individual with disability, and not the standards for determining whether an accommodation or modification is required in a particular setting or context. It has always been, and it remains the law today under this bill, that an academic institution need not make modifications that would fundamentally alter the essential requirements of a program of study. The particular concerns of educational institutions in ensuring that students meet appropriate academic standards are, of course, relevant in determining whether a requested modification is reasonable in an educational setting.

There have been particular concerns with the way that specific learning disabilities have been treated in the academic context, and that individuals are not receiving appropriate accommodations. The Education and Labor Committee Report's discussion of specific learning disabilities is specifically targeted toward the academic setting and not the employment sector.

Second, a concern has been raised about whether the bill changes current law with respect to the duration that is required for an impairment to substantially limit a major life activity. The bill makes no change to current law with respect to this issue. The duration of an impairment is one factor that is relevant in determining whether the impairment substantially limits a major life activity. Impairments that last only for a short period of time are typically not covered, although they may be covered if sufficiently severe.

Third, some have raised questions about whether the bill's provisions relating to mitigating measures would require employers to provide certain mitigating measures as accommodations. This bill's provisions are intended to clarify the definition of disability, not to alter current rules on provision of reasonable accommodations.

Fourth, the bill's language requiring that qualification standards, employment tests, or other selection criteria based on uncorrected vision must be job related for the position in question and consistent with business necessity is not intended to change current interpretations of whether a qualification standard based on a government requirement or regulation is job related for the position in question and consistent with business necessity.

Passage of the ADA Amendments Act is a great moment in this country's history. We would like to thank all the individuals who worked so hard on these negotiations, and to thank the thousands of individuals and businesses who care about making this country a fair and equitable place for people with disabilities.

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

Mr. GEORGE MILLER of California. Madam Speaker, I reserve the balance of my time.

Mr. MCKEON. Madam Speaker, might I inquire of the time that we each have remaining.

The SPEAKER pro tempore. The gentleman from California (Mr. MCKEON) has 13 minutes. The gentleman from California (Mr. GEORGE MILLER) has 7 minutes. The gentleman from Michigan (Mr. CONYERS) has 6 minutes. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 5½ minutes.

Mr. CONYERS. Madam Speaker, I yield myself as much time as I may consume.

This measure raises some very interesting questions from the point of view of the Judiciary Committee. I begin by noting that the chairman emeritus of the Judiciary Committee, JIM SENSENBRENNER, had always had a very abiding interest in this matter. But we have a curious problem. Somebody is going to ask, how could a United States Supreme Court—a bill passed overwhelmingly bipartisan in 1990—and then in 1999 simultaneously give not one or two, but three decisions slamming some very fundamental interests that we had when the bill was passed? There wasn't anything complicated or ambiguous about the bill that was passed in this Congress in 1990. And we are now here fixing the three problems that these decisions brought forward.

''We prohibit the consideration of measures that might lessen the impact of an impairment—medication, insulin, a hearing aid.''

What kind of persons are on the Supreme Court of the United States that have some difficulty understanding that if you have to use a hearing aid, that does not lessen the nature of the disability? That's earlier than first year law school. I mean, what was going on in the majority of the members' minds?

Second, ''substantially limits'' they've transferred to mean ''materially restricts'' and instructs the court that these words must be interpreted broadly and not restrictively.

Now the history of civil rights and voter rights law in this Congress in the 20th and 21st century deals with the understood directive that the law in these cases is to be interpreted generally and liberally, and here they did just the opposite. This disability law is essentially a civil rights matter, and they chose to ignore that. And so we had to correct it. We had to say, Supreme Court, your attention, please. This is civil rights law, and so it's not to be interpreted as narrowly as you can, but as liberally as you can.

And then the third thing we chose to correct was the entire notion that the disability law covers anyone who either experiences discrimination because someone believes them to be disabled, whether they are not or whether they actually are. It doesn't make any difference. In other words, it is to be liberally interpreted.

And so we go into a very challenging period of American history with an election coming up, and we've got a Supreme Court that we have to constantly remind how to interpret civil rights laws. This is not a comforting circumstance for your chairman of Judiciary—I don't think for the ranking member of Judiciary either, if I might add.

There are those writing about the Supreme Court these days, and one such commentator, Professor Rosen of Georgetown—''Today, however, there are no economic populists on the Court, even on the liberal wing. Ever since John Roberts was appointed Chief Justice in 2005, the Court has seemed only more receptive to business concerns. Forty percent of the cases the Court heard last term involved business interests, up from around 30 percent in recent years.''

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

Mr. GEORGE MILLER of California. I yield the gentleman an additional 1 minute.

Mr. CONYERS. I thank the chairman of Education and Labor.

The closing example:

''While the Rehnquist Court heard less than one antitrust decision a year on average, the Roberts Court has heard seven antitrust cases in the first two terms, and all of them were decided in favor of the corporate defendants.''

Now, look. They must know that some people over here read and review their decisions. It means that we have to be even more alert on the questions that have brought this measure before the House today for its disposal.

I'm very proud of the bipartisan aspect. I don't want to give too much praise to the chairman emeritus of the committee, but he did a very good job in this regard.

Mr. MCKEON. Madam Speaker, I am happy to yield now to the gentleman from Delaware, ranking member of the K–12 Education Subcommittee, such time as he may consume, Mr. CASTLE.

Mr. CASTLE. I thank the distinguished gentleman from California for yielding. I do rise today in support of the ADA Amendments Act entitled H.R. 3195.

Since 1990, the landmark civil rights legislation, the Americans With Disabilities Act—ADA as we know it—has provided numerous benefits. Over the last decade, however, people with serious health conditions, including diabetes, have faced serious difficulties meeting the definition of ''disability'' following the Supreme Court's decision that disability must be determined in light of the mitigating measures, like insulin, that a person uses.

These decisions have created a situation where people with serious health conditions who use medications and other devices in order to work are not considered ''disabled enough'' to be protected by the ADA even when they are explicitly denied employment opportunities because of that health condition.

Just briefly, I would like to mention Stephen Orr, a pharmacist from Rapid City, South Dakota, who was fired by his employer for taking lunch breaks to eat and manage his diabetes. After Stephen lost his job, he decided to file a claim under the ADA. The employer responded that Stephen did not have a disability because he was able to manage his diabetes with insulin and diet. The courts agreed. And this, I'm afraid, is only one example.

H.R. 3195 will remedy this problem. Passage will secure the promise of the original ADA and make clear that Congress intended the ADA's coverage to be broad, to cover anyone who faces unfair discrimination because of a disability. At the same time, it strikes an appropriate balance between the needs of individuals with disabilities and those of employers.

I am pleased that H.R. 3195 enjoys the backing of a broad coalition of supporters from both the employer and the disability communities. I am also proud it has bipartisan support here, and I thank and congratulate all those that had anything to do with putting this together.

