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# Congressional Record

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# House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. KIRK).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*September 23, 2004.*

I hereby appoint the Honorable MARK STEVEN KIRK to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

The Reverend Betsy Singleton, Pastor, Quapaw Quarter United Methodist Church, Little Rock, Arkansas, offered the following prayer:

God, this time of year, in this particular year, when hometown fairs are judging jams and bannered booths tout candidates with free bumper stickers, we hold our opinions fervently, our convictions with less compromise, each vote with care.

We confess that we are a people of preferences, each as unique as squares on a blue ribbon quilt stitched together by someone who favored cotton print over synthetics.

Daily, God, there are choices in this democracy, choices that lead us to debate, delay, exhaustion, hope. And then, together, we speak for the people who send us to represent them, the ones who, last weekend, got together in that small American town we call ''Home''—the fireman, the teacher, the homemaker, the beauty queen, the clown, the cowboy—and held the annual parade down Main Street, because out of many, they believe we really are one.

Today, God, may we be one. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Missouri (Mr. SKELTON) come forward and lead the House in the Pledge of Allegiance.

Mr. SKELTON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## WELCOMING THE REVEREND BETSY SINGLETON

(Mr. SNYDER asked and was given permission to address the House for 1 minute.)

Mr. SNYDER. Mr. Speaker, it is my privilege today to welcome today's guest chaplain, Reverend Betsy Singleton from the Quapaw Quarter United Methodist Church in Little Rock, Arkansas, a position she has held for the last 3 years. This is my home church and Betsy is my minister. She is also my wife.

Reverend Singleton, Betsy, welcome to the House. Thank you so much.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that during the joint meeting to hear an address by His Excellency Ayad Allawi, Interim Prime Minister of the Republic of Iraq, only the doors immediately opposite the Speaker and those on his right and left will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Due to the large attendance that is anticipated, the Chair feels the rule regarding the privilege of the floor must be strictly adhered to.

Children of Members will not be permitted on the floor, and the cooperation of all Members is requested.

The practice of reserving seats prior to the joint meeting by placard will not be allowed. Members may reserve their seats by physical presence only following the security sweep of the Chamber.

## RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Wednesday, September 15, 2004, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 5 minutes a.m.), the House stood in recess subject to the call of the Chair.

During the recess, beginning at about 9:50 a.m., the following proceedings were had:

□ 0950

## JOINT MEETING OF THE HOUSE AND SENATE TO HEAR AN ADDRESS BY HIS EXCELLENCY AYAD ALLAWI, INTERIM PRIME MINISTER OF THE REPUBLIC OF IRAQ

The Speaker of the House presided.

The Assistant to the Sergeant at Arms, Bill Sims, announced the Vice President and Members of the U.S. Senate who entered the Hall of the House of Representatives, the Vice President taking the chair at the right



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of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort His Excellency Ayad Allawi, the Interim Prime Minister of the Republic of Iraq, into the Chamber:

The gentleman from Texas (Mr. DELAY);

The gentleman from Missouri (Mr. BLUNT);

The gentleman from California (Mr. COX);

The gentleman from Georgia (Mr. KINGSTON);

The gentleman from California (Mr. HUNTER);

The gentlewoman from Florida (Ms. ROS-LEHTINEN);

The gentlewoman from California (Ms. PELOSI);

The gentleman from Maryland (Mr. HOYER);

The gentleman from South Carolina (Mr. CLYBURN);

The gentleman from Missouri (Mr. SKELTON);

The gentleman from California (Mr. LANTOS); and

The gentlewoman from California (Ms. HARMAN).

The VICE PRESIDENT. The President of the Senate, at the direction of that body, appoints the following Senators as a committee on the part of the Senate to escort His Excellency Ayad Allawi, the Interim Prime Minister of the Republic of Iraq, into the House Chamber:

The Senator from Tennessee (Mr. FRIST);

The Senator from Kentucky (Mr. MCCONNELL);

The Senator from Pennsylvania (Mr. SANTORUM);

The Senator from Texas (Mrs. HUTCHISON);

The Senator from Arizona (Mr. KYL);

The Senator from Virginia (Mr. ALLEN);

The Senator from Indiana (Mr. LUGAR);

The Senator from Alabama (Mr. SESSIONS);

The Senator from South Dakota (Mr. DASCHLE);

The Senator from Louisiana (Mr. BREAUX);

The Senator from Michigan (Mrs. STABENOW);

The Senator from New York (Mrs. CLINTON); and

The Senator from New Jersey (Mr. CORZINE).

The Assistant to the Sergeant at Arms announced the Acting Dean of the Diplomatic Corps, His Excellency Jesse Bibiano Marehalau, Ambassador of Micronesia.

The Acting Dean of the Diplomatic Corps entered the Hall of the House of Representatives and took the seat reserved for him.

The Assistant to the Sergeant at Arms announced the Cabinet of the President of the United States.

The Members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 10 o'clock and 2 minutes a.m., the Assistant to the Sergeant at Arms announced His Excellency Ayad Allawi, Interim Prime Minister of the Republic of Iraq.

The Interim Prime Minister of the Republic of Iraq, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege and I deem it a high honor and a personal pleasure to present to you His Excellency Ayad Allawi, Interim Prime Minister of the Republic of Iraq.

[Applause, the Members rising.]

## ADDRESS BY HIS EXCELLENCY AYAD ALLAWI, INTERIM PRIME MINISTER OF THE REPUBLIC OF IRAQ

Prime Minister ALLAWI. Mr. Speaker, Mr. Vice President, Members of Congress, distinguished guests, it is my distinct honor and great privilege to speak to you today on behalf of Iraq's interim government and its people. It is my honor, too, to come to Congress and to thank this Nation and this people for making our cause your cause, our struggle your struggle. Before I turn to my government's plan for Iraq, I have three important messages for you today.

First, we are succeeding in Iraq. It is a tough struggle, with setbacks, but we are succeeding. I have seen some of the images that are being shown here on television. They are disturbing. They focus on the tragedies, such as the brutal and barbaric murder of two American hostages this week. My thoughts and prayers go out to their families and to all those who lost loved ones.

Yet, as we mourn these losses, we must not forget either the progress we are making or what is at stake in Iraq. We are fighting for freedom and democracy, ours and yours. Every day we strengthen the institutions that will protect our new democracy, and every day we grow in strength and determination to defeat the terrorists and their barbarism.

The second message is quite simple, and one that I would like to deliver directly from my people to yours. Thank you, America. We Iraqis know that Americans have made and continue to make enormous sacrifices to liberate Iraq, to ensure Iraq's freedom. I have come here to thank you and to promise you that your sacrifices are not in vain. The overwhelming majority of Iraqis are grateful. They are grateful to be rid of Saddam Hussein and the torture and brutality he forced upon us, grateful for the chance to build a better future for our families, our country, and our region. We Iraqis are grateful to you Americans for your leadership and your sacrifice for our liberation and our opportunity to start anew.

Third, I stand here today as the Prime Minister of a country emerging finally from the dark ages of violence, aggression, corruption, and greed. Like almost every Iraqi, I have many friends who were murdered, tortured, or raped by the regime of Saddam Hussein. Well over 1 million Iraqis were murdered or are missing. We estimate at least 300,000 are in mass graves which stand as monuments to the inhumanity of Saddam's regime. Thousands of my Kurdish brothers and sisters were gased to death by Saddam's chemical weapons. Millions more like me were driven into exile. Even in exile, as I myself can vouch, we were not safe from Saddam; and as we lived under tyranny at home, so our neighbors lived in fear of Iraq's aggression and brutality.

Reckless wars, uses of weapons of mass destruction, needless slaughter of hundreds of thousands of lives and the financing and exporting of terrorism, these were Saddam's legacy to the world. My friends, today, we are better off, you are better off, and the world is better off without Saddam Hussein.

Your decision to go to war in Iraq was not an easy one, but it was the right one. There are no words that can express the debt of gratitude that future generations of Iraqis will owe to Americans. It would have been easy to have turned your back on our plight, but this is not the tradition of this great country. Not for the first time in history you stood up with your allies for freedom and democracy.

Ladies and gentlemen, I particularly want to thank you and the United States Congress for your brave work in 2002 to authorize American men and women to go to war to liberate my country because you realized what was at stake, and I want to thank you for your continued commitment last year when you voted to grant Iraq a generous reconstruction and security funding package. I met many of you last year, and I have in Iraq accepted your commitment to our country that you have come to see firsthand the challenges, and the progress we have and we are making.

Ladies and gentlemen, the costs we know have been high. As we have lost our loved ones in this struggle, so have you. As we have mourned, so have you. This is a bitter price of combating tyranny and terror, our hardworking families, every American who has given his or her life in the cause and every American who has been wounded to help us in our struggle. Now we are determined to honor your confidence and sacrifice by putting into practice in Iraq the values of liberty and democracy which are so dear to you and which have triumphed over tyranny across our world.

Creating a democratic, prosperous, and stable nation where differences are respected, human rights protected, and

which lives in peace with itself and its neighbors is our highest priority, our sternest challenge and our greatest goal. It is a vision, I assure you, shared by the vast majority of the Iraqi people, but there is the tiny minority who despise the very ideas of liberty, of peace, of tolerance and who will kill anyone, destroy anything to prevent Iraq and its people from achieving this goal.

Among them are those who nurse fantasies of the former regime returning to power. There are fanatics who seek to impose a perverse vision of Islam in which the face of Allah cannot be seen; and there are terrorists, including many from outside Iraq, who seek to make our country the main battleground against freedom, democracy, and civilization.

For the struggle in Iraq today is not about the future of Iraq only. It is about the worldwide war between those who want to live in peace and freedom and terrorists. Terrorists strike indiscriminately, at soldiers, at civilians, as they did so tragically on 9/11 in America and as they did in Spain and Indonesia, Saudi Arabia, Turkey, Russia, and my country and many others.

So in Iraq, we confront both, insurgency and the global war on terror, with their destructive forces sometimes overlapping. These killers may be just a tiny fraction of our 27 million population, but with their guns and their suicide bombs to intimidate and to frighten all the people of Iraq, I can tell you today they will not succeed. For these murderers have no political program or cause other than to push our country back into tyranny. Their agenda is no different than terrorist forces that have struck all over the world, including in your own country on September 11.

There lies the fatal weakness. The insurgency in Iraq is destructive but small, and it has not and will never resonate with the Iraqi people. The Iraqi citizens know better than anyone the horrors of dictatorship. This has passed. We will never revisit.

Ladies and gentlemen, let me turn now to our plan which we have developed to meet the real challenges which Iraq faces today, a plan that we are successfully implementing with your help. The plan has three basic parts: building democracy, defeating the insurgency, and improving the quality of life of ordinary Iraqis.

The political strategy in our plan is to isolate the terrorists from the communities in which they operate. We are working hard to involve as many people as we can in the political process to cut the ground from under the terrorists' feet. In troubled areas across the country, government representatives are meeting with local leaders. They are offering amnesty to those who realize there are other ways. They are making clear that there can be no compromise with terror; that all Iraqis have the opportunity to join the side of order and democracy and that they should use the political process to address their legitimate concerns and hopes.

I am a realist. I know that terrorism cannot be defeated with political tools only, but we can weaken it and with local support help us to tackle the enemy head on to identify, isolate, and eradicate this cancer. Let me provide you with a couple of examples of where this political plan is already working.

In Samarra, the Iraqi government has tackled the insurgents who once controlled the city. Following weeks of discussions between government officials and representatives, Coalition forces and local community leaders, regular access to the city has been restored. A new provisional council and governor have been selected and a new chief of police has been appointed. Hundreds of insurgents have been pushed out of the city by local citizens eager to get on with their lives. Today, in Samarra, the Iraqi forces are patrolling the city in close coordination with the Coalition counterparts.

In Tall Afar, a city northwest of Baghdad, the Iraqi government has reversed an effort by insurgents to wrest control away from the proper authority. Iraqi forces put down the challenge and allowed local citizens to choose a new mayor and police chief. Thousands of civilians have returned to the city; and since their return, we have launched a large program of reconstruction and humanitarian assistance.

Ladies and gentlemen, let me turn now to our military strategy. We plan to build and maintain security forces across Iraq. Ordinary Iraqis are anxious to take over entirely this role and to shoulder all the security weapons of our country as quickly as possible. For now, of course, we need the help of our American and Coalition partners, but the training of Iraqi security forces is moving forward briskly and effectively.

The Iraqi government now commands almost 50,000 armed and combat-ready Iraqis. By January, it will be some 145,000. And by the end of next year, some 250,000 Iraqis. The government has accelerated the development of Iraqi special forces and the establishment of a counterterrorist strike force to tackle specific problems caused by insurgencies. Our intelligence is getting better every day.

You have seen the successful resolution of the Najaf crisis and then the targeted attacks against insurgents in Fallujah. These new Iraqi forces are rising to the challenge. They are fighting on behalf of a sovereign Iraqi government and their performance is improving every day. Working closely with the Coalition allies, they are striking their enemies wherever they hide, disrupting operations, destroying safe houses, and removing terrorist leaders.

But in improving the everyday lives of Iraqis, tackling our economic problems is also essential to our plan. Across the country, there is a daily progress too. Oil pipelines are being repaired, basic services are being improved, homes are being rebuilt, schools and hospitals are being rebuilt, and clinics are open and reopened. There are now over 6 million children at school, many of them attending one of the 2,500 schools that have been renovated since liberation.

Last week, we completed a national polio vaccination campaign, reaching over 90 percent of all Iraqi children. We are starting work on 150 new health centers across the country. Millions of dollars in economic aid and humanitarian assistance from this country and others around the world are flowing into Iraq. For this, again, I want to thank you.

And so today, despite the setbacks and daily outrages, we can and should be hopeful for the future. In Najaf and Kufa, this plan has already brought success. In those cities, a firebrand cleric had taken over Shi'a Islam's holiest sites, in defiance of the government and the local population. Immediately, the Iraqi government ordered the Iraqi armed forces into action to use military force to create conditions for political success.

Together with the Coalition partners, Iraqi forces cleaned out insurgents from everywhere in the city, capturing hundreds and killing many more. At the same time, the government worked with political leaders and with Ayatollah Sistani to find a peaceful solution to the occupation of the shrine. We were successful. The shrine was preserved, order was restored, and Najaf and Kufa were returned to their citizens.

Today, the foreign media have lost interest and left, but millions of dollars in economic aid and humanitarian assistance are now flowing into the cities. Ordinary citizens are once again free to live and worship at these places. As we move forward, the next major milestone will be holding of the free and fair national and local elections in January next.

I know that some have speculated, even doubted, whether these stakes can be met. So let me be absolutely clear. Elections will occur in Iraq, on time in January, because Iraqis want elections on time. For the skeptics who do not understand the Iraqi people, they do not realize how decades of torture and repression fueled our desire for freedom. At every step of the political process today, the courage and resilience of the Iraqi people has proved the doubters wrong.

They said we would miss the January deadline to pass the interim constitution. We proved them wrong. They warned that there could be no successful handover of sovereignty by the end of June. We proved them wrong. A sovereign Iraqi government took over control 2 days early. They doubted whether a national conference could be staged this August. We proved them wrong. Despite humiliation and violence, over 1,400 citizens, a quarter of them women, from all regions and from

every ethnic religious and political grouping in Iraq, elected a national council. And I pledge to you today, we will prove them wrong again over the elections.

Our Independent Electoral Commission is working with the United Nations and our security forces to make these elections a reality. In 15 out of our 18 Iraqi provinces, we could hold elections tomorrow. Although this is not what we see in your media, it is a fact.

Your government, our government, and the United Nations are all helping us mobilize the necessary resources to fund voter registration and information programs. We will establish up to 30,000 polling sites, 130,000 election workers, and all other complex aspects of mounting a general election in a nation of 27 million before the end of January next.

We already know that terrorist and former regime elements will do all they can to disrupt these elections. There would be no greater success for the terrorists if we delay, and no greater blow when the elections take place, as they will, on schedule.

The Iraqi elections may not be perfect. They may not be the best elections that Iraq will ever hold. They will, no doubt, be an excuse for violence from those that despise liberty, as were the first elections in Sierra Leone, South Africa, or Indonesia. But they will take place, and they will be free and fair. And though they won't be the end of the journey towards democracy, they will be a giant step forward in Iraq's political evolution. They will pave the way for a government that reflects the world and has the confidence of the Iraqi people.

Ladies and gentlemen, this is our strategy for moving Iraq steadily towards security and democracy and the prosperity our people crave. But Iraq cannot accomplish this alone. The resolve and will of the Coalition in supporting a free Iraq is vital to our success.

The Iraqi government needs the help of the international community, the help of countries that not only believe in the Iraqi people, but also believe in the fight for freedom against tyranny and terrorism everywhere.

Already, Iraq has many partners. The transition in Iraq from brutal dictatorship to freedom and democracy is not only an Iraqi endeavor, it is an international one. More than 30 countries are represented in Iraq with troops on the ground in harm's way. We Iraqis are grateful for each and every one of these courageous men and women.

United Nations Resolution 1546, passed in June 2004, endorsed the Iraqi interim government and pledged international support for Iraq's upcoming elections.

The G8, the European Union, and NATO have also issued formal statements of support. NATO is now helping with one of Iraq's most urgent needs, the training of Iraqi security forces. I am delighted by the new agreement to step up the pace and scope of this training.

The United Nations has reestablished its mission in Iraq. A new United Nations special representative has been appointed and a team of United Nations personnel is now operating in Baghdad. Many more nations have committed to Iraq's future in the form of economic aid.

We Iraqis are aware how international this effort truly is. But our opponents, the terrorists, also understand all too well that this is an international effort. And that is why they have targeted members of the Coalition.

I know the pain this causes. I know it is difficult, but the Coalition must stand firm. When governments negotiate with terrorists, everyone in the free world suffers. When political leaders sound the sirens of defeatism in the face of terrorism, it only encourages more violence. Working together, we will defeat the killers and will do this by refusing to bargain about our most fundamental principles.

Ladies and gentlemen, goodwill aside, I know that many observers around the world honestly wonder if we in Iraq really can restore our economy, be good neighbors, guarantee the democratic rule of law, and overcome the enemies who seek to tear us down.

I understand why, faced with the daily headlines, there are these doubts. I know, too, that there will be many more setbacks and obstacles to overcome. But these doubters underestimate our country, and they risk fueling the hopes of the terrorists.

Despite our problems, despite our recent history, no one should doubt that Iraq is a country of tremendous human resources and natural resources. Iraq is still a nation with an inspiring cultural tradition and an educated and civilized people. And Iraq is still a land made strong by its Islamic faith which teaches us tolerance, love, respect, and duty.

Above all, they risk underestimating the courage and determination of the Iraqi people to embrace democracy, peace and freedom, for the dreams of our families are the same as the dreams of families here in America and around the world.

There are those who want to divide our world. I appeal to you, who have done so much already to help us, to ensure they do not succeed. Do not allow them to say to Iraqis, to Arabs, to Muslims that we have only two models of government, brutal dictatorship or religious extremism. This is wrong.

Like Americans, we Iraqis want to enjoy the fruits of liberty. Half of the world's 1.5 billion Muslims already enjoy democratically elected governments. As Prime Minister Blair said to you last year when he stood here, ''Any where, any time ordinary people are given the chance to choose, the choice is the same: freedom, not tyranny; democracy, not dictatorship; and the rule of law, not the rule of the secret police.''

Do not let them convince others that the values of freedom, of tolerance and democracy are for you in the West but not for us. For the first time in our history, the Iraqi people can look forward to controlling our own destiny. This would not have been possible without the help and sacrifice of this country and its Coalition partners.

I thank you again from the bottom of my heart. And let me tell you as we meet our greatest challenge by building a democratic future, we the people of new Iraq will remember those who have stood by us.

As generous as you have been, we will stand with you, too. As stalwart as you have been, we will stand with you too. Neither tyranny nor terrorism has a place in our region or our world. And that is why we Iraqis will stand by you, America, in a war larger than either of our two nations: the global battle to live in freedom.

God bless you and thank you.

[Applause, the Members rising.]

At 10 o'clock and 39 minutes a.m., His Excellency Ayad Allawi, Interim Prime Minister of the Republic of Iraq, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Assistant to the Sergeant at Arms escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet;

The Acting Dean of the Diplomatic Corps.

## JOINT MEETING DISSOLVED

The SPEAKER. The purpose of the joint meeting having been completed, the Chair declares the joint meeting of the two Houses now dissolved.

Accordingly, at 10 o'clock and 45 minutes a.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The House will continue in recess until approximately 11:15 a.m.

□ 1115

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SHAW) at 11 o'clock and 15 minutes a.m.

## PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. PENCE. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

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

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize 10 one-minutes on either side.

## CONGRATULATIONS TO PORTER GOSS ON BECOMING NEW CIA DIRECTOR

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

Mr. FOLEY. Mr. Speaker, I come to the well today to congratulate our Florida colleague and great friend, PORTER GOSS, on becoming the new director of the Central Intelligence Agency.

PORTER is one of the most decent, kind, humble men in this building, and his task before him is enormous. Seventy-seven Senators, including our own Florida Senators BOB GRAHAM and BILL NELSON, courageously supported the man who we know is such a decent human being, who will use his utmost ability to protect and defend the people of the United States.

PORTER GOSS and his wife Mariel have been solid citizens, great Floridians and now the Nation will know the kind of dedication he has shown to the pursuit of making America safe.

We are proud of you, PORTER. We are standing by you, and we know, at the end of your tenure here in Congress, Floridians salute you and Americans will get to know a great, great humanitarian, a great leader, and a terrific Central Intelligence Director.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members should avoid improper references to the Senate.

## PARTNERSHIP WITH AMERICA'S FUTURE

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, for the last 4 years, Texas has seen our manufacturing economy decline, entire industries virtually disappear, jobs outsourced abroad and communities across the State struggle against the tide to balance their budgets and maintain viability.

All families in Texas have seen their share of the national debt increase by $36,536.

Republicans have tried to cut back on support for local police officers, supporting proposals that would slash funding for the COPS program which has put 5,937 police officers on the streets in Texas. They have drained the Superfund program, despite the 30 sites that endanger the health of families in Texas.

Mr. Speaker, I think it is time to wake up and address the most important problems that we face.

Let us come together on a new economic plan for America. Working together, our New Partnership for America's Future will provide prosperity, national security, fairness, opportunity, community and accountability to the families of Texas.

## MISERY INDEX LOW; PROSPERITY INDEX HIGH

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

Mr. SMITH of Texas. Mr. Speaker, for years, the Misery Index has measured the good or bad impact of the economy on everyday Americans. The Misery Index is the combination of the unemployment rate and the inflation rate.

President George Bush has the lowest Misery Index of any President seeking re-election in 30 years. The Misery Index under President Bush is only 7.3 percent. Over 1.7 million jobs have been created just in the last year. President Bush's initiatives have given Americans economic growth and a freer and more secure country.

Mr. Speaker, given President Bush's good record on the economy, maybe we should give him credit for a prosperity index.

## NEW BLUEPRINT FOR THE FUTURE

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, yesterday, Democrats unveiled a new blueprint for the future, our New Partnership for America's Future, a plan that will move our Nation in the right direction by promoting prosperity, national security, fairness and opportunity, as well as supporting our communities and demanding accountability.

I want to focus today on national security. Nevada has the highest percentage of National Guard troops deployed in Iraq, 40 percent of Nevada's National Guard. Over 1,500 Nevada National Guard and Reserve troops have been deployed overseas. These brave men and women are our next generation of veterans.

Republicans have not kept their promises to our current veterans, and I have no confidence that we will be able to do any better for these new veterans. Republicans refuse to end the Disabled Veterans Tax. Instead, they passed a plan that fails to cover over 5,000 disabled veterans in Nevada.

Democrats will keep our promises to our veterans and will keep America safe with a strong military, sound diplomacy, resources for our first responders and heightened security for our ports.

## SUCCESS IN IRAQ

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

Mr. BURGESS. Mr. Speaker, this morning, the House heard from the prime minister of Iraq, Dr. Allawi, and I think it is important to come and underscore some of the things that he told us this morning. The overriding message that Dr. Allawi gave this House is we are succeeding in the country of Iraq.

He said he had three messages for America. He first wanted to say thank you. He secondly pointed out that the world at large was better off because of the action taken by the United States of America. And finally, he wanted the world to know that they would get it right on the ground in Iraq.

He talked about the cost of freedom. In fact, he reminded us of what Harry Truman said a couple of generations ago, ''If you want peace, you better be prepared to fight for it.''

He told us that they have mourned, as we have mourned here at home.

Iraq is the battleground for those who oppose freedom. It is their last chance, and they will not succeed.

He did warn us that defeatism contributes to more violence on the ground in Iraq, and I think that is a message that we all can take home with us and remember these 40 days remaining before the election.

## NATIONAL SALES TAX PROPOSAL JUST ANOTHER TAX CUT FOR THE RICH

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

Mr. SANDLIN. Mr. Speaker, the new minority report released today by the Committee on Ways and Means shows that the latest unfair tax scheme proposed by the majority will be one of the largest tax increases on working families in American history.

The new proposed national sales tax will result in the wealthiest 1 percent of American taxpayers receiving a $225,000 tax break per year, while working families will see an average yearly tax increase of $3,200 per year. This new national sales tax will punish the middle class and working families every single day.

Mr. Speaker, $100 of groceries will cost $130. A $20,000 pickup will be $26,000. Need a new TV? Mark it up 30 percent. And health care, a visit to the doctor for your children, or how about prescription drugs? Add 30 percent, Mr. Speaker.

The truth is, the new national sales tax proposal is just another scheme to give tax cuts to those that ship our jobs overseas, leaving the rest of us stuck with a bill and stuck with a new and unwelcome tax.

## KEEPING THE PROMISES OF THE CONTRACT WITH AMERICA

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

Mr. PENCE. Mr. Speaker, 10 years ago the American people made a choice. It was a choice between decades of a tax-and-spend Congress that believed America prospered when Washington had more of what people earn and a new Republican majority that believed that America prospers when the American people are able to keep more of what they earn.

That change has made all the difference in America today, welfare reform, the advances on traditional moral values. And every single year of the Republican majority, including again later today, this Republican majority has cut taxes on working families, small businesses and family farms.

The choice 10 years ago was clear. Another choice is just around the corner, between a party that believes that America prospers when government prospers and another party who believes that when the American people have more of what they earn to keep, that our Nation prospers as well.

Join us today as we cut taxes again and keep the promises of the Contract With America.