I urge my colleagues on both sides of the aisle to support the measure.

Mr. MCKEON. Mr. Speaker, I recognize now the gentleman from Kansas (Mr. MORAN) for such time as he may consume.

Mr. MORAN of Kansas. Madam Speaker, I thank the gentleman from California (Mr. MCKEON) for yielding me time today, and I rise in support of H.R. 3195.

In my world, in the way I look at life, all human beings, because we're created by the same God, are entitled to respect and dignity. In our framework in our country, our Constitution provides that we are entitled to certain rights. One of those, as I see it, is the right to an opportunity to succeed.

So I'm pleased that our country, in 1990, this Congress and the Senate came together with the passage of the Americans With Disabilities Act. And I'm pleased today that we are here to restore certain of those rights that were believed to be there under the ADA passed in 1990. What this law will do is to require the courts to interpret this law in a fair manner.

We know that all of us are entitled to an opportunity to succeed. And I think all of us, as we look at our lives, look just for the chance to be judged based upon our own performance. We don't want special rights. We all just want to be gauged by people who judge us by what we do and how we do it and how well we do it. And so the original law and the Restoration Act today, as I see it, establishes that premise that we're all entitled to be judged based upon how we perform our tasks.

I support this legislation and am pleased by what I've heard on the floor this afternoon by the way it came about. And I appreciate being here to hear the gentleman from Maryland, the distinguished majority leader, speak about his sponsorship and authorship of the Americans with Disabilities Act.

One of my predecessors, Bob Dole, served in that similar capacity. I'd like to quote my predecessor when he spoke about the ADA and indicate that I believe that what he said then should be the words of today as well:

''This historic civil rights legislation seeks to end the unjustified segregation and exclusion of persons with disabilities from the mainstream of American life. The ADA is fair and balanced legislation that carefully blends the rights of people with disabilities with the legitimate needs of the American business community.''

Madam Speaker, I believe that's what the legislation before us does today, and again confirms the right that we all have to be judged based upon our ability to perform.

Mr. MCKEON. Madam Speaker, I yield myself the balance of my time.

There are so many individuals who deserve credit for bringing us to this point today. I want to recognize Chairman MILLER, the leaders of the Judiciary, Transportation and Infrastructure, Energy and Commerce Committees, and all of our staffs on all of those committees on both sides of the aisle and the membership of the leadership on both sides of the aisle, and again especially Leader HOYER and Mr. SENSENBRENNER for this open, inclusive process.

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The bill is better for it.

I also want to recognize the stakeholders who came to the negotiating table and helped us to reach consensus. It's often said that true compromise leaves no one with exactly what they wanted. I expect that is the case today. There are those who fear we have expanded the reach of the ADA too far, and there are others who would have preferred us to go further. But on the whole, we have found common ground that will allow us to extend strong, meaningful protection to individuals with disabilities without dramatically expanding the law, increasing its burdens, or diluting its effectiveness.

I urge passage of the ADA Amendments Act.

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

Mr. GEORGE MILLER of California. Madam Speaker, I want to certainly thank the staffs of our committees on both sides of the aisle for all of their work. They put in a tremendous amount of time and intellectual power behind the amendments to the ADA and to put it back in the place that it should have after the court decisions damaged the intent and the purposes of this act. I certainly want to thank Sharon Lewis of the Committee on Education and Labor and Brian Kennedy and Thomas Webb, who is with us as an intern, for all of their work.

I am very proud to be a Member of Congress today and certainly of the House of Representatives as we pass this legislation. I was brought to the issues around the disability community when I first came to Congress, or perhaps a little before that when I was working in the State legislature in California by a hardy crew from California who were deeply involved in pursuing the civil rights of those with disabilities and the constitutional rights of those with disabilities and their place in the legislative process, and I want to thank them. And that is Judy Heuman from California and known to many; and Ed Roberts, a great champion of disability rights, a magnificent person; and Hale Zukor, who still resides in Berkeley and continues the battle; and Jim Donald, who is a wonderful attorney on behalf of many in the disability community; and so many others.

In my time in Congress, I have watched the Rehabilitation Act of 1973 and the battle over the 504 regulations; IDEA, at that time Education for All Handicapped Children, now IDEA; and the ADA; and today the restoration of the ADA to its proper position and power within the law. And I think it's a tribute to this Congress. While in many instances we have had very controversial fights and there have been eruptions over the implementation of these laws, we have continued to march forward and ensure the rights of the disabled, for their participation in American society. I think so many Members now and so many people in

our society recognize all that the members of the disability community have accomplished, all that they are accomplishing, and all that they will accomplish.

So today when we look at a young child seeking to be enrolled in school and to have an opportunity at the content and the curriculum that others have and to have the chance to participate in that school in a meaningful way and not be put off and sidestepped or in segregated classes; when we look at individuals who want to pursue a career, an activity, in our society and not be discriminated against; and when we now see employers recognizing the talents and the abilities and the contributions to be made by individuals with disabilities, we as a Nation are far better off, far richer, and far more understanding than we were prior to the struggles over these laws. And I hope that all Members will share the pride that I do when later on we will be able to vote to restore the ADA after the damage done by the court decisions.

And with that I thank all of my colleagues for their participation in this debate.

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

Mr. SENSENBRENNER. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I think that we have seen in the last hour how the framers of the Constitution intended this Congress to work.

There was a problem. There was a problem that was created by court decisions misinterpreting the original intent of Congress when it passed the ADA almost 18 years ago. And people who came from diverse viewpoints, whether they were in the private sector, citizens with disabilities and their advocacy groups, Members of Congress on both sides of the aisle have proven in this legislation that they can work together and come up with something that is acceptable and beneficial to all of the stakeholders. I wish we could do more of that here, and maybe this will set a good example to show that the system does work.

I am going to ask for a rollcall on this legislation, and I hope that if this is not a unanimous vote in favor of the bill, it will be so overwhelming that people not only on the other side of this Capitol building but around the country and around the world will see that American democracy and the American legislative process worked for the benefit of people.

Mr. HOLT. Madam Speaker, I want to thank Majority Leader HOYER and Representative SENSENBRENNER for introducing the ADA Restoration Act last summer. ''I am a cosponsor of this bill and I am pleased that the House is considering this important legislation.

This July will mark the 18th anniversary of the Americans with Disabilities Act, ADA. Unfortunately, as testimony before the House Committee on Education and Labor made clear in recent years, the Supreme Court has narrowed the scope of this law and created a new set of barriers for Americans with disabilities. Under this narrow interpretation, individuals with diabetes, heart conditions, epilepsy, mental retardation, cancer, and many other conditions have been denied their rights under the ADA because they are labeled as ''too functional'' to be considered ''disabled.''