## THE NEED TO APPOINT HOUSE CONFEREES TO DEFENSE AUTHORIZATION BILL

(Mrs. DAVIS of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Speaker, I would like to take a moment to express my concern about House and Senate conferencing on the Defense authorization bill for fiscal year 2005. I am concerned that the House has not appointed any conferees to the bill.

Mr. Speaker, the House passed the Defense Authorization Bill on May 20 of 2004, and the Senate passed their version on June 23. Fast forward 3 months to today. It is now September 23. Next week marks the end of the fiscal year, and the House will adjourn for the elections in less than a month.

I would also like to remind all of us, Mr. Speaker, that the House and Senate finished the conference report agreement on the fiscal year Defense appropriations bill in July.

The reason for my concern should be obvious to all of us. Our country is at war. Large numbers of brave men and women remain in harm's way in Iraq and Afghanistan. I recognize there are contentious issues in both of the versions of the bill, but confronting these types of issues is our job, and we are quickly running out of time.

The bill is a life-and-death matter. It impacts service members' safety, their readiness and personal and financial health. More than anyone else, they have earned the right to a government that is a responsible steward of their safety and their well-being.

## 215TH BIRTHDAY OF THE U.S. MARSHALS SERVICE

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

Mr. BOOZMAN. Mr. Speaker, I rise today to honor the oldest Federal law enforcement agency in the United States, the U.S. Marshals Service. Tomorrow, they will be celebrating their 215th birthday.

I can tell my colleagues that the Marshals Service has enriched the history of the Third Congressional District of Arkansas. We all grew up hearing the stories of the brave marshals as they brought the most dangerous outlaws in the country to justice. We have seen the movies, read the books and all tried to copy their noble behavior.

Since 1789, they have admirably protected and carried out the orders of the Federal court system. From taming the wild West to capturing those who threaten our freedom today, the Marshals Service has consistently upheld their commitment and dedication to their country. I am honored to have the opportunity to acknowledge and thank them for their outstanding service to the United States of America.

## BE AFRAID

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

Mr. McDERMOTT. Mr. Speaker, today, we had hoped to hear a realistic assessment of Iraq, but unfortunately, although the voice was different, the words were the same. We just heard the administration's Iraqi administrator say what the administration says over and over again: Be afraid.

With no plan to win the peace and no grasp on the magnitude of the chaos in Iraq, the administration relies on fear and photo ops to divert attention, trying to get Americans to forget the deception, incompetence and outright failure this administration used to turn the country upside down. They cannot stop what Americans see and read, so they try to preempt it, using the two words that define this administration: Be afraid.

Be afraid is their answer to the economy, the war, the deficit, the people without health care and Iraq in complete chaos.

Be afraid is what they say, but what they mean is, be afraid of them. Do not forget to vote on November 2.

## REPUBLICAN PARTY 150TH ANNIVERSARY CELEBRATORY FREEDOM CALENDAR

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

Mr. COX. Mr. Speaker, this is the 150th anniversary of the Republican Party. Over a century and a half from the abolition of slavery to the establishment of women's rights to the freeing of millions of people in the Soviet Union, Afghanistan and in Iraq, the Republican Party has been the most effective political organization in the history of the world in advancing the cause of freedom.

So that all of us can learn more about the achievements of this fundamentally American institution, the House Republican Policy Committee has published the 2005 Republican Freedom Calendar. Each day, a civil rights milestone in the history of the Republican Party is listed. Yesterday was the anniversary of the Emancipation Proclamation. President Lincoln's signing of the Emancipation Proclamation sparked howls of protests from Democrats in Congress and across the country, but it was based on legislation passed in this Congress just 2 months before. Every single Republican voted for freeing the slaves, and every single Democrat voted against it.

Mr. Speaker, this is just one of 365 civil rights firsts that can be found in the Republican Freedom Calendar available at policy.house.gov.

## WIND PRODUCTION TAX CREDIT EXTENSION

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

Mr. STENHOLM. Mr. Speaker, as a long-time independent voice of the people of west Texas, I rise to urge my colleagues in Congress to move forward with meaningful reforms to our national energy policy.

Driving across the long west Texas highways, one cannot help but notice the towering wind farms that have cropped up in the area I represent.

□ 1130

Unfortunately, further wind energy development is completely halted because Congress has yet to extend the production tax credit for renewable sources of energy.

We had the opportunity to extend the credits with the 2002 energy bill and now the latest energy bill has stalled in Congress. Because of unwillingness to move back to the negotiating table, my constituents are forced to forgo further wind energy development in their counties. This means fewer jobs are created in the area. Counties and schools have to give up additional tax revenue and the U.S. is put further behind in our goal to produce more renewable energy.

Mr. Speaker, it is time for folks in Congress to get serious about energy in America and immediately pass the extension for the Wind Energy Production Tax Credit. It is the economically

and environmentally responsible thing to do.

## OUTRAGEOUS SALES TAX

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

Mr. SHERMAN. Mr. Speaker, I rise to address a bill by the gentleman from Georgia (Mr. LINDER). It is co-sponsored by the majority leader, a bill which the President has indicated he looks upon favorably. It is to abolish the income tax and impose a ''23 percent sales tax on all Americans.''

First, I headed the largest sales tax agency in the world for 6 years, and I am going to tell you, you cannot administer a 23 percent sales tax. That is why Europe uses a value added tax.

Second, a 23 percent tax would not replace the revenue. It would leave our troops in the field without the supplies they need.

Third, imagine a billionaire decides to travel to luxury resorts in France for an entire year. His property is protected by the American Army, his person is protected, he enjoys all the joys of being an American citizen and pays absolutely zero in tax.

Now imagine a retired couple. They have paid tax on all the money they have made. They squirreled it away. They have invested in municipal bonds. This thing passes. The muni bonds drop in value. They are receiving this income, and they are paying 23 percent on their food, 23 percent on their health care, 23 percent on their pharmaceuticals. They can no longer afford food, so they are buying dog food, and they are paying 23 percent on that. This is an outrageous bill.

## GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2028.

The SPEAKER pro tempore (Mr. PENCE). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## PLEDGE PROTECTION ACT OF 2004

The SPEAKER pro tempore. Pursuant to House Resolution 781 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2028.

□ 1133

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2028) to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance, with Mr. SHAW in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

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

Mr. Chairman, the Pledge of Allegiance reads: ''I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stand, one Nation, under God, indivisible, with liberty and justice for all.''

Two words in the Pledge, ''under God,'' help define our national heritage as beneficiaries of a Constitution sent to the States for ratification, as the Constitution itself states, ''in the Year of our Lord,'' 1787, by a founding generation that saw itself guided by a providential God. Those two words, and their entirely proper presence in the system of government defined by our Constitution, have been repeatedly and overwhelmingly reaffirmed by the House of Representatives, most recently twice in the 107th Congress, by votes of 416 to 3 and 401 to 5, and in this Congress by a vote of 400 to 7.

The first Congress not only acknowledged a proper role for religion in public life, but it did so at the very time it drafted the Establishment Clause of the first amendment. Just three days before Congress sent the text of the first amendment to the States for ratification, it authorized the appointment of legislative chaplains.

And on November 28, 1863, President Abraham Lincoln delivered the Gettysburg Address and declared, in words now inscribed in one of our most beloved national monuments, ''we here highly resolve that these dead shall not have died in vain, that this Nation, under God, shall have a new birth of freedom.''

Although the United States Supreme Court recently reversed and remanded the Ninth Circuit's latest holding striking down the Pledge as unconstitutional, the Supreme Court did so on the questionable grounds that the plaintiff lacked the legal standing to bring the case. The Supreme Court's decision not to reach the merits of the case is apparently an effort to forestall a decision adverse to the Pledge since the dissenting Justices concluded that the Court in its decision, ''erected a novel prudential standing principle in order to avoid reaching the merits of the constitutional claim.'' That does not bode well for the Pledge of Allegiance.

To protect the Pledge from Federal court decisions that would have the effect of invalidating the Pledge across several States, or nationwide, H.R. 2028 will preserve to State courts the authority to decide whether the Pledge is valid within that State's boundaries. It will place final authority or a State's pledge policy in the hands of the States themselves.

H.R. 2028 as reported by the Committee on the Judiciary is identical to H.R. 3313, the Marriage Protection Act, which the House passed just prior to the August recess except that it addresses the Pledge rather than the Defense of Marriage Act. If different States come to different decisions regarding the constitutionality of the Pledge, the effects of such decisions will be felt only within those States. A few Federal judges sitting hundreds of miles away from your State will not be able to rewrite your State's Pledge policy.

A remedy to abuses by Federal judges has long been understood to lie, among other places, in Congress's authority to limit Federal court jurisdiction. The Constitution clearly provides that the lower Federal courts are entirely creatures of Congress as much as appellate jurisdiction of the Supreme Court excluding its only very limited, constitutional, original jurisdiction over cases involving ambassadors and cases in which the States have legal claims against each other.

As a leading treatise on Federal court jurisdiction has pointed out, ''Beginning with the first Judiciary Act in 1789, Congress has never vested the Federal courts with the entire 'judicial Power' that would be permitted under Article III'' of the Constitution.

Justice William Brennan, no conservative by record, writing for the Supreme Court said, ''virtually all matters that might be heard in Article III Federal courts could also be left by Congress to the State courts.''

As the Dean of Stanford Law School wrote recently, ''The Constitution leaves room for countless political responses to an overly assertive Court: Congress can strip it of jurisdiction. The means are available and they have been used to great effect when necessary, used we should note, not by disreputable or failed leaders, but by some of the most admired Presidents and Congresses in American history.''

Far from violating the separation of powers legislation that leaves State courts with jurisdiction to decide certain classes of cases would be an exercise of one of the very checks and balances provided in the Constitution. Integral to the American constitutional system is each branch of government's responsibility to use its powers to prevent overreaching by the other two branches. H.R. 2028, which has 226 cosponsors, does just that, and I urge my colleagues to join me in supporting it.

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

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

Mr. Chairman, this is not simply about the Pledge of Allegiance. I really

hate to be an I-told-you-so, but the last time we considered legislation to strip the Federal courts of jurisdiction, in that case, to hear cases challenging the Defense of Marriage Act, I warned there would be no end to it.

Our former colleague, Bob Barr, whose legislation Congress was purporting to protect on that occasion said, no thanks. He wrote, ''This bill will needlessly set a dangerous precedent for future Congresses that might want to protect unconstitutional legislation from judicial review. During my time in Congress I saw many bills introduced that would violate the Takings Clause, the second amendment, the tenth amendment and many other constitutional protections. The fundamental protections afforded by the Constitution would be rendered meaningless if others followed the path set by H.R. 3313.''

Bob Barr was right. And it would make the Constitution like the Soviet Constitution which had plenty of guarantee of rights, but they were not worth the paper they were written on because there was no independent court system to enforce them.

Today it is the turn of the religious minorities. Once upon a time a student could be expelled from school for refusing to recite the Pledge of Allegiance. In 1943 in the middle of World War II, the Supreme Court in the Barnette case held that the children had a first amendment right not to be compelled to swear an oath against their beliefs.

Justice Jackson wrote, ''If there is any fixed star in our constitutional constellation, is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion, or force citizens to confess by word or act, their faith therein.''

This obviously includes a pledge of faith in God.

The Jehovah Witnesses in the Barnette case felt that it was idolatry to be forced to pledge that even they believe in God.

This legislation would of course strip those families of the right to go to court to defend their religious liberty. Schools could once again expel children for acting according to the dictates of their religious faith, and Congress will have slammed the courthouse door in their faces.

This bill is part of a more general attack on our system of government. You learned about this in school. We have an independent judiciary whose job it is to interpret the Constitution, even if their decisions are really unpopular. And what this bill does, what these bills do is to slam the courthouse door in the face of people who believe that their Constitutional rights are violated so they cannot go to court because we tell them they cannot.

As unfortunate as I find the current Supreme Court on so many issues, I understand that we cannot maintain our system of government, we cannot enforce our Bill of Rights if the independent judiciary cannot enforce those rights even if the majority does not like it.

As to the complaints about unelected judges, remember your high school civics. We have an independent judiciary precisely to rule against the wishes of a trenchant majority, especially when it comes to the rights of unpopular minorities. That is our system of government and it is a good one.

As Alexander Hamilton said in Federalist 78, ''The complete independence of the courts of justice is peculiarly essential in a limited Constitution. By a limited Constitution, I understand one which contains certain specified exceptions to the legislative authority. Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all reservations of particular rights or privileges would amount to nothing.''

And here we are saying that when someone believes that an Act of Congress violates their rights, they may not go to court to try to see if those rights are supreme if the legislation is unconstitutional.

We are playing with fire here. We are playing with the national unity of this country. The gentleman from Wisconsin (Mr. SENSENBRENNER) says the 50 State courts would reserve to themselves the right to declare Federal law unconstitutional. So what would be constitutional in one State would be unconstitutional in another. We would be back to the Articles of Confederation. We would be undoing 200 years of American history because we would have 50 different interpretations of the Constitution and of our State laws.

The gentleman from Wisconsin (Mr. SENSENBRENNER) says that the Judiciary Act of 1789 restricted the jurisdiction of the courts. That is true. But he fails to note that the Judiciary Act of 1789 predates the Bill of Rights, the first ten amendments to the Constitution. The fifth amendment says that no person may be deprived of life, liberty or property without due process of law.

□ 1145

All claims, all claims essentially come down to a claim that someone is being deprived of life or liberty or property without due process of law; and if you cannot go to a court to adjudicate that claim by definition, you are being denied due process of law. So this is clearly unconstitutional.

I ask my colleagues, is demagoging a case that they have won in court so far really worth destroying the enforceability of the Bill of Rights? I urge my conservative colleagues to shape up and act like conservatives for once. We live in a free society that protects unpopular minorities even if the majority hates that minority. Feel free to hate if my colleagues must, but please leave our Constitution, leave our liberties, leave our civil liberties that define this Nation and makes it what it is, leave it alone.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana (Mr. PENCE), a member of the Committee on the Judiciary.

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

Mr. PENCE. Mr. Chairman, I rise in strong support of the Pledge Protection Act with a particular sense of gratitude to the gentleman from Wisconsin (Chairman SENSENBRENNER), as well as the capable gentleman from Missouri (Mr. AKIN), who authored the legislation today.

The Pledge of Allegiance which we perform every day on the floor of this Congress reads: ''I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation under God.'' Two words in the pledge ''under God'' help in a very real way, Mr. Chairman, to define our national heritage as the beneficiaries of a Constitution that, as the gentleman from Wisconsin (Chairman SENSENBRENNER) said, was sent to the States for ratification ''in the Year of our Lord'' 1787.

Our Nation was established by a generation that saw itself in so many ways and by overwhelming numbers guided by a providential God who was not indifferent to the establishment of a free Nation on this continent, a Nation that would be, in John Winthrop's terms, a shining city on a hill, a Nation that both went to war and continues to fire the imagination of the world, as we heard today in the eloquent words of Iraqi Prime Minister Allawi.

Even in our own Declaration of Independence there is clear reference to the belief of our Founders that we are endowed by our creator with certain unalienable rights.

In November of 1863, President Abraham Lincoln traveled not far from here, delivering the Gettysburg Address, the dedication of a cemetery at the site of that extraordinary battle, saying that ''we here highly resolve that these dead shall not have died in vain, that this Nation, under God, shall have a new birth of freedom.''

What Lincoln resolved that day under God, unfortunately, today, the Federal courts have put in jeopardy in one case after another, most notably the Newdow case. There have been Federal courts that have either struck the term ''under God'' from our Pledge or, in the case of the Supreme Court of the United States, simply deferred the decision altogether.

This, despite the fact that the American people overwhelmingly, in survey after survey, and more importantly, through votes here on the floor of the House of Representatives, have expressed their will on this matter in deafening terms.

The Congress itself, as the gentleman from Wisconsin (Chairman SENSENBRENNER) referred, has voted not once

but twice in recent days in overwhelming numbers, more than 400 of the 435 Members of Congress, reaffirming the inclusion of the words ''under God'' in our Pledge of Allegiance.

Today, I expect in the course of this debate we will continue to hear a great deal about constitutional theory, which as a member of the Committee on the Judiciary, as a man trained in the law, I have great and passionate interest in; but those who will come to this floor today and suggest that the Congress does not in effect possess the ability to limit the jurisdiction of the Federal courts do so in a way that virtually ignores the express language of the Constitution itself, which gives to the Congress the establishment of the jurisdiction of the courts.

Even the dean of the Stanford Law School wrote recently, ''the Constitution leaves room for countless political responses to an overly assertive court. Congress can strip it of its jurisdiction. The means are available, and they have been used to great effect when necessary, used, we should note, not by disreputable or failed leaders, but by some of the most admired Presidents and Congresses in American history.''

Far from violating separation of powers, legislation that leaves State courts the jurisdiction on issues of great and deep meaning to the American people is in keeping with our best tradition.

Let us say the American people will be heard, not lifetime-appointed judges, on the recognition that this is one Nation under God.

Mr. NADLER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I appreciate the gentleman yielding me time.

If this debate were really about whether ''under God'' was going to be in the Constitution, and that was all it was about, I would be right there. I have been reciting the Pledge of Allegiance ever since, even before I knew what it meant, and ''under God'' has been in it. I have had no real objection to it, even when I did not understand what it meant.

But this debate is about much, much more than that. It is really about whether there is going to be a constitutional framework in which we operate and who is going to decide ultimately what is constitutional, the United States Supreme Court and the Federal courts of our Nation or the arrogance of my colleagues here in this body. There are actually some people here who believe that they should be the ultimate arbiter of what is constitutional; and if they do not get the result that they want in any given case, they want to take jurisdiction away from whoever gave them a different result.

So that is what this is about, how do we protect a constitutional framework which historically has had the legislative body doing its job and the courts determining what is constitutional and ultimately the United States Supreme Court determining what is constitutional.

Now, the fear that they might get a result that is different than the one they want has these people here in our body saying to us that we should give that ultimate authority not to the United States Supreme Court but to State courts. So this really is not even about whether ''under God'' is going to be in the pledge or not, even at that level, because if a State court determines that ''under God'' is unconstitutional, then what are we going to do in that case?

In North Carolina, it might be constitutional. In California it may be unconstitutional. We may have 50 different standards about when we can recite ''under God'' in the Pledge of Allegiance under the standards that this bill would allow us to set up.

This is not about whether we retain ''under God'' in the Pledge of Allegiance. The court has already decided that. This is a great vehicle for the majority to be able to come out here and tell us they believe in God. I believe in God, too, but there are some citizens in this country who do not necessarily believe in a god or who believe that having to profess it publicly is idolatry. We have an obligation to protect their rights, also. They are citizens, also, in this country.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. FORBES), a member of the Committee on the Judiciary.

Mr. FORBES. Mr. Chairman, right above the Chair's head today are four words, ''In God We Trust''; and time after time in this country, we have seen in times of storm or war or illness the American people have embraced those words and believed in them very strongly.

That is why 2 years ago, shortly after the release of the Ninth Circuit Court's decision that ''under God'' was to be struck from the Pledge of Allegiance, Newsweek published a poll finding 87 percent of Americans supported the inclusion of the phrase ''under God'' in the pledge.

Nevertheless, the few, but articulate, supporters of the court, waving U.S. flags and calling themselves one of the last groups in America facing unrestrained bigotry, marched on the Mall to protest what they said was increasing infringement of religion in government affairs.

Staging their first Godless Americans March on Washington, the demonstrators cheered and waved signs that expressed disapproval of religion. Their signs read: ''God Is a Fairy Tale,'' ''Keep Your Gods Out of Our Schools,'' and ''Al Qaeda is a Faith-Based Initiative.'' According to the New York Times, Dr. Michael Newdow touted that he planned to ''ferret out all insidious uses of religion in daily life. Why should I be made to feel like an outsider?'' he asked.

Mr. Chairman, Dr. Newdow and the two judges in California were right on one thing: atheists are outsiders in America. But they are not outsiders because, as they claim, the beliefs of others are being forced upon them, but instead, because they, unlike the vast majority of Americans, are attempting to create an environment where their beliefs are paramount over the beliefs of others.

Like every other American, atheists have the right not to recite the Pledge, not to attend church, and not to engage in any other practice of which they disapprove. They do not, however, have the right to impose their atheism on the vast majority of Americans whose beliefs now and historically have defined America as a religious Nation. Indeed, the concept of the separation of church and State was not born to establish freedom from religion, but to establish freedom for religion.

Repeatedly and overwhelmingly, our legislative bodies, our civic leaders, our historical heritage and, most importantly, the people of the United States of America have affirmed the two words ''under God'' and their entirely proper presence in our system of government. This week, over 2 years after two judges in California imposed their will upon a Nation, I urge my colleagues to reclaim this court's abuse of power and, in passing the Pledge Protection Act, reaffirm that we are, indeed, one Nation under God, indivisible, with liberty and justice for all.

Mr. NADLER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK OF Massachusetts. Mr. Chairman, even by the standards that have sadly governed this House recently, the bill before us is bizarre. It makes a big hole in the Constitution for the first time in American history, if it were to pass and become law, to counteract a decision which has already been overruled. We should be very clear. There is no pending case even at the Federal level that deals with this.

But what I have heard people say is, well, do not worry, because there is an individual liberty here. The Supreme Court of the United States, after all, did say in 1943 in the Barnette case that no child could be forced to say the Pledge of Allegiance if it violated his own family's religious views. The Jehovah's Witnesses said saying the Pledge of Allegiance violated their views. The Supreme Court said they did not have to say it.

I have heard people say, well, do not worry because children will be protected if they find this objectionable by the Supreme Court decision. Now the bizarre aspect is that this is a bill that would prevent a Supreme Court decision, the very thing on which they are relying to justify it, but it is also the case that under this bill, if a State court should decide to disregard that Supreme Court opinion and say that saying the pledge was mandatory, even for Jehovah's Witnesses or others who

might have a principled religious objection to it, that that could be overruled.

The other thing that ought to be noted is this. Once my colleagues start down this road, this is the second time the majority has done this, telling us that the Supreme Court cannot decide, they are going to create a precedent, if this ever succeeds, that will be followed in other issues.

The business community ought to follow this very closely because it will now become demanded of Members of Congress that when they pass a law they show that they really mean it by taking away Supreme Court jurisdiction. So the important desire of the business community for Federal uniformity, all of the efforts they have been making recently to try and get national laws that govern commercial transactions, will be at risk; and we will see laws in area after area, if this precedent is followed, which will mean that there is no uniform national interpretation of them.

□ 1200

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT), chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank him for his leadership on this. I also want to thank and recognize the leadership of the gentleman from Missouri (Mr. AKIN) for his determination in protecting the Pledge of Allegiance in this country. I wish to also express my support, as chairman of the Subcommittee on the Constitution, for H.R. 2028, the Pledge Protection Act.

When the issue of limiting Federal Court jurisdiction was raised during the discussions of the Marriage Protection Act, the Subcommittee on the Constitution held a hearing examining Congress' authority to do this. During the hearing, testimony was heard by a number of constitutional experts. While there was mixed opinion on whether Congress should exercise its authority, there was a consensus that Congress did in fact have the authority under Article III of the Constitution to determine what issues were heard by the Supreme Court under its appellate jurisdiction and by the lower Federal courts.

This point was highlighted most recently by the Dean of Stanford Law School who wrote, ''The Constitution leaves room for countless political responses to an overly assertive court. Congress can strip it of jurisdiction. The means are available, and they have been used to great effect when necessary; used, we should note, not by disreputable or failed leaders, but by some of the most admired presidents and Congresses in American history.''

As we continue the debate today, I would urge each Member of Congress to recite to himself or herself the Pledge of Allegiance that we are talking about and ask yourself what it means to you. It deserves protection. It defines not only our national heritage, but unites our society each time it is recited. We cannot let rogue Federal judges redefine our country's history and the basis from which our Founding Fathers found guidance and strength when constructing our great country.

Mr. Chairman, I urge my colleagues to support H.R. 2028.

Mr. NADLER. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I come from a State with a long tradition of supporting religious freedom. The Virginia Statute For Religious Freedom, written by Thomas Jefferson preceded the first amendment to the Constitution. This bill does not protect religious freedom, and it also undermines fundamental rights of American citizens.

Mr. Chairman, most experts believe that the bill is meaningless, because whether or not the recitation of the Pledge is constitutional or not constitutional is a matter for the courts to decide. And if it is unconstitutional, that ruling cannot be changed by a statute enacted by this body.

Now, I happen to believe that the present Pledge of Allegiance is constitutional, and I agree with the dissent in the Newdow versus U.S. Congress case, the recent Ninth Circuit case involving the Pledge of Allegiance. In my judgment, the dissent accurately surmised, and I quote ''Legal world abstractions and ruminations aside, when all is said and done the danger that 'under God' in our Pledge of Allegiance will tend to bring about a theocracy or suppress someone's belief is so minuscule as to be de minimis. The danger that phrase represents to our first amendment's freedoms is picayune at best.''

Now, to the extent that ''under God'' is worthy of this excessive attention, every hearing we have and every bill we pass on this issue only serves to chip away at the de minimis argument and we have to deal with the issue as it is explained in the Christian Century, a non-denominational Protestant weekly, which stated, and I quote, ''To the extent 'under God' has real religious meaning, then it is unconstitutional. The phrase is constitutional to the extent that it is religiously innocuous. Given that choice, I side with the Ninth Circuit, the government should not link religion and patriotism.'' Now, that is an editorial position expressed by the Christian Century.

The simple fact is we need to protect the Constitution and the rights of the court to decide whether the Pledge is constitutional or not, but the majority will not do that. H.R. 2028 is a court-stripping bill, plain and simple.

We had the same debate on the floor just 2 months ago when we debated the Marriage Protection Act of 2003. Mr. Chairman, I ask that that debate be incorporated by reference here just to save time. Because at that time many of us expressed concern about the detrimental precedent that we would be setting by passing a court-stripping bill. Today, our concerns have been validated.

This bill would strip the courts of their ability to hear cases that are clearly within Federal jurisdiction because they address fundamental constitutional rights and individual liberties guaranteed to us in the bill of rights. Furthermore, this bill is not limited to cases addressing the words ''under God.'' The recitation of the Pledge may, in some circumstances, implicate the right to free speech, the right of free association, the right to the free exercise of religion, and the establishment clause protections, all guaranteed under the first amendment to the Constitution.

We need Federal courts to protect our rights, and this bill prohibits the courts from doing just that. This bill violates over 200 years of constitutional principle established in Marbury versus Madison that the Supreme Court can rule on the constitutionality of legislative actions.