This legislation would restore protections for disabled Americans under the ADA and I am pleased that the bill we are considering today is supported by the disability community as well as the business community. This bill will reaffirm the ADA's mandate for the elimination of discrimination on the basis of disability and allow the ADA to reclaim its place among our Nation most important civil rights laws.

I am proud that my home State of New Jersey has enacted our own strong protections against employment discrimination or individuals with disabilities. My State's experience belies the claims made by some of the bill's opponents that this legislation is overprotective of individuals with disabilities.

In March, I hosted a roundtable discussion in New Jersey with representatives of disability organizations and individuals with disabilities and with representatives from corporate human resources departments. From that discussion, I drew information indicating that the Federal legislation is needed and that it could be implemented effectively.

At that discussion I heard from Jack, an employer in my district who was hesitant when approached by the ARC of New Jersey about hiring individuals with disabilities. Yet, today he now says they are some of his best employees.

Our Nation has come a long way since the passage of the ADA, from when the halls of Congress were not even accessible to disabled members. But, we have much progress yet to make to ensure that the American dream is truly accessible and available to all Americans.

Mr. EMANUEL. Madam Speaker, I rise today in honor of the passage of the Americans with Disabilities Act of 1990 and to express my support for the ADA Amendments Act of 2008.

As a member of the 110th Congress, I am proud to be a cosponsor of H.R. 3195, the ADA Amendments Act and to continue the fight to ensure equal rights for all disabled citizens. This vital legislation amends the Americans with Disabilities Act of 1990 to restore the original intent of the ADA by clarifying that anyone with impairment, regardless of his or her successful use of treatments to manage the impairment, has the right to seek reasonable accommodation in their place of work.

The ADA Amendments Act of 2008 amends the definition of disability so that those who were originally intended to be protected from discrimination are covered under the Americans with Disabilities Act. This prevents courts from considering the use of treatment, or other accommodations, when deciding whether an individual qualifies for protection under the ADA and focuses on whether individuals can demonstrate that they were treated less favorably on the basis of disability.

I am proud of the continuing work that is being done for Americans with Disabilities and of the strong support that Chicagoans have shown for this issue. On July 26, the eighteenth anniversary of its passage, the Americans with Disabilities Act is being commemorated by Chicago's fifth annual Disability Pride Parade. This display of support demonstrates that Chicagoans recognize that passage of the ADA Amendments Act of 2008, will allow Americans with disabilities to enjoy the freedom and equality that they are guaranteed by the Constitution.

Madam Speaker, I am honored to commemorate the passage of the Americans with Disabilities Act of 1990 and urge my colleagues to vote in favor of the ADA Amendments Act of 2008.

Mr. SCOTT. Madam Speaker, I rise in support of H.R. 3195, the Americans with Disabilities Amendments Act.

In the early 1980's, 64 disability organizations formed a coalition known as INVEST, Insure Virginians Equal Status Today, to pass a State statute in Virginia to protect individuals with disabilities from discrimination. The landmark ''Virginians with Disabilities Act'' was the Commonwealth's commitment to encourage persons with disabilities to participate fully in the social and economic life of the Commonwealth. It preceded the Federal Americans with Disabilities Act, ADA, by 5 years, and many of the key concepts in the Virginia statute formed the basis of the ADA.

Signed in 1985 by former Governor Charles S. Robb, the Virginians with Disabilities Act today protects nearly one million State residents. This Act acknowledged that ''it is the policy of the Commonwealth to encourage and enable persons with disabilities to participate fully and equally in the social and economic life . . .'' and it protects Virginians with disabilities from discrimination in employment, education, housing, voting, and places of public accommodation.

Five years later, the Americans with Disabilities Act of 1990 was enacted to protect all Americans against discrimination on the basis of disability. When Congress passed the ADA, Congress adopted the definition of disability from section 504 of the Rehabilitation Act of 1973, a statute that was well litigated and understood.

Congress expected that under the ADA—just as under the Rehabilitation Act—individuals with health conditions that were commonly understood to be disabilities would be entitled to protection from discrimination. But a series of U.S. Supreme Court decisions interpreted the ADA in ways that Congress never intended, and over the years these decisions have eroded the protections of the statute.

First, the Court held in 1999 that mitigating measures—including prosthetics, medication, and other assistive devices—must be taken into account when determining if a person is disabled. Then, in 2002, the Court held that a ''demanding standard'' should be applied to determining whether a person has a disability. As a result, millions of people Congress intended to protect under the ADA—such as those with diabetes, epilepsy, intellectual disabilities, multiple sclerosis, muscular dystrophy, amputation, cancer and many other impairments—are not protected as intended.

The ADA Amendments Act will restore the ADA to Congress' original intent by clarifying that coverage under the ADA is broad and covers anyone who faces unfair discrimination because of a disability. The ADA Amendments Act:

Retains the requirement that an individual's impairment substantially limits a major life activity in order to be considered a disability, and further that an individual must demonstrate that he or she is qualified for the job.

Would overturn several court decisions to provide that people with disabilities not lose their coverage under the ADA simply because their condition is treatable with medication or can be addressed with the help of assistive technology.

Includes a ''regarded as'' prong as part of the definition of disability which covers situations where an employee is discriminated against based on either an actual or perceived impairment. Moreover, the proposal makes it clear that accommodations do not need to be made to someone who is disabled solely because he or she is ''regarded as'' disabled.

Madam Speaker, the bill before us today is the direct result of agreements between the business and disability communities to rectify the problem created by the courts, and I applaud the determination and hard work, that went into this compromise. The ADA Amendments Act will enable individuals with disabilities to secure and maintain employment without fear of being discriminated against because of their disability. Congress clearly intended to prohibit discrimination against all people with disabilities and we will do that by passing H.R. 3195.

Madam Speaker, I urge my colleagues to support this bill.

Mr. VAN HOLLEN. Madam Speaker, I rise in strong support of H.R. 3195, the ADA Amendments Act of 2008, which would restore the original intent of the Americans with Disabilities Act, ADA.

The ADA has transformed this country since its enactment in 1990, helping millions of Americans with disabilities succeed in the workplace, and making essential services such as transportation, housing, buildings, and other daily needs more accessible to individuals with disabilities. It has been one of the most defining and effective civil rights laws passed by Congress.

Unfortunately, the Federal courts in recent years have slowly chipped away at the broad protections of the ADA which has created a new set of barriers for many Americans with disabilities. The court rulings have narrowed the interpretation of disability by excluding people with serious conditions such as epilepsy, diabetes, muscular dystrophy, cancer, and cerebral palsy from the protections of the ADA. The ADA Amendments Act of 2008 will reestablish these protections and make it absolutely clear that the ADA is intended to provide broad coverage to protect anyone who faces discrimination on the basis of disability.

Madam Speaker, this bill is an important step towards restoring the original intent of the ADA and helps ensure that all Americans with disabilities live as independent, self-sufficient members of our society. I urge my colleagues to support this much-needed legislation.