Now, if this kind of court-stripping legislation had been passed in 1954, Congress could have prohibited the Supreme Court from hearing cases involving segregation in public schools and the courts could not have ruled in Brown v. Board of Education. Or if it had passed such language in the 1960s, we might not have had the decision issued by what some are now calling rogue, unelected, lifetime-appointed, activist judges when they ruled to overrule the will of the people of Virginia and require Virginia to recognize marriages between blacks and whites. That could not have happened unless those so-called rogue, unelected, lifetime-appointed, activist judges made the decision they made.

The truth is we rely on Federal courts to determine and enforce our civil rights. In our system of democracy, which we are touting around the world, courts are where citizens can vindicate their rights. Our government works on a system of checks and balances. That is why many organizations, legal associations, civil rights groups, and religious organizations, have written to oppose us overturning 200 years of judicial precedence.

In closing, Mr. Chairman, we should, instead, adhere to the wisdom of the Supreme Court in the Barnette case, which said ''The very purpose of the bill of rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials, and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to

vote; they depend on the outcome of no elections.''

Mr. Chairman, I submit for the RECORD letters from organizations in opposition to this bill.

THE CONSTITUTION PROJECT,
*Washington, DC, September 20, 2004.*

*House of Representatives, U.S. Capitol, Washington, DC.*

DEAR MEMBERS OF HOUSE OF REPRESENTATIVES: I write on behalf of the Constitution Project to urge you to oppose H.R. 2028, the ''Pledge Protection Act of 2003.''

The Constitution Project, based on Georgetown University's Public Policy Institute, specializes in creating bipartisan consensus on a variety of legal and governance issues, and promoting that consensus to policymakers, opinion leaders, the media, and the public. We have initiatives on the death penalty, liberty and national security, war powers, and judicial independence (our Courts Initiative), among others. Each of our initiatives is directed by a bipartisan committee of prominent and influential businesspeople, scholars, and former public officials.

Our Courts Initiative works to promote public education on the importance of our courts as protectors of Americans' essential constitutional freedoms. Its co-chairs are the Honorable Mickey Edwards, John Quincy Adams Lecturer at the John F. Kennedy School of Government at Harvard University and former chair of the House of Representatives Republican Policy Committee (R-OK), and the Honorable Lloyd Cutler, a prominent Washington lawyer and White House counsel to Presidents Carter and Clinton.

In 2000, the Courts Initiative created a bipartisan Task Force to examine and identify basic principles as to when the legislature acts unconstitutionally in setting the powers and jurisdiction of the judiciary. The Task Force was unanimous in its conclusion that some legislative acts restricting courts' powers and jurisdiction are unconstitutional. The Task Force also concluded that some legislative actions, even if constitutional, are undesirable. (The Task Force's findings and recommendations are published in Uncertain Justice: Politics and America's Courts 2000.)

Our Task Force arrived at seven bipartisan consensus recommendations, including the following, which are relevant to the legislation at hand:

1. Congress and state legislatures should heed constitutional limits when considering proposals to restrict the powers and jurisdiction of the courts.

2. Legislatures should refrain from restricting court jurisdiction in an effort to control substantive judicial decisions in a manner that violates separation of powers, due process, or other constitutional principles.

3. Legislatures should not attempt to control substantive judicial decisions by enacting legislation that restricts court jurisdiction over particular types of cases.

4. Legislatures should refrain from restricting access to the courts and should take necessary affirmative steps to ensure adequate access to the courts for all Americans.

Specifically, our Task Force was unanimous in its view that there are some constitutional limits on the authority the legislature to restrict court jurisdiction in an effort to control substantive judicial decisions. In particular, separation of powers, due process, and other constitutional provisions limit such authority. Task Force members had differing views about the scope and source of the constitutional limit on the legislature's power in this area. For instance, some believed that restrictions on jurisdiction become unconstitutional when they undermine the essential role of the Supreme Court. Others relied on a reading of the Vesting Clause of Article III, which places judicial power—the power to decide cases—in the hands of the courts alone. Nonetheless, all believed that constitutional limitations exist.

Apart from the constitutionality of laws restricting federal court jurisdiction, the Task Force was also unanimous in its view that legislative acts stripping courts of jurisdiction to hear particular types of cases in an effort to control substantive judicial decisions are undesirable and inappropriate in a democratic system with co-equal branches of government. Legislative restriction of jurisdiction in response to particular substantive decisions unduly politicizes the judicial process, and attempts by legislatures to affect substantive outcomes by curtailing judicial jurisdiction are inappropriate, even if believed constitutional. (Indeed, it was striking that members reflecting a broad ideological range—from, for example, Leonard Leo of the Federalist Society to Steven Shapiro of the American Civil Liberties Union—agreed that restrictions on jurisdiction to achieve substantive changes in the law are unwise and undesirable policy.)

The Task Force was also unanimous that legislation that restricts access to the courts and precludes individuals from using a judicial forum to enforce rights is undesirable and unconstitutional. Rights are meaningless without a forum in which they can be vindicated. Therefore, access to the courts at both the federal and state levels is essential in order for rights to have effect. Legislatures have the duty to ensure meaningful access to the courts and legislative actions that preclude this are undesirable and unconstitutional.

Our Task Force reached these conclusions and recommendations rightly. From its beginning, our system of constitutional democracy has depended on the independence of the judiciary. Judges are able to protect citizens' basic rights and decide cases fairly only if free to make decisions according to the law, without regard to political or public pressure. Similarly, the judiciary can maintain the checks and balances essential to preserving a healthy separation of powers only if able to resist overreaching by the political branches. Indeed, the cornerstone of American liberty is the power of the courts to protect individual rights from momentary excesses of political and popular majorities.

In recent years, as part of the polarization and posturing that increasingly characterize our national and state politics, threats to judicial independence have become more commonplace. Attacks on judges for unpopular decisions, even those made in good faith, have become more rampant. Politicians are responding to unpopular decisions and litigants by attempting to restrict courts' powers in certain kinds of cases. However, Americans have much to lose if we do not exercise self-restraint and instead choose short-term political gain at the expense of judicial independence. The independence of our judiciary is, as Chief Justice Rehnquist described, ''one of the crown jewels of our system of government.''

In conclusion, while Article III of our Constitution gives Congress the power to regulate federal court jurisdiction, this power is not unlimited, and Congress should not—and in some instances may not—use its power to restrict federal court jurisdiction in ways that infringe upon separation of powers, violate individual rights and equal protection, or offend federalism. H.R. 2028 is poised to do all three by stripping federal courts—including even the U.S. Supreme Court—of the authority to hear cases involving the Pledge of Allegiance, even when such cases involve First Amendment issues of free speech and freedom of religion. It sets the dangerous precedent of transferring questions of federal and constitutional law exclusively to state courts and preventing American citizens from seeking protection of fundamental rights in federal court, and it threatens the critical and unique role that the federal courts play in constitutional balance of powers, interpreting and enforcing constitutional law, and providing legal certainty.

For these reasons, as well as those detailed our Task Force's findings and recommendations, the Constitution Project urges you to oppose H.R. 2028. Thank you for your consideration.

Sincerely,

KATHRYN A. MONROE,
*Director, Courts Initiative.*

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AMERICAN HUMANIST ASSOCIATION,
*September 20, 2004.*

Oppose H.R. 2028, the ''Pledge Protection Act 2003''

DEAR REPRESENTATIVE, The American Humanist Association (AHA) stands in opposition to H.R. 2080, the ''Pledge Protection Act of 2003,'' which would prevent all federal courts from hearing cases challenging or interpreting rights granted by the First Amendment as they relate to Pledge of Allegiance cases. We urge you to vote against this bill, which would compromise long held American legal principles of due process and separation of powers by shutting the federal courthouse doors to large numbers of Americans.

If passed, the Pledge Protection Act would set a dangerous precedent by stripping federal courts of judicial independence and paving the way to preventing federal judges from ruling on other controversial social issues from abortion and gun control to school vouchers and school prayer. As we warned with the Marriage Protection Act (H.R. 3313), attempts by Congress to strip the judiciary of their power to review the legislation are inequitable and will open the door to more of the same. If the Pledge Protection Act passes it will fuel the fires for similar bills.

Denying access to the federal court system is unacceptable to religious and Humanist minorities who have a due process right to have their cases heard.

The Pledge Protection Act presents a serious separation of powers concern. Federal courts are uniquely prepared to interpret federal constitutional concerns and to serve as a check on the constitutionality of actions of Congress and the Executive branch. That's why constitutional concerns are raised when an attempt is made to block the courts from reviewing and interpreting the constitutionality of a single act.

Congress should not disrupt the balance of power intended by our Founding Fathers. Restricting the federal courts' ability to protect First Amendment rights severely undermines the American judicial system.

Humanists are particularly concerned about this bill because it would violate judicial independence in order to undermine American citizens, in this case those of a minority faith or no religion, the right to access federal courts to challenge a piece of legislation.

In the past Congress has rejected attempts to withdraw controversial issues from the scope of federal courts and the AHA encourages you to do so again at this important juncture. We urge you to defend due process and separation of powers and vote no on the Pledge Protection Act.

Sincerely,

MEL LIPMAN,
*AHA President.*

UNITARIAN UNIVERSALIST ASSOCIATION OF CONGREGATIONS, WASHINGTON OFFICE FOR ADVOCACY, WASHINGTON, DC, SEPTEMBER 20, 2004.

DEAR REPRESENTATIVE: On behalf of more than 1,050 congregations that make up the Unitarian Universalist Association, I urge you to oppose H.R. 2028, the ''Pledge Protection Act of 2004.'' As a tradition with a deep commitment to religious pluralism, we believe that this legislation would seriously undermine the First Amendment protections of the Constitution, and particularly the rights of religious minorities, by stripping federal courts, including the Supreme Court, of jurisdiction over cases concerning the Pledge of Allegiance.

In resolutions dating back to 1961, the highest policy-making body of the Unitarian Universalist Association has repeatedly affirmed the right of all Americans to religious freedom, including the right of religious minorities in public schools to not recite the Pledge of Allegiance. The Supreme Court has agreed in the case of *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943) that the Pledge cannot be mandatory for public school students.

Despite the *Barnette* ruling, we know from experience that the practice of mandatory recitation continues. By eliminating the mechanism for religious minorities to seek relief from this practice through appeals to a federal court, H.R. 2028 would have the practical effect of all but eliminating the right itself. As a result, we believe that this legislation will seriously harm religious minorities and the constitutional free speech rights of countless parents and children, many of whom are members of Unitarian Universalist congregations and are involved in our religious education programs.

By undermining the power of federal courts to protect constitutional rights affirmed by the U.S. Supreme Court, we believe that H.R. 2028 would weaken the separation of powers in a way that we find deeply troubling.

The congregations of the Unitarian Universalist Association collectively affirm and promote the right of conscience and the use of the democratic process in society at large. We are committed to the ideals of the founders of this nation, including religious liberty and religious pluralism, as well as the balance of powers that protects such rights.

I urge you to preserve the rights of religious minorities, as well as the constitutional separation of powers, by opposing the ''Pledge Protection Act of 2004.''

In Faith,

ROBERT C. KEITHAN,
*Director*.

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SEPTEMBER 20, 2004.

PROTECT SEPARATION OF POWERS AND RELIGIOUS MINORITIES' LONGSTANDING CONSTITUTIONAL RIGHTS; OPPOSE FINAL PASSAGE OF H.R. 2028

DEAR REPRESENTATIVE: We, the undersigned religious, civil rights, and civil liberties organizations, urge you to oppose H.R. 2028, the ''Pledge Protection Act,'' misguided legislation that would strip all federal courts, including the Supreme Court, from hearing First Amendment challenges to the Pledge of Allegiance and from enforcing longstanding constitutional rights in federal court.

The signatories to this letter include organizations that supported the recent court challenge to the constitutionality of including ''under God'' in the Pledge of Allegiance, organizations that opposed that challenge, and organizations that took no position on the matter. We are united, however, in believing that H.R. 2028 threatens the separation of powers that is a fundamental aspect of our constitutional structure. Beyond this, while the legislation ostensibly responds to the controversy surrounding ''under God'' in the Pledge of Allegiance, this legislation sweeps far more broadly, with potentially severe constitutional implications for religious minorities who are adversely affected by government-mandated recitation of the Pledge.

First and foremost, we are opposed to H.R. 2028 because this legislation, by entirely stripping all federal courts, including the Supreme Court, of jurisdiction over a particular class of cases, threatens the separation of powers established by the Constitution, and undermines the unique function of the federal courts to interpret constitutional law. This legislation deprives the federal courts of the ability to hear cases involving religious and free speech rights of students, parents, and other individuals. The denial of a federal forum to plaintiffs to vindicate their constitutional rights would force plaintiffs out of federal courts, which are specifically suited for the vindication of federal interests, and into state courts, which may be hostile or unsympathetic to these federal claims, and which may lack expertise and independent safeguards provided to federal judges under Article III of the Constitution. It is in apparent recognition of this concern that no federal bill withdrawing federal jurisdiction in cases involving fundamental constitutional rights has become law since the Reconstruction period.

In addition, as drafted, the bill would deny access to the federal courts in cases to enforce existing constitutional rights for religious minorities. Over sixty years ago, the Supreme Court decided the case of *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943). In *Barnette*, the Supreme Court struck down a West Virginia law that mandated schoolchildren to recite the Pledge of Allegiance. Under the West Virginia law, religious minorities faced expulsion from school and could be subject to prosecution and fined, if convicted of violating the statute's provisions. In striking down that statute, the Court reasoned: ''To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds . . . If there is any fixed star in our constitutional constellation, it is that no official, high, or petty can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.'' 319 U.S. at 639–40.