Mr. ISSA. Madam Speaker, today I rise in support of H.R. 3195, ADA Amendments Act of 2008.

The ADA Amendments Act is a needed step in addressing improper judicial interpretation of the original Americans with Disabilities Act. Courts interpreted the Act more narrowly than Congress had intended resulting in decreased protection under the Act. It is especially gratifying that in crafting the legislation before us today the disability community was able to come to an agreement with private industry on appropriate legislative language.

More specifically than the legislation at hand, I bring attention to the lack of Americans with Disability Act, ADA, compliance in the historic Capitol complex, specifically the use of door handles within personal House offices.

The purpose the ADA is to ensure nondiscrimination for persons with disabilities including but not limited to public accommodations. The ADA specifically states the use of lever operated mechanisms, push-type mechanisms, or U-shaped handles are acceptable designs for all to operate.

Enacted in 1990, I believe it is the responsibility of Congress to every extent reasonable, to install appropriate usable hardware by all those that wish to access the halls of Congress.

Beginning with my first term in office in 2000, I have made requests to have my personal House office located in the Cannon building outfitted with ADA appropriate door handles. It is unfortunate that 8 years after my initial request and 18 years following the enactment of the ADA, Congress has chosen to remain out of compliance with the ADA.

Congress must lead by example by making these buildings accessible to all Americans, regardless of disability. I urge you to read my attached most recent correspondence requesting this appropriate and necessary change.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 20, 2008.

Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington, DC.

DEAR MADAM SPEAKER: I wanted to make you aware of a request that I submitted to the Committee on House Administration for the installation of Americans with Disabilities Act, ADA, compliant lever-style door handles in my office, room 211 in the Cannon House Office Building, and throughout the House campus.

I am concerned that nearly 18 years after the passage of the Act, Congress remains significantly out of compliance. I have attached a copy of my letter to Chairman Robert Brady and Ranking Member Vern Ehlers for your review.

Thank you for your attention to this important request.

Sincerely,

DARRELL ISSA,
Member of Congress.

Enclosure.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 20, 2008.

Hon. ROBERT A. BRADY,
Chairman, Committee on House Administration, House of Representatives, Washington, DC.

Hon. VERNON J. EHLERS,
Ranking Member, Committee on House Administration, House of Representatives, Washington, DC.

DEAR CHAIRMAN BRADY AND RANKING MEMBER EHLERS: I am writing to request the installation of Americans with Disabilities Act, ADA-compliant lever-style door handles throughout my office, which is 211 Cannon House Office Building. Furthermore, I respectfully request that the committee direct that ADA compliant lever-style door handles be made available to any Member or committee that requests their installation, and that the committee develops a plan to complete the installation of ADA compliant lever-style door handles campus-wide as soon as practicable.

Enacted by Congress in 1990, and signed into law by President George H.W. Bush, the ADA is historic legislation whose purpose is to ensure nondiscrimination for persons with disabilities in access to employment, public services, public accommodations and telecommunications. According to the Department of Justice publication, ADA Standards for Accessible Design, CFR 28, Part 36, Appendix A, Section 4.13.2, ''Handles, pulls, latches, locks and other operable devices on doors shall have a shape that is easy to grasp with one hand and does not require tight grasping, tight pinching, or twisting of the wrist to operate. Lever-operated mechanisms, push-type mechanisms, and U-shaped handles are acceptable designs.''

It is a travesty that nearly 18 years after its enactment, the Congress remains significantly out of compliance with the ADA. Door handles throughout the House campus remain predominantly twisting; knob-style handles which clearly do not meet the standards outlined by the Act. We set a terrible example by exempting ourselves just because compliance is inconvenient or expensive, when we have compelled the American people by force of law to bear these same expenses and comply with the Act.

The Capitol is the nation's most prominent public space, with tens of thousands of Americans visiting, and many more thousands working here each day. Making it accessible to all Americans, regardless of disability, should be a priority. I urge the committee to grant my request for the installation of ADA compliant lever-style door handles in my congressional office, to make them available to all Members and committees upon request, and to act with all practicable speed to install lever-style compliant door handles campus-wide.

Thank you for your consideration of this request.

Sincerely,

DARRELL ISSA,
Member of Congress.

Mr. RAMSTAD. Madam Speaker, as co-chair of the Bipartisan Disabilities Caucus, I rise in strong support of the bill before us, the ADA Amendments Act.

It is a matter of basic justice for every American to have access to public accommodations and businesses. And every American deserves the opportunity to hold a job, contribute their talents and live with dignity and independence.

That's what the Americans with Disabilities Act, ADA, of 1990 was all about—creating access and equal opportunity for millions of Americans with disabilities.

And that's why the recent court cases that have chipped away at the protections of the ADA have been so alarming. This important bill will stop the erosion and clarify that people who use adaptive technology to cope with their disability still deserve the protection of the ADA.

People with disabilities have to overcome obstacles every day. It's time to remove the legal obstacles to their basic civil rights.

It's time to tear down the barriers that keep people with disabilities from fully participating and sharing their gifts. It's time to restore basic justice.

I urge my colleagues to support this important bill.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today in support of H.R. 3195, the ''ADA Restoration Act of 2007.'' I wholeheartedly support this bill and urge my colleagues to support it also. The changes embodied by this Act, that restore the with Disabilities Act of 1990, ''ADA'', to its original purpose, are long overdue. This is a civil rights bill and the rights of the disabled must be restored.

H.R. 3195, the ''ADA Restoration Act of 2007,'' amends the definition of ''disability'' in

the ADA in response to the Supreme Court's narrow interpretation of the definition, which has made it extremely difficult for individuals with serious health conditions—epilepsy, diabetes, cancer, muscular dystrophy, multiple sclerosis and severe intellectual impairments—to prove that they qualify for protection under the ADA. The Supreme Court has narrowed the definition in two ways: (1) by ruling that mitigating measures that help control an impairment like medicine, hearing aids, or any other treatment must be considered in determining whether an impairment is disabling enough to qualify as a disability; and (2) by ruling that the elements of the definition must be interpreted ''strictly to create a demanding standard for qualifying as disabled.'' The Court's treatment of the ADA is at odds with judicial treatment of other civil rights statutes, which usually are interpreted broadly to achieve their remedial purposes. It is also inconsistent with Congress's intent.

The committee will consider a substitute that represents the consensus view of disability rights groups and the business community. That substitute restores congressional intent by, among other things: disallowing consideration of mitigating measures other than corrective lenses, ordinary eyeglasses or contacts, when determining whether an impairment is sufficiently limiting to qualify as a disability; maintaining the requirement that an individual qualifying as disabled under the first of the three-prong definition of ''disability'' show that an impairment ''substantially limits'' a major life activity but defining ''substantially limits'' as a less burdensome ''materially restricts; clarifying that anyone who is discriminated against because of an impairment, whether or not the impairment limits the performance of any major life activities, has been ''regarded as'' disabled and is entitled to the ADA's protection.

BACKGROUND ON LEGISLATION

Eighteen years ago, President George H.W. Bush, with overwhelming bipartisan support from the Congress, signed into law the ADA. The act was intended to provide a ''clear and comprehensive mandate,'' with ''strong, consistent, enforceable standards,'' for eliminating disability-based discrimination. Through this broad mandate, Congress sought to protect anyone who is treated less favorably because of a current, past, or perceived disability. Congress did not intend for the courts to seize on the definition of disability as a means of excluding individuals with serious health conditions from protection; yet this is exactly what has happened. A legislative action is now needed to restore congressional intent, and ensure broad protection against disability-based discrimination.

COURT RULINGS HAVE NARROWED ADA PROTECTION, RESULTING IN THE EXCLUSION OF INDIVIDUALS THAT CONGRESS CLEARLY INTENDED TO PROTECT

Through a series of decisions interpreting the ADA's definition of ''disability,'' however, the Supreme Court has narrowed the ADA in ways never intended by Congress. First, in three cases decided on the same day, the Supreme Court ruled that the determination of ''disability'' under the first prong of the definition—i.e., whether an individual has a substantially limiting impairment—should be made after considering whether mitigating measures had reduced the impact of the impairment. In all three cases, the undisputed reason for the adverse action was the employee's medical condition, yet all three employers argued—and the Supreme Court agreed—that the plaintiffs were not protected by the ADA because their impairments, when considered in a mitigated state, were not limiting enough to qualify as disabilities under the ADA.

Three years later, the Supreme Court revisited the definition of ''disability'' in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams. In that case, the plaintiff alleged that her employer discriminated against her by failing to accommodate her disabilities, which included carpal tunnel syndrome, myotendonitis, and thoracic outlet compression. While her employer previously had adjusted her job duties, making it possible for her to perform well despite these conditions, Williams was not able to resume certain job duties when requested by Toyota and ultimately lost her job. She challenged the termination, also alleging that Toyota's refusal to continue accommodating her violated the ADA. Looking to the definition of ''disability,'' the Court noted that an individual ''must initially prove that he or she has a physical or mental impairment,'' and then demonstrate that the impairment ''substantially limits'' a ''major life activity.'' Identifying the critical questions to be whether a limitation is ''substantial'' and whether a life activity is ''major,'' the court stated that ''these terms need to be interpreted strictly to create a demanding standard for qualifying as disabled.'' The Court then concluded that ''substantial'' requires a showing that an individual has an impairment ''that prevents or, '' severely restricts the individual; and ''major'' life activities, requires a showing that the individual is restricted from performing tasks that are ''of central importance to most people's daily lives.''

In the wake of these rulings, disabilities that had been covered under the Rehabilitation Act and that Congress intended to include under the ADA—serious health conditions like epilepsy, diabetes, cancer, cerebral palsy, multiple sclerosis—have been excluded. Either, the courts say, the person is not impaired enough to substantially limit a major life activity, or the impairment substantially limits something—like liver function—that the courts do not consider a major life activity. Courts even deny protection when the employer admits that it took adverse action based on the individual's impairment, allowing employers to take the position that an employee is too disabled to do a job but not disabled enough to be protected by the law.

On October 4, 2007, the Subcommittee on the Constitution, Civil Rights, and Civil Liberties held a legislative hearing on H.R. 3195, the ''ADA Restoration Act of 2007.'' Witnesses at the hearing included Majority Leader STENY H. HOYER; Cheryl Sensenbrenner, chair, American Association of People with Disabilities; Stephen C. Orr, pharmacist and plaintiff in Orr v. Wal-Mart Stores, Inc.; Michael C. Collins, executive director, National Council on Disability; Lawrence Z. Lorber, U.S. Chamber of Commerce; and Chai R. Feldblum, professor, Georgetown University Law Center.

The hearing provided an opportunity for the Constitution Subcommittee to examine how the Supreme Court's decisions regarding the definition of ''disability'' have affected ADA protection for individuals with disabilities and to consider the need for legislative action. Representative HOYER, one of the lead sponsors of the original act and, along with Representative SENSENBRENNER, lead House cosponsor of the ADA Restoration Act, explained the need to respond to court decisions ''that have sharply restricted the class of people who can invoke protection under the law and [reinstate] the original congressional intent when the ADA passed.'' Explaining Congress's choice to adopt the definition of ''disability'' from the Rehabilitation Act because it had been interpreted generously by the courts, Representative HOYER testified that Congress had never anticipated or intended that the courts would interpret that definition so narrowly:

> [W]e could not have fathomed that people with diabetes, epilepsy, heart conditions, cancer, mental illnesses and other disabilities would have their ADA claims denied because they would be considered too functional to meet the definition of disabled. Nor could we have fathomed a situation where the individual may be considered too disabled by an employer to get a job, but not disabled enough by the courts to be protected by the ADA from discrimination. What a contradictory position that would have been for Congress to take.

Representative HOYER, joined by all of the witnesses except Mr. Lorber, urged Congress to respond by passing H.R. 3195 to amend the definition of ''disability.'' Mr. Lorber, appearing on behalf of the Chamber of Commerce, opposed H.R. 3195 as an overly broad response to court decisions that accurately reflected statutory language and congressional intent.

Since the subcommittee's hearing, several changes have been made to the bill, which are reflected in the substitute that will likely be considered by the committee. The substitute, described section-by-section below, represents the consensus of the disability rights and business groups and is supported by, among others, the Chamber of Commerce.

Importantly, section 4 of the bill, amends the definition of ''disability'' and provides standards for applying the amended definition. While retaining the requirement that a disability ''substantially limits'' a ''major'' life activity under prongs 1 and 2 of the definition of disability, section 4 redefines ''substantially limits'' as ''materially restricts'' to indicate a less stringent standard. Thus, while the limitation imposed by an impairment must be important, it need not rise to the level of preventing or severely restricting the performance of major life activities in order to qualify as a disability. Section 4 provides an illustrative list of life activities that should be considered ''major,'' and clarifies that an individual has been ''regarded as'' disabled, and is entitled to protection under the ADA, if discriminated against because of an impairment, whether or not the impairment limits the performance of any major life activities. Section 4 requires broad construction of the definition and prohibits consideration of mitigating measures, with the exception of ordinary glasses or contact lenses, in determining whether an impairment substantially limits a major life activity.

I support this bill and I urge my colleagues to support it also.

Ms. HIRONO. Madam Speaker, I rise today in strong support of H.R. 3195, the ADA Restoration Act of 2007. I would like to thank the chief sponsor of the bill, Majority Leader STENY HOYER, and the chairman of the Education and Labor Committee, GEORGE MILLER, for their leadership and work on disability rights.