Moreover, just recently, a panel of the U.S. Court of Appeals for the Third Circuit held that a Pennsylvania law mandating recitation of the Pledge, even when it provided a religious exception, violated the Constitution because it violated the free speech of the students. *Circle School* v. *Pappert*, No. 03–3285 (3rd Cir. Aug. 19, 2004). In *Pappert*, the court found that: ''It may be useful to note our belief that most citizens of the United States willingly recite the Pledge of Allegiance and proudly sing the national anthem. But the rights embodied in the Constitution, particularly the First Amendment, protect the minority—those persons who march to their own drummers. It is they who need the protection afforded by the Constitution and it is the responsibility of federal judges to ensure that protection.'' Pappert, Slip Op. at 14.

H.R. 2028 would undermine the longstanding constitutional rights of religious minorities to seek redress in the federal courts in cases involving mandatory recitation of the Pledge. As a result, this legislation will seriously harm religious minorities and the constitutional free speech rights of countless individuals.

H.R. 2028 also raises serious legal concerns about the violation of the principles of separation of powers, equal protection and due process. The bill undermines public confidence in the federal courts by expressing outright hostility toward them, threatens the legitimacy of future congressional action by removing the federal courts as a neutral arbiter, and rejects the unifying function of the federal judiciary by denying federal courts the opportunity to interpret the law. We strongly believe that this legislation as drafted will have broad, negative implications on the ability of individuals to seek enforcement of previously constitutionally protected rights concerning mandatory recitation of the Pledge. We therefore urge, in the strongest terms, your rejection of this misguided and unwise legislation.

Sincerely,

American Civil Liberties Union
American Federation of State, County and Municipal Employees (AFL–CIO)
American Humanist Association
American Jewish Committee
Americans for Democratic Action
Americans for Religious Liberty
Americans United for Separation of Church and State
Anti-Defamation League
Baptist Joint Committee
Central Conference of American Rabbis
Committee for Judicial Independence
General Board of Church and Society of the United Methodist Church
Human Rights Campaign
Jewish Reconstructionist Federation
Leadership Conference on Civil Rights
Legal Momentum (the new name of NOW Legal Defense and Education Fund)
National Council of Jewish Women
National Senior Citizen Law Center
Northwest Religious Liberty Association
People for the American Way
Sikh Mediawatch and Resource Task Force (SMART)
The Interfaith Alliance
U.S. Action
Union for Reform Judaism
Unitarian Universalist Association of Congregations

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Chairman, I thank the very distinguished chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for yielding me this time, and for his work on this legislation and his work on so many other important bills before this body.

I also want to commend the gentleman from Missouri (Mr. AKIN) for his outstanding leadership on this issue.

Mr. Chairman, in a 1952 Supreme Court case, Zorach versus Clawson, in an opinion written, I think, by Justice Douglas, it said, there is ''No constitutional requirement which makes it necessary for government to be hostile to religion and throw its weight against efforts to widen the effective scope of religious influence.''

Similar to that, a few years ago the great columnist for the Washington Post, William Raspberry, who I am sure most people would describe as being fairly liberal on most issues, when he was writing about an issue similar to this, he said ''Is it not just

possible that anti-religious bias, masquerading as religious neutrality, has cost this Nation far more than we have been willing to acknowledge?''

Mr. Chairman, I spent 7½ years as a circuit court judge or State trial judge in the State of Tennessee. For years, I have heard and read Federal judges complaining about how Congress is putting too much into the Federal courts, expanding their jurisdiction too much, and how overworked they are, and how there should be more limits on the jurisdiction of these courts and that we should stop taking so many cases away from State courts. This is a very minimal limitation on the jurisdiction of the Federal courts. Very minimal. A very reasonable limitation.

As the gentleman from Indiana (Mr. PENCE) pointed out a few moments ago, there is almost no question that it is within the scope of congressional jurisdiction, or Congressional power to limit the jurisdiction of the Federal courts.

Alexander Hamilton, writing many years ago in Federalist paper number 81 said, ''To avoid all inconveniences, it will be safest to declare generally that the Supreme Court shall possess appellate jurisdiction that shall be subject to such exceptions and regulations as the national legislature may prescribe. This will enable the government to modify it in such a manner as will best answer the ends of public justice and security.''

And Thomas Jefferson, in a letter written in September of 1820, said this, responding to the argument that Federal judges should be the final interpreters of the Constitution. Thomas Jefferson wrote this: ''You seem to consider the Federal judges as the ultimate arbiters of all constitutional questions, a very dangerous doctrine indeed and one which would place us under the despotism of an oligarchy. Our judges are as honest as other men and not more so. They have with others the same passions for party, for power, and the privilege of their corps. Their power is the more dangerous, as they are in office for life and not responsible as the other functionaries are to the elective control. The Constitution has erected no such single tribunal.''

Mr. Chairman, I am sorry my time has run out. I urge support for this very reasonable, very minimal limitation on the Federal Courts' jurisdiction.

Mr. NADLER. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. CONYERS), the very distinguished ranking member of the Committee on the Judiciary.

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

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding me this time.

My colleagues, we have before us a measure that is unconstitutional, that undermines the Federal Judiciary, and is totally unnecessary. The bill, of course, violates Marbury versus Madison, which has stated and been the law of the land since 1803. Never in these 201 years has any Congress ever brought a measure like this to the floor of the House.

In Marbury, Justice Harlan said, ''it is emphatically the role of the court to determine what the law is.'' And so we violate the very basic fundamental part of the role of the Judiciary in the Constitution. It violates the separation of powers principle because it denies the Supreme Court its historical role of final authority on the constitutionality of our laws.

Who wants 50 different decisions coming from the several courts of the States? It violates freedom of speech and religion. And we have Supreme Court cases, West Virginia State Board of Education versus Barnett, and just this year the Third Circuit held in Pennsylvania that the mandated recitation of the Pledge of Allegiance was unconstitutional.

Now, I know what you are trying to accomplish by this gross distortion of constitutional history, but ultimately someone has to decide, and we have been deciding for 201 years. To make sure it is constitutional, some minds reason, we should strip the jurisdiction of the subject from the court. What is next: guns, freedom of choice, terrorism?

We cannot proceed as a democratic nation without very emphatically joining with Senator Barry Goldwater, and Robert Bork, and our former Judiciary colleague, Bob Barr.

I rise in strong opposition to H.R. 2028, the so-called ''Pledge Protection Act''. This bill is not only unconstitutional, it undermines our federal judiciary and is totally unnecessary.

H.R. 2028 is Unconstitutional: This bill violates just about every principle in our constitution and bill of rights. First, it violates separation of powers principles because it denies the Supreme Court its historical role as the final authority on the constitutionality of our laws. This is a doctrine that was established more than 200 years ago in the landmark Marbury v. Madison decision, and which has served as the cornerstone of our system of checks and balances.

Second, it violates Freedom of Speech and Religion. This is because it makes it far more difficult for persons who feel they are being coerced into reciting the pledge to have access to the courts. These cases are not hypothetical. Sixty years ago, the Supreme Court issued the West Virginia State Board of Education v. Barnett decision, which held that it was unlawful to expel religious minorities from school if they refused to recite the pledge of allegiance. Just this year the Third Circuit held a Pennsylvania law which mandated recitation of the Pledge of Allegiance was unconstitutional.

Third, it violates the equal protection clause. This is because it imposes an undue burden on a specific class of individuals—religious minorities—without a rational basis, other than fear of independent judges. Just read the 1996 Roemer decision, which held it unlawful to pass a law excluding gay and lesbians from legal protections.

H.R 2028 Undermines the Federal Judiciary: If H.R. 2028 is enacted, it would constitute the first and only time Congress has ever enacted legislation totally eliminating any federal court from considering the constitutionality of federal legislation—in this case, the Pledge of Allegiance.

Adoption of the bill will result in the balkanization of our judiciary and would eliminate any possibility of operating under a single uniform Supreme Court. This is inconsistent with the very words of the Pledge of Allegiance, namely that we are ''one Nation under God, indivisible, with liberty and justice for all.'' Dividing our nation into 50 different legal regimes, where the Pledge is permitted in some jurisdictions and not in others, is the very antithesis of this sacred principle.

It is no wonder that principled conservatives like former Senator Barry Goldwater found court stripping legislation to be so repugnant. When court stripping legislation was proposed in the 1970's concerning school prayer, abortion, and busing, Senator Goldwater opposed them, warning that the ''frontal assault on the independence of the Federal courts is a dangerous blow to the foundations of a free society.''

Robert Bork, a former Yale Law professor and Reagan appointee for the D.C. Circuit Court of Appeals, also is strongly opposed to court-stripping measures, arguing, ''[y]ou'd have 50 different constitutions running around out there, and I'm not sure even the conservatives would like the results.''

Our former colleague Bob Barr has written, the principal problem with court stripping bills is ''that it sets a harmful precedent for the future. Our healthy democracy depends on having three separate and independent branches of government . . . I am concerned about having a Congress or President unchecked by the independent judiciary established by the Constitution.''

If we allow H.R. 2028 to pass into law, it truly could be open season on our precious rights and liberties. This was our prediction when the Majority was contemplating the Marriage Protection Act, and here we are again. Today I ask, where will this all end? Why in the world would we exempt these laws from federal judicial review and not laws concerning terrorism, or child pornography?

H.R. 2028 is unnecessary: What is most amazing to me is that we are taking up this bill at a time when the Supreme Court—which is dominated by Republican appointees—has not issued a single opinion in any way undermining the Pledge of Allegiance.

Why do we have to take up this bill now when the death toll of our men and women fighting for our right to be free from terror has reached record limits and continues to rise every single day. A recent report from the Center for American Progress shows an alarming number of suicides this year among U.S. troops serving in Iraq. Yet, at a time when our troops are working hard to answer the Nation's call, their own needs remain unmet—put at the bottom of the list of priorities.

Conclusion: Just as I opposed the ill-considered Marriage Protection Act two months ago, I must oppose this court stripping bill. These efforts to deny our citizens access to the federal courts constitute nothing less than a modern day version of ''court packing.'' Just as President Roosevelt's efforts to control the

outcome of Supreme Court decisions by packing it with loyalists was rejected by Congress in the 1930's, thereby preserving the independence of the federal judiciary, so too must this modern day effort to show the courts "who is boss" fail as well.

Mr. Chairman, I insert for the RECORD letters from organizations opposing this bill:

SEPTEMBER 20, 2004.

Oppose the "Pledge Protection Act," H.R. 2028

*U.S. House of Representatives,*
*Washington, DC.*

DEAR REPRESENTATIVE: We, the undersigned organizations dedicated to protecting women's reproductive health and rights, write to urge you to oppose H.R. 2028, the so-called "Pledge Protection Act." The implications of this bill go far beyond the context of the Pledge of Allegiance. This bill would set a dangerous precedent that would disrupt the traditional separation of powers and undermine the longstanding role of the federal judiciary in safeguarding constitutional rights, including the right of reproductive choice.

H.R. 2028 would deny all federal courts—including the U.S. Supreme Court—the jurisdiction to hear any cases concerning the interpretation or constitutionality of the Pledge of Allegiance. The bill would irreparably alter the relationship between the judicial branch and the two other branches of the federal government by depriving the federal courts of their traditional role as interpreters of the U.S. Constitution. Even more disturbing, unlike other previous versions of court-stripping legislation, H.R. 2028 deprives even the U.S. Supreme Court of jurisdiction, divesting the Court of its historical role as the final authority on the U.S. Constitution.

We are deeply concerned about legislation like H.R. 2028 that strips federal courts of their important role in safeguarding constitutional rights and freedoms. While the target today is a controversial view of the Pledge of Allegiance and the separation of church and state (a view that the Supreme Court has not endorsed), there can be no doubt that anti-choice lawmakers and their allies in Congress intend to use this strategy to achieve other policy goals that they are unable to accomplish without toppling the delicate constitutional balance of powers that has served this country for more than 200 years. Recently, House Majority Leader Tom DeLay told reporters that he plans to use "jurisdiction stripping" measures to achieve other social policy goals. While he claimed that the time is "not quite ripe" to apply this legislative tactic to the issue of abortion, in fact, anti-choice lawmakers have already made the attempt—in 2002, when considering the Federal Abortion Ban. Although that particular effort failed, passage of H.R. 2028 would set a dangerous precedent for future attempts to strip federal courts of jurisdiction to hear cases regarding reproductive choice. The federal courthouse doors should not be closed to women seeking to vindicate their right to obtain critical reproductive health services.

For these reasons, we urge you to oppose H.R. 2028.

Sincerely,

American Association of University Women
Center for Reproductive Rights
Choice USA
Feminist Majority
Legal Momentum (the new name of NOW Legal Defense and Education Fund)
NARAL Pro-Choice America
National Abortion Federation
National Council of Jewish Organizations
National Council of Women's Organizations
National Family Planning and Reproductive Health Association
Planned Parenthood Federation of America
Unitarian Universalist Association of Congregations.

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HUMAN RIGHTS CAMPAIGN,
*September 22, 2004.*

DEAR REPRESENTATIVE: On behalf of the Human Rights Campaign, the nation's largest lesbian, gay, bisexual and transgender (LGBT) civil rights organization, and its 600,000 members nationwide, I write to express our opposition to H.R. 2028, the "Pledge Protection Act." The Human Rights Campaign (HRC) opposes this dangerous piece of legislation, as well as any other piece of legislation that would undermine the critical separation of powers that supports the elegant system of government that the framers of the United States Constitution envisioned.