Congress passed the Americans with Disabilities Act, ADA, 18 years ago with overwhelming support from both parties and President George H.W. Bush. The intent of Congress was clear: to make this great Nation's promise of equality and freedom a reality for Americans with disabilities.

Standing together, leaders from both parties described the law as ''historic,'' ''landmark,'' an ''emancipation proclamation for people with disabilities.'' These were not timid or hollow words. The congressional mandate was ambitious: prohibit unfair discrimination and require changes in workplaces, public transportation systems, businesses, and other programs or services.

Through this broad mandate, Congress intended to protect anyone who is treated less favorably because of a current, past, or perceived disability. As with other civil rights laws, Congress wanted to focus on whether an individual could prove that he or she had been treated less favorably because of a physical or mental impairment. Congress never intended for the courts to seize on the definition of ''disability'' as a means of excluding individuals with serious health conditions like epilepsy, diabetes, cancer, HIV, muscular dystrophy, and multiple sclerosis from protection under the law.

Yet this is exactly what has happened. Through a series of decisions interpreting the definition of ''disability'' narrowly, the U.S. Supreme Court has inappropriately shifted the focus away from an employer's alleged misconduct onto whether an individual can first meet a ''demanding standard for qualifying as disabled.''

Millions of Americans who experience disability-based discrimination have been or will be denied protection under ADA and barred from challenging discriminatory conduct. By passing H.R. 3195, the Congress will be able to correct these decisions made by the courts.

H.R. 3195 would do this by: amending the definition of ''disability'' so that individuals who Congress originally intended to protect from discrimination are covered under the ADA; preventing the courts from considering ''mitigating measures'' when deciding whether an individual qualifies for protection under the law; and keeping the focus in employment cases on the reason for the adverse action. The appropriate question is whether someone can show that he or she was treated less favorably ''on the basis of disability'' and not whether an individual has revealed enough private and highly personal facts about how he or she is limited by an impairment. The bill reminds the courts that—as with any other civil rights law—the ADA must be interpreted fairly, and as Congress intended.

As an original cosponsor of H.R. 3195, I believe that it rightfully will restore protections for disabled Americans under the landmark ADA, one of our Nation's most important civil rights laws.

I would like to share with you just a few examples of how ADA has made a positive impact for individuals with disabilities in my home State of Hawaii:

An 85 year old Honolulu woman, who is both deaf and blind, is able to access the public transportation system to visit her husband who resides in a long-term care facility far from her home.

The first ''chirping'' traffic light on the island of Kauai was installed at a busy intersection thanks to the work of an advocate for the blind.

The annual Maui County Fair has a special day set aside for people with disabilities to participate in the rides and games.

A Kauai bakery installed a blinking light system on their ovens so that a hearing-impaired employee would be notified when her baking was complete, thus allowing her to work independently.

Each year, the Hawaii State Vocational Rehabilitation and Services for the Blind Division of the Department of Human Services recognizes outstanding clients from the districts they serve. I would like to recognize the following 2007 Rehabilitants of the Year: Deanna DeLeon of the Big Island, Rogie Yasay Pagatpatan of Maui, Serafin Palomares of Kauai, and Tauloa ''Mona'' Pouso'o of Oahu. I would like to include in the CONGRESSIONAL RECORD their stories of success, as each of these individuals leads a life of inspiration.

I urge my colleagues to join me in voting for H.R. 3195 so we can continue to build on the successes of the Americans with Disabilities Act. Mahalo (thank you).

HAWAII BRANCH 2007 REHABILITANT OF THE YEAR, NOMINATED BY ELLEN OKIMOTO, VOCATIONAL REHABILITATION SPECIALIST

Deanna DeLeon came to VR in March 2006 looking for a way to change her life. Deanna faced many challenges in her life. Her past history of abuse led her to the Big Island Drug Court Program. Through this program and with the support of the Division of Vocational Rehabilitation, Deanna set a goal of becoming successfully employed.

The combination of her past work experience in the hotel industry and as an administrative assistant qualified her for a position as a tour receptionist with Wyndham Vacation Resorts in June 2006. Deanna's supervisor, Patsy Mecca, stated that Deanna brings positive energy and a bright smile to the team. Deanna has since been promoted to a Gifting Supervisor and continues to work in a job that she so loves.

Go Forward To Work. Congratulations, Deanna for a job well done.

MAUI BRANCH 2007 REHABILITANT OF THE YEAR, NOMINATED BY LYDIA SHEETS, VOCATIONAL REHABILITATION SPECIALIST

Having a disability never stopped Rogie Yasay Pagatpatan from working for long periods of time. Rogie requires assistance in completing applications and interviewing. Each time he needs to look for a new job, he has enlisted the help of his Vocational Rehabilitation Specialist, Lydia Sheets in the Maui Branch Office. Rogie and Lydia have been a successful team for many years. Lydia knows Rogie so well that she has collaborated with employers to help Rogie find and keep jobs.

Most recently, Lydia helped Rogie obtain a position with the Maui Disposal Company, Inc. He was hired as a sorter at the company's material Recover Facility—a processing plant for recyclable products including plastic, glass, aluminum, and mixed paper. Rogie works with other processors and several supervisors. He has a job that requires teamwork, cooperation, conscientiousness, and tolerance of waste products, outdoor work, environmental factors, and working around moving machinery. Rogie has proven that he can handle the job. With the help of supervisors West Paul and Wendell Parker, Rogie has become a valued employee.

Rogie's persistence is admirable, and his commitment has impressed his supervisors. He was honored as the ''Employee of the Month'' in June 2007. Rogie's success is due in part to his supportive and patient supervisors, who look at his abilities rather than his limitations.

KAUAI BRANCH 2007 REHABILITANT OF THE YEAR, NOMINATED BY DEBRA MATSUMOTO, EMPLOYMENT SERVICE SPECIALIST

''Everyone is telling me what I cannot do'', stated Serafin Palomares when we first met in 2001. This made him even more determined to prove ''everyone'' wrong, and together, we proceeded to do just that. After recovering from a stroke, Serafin's goal was to return to his previous employment in the Food & Beverage field. We realized that due to his limitations, he would not be able to perform some of the duties required in a restaurant setting. He could be successful however, if the work environment was modified.

Serafin enrolled at Kauai Community College and worked toward a degree in culinary arts. School became a lengthy process, involving a lot of creative collaboration between the Instructors, college counselor, and VR. The biggest hurdle was finding an appropriate practicum site. It soon became clear that Serafin would do best working independently at his own pace, building a workstation, and creating a system that would meet his specific needs. When the Piikoi Building Vending Stand in the County Civic Center became available as a practicum site, Serafin leapt at the chance to give it a try . . . and Serafin has never left.