H.R. 2028 would strip all federal courts, including the Supreme Court, of jurisdiction over cases involving the Pledge of Allegiance. This would preclude religious minorities from being able to have their "day in court", if their claims happen to involve the Pledge. This blocking of access to the courts is offensive to principles of both equal protection and due process. While HRC does not have an official position on the Pledge, we do have a position against hampering the ability of any branch of government to protect the rights of political minorities. The framers of the United States Constitution laid out a tripartite system of government and involved co-equal branches and a delicate system of checks and balances. This system necessarily includes the ability of the federal courts to invalidate any piece of congressional legislation that violates basic constitutional protections. H.R. 2028 does violence to this system of government and its associated guarantees of liberty and justice. Disturbingly, H.R. 2028, when seen in conjunction with H.R. 3313 (The Marriage Protection Act), appears to be a part of a larger attack on the independence of the Judiciary.

HRC urges you to vote "NO" on H.R. 2028 when it is considered by the floor of the House of Representatives. Quite simply, we believe that the very patriotism that inspired the Pledge of Allegiance would demand a defense of the ideals of equity and justice that inspired it. This patriotism is incompatible with the Pledge Protection Act.

Thank you for the opportunity to comment and for your consideration of our concerns. If you have any questions, please do not hesitate to contact Praveen Fernandes, on my staff, at 202.216.1559.

Sincerely,

WINNIE STACHELBERG,
*Political Director.*

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LEADERSHIP CONFERENCE ON CIVIL RIGHTS,
*Washington, DC, September 21, 2004.*

OPPOSE THE "PLEDGE PROTECTION ACT OF 2003" (H.R. 2028): IT THREATENS CONSTITUTIONAL PROTECTIONS AND CIVIL RIGHTS

DEAR REPRESENTATIVE: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse civil rights coalition representing people of color, women, children, older Americans, persons with disabilities, gays and lesbians, major religious organizations, labor unions, and civil and human rights groups, we urge you to vote against H.R. 2028, the "Pledge Protection Act of 2003." LCCR firmly believes that access to the courts must not be slammed shut—especially by laws that will block the federal courthouse doors. H.R. 2028, the so-called "Pledge Protection Act," will do exactly that—deny Constitutional rights to religious minorities by stripping the courts of jurisdiction.

LCCR strongly opposes any proposal that would eliminate access to the federal judiciary for any group of Americans. For over 50 years, the federal courts have played an indispensable role in the interpretation and enforcement of civil rights laws. When Congress has sought to prevent the courts from exercising this role, such efforts ultimately tend to do little more than enshrine discrimination in the law. Fortunately, in most instances, cooler heads prevail. In the 1970s, for example, some members of Congress unsuccessfully sought to strip the courts of jurisdiction to hear cases involving desegregation efforts such as busing—legislation that would have done nothing but preserve racial inequality. More recently, however, at the height of anti-immigrant sentiment in 1996, Congress succeeded in enacting immigration laws that stripped courts of the ability to hear appeals by legal immigrants who were challenging harsh new deportation laws—laws that were so extreme that the Supreme Court ultimately had no choice but to step in and scale them back.

The judicial branch has often been the sole protector of the rights of minority groups against the will of the popular majority. Any proposal to interfere with this role through "court-stripping" proposals would set a dangerous precedent that would harm all Americans. Allowing the courthouse doors to be closed to one minority group, as H.R. 2028 would do to religious minorities, is not only unjustified in itself, but will also set a dangerous precedent that will ultimately weaken the rights of any other groups that may be forced to turn to the courts for justice. Further, H.R. 2028 threatens the separation of powers established by the Constitution, and undermines the unique function of the federal courts to interpret Constitutional law. This legislation deprives the federal courts of the ability to hear cases involving religious and free speech rights of students, parents, and other individuals. The denial of a federal forum to plaintiffs to vindicate their Constitutional rights would force plaintiffs out of federal courts, which are specifically suited for the vindication of federal interests, and into state courts, which may be hostile or unsympathetic to these federal claims, and which may lack expertise and independent safeguards provided to federal judges under Article III of the Constitution. It is in apparent recognition of this concern that no federal bill withdrawing federal jurisdiction in cases involving fundamental Constitutional rights has become law since the Reconstruction period.

H.R. 2028 would deny access to the federal courts in cases to enforce existing constitutional rights for religious minorities. Over sixty years ago, the Supreme Court decided the case of *West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943). In Barnette*, the Supreme Court struck down a West Virginia law that mandated schoolchildren to recite the Pledge of Allegiance. Under the West Virginia law, religious minorities faced expulsion from school, and could be subject to prosecution and fined, if convicted of violating the statute's provisions. In striking down that statute, the Court reasoned: "To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds . . . If there is any fixed star in our Constitutional constellation, it is that

no official, high, or petty can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion.'' (319 U.S. at 639–40)

LCCR urges you to vote against H.R. 2028 because of the dangers to Constitutional protections and civil rights laws and enforcement posed by its enactment. If you have any questions, please feel free to contact Rob Randhava, LCCR policy analyst, at (202) 466–6058, or Nancy Zirkin, LCCR deputy director, at (202) 263–2880. Thank you for your consideration.

Sincerely,

WADE HENDERSON,
*Executive Director*,
NANCY ZIRKIN,
*Deputy Director*.

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AMERICAN BAR ASSOCIATION,
*Chicago, IL, September 20, 2004*.

DEAR REPRESENTATIVE: We understand that efforts are underway to bring H.J. Res. 56, the Federal Marriage Amendment, to the House floor for a vote during the next few weeks. While we have taken no position either favoring or opposing laws that would allow same-sex couples to enter into civil marriages, the American Bar Association is staunchly opposed to this proposed amendment. Regardless of your personal views on same-sex marriage, we urge you to reject this attempt to use the constitutional amendment process to impose on the states a particular moral viewpoint about a controversial issue and to vote against the proposed amendment, which tramples on the traditional authority of each state to establish its own laws governing civil marriage.

The authority to regulate marriage and other family-related matters has resided with the states since the founding of our country and is rooted in principles of federalism. This has enabled states to enact diverse marriage laws that respect and reflect the unique needs and views of their residents. Our federal system also gives states the authority to adopt their own state constitutions and to interpret its provisions to accord greater protection to individual rights than are granted under similar provisions of the U.S. Constitution. Over the years, we not only have successfully tolerated the fact that state laws and judicial interpretations governing marriage are not uniform, we have benefited from it. As the late Justice Louis Brandeis famously explained many years ago:

To stay experimentation in things social and economic is a grave responsibility. Denial of the right to experiment may be fraught with serious consequences to the Nation. It is one of the happy incidents of the federal system that a single courageous State may . . . serve as a laboratory; and try novel social experiments without risk to the rest of the country.

Variations among the state laws governing same-sex unions have provided the opportunity to examine the effect different laws have on society, increased each state's exposure to new ideas, and served as guidance to those states that seek to modify their laws. Adoption of H.J. Res. 56 would deprive the nation of these benefits.

While the proposed amendment is far too vague to ascertain its full meaning with certainty, its adoption would have sweeping consequences for the states that extend well beyond invalidating or prohibiting same-sex civil marriages. For instance, it would forever prohibit a state from adopting its own constitutional amendment to establish civil unions or extending to unmarried couples—heterosexual or gay—legal protections, such as health insurance, that the state provides to married spouses if the state constitutions so require, as in Vermont. And, despite the claims of the resolution's authors, it is unclear whether a state would be prohibited from passing laws permitting civil unions or domestic partnerships and providing state-conferred benefits to the couples involved. There is little doubt, however, that the joint resolution's lack of clarity will result in extensive litigation and that its passage and adoption will limit the future ability of states to fashion their own responses to meet the changing needs of their residents.

H.J. Res. 56 also should be opposed because a constitutional amendment is neither a necessary nor appropriate vehicle for changing our civil marriage laws. The Constitution should not be amended absent urgent and compelling circumstances, and it certainly should not be amended to call a halt to democratic debate within the states or to promote a particular ideology. As Bob Barr, former U.S. Representative from Georgia, succinctly stated in testimony before the Senate Judiciary Committee this past spring, ''We meddle with the Constitution to our own peril. If we begin to treat the Constitution as our personal sandbox, in which to build and destroy castles as we please, we risk diluting the grandeur of having a Constitution in the first place.''

It particularly does not make sense for the House to pursue the Family Marriage Amendment during these busy, final weeks of the 108th Congress since there is no urgent need for immediate action and, clearly, no national consensus has emerged over the legal ramifications of same-sex unions. Indeed, Congress, through enactment of the Defense of Marriage Act in 1996, has already denied same-sex couples the more than 1,000 federal benefits that extend to heterosexual married couples and relieved states of their obligation to accord full faith and credit to same-sex marriages sanctioned by other jurisdictions. Therefore, this proposed amendment would only affect state laws governing marriage and same-sex unions and attending judicial interpretations. During your deliberations over the next week, we hope you will not loose sight of the fact that, at present, 49 states grant civil marriage licenses *exclusively* to heterosexual couples. Clearly, this nation is not facing a crisis of constitutional proportions that requires a drastic and immediate solution.

The ABA Section of Family Law recently released a white paper titled An Analysis Of The Law Regarding Same-Sex Marriage, Civil Unions And Domestic Partnership, which is available on our website at: *http://www.abanet.org/family/whitepaper/fullreport.pdf*. (Printed copies may be obtained by emailing Denise Cardman, Senior Legislative Counsel in our Governmental Affairs Office, at *cardmand@staff.abanet.org*.) This thorough compilation of activity within the 50 states amply demonstrates that courts and legislatures already have enacted or issued hundreds of statutes, local ordinances and court opinions to address the myriad complex issues and ramifications arising from this relatively new public policy debate and are continuing to address the issues vigorously. We hope that the report will help you in your review of this proposed amendment.

Allowing the states to craft their own solutions in this area requires both confidence and humility: confidence in the wisdom of the people and their representatives, and humility to understand, in the words of the late Judge Learned Hand, that ''[t]he spirit of liberty is the spirit that is not too sure that it is right.'' If the Constitution is to continue to embody the spirit of liberty for future generations, we must not seek to use it to enshrine still-evolving societal views.

Despite the fact that more than 11,000 proposed constitutional amendments have been introduced in Congress since 1789, the Constitution has been amended only 27 times in 215 years—a testament to its vitality and to Congressional restraint. We urge you to exercise the same restraint today and oppose H.J. Res. 56.

Sincerely,

ROBERT J. GREY, *Jr*.

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PEOPLE FOR THE AMERICAN WAY,
*Washington, DC, September 20, 2004*.

House of Representatives,
*Washington, DC*.

DEAR MEMBER OF CONGRESS; On behalf of the more than 675,000 members and activists of People For the American Way, we write to urge you to oppose H.R. 2028, the ''Pledge Protection Act of 2003.'' This legislation would violate the First Amendment, and would set a terrible precedent against the separation of powers embodied in our Constitution that protects the fundamental rights of all Americans.

As amended, H.R. 2028 would eliminate any role for the federal courts, including the U.S. Supreme Court, in challenges concerning the constitutionality of the Pledge of Allegiance. This would have an immediate and dramatic impact on the ability of individual Americans to be free from government-coerced speech or religious expression. For example, this legislation would bar the federal courts from enforcing the U.S. Supreme Court's 1943 decision in West Virginia State Board of Education v. Barnette which barred a local school district from forcing children to recite the Pledge of Allegiance over their religious objections.

Apart from being unwise as a matter of policy, H.R. 2028 appears to be an unconstitutional overreach of Congress' power under article III regarding the federal judiciary, particularly in light of the Fifth Amendment's due process clause and the Fourteenth Amendment's equal protection clause. Further, it would contradict common sense, and more than 200 years of constitutional history, to allow Congress to circumvent the words ''Congress shall make no law'' by eliminating effective enforcement of the First Amendment by the courts and the U.S. Supreme Court. We agree with U.S. Senator Barry Goldwater who stated about a similar attempt to strip federal courts of jurisdiction over fundamental rights more than twenty two years ago: ''If there is on independent tribunal to check legislative or executive action all the written guarantees or rights in the world would amount to nothing.''

Nor are state courts the appropriate sole and final venue for enforcement of federal constitutional rights. Indeed, H.R. 2028 raises the prospect of 50 different interpretations of the First Amendment. Guarantees of such fundamental rights as freedom of religion, freedom of speech and freedom from governmental religious coercion should not and cannot properly be relegated to such jurisprudential uncertainty. We note that the Reagan Administration, hardly an opponent of federalism, rejected historical and textual arguments for removing jurisdiction over federal constitutional questions to state courts:

''Nor does it seem likely that the [Constitutional] Convention would have developed the Exceptions Clause as a check on the Supreme Court in such a manner that an exercise of power under the Clause to remove Supreme Court appellate jurisdiction would . . . vest [the power] in the state courts. Hamilton regarded even the possibility of multiple courts of final jurisdiction as unacceptable.''

In addition, H.R. 2028 expressly sets the precedent for future Congresses to completely bar U.S. citizens from raising any judicial challenge to federal action. State

courts can only assert jurisdiction over the federal government if it consents to be sued. Failing that consent, individuals would be left without recourse to unconstitutional actions of the Congress or the executive branch. Unreviewable federal power to infringe on fundamental individual rights of American citizens is alien to our republic.