Upon earning an AS degree in 2005, he decided to make the leap to self-employment. Serafin has managed to create a popular, thriving Vending Stand in the heart of Lihue town. He is renowned for his specialty sandwiches and salads, and the sky's the limit as far as how big he could build his business. Yet, Serafin prefers to keep things small and simple, because for him, it's not about the money as much as it is having a joyful purpose for waking up each day. You can see that he truly enjoys what he does by the bright smile he wears when he greets his customers . . . and that's really what keeps the regulars coming back day after day. Congratulations to Serafin Palomares. Kauai's Outstanding Rehabilitant of the Year.

OAHU BRANCH DEAF SERVICES SECTION 2007 REHABILITANT OF THE YEAR, NOMINATED BY AMANDA CHRISTIAN, VOCATIONAL REHABILITATION SPECIALIST

Deaf Services Section is proud to nominate known to his friends and family as ''Mona'', as this year's Outstanding Rehabilitant of the Year. Mona is a deaf person with significant developmental delays and minimal language skills. He is extremely shy; however, he has a heart of gold and a terrific work ethic.

After graduating from the Hawaii Center for the Deaf and Blind, Mona received kitchen training from Lanakila Rehabilitation Center (LRC) from 2002 until 2006 where he learned food preparation and dishwashing skills. At that time, it was a common belief that Mona would need extended support services in order to maintain competitive employment. With the assistance of LRC, Mona was placed at Red Lobster in November 2006. He received on-the-job training from November 2006 until February 2007 with specialized job coaches.

Mona eventually became comfortable with his work environment and began to make friends with co-workers. He is now confident with his tasks and will help others with their work at any time he sees that they need help. Mona's job duties initially were limited

to cleaning the restrooms, bagging linguini and rice, and washing dishes. Mona later proved he was capable of much more and now helps staff with tasks such as mopping the bar area, food prep work, and helping in the storage room. He often arrives at work early and at times, has to be persuaded to leave work at the end of his shift. Upon leaving work, he makes sure to say ''goodbye'' to each one of his co-workers at least once; sometimes twice. Mona's supervisors and coworkers report how cherished Mona is and how well he is doing.

Deaf Services Section is honored and humbled to be able to recognize Mona Pouso'o's hard work and outstanding achievements. He has been an inspiration to us all and will continue to stand out in our minds as the definition of a successfully rehabilitated individual.

Mr. NADLER. Madam Speaker, I want to commend the distinguished majority leader and gentleman from Wisconsin, Mr. SENSENBRENNER, for their leadership on this important legislation.

H.R. 3195 would help to restore the Americans with Disabilities Act to its rightful place among this Nation's great civil rights laws.

This legislation is necessary to correct Supreme Court decisions that have created an absurd catch-22 in which an individual can face discrimination on the basis of an actual, past, or perceived disability and yet not be considered sufficiently disabled to be protected against that discrimination by the ADA. That was never Congress's intent, and H.R. 3195 cures this problem.

H.R. 3195 lowers the burden of proving that one is disabled enough to qualify for coverage. It does this by directing courts to read the definition broadly, as is appropriate for remedial civil rights legislation. It also redefines the term ''substantially limits,'' which was restrictively interpreted by the courts to set a demanding standard for qualifying as disabled. An individual now must show that his or her impairment ''materially restricts'' performance of major life activities. While the impact of the impairment must still be important, it need not severely or significantly restrict one's ability to engage in those activities central to most people's daily lives, including working.

Under this new standard, for example, it should be considered a material restriction if an individual is disqualified from his or her job of choice because of an impairment. An individual should not need to prove that he or she is unable to perform a broad class or range of jobs. We fully expect that the courts, and the federal agencies providing expert guidance, will revisit prior rulings and guidance and adjust the burden of proving the requisite ''material'' limitation to qualify for coverage.

This legislation is long overdue. Countless Americans with disabilities have already been deprived of the opportunity to prove that they have been victims of discrimination, that they are qualified for a job, or that a reasonable accommodation would afford them an opportunity to participate fully at work and in community life.

Some of my colleagues from across the aisle have raised concerns that this bill would cover ''minor'' or ''trivial'' conditions. They worry about covering ''stomach aches, the common cold, mild seasonal allergies, or even a hangnail.''

I have yet to see a case where the ADA covered an individual with a hangnail. But I have seen scores of cases where the ADA was construed not to cover individuals with cancer, epilepsy, diabetes, severe intellectual impairment, HIV, muscular dystrophy, and multiple sclerosis.

These people have too often been excluded because their impairment, however serious or debilitating, was mis-characterized by the courts as temporary, or its impact considered too short-lived and not permanent enough—although it was serious enough to cost them the job.

That's what happened to Mary Ann Pimental, a nurse who was diagnosed with breast cancer after being promoted at her job. Mrs. Pimental had a mastectomy and underwent chemotherapy and radiation therapy. She suffered radiation burns and premature menopause. She had difficulty concentrating, and experienced extreme fatigue and shortness of breath. And when she felt well enough to return to work, she discovered that her job was gone and the only position available for her was part-time, with reduced benefits.

When Ms. Pimental challenged her employer's failure to rehire her into a better position, the court told her that her breast cancer was not a disability and that she was not covered by the ADA. The court recognized the ''terrible effect the cancer had upon'' her and even said that ''there is no question that her cancer has dramatically affected her life, and that the associated impairment has been real and extraordinarily difficult for her and her family.''

Yet the court still denied her coverage under the ADA because it characterized the impact of her cancer as ''short-lived''—meaning that it ''did not have a substantial and lasting effect'' on her.

Mary Ann Pimental died as a result of her breast cancer 4 months after the court issued its decision. I am sure that her husband and two children disagree with the court's characterization of her cancer as ''short-lived,'' and not sufficiently permanent.

This House should also disagree—and does—as is shown by the broad bipartisan support for H.R. 3195.

H.R. 3195 ensures that individuals like Mary Ann Pimental are covered by the law when they need it. It directs the courts to interpret the definition of disability broadly, as is appropriate for remedial civil rights to legislation. H.R. 3195 requires the courts—and the federal agencies providing expert guidance—to lower the burden for obtaining coverage under this landmark civil rights law. This new standard is not onerous, and is meant to reduce needless litigation over the threshold question of coverage.

It is our sincere hope that, with less battling over who is or is not disabled, we will finally be able to focus on the important questions—is an individual qualified? And might a reasonable accommodation afford that person the same opportunities that his or her neighbors enjoy.

I urge my colleagues to join me in voting for passage of H.R. 3195, as reported unanimously by the House Judiciary Committee.

Mr. SMITH of Texas. Madam Speaker, the Americans with Disabilities Act, enacted almost 18 years ago, removed many physical barriers disabled people faced in their daily lives. It also helped remove the mental barriers that often prevented non-disabled Americans from looking beyond wheel chairs and walking canes and seeing disabled Americans as the friends and coworkers they are.

When the ADA was originally enacted in 1990, it was the result of bipartisan efforts in Congress. So I am pleased that various interested parties have been able to reach agreement on statutory language amending the ADA.

I support the compromise and believe it was reached in good faith. However, I do have some concerns regarding how the courts will interpret the legislative language we will consider today.

So let me express what I believe to be the nature and import of this legislation.

First, the common understanding in Congress is that this legislation would simply restore the original intent of the ADA by bringing the statutory text in line with the legislative history of the original ADA.

That legislative history from both the House Education and Labor and the Senate committee reports provided that ''[p]ersons with minor, trivial impairments such as a simple infected finger are not impaired in a major life activity,'' and consequently those who had such minor and trivial impairments would not be covered by the ADA.

I believe that understanding is entirely appropriate, and I would expect the courts to agree with and apply that interpretation. If that interpretation were not to hold but were to be broadened improperly the judiciary, an employer would be under a Federal obligation to accommodate people with stomach aches, a common cold, mild seasonal allergies, or even a hangnail.

So, I want to make clear that I believe that the drafters and supporters of this legislation, including me, intend to exclude minor and trivial impairments from coverage under the ADA, as they have always been excluded.

Second, the Supreme Court in Toyota Motor Manufacturing v. Williams held that under the original ADA, ''[t]he impairment's impact must also be permanent or long term.''

The findings in the language before us today state that the purpose of the legislation is ''to provide a new definition of 'substantially limits' to indicate that Congress intends to depart from the strict and demanding standard applied by the Supreme Court in Toyota Motor Manufacturing.''

I understand that this finding is not meant to express disagreement with or to overturn the Court's determination that the ADA apply only to individuals with impairments that are permanent or long term in impact.

If these understandings of the language before us today do not prevail, the courts may be flooded with frivolous cases brought by those who were not intended to be protected under the original ADA.

If that happens, those who would have been clearly covered under the original ADA, such as paralyzed veterans or the blind, will be forced to wait in line behind thousands of others filing cases regarding minor or trivial impairments. I don't believe anyone supporting this new language wants that to happen, and I want to make that clear for the record.

With the understandings I have expressed, I support the Americans with Disabilities Act Restoration Act.

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

The SPEAKER pro tempore. Pursuant to House Resolution 1299, the previous question is ordered on the bill, as amended.

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. SENSENBRENNER. 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.

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 vote 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.

EXTENSION OF PROGRAMS UNDER THE HIGHER EDUCATION ACT OF 1965

Mr. GEORGE MILLER of California. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 3180) to temporarily extend the programs under the Higher Education Act of 1965.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

S. 3180

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

SECTION 1. EXTENSION OF HIGHER EDUCATION PROGRAMS.

(a) EXTENSION OF PROGRAMS.—Section 2(a) of the Higher Education Extension Act of 2005 (Public Law 109–81; 20 U.S.C. 1001 note) is amended by striking ''June 30, 2008'' and inserting ''July 31, 2008''.

(b) RULE OF CONSTRUCTION.—Nothing in this section, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171), by the College Cost Reduction and Access Act (Public Law 110–84), or by the Ensuring Continued Access to Student Loans Act of 2008 (Public Law 110–227) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from California (Mr. MCKEON) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Madam Speaker, I rise in support of S. 3180, a bill to temporarily extend programs under the Higher Education Act of 1965.

At the beginning of February, the House took steps to reauthorize the Higher Education Act in passing H.R. 4137, the College Opportunity and Affordability Act. We now find ourselves in the near final phase of completing the reauthorization of the Higher Education Act as we work toward a compromise bill with the Senate to ensure that the doors of college are truly open to all qualified students.

It is our goal to ensure that a final bill encompasses the major issues addressed in H.R. 4137, including skyrocketing college prices, a needlessly complicated student aid application process, and predatory tactics by student lenders.

The bill under consideration today, S. 3180, will extend the programs under the Higher Education Act until July 31, 2008, to allow sufficient time for final deliberations on the two bills reported out of the respective Chambers.

It has been nearly 10 years since the Higher Education Act was last reauthorized, and I believe the Members on both sides of the aisle and in both Chambers are anxious to complete the work on this bill in this Congress. We believe it can happen.

I look forward to joining my colleagues on the committees in both the House and the Senate in completing our work on behalf of this Nation's hardworking families and students.

Madam Speaker, I reserve the balance of my time.

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

I rise in support of S. 3180, a bill to temporarily extend the Higher Education Act of 1965. This bill will provide a clean extension of the Higher Education Act for 1 more month as we continue to work with our Senate colleagues to hammer out a conference agreement.

The underlying reauthorization of the Higher Education Act is long overdue. Since 2003 Congress has passed twelve extensions, two reconciliation bills, an emergency student loan bill, and the House has passed two reauthorization bills. In the reauthorization bill passed by this Congress, we strengthened Pell Grants, improved the Perkins Loan program, and expanded access to college for millions of American students. The reauthorization bills also included important reforms that will provide more transparency to American families on the cost of college. A recent report found that since 1983, the cost of keeping colleges running has outpaced the consumer price index by 48 percent. The average total for tuition fees, room and board, for an in-State student at a public 4-year college is $13,589. It jumps to $32,307 for a student attending a private 4-year college. Tuition and fees have increased by an average of 4.4 percent per year over the past decade, and that's after adjusting for inflation. Students and families need to be able to plan for these increases, and that's exactly what we are proposing, through greater sunshine and transparency. We need to complete the reauthorization process to make those proposals a reality.

Madam Speaker, this is a clean extension bill that will allow the current programs of the Higher Education Act to continue past their current June 30, 2008, expiration date until July 31, 2008. Programs like Pell Grants and Perkins Loans are the passports out of poverty for millions of American students. We must complete our work on the conference agreement prior to the August recess.

I urge my colleagues to vote ''yes'' on S. 3180.

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

Mr. GEORGE MILLER of California. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. GEORGE MILLER) that the House suspend the rules and pass the Senate bill, S. 3180.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

STOP CHILD ABUSE IN RESIDENTIAL PROGRAMS FOR TEENS ACT OF 2008

Mr. GEORGE MILLER of California. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 6358) to require certain standards and enforcement provisions to prevent child abuse and neglect in residential programs, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6358

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 ''Stop Child Abuse in Residential Programs for Teens Act of 2008''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ASSISTANT SECRETARY.—The term ''Assistant Secretary'' means the Assistant Secretary for Children and Families of the Department of Health and Human Services.

(2) CHILD.—The term ''child'' means an individual who has not attained the age of 18.

(3) CHILD ABUSE AND NEGLECT.—The term ''child abuse and neglect'' has the meaning given such term in section 111 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106g).

(4) COVERED PROGRAM.—

(A) IN GENERAL.—The term ''covered program'' means each location of a program operated by a public or private entity that, with respect to one or more children who are unrelated to the owner or operator of the program—

(i) provides a residential environment, such as—