Finally, H.R. 2028 threatens to disrupt the framework of checks and balances on governmental power embodied in the U.S. Constitution through the separation of powers by setting the precedent for Congress to remove legislation from constitutional review by the judicial branch. For all practical purposes, Congress could become the sole arbiter of constitutionality on any subject within its powers—or indeed outside its powers since it could legislate away any challenge to congressional interpretation of its own authority. Litigation over the meaning of article III, a necessary part of the inevitable court challenge to H.R. 2028, could in of itself result in a constitutional crisis deeply damaging to the separation of powers.

H.R. 2028 would set a terrible precedent for separation of powers and protection of individual rights. We urge you to reject the premise that Congress is above the Constitution and vote no on this legislation.

Sincerely,

RALPH G. NEAS,
*President.*
MARGE BAKER,
*Director of Public Policy.*

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THE AMERICAN JEWISH COMMITTEE,
*Washington, DC, September 20, 2004.*

DEAR REPRESENTATIVE: I write on behalf of the American Jewish Committee, a national organization with more than 125,000 members and supporters represented by 33 chapters, to urge you to oppose H.R. 2028, the ''Pledge Protection Act of 2003.''

This misguided legislation—which would strip all federal courts, including the Supreme Court, of the jurisdiction to hear First Amendment challenges to the Pledge of Allegiance—threatens the separation of powers that is a fundamental aspect of our constitutional structure. Further, while H.R. 2028 ostensibly responds to the controversy surrounding inclusion of the phrase ''under God'' in the Pledge of Allegiance, this legislation sweeps far more broadly, with potentially severe constitutional implications for religious minorities and others who are adversely affected when the government impermissibly seeks to mandate recitation of the Pledge.

It should be emphasized that the American Jewish Committee did not take a position in the recent case in which a challenge was brought to the constitutionally of including ''under God'' in the Pledge of Allegiance. Whatever the merits of that case, however, we are strongly committee to the principle that, in our constitutional system, the federal courts must be available to hear cases in which individuals challenge what they believe to be incursions on their religious and free speech rights.

It would be a terrible—and virtually unprecedented—distortion of that system for the U.S. Congress to deprive students, parents, and other individuals of their access for a specific class of cases to the branch of government crafted to vindicate constitutional claims. Moreover, such an action would undermine public confidence in the federal courts by expressing outright hostility toward them, threaten the legitimacy of future congressional action by removing the federal courts as a neutral arbiter, and reject the unifying function of the federal judiciary by denying federal courts the opportunity to interpret the law.

In addition, as drafted, the bill would seem to deny access to the federal courts—even the Supreme Court—for cases in which individuals seek redress in cases involving mandatory recitation of the Pledge. As a result, this legislation will seriously undermine constitutional guarantees of freedom of speech and religion. There is no question that coercing students to say the Pledge of Allegiance—or any portion thereof—is contrary to the very principles of freedom of conscience that are at the core of our Constitution, and for which the Pledge stands. See the U.S. Supreme court's landmark decision in West Virginia State Board of Education v. Barnett, 319 U.S. 624 (1943) (striking down a West Virginia law that mandated schoolchildren to recite the Pledge of Allegiance) and, more recently, the decision of a federal appellate court in Circle School v. Pappert, No. 03–3285 (3rd Cir. Aug. 19, 2004) (holding that a Pennsylvania law mandating recitation of the Pledge, even when it provided a religious exception, violated the Constitution because it violated the free speech of the students). But, astonishingly, H.R. 2028 appears to remove from the federal courts the jurisdiction to hear these types of cases.

For all these reasons, the American Jewish Committee urges, in the strongest terms, that you vote against this misguided and unwise legislation.

Tbank you for your consideration of our views on this important matter.

Respectfully,

RICHARD T. FOLTIN,
*Legislative Director and Counsel.*

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AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE,
*Washington, DC, September 21, 2004.*

Re Reject efforts to slam federal courthouse doors on religious minorities and vote ''no'' on H.R. 2028.

DEAR REPRESENTATIVE: Americans United for Separation of Church and State urges you to vote ''No'' on passage of H.R. 2028, the ''Pledge Protection Act,'' which is expected to reach the floor of the House of Representatives later this week. Americans United represents more than 70,000 individual members throughout the fifty states and in the District of Columbia, as well as cooperating houses of worship and other religious bodies committed to the preservation of religious liberty. H.R. 2028 is an extreme and unwise proposal that will undermine the crucial separation of powers at the heart of our government and deny religious minorities from seeking enforcement of their longstanding constitutional rights in the federal courts.

H.R. 2028 would deprive all federal courts—including the U.S. Supreme Court—of their ability to hear cases involving the Pledge of Allegiance and to enforce longstanding constitutional rights against coerced recitation of the Pledge. Americans United firmly believes that the text, history and structure of the Constitution, together with important policy considerations, should lead the House of Representatives to soundly defeat this dangerous and misguided bill, as well as any other court-stripping proposal.

THE PLEDGE PROTECTION ACT IS UNCONSTITUTIONAL

Article III, Section 1 of the United States Constitution creates the Supreme Court and provides the Congress with the power to establish ''such inferior Courts as the Congress may from time to time establish.'' Section 2 of Article III delineates sets of cases that the Federal courts may hear, provides for areas of original jurisdiction of the U.S. Supreme Court, and also provides for the appellate jurisdiction of the Supreme Court in other areas ''with such Exceptions, and under such Regulations as the Congress shall make.''

Under Section 2, Congress may have limited authority to limit the types of cases over which the Supreme Court may exercise its appellate jurisdiction. Although the extent of this authority is in dispute and has been the subject of academic commentary over the years, there are clear limits to the authority of Congress to limit the jurisdiction of the federal courts based on other applicable provisions of the Constitution. The Pledge Protection Act would do just that, in that it would entirely deprive every federal court from hearing any constitutional challenge to government-mandated recitation of the Pledge of Allegiance, in violation of due process and separation of powers principles.

THE PLEDGE PROTECTION ACT WOULD VIOLATE DUE PROCESS RIGHTS AND UNDERMINE THE SEPARATION OF POWERS

Basic due process demands an independent judicial forum capable of determining federal constitutional rights. This legislation deprives the federal courts of the ability to hear cases involving fundamental free exercise and free speech rights of students, parents, and other individuals. Congress' denial of a federal forum to plaintiffs in a specified class of cases would force plaintiffs out of federal courts, which are specially suited for the vindication of federal interests, and into state courts, which may be hostile or unsympathetic to federal claims, and which may lack expertise and independent safeguards provided to federal judges under Article III of the Constitution. It is in apparent recognition of this concern that no federal bill withdrawing federal jurisdiction over cases involving fundamental constitutional rights with respect to a particular substantive area has become law in decades.

Political frustration with controversial court decisions during the second half of the twentieth century provoked Congress to propose a number of court-stripping measures designed to overturn court decisions touching on a wide variety of issues, including: anti-subversive statutes, apportionment in state legislatures, ''Miranda'' warnings, busing, school prayer, abortion, racial integration, and composition of the armed services. All of these measures failed to pass Congress. In each instance, bipartisan concerns over threats to the American system of government and constitutional order gave way to a recognition of these court-stripping measures for what they truly were: attempts to circumvent the careful process required for amendments to the U.S. Constitution. As Professor Michael J. Gerhardt stated in his testimony regarding the ''Constitution Restoration Act of 2004'' before the Subcommittee on Courts on September 13, 2004: ''Efforts, taken in response to or retaliation against judicial decisions, to withdraw all federal jurisdiction or even jurisdiction of inferior federal courts on questions of constitutional law are transparent attempts to influence, or displace, substantive judicial outcomes. For several decades, the Congress, for good reason, has refrained from enacting such laws.'' Like so many failed court-stripping measures that have come before it, the Pledge Protection Act represents yet another illegitimate short cut to amending the Constitution, is against the weight of history, and must fail.

THE PLEDGE PROTECTION ACT IS EXTREME, UNWISE AND REPRESENTS MISGUIDED POLICY

As drafted, the bill would slam the courthouse doors to religious minorities trying to gain protection for their fundamental constitutional religious and free speech rights. Over sixty years ago, the Supreme Court decided the case of *West Virginia State Board of Education* v. *Barnette,* 319 U.S. 624 (1943). In Barnette, the Supreme Court struck down a West Virginia law that mandated schoolchildren to recite the Pledge of Allegiance.

Under the West Virginia law, religious minorities faced expulsion from school and could be subject to prosecution and fined, if convicted of violating the statute's provisions. In striking down that statute, the Court reasoned: ''To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds . . . If there is any fixed star in our constitutional constellation, it is that no official, high, or petty can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.'' 319 U.S. at 639–40.

Moreover, just recently, a panel of the U.S. Court of Appeals for the Third Circuit held that a Pennsylvania law mandating recitation of the Pledge, even when it provided a religious exception, violated the Constitution because it violated the free speech of the students. *Circle School* v. *Pappert*, No. 03–3285 (3rd Cir. Aug. 19, 2004). In Pappert, the court found that: ''It may be useful to note our belief that most citizens of the United States willingly recite the Pledge of Allegiance and proudly sing the national anthem. But the rights embodied in the Constitution, particularly the First Amendment, protect the minority—those persons who march to their own drummers. It is they who need the protection afforded by the Constitution and it is the responsibility of federal judges to ensure that protection.'' Pappert, Slip Op. at 14.

The Pledge Protection Act is an attack on our very system of government. Americans United strongly urges you to leave the independence of the federal judiciary in tact, protect longstanding constitutional rights of religious minorities in the federal courts, and respect free speech rights of countless individuals by rejecting this misguided legislation.

Sincerely,

REV. BARRY W. LYNN,
*Executive Director*.

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AMERICAN CIVIL LIBERTIES UNION,
*Washington, DC, September 21, 2004*.

Re Don't shut the federal courthouse doors to religious minorities; oppose passage of H.R. 2028.

DEAR REPRESENTATIVE: The American Civil Liberties Union strongly urges you to oppose H.R. 2028, ''the Pledge Protection Act of 2004.'' H.R. 2028 is an extreme measure that would remove jurisdiction from all federal courts, including the Supreme Court, over any constitutional claim involving the Pledge of Allegiance or its recitation. This bill is expected to be on the House floor later this week.

H.R. 2028 was amended significantly in Committee and is now the same as H.R. 3313, the Marriage Protection Act, except it deals with jurisdiction over all constitutional claims related to the pledge instead of the Defense of Marriage Act. Prior to mark-up, H.R. 2028 limited the jurisdiction of lower federal courts over First Amendment claims related to the Pledge, but left intact the Supreme Court's jurisdiction.

H.R. 2028 would slam shut the federal court house doors to religious minorities, parents, schoolchildren and others who seek nothing more than to have their religious and free speech claims heard before the courts most uniquely suited to entertain such claims. Further, by entirely stripping all federal courts of jurisdiction over a particular class of cases, H.R. 2028 raises serious legal concerns, violating principles of separation of powers, equal protection and due process. The bill undermines public confidence in the federal courts by expressing outright hostility toward them, threatens the legitimacy of future congressional action by removing the federal courts as a neutral arbiter, and rejects the unifying function of the federal judiciary by denying federal courts the opportunity to interpret the law. H.R. 2028 would deny the U.S. Supreme Court its historical role as the final authority on resolving differing interpretations of federal constitutional rights. As a result, each of the 50 state supreme courts would be a final authority on these federal constitutional questions. This would potentially create a situation where we could have as many as 50 different interpretations of any relevant federal constitutional question.

It is in apparent recognition of many of these concerns that no federal bill withdrawing federal jurisdiction in cases involving fundamental constitutional rights has become law since the Reconstruction period. Federal courts were established to interpret federal law and to ensure that the states and the government did not violate the protections in the federal constitution. An effort to deny them jurisdiction over the very sort of claim they were established to hear—that government conduct violates a constitutional right—is the most extreme attack possible on the role of federal courts in our system of checks and balances. It strikes at the very purpose of the Founders in creating federal courts in the first place.

While the supporters of this bill see it as an appropriate response to recent court decisions that they dislike concerning the words ''under God'' in the Pledge, the impact of H.R. 2028 would NOT be limited merely to that issue. This bill would remove jurisdiction over ALL constitutional claims, related to the pledge, from ALL federal courts. This could potentially undermine decades of well-established Supreme Court precedents by denying access to the federal courts in cases brought to enforce existing constitutional rights for religious minorities. For example, over sixty years ago, the Supreme Court decided the case of *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624 (1943). In Barnette, the Supreme Court struck down a West Virginia law that mandated schoolchildren to recite the Pledge of Allegiance. Under the West Virginia law, religious minorities faced expulsion from school and could be subject to prosecution and fined, if convicted of violating the statute's provisions. In striking down that statute, the Court reasoned: ''To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds . . . If there is any fixed star in our constitutional constellation, it is that no official, high, or petty can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.'' 319 U.S. at 639–40.

Just last month, a panel of the U.S. Court of Appeals for the Third Circuit held that a Pennsylvania law mandating recitation of the Pledge, even when it provided a religious exception, violated the Constitution because it violated the free speech rights of the students. *Circle School* v. *Pappert*, No. 03–3285 (3rd Cir. Aug. 19, 2004). In Pappert, the court found that: ''It may be useful to note our belief that most citizens of the United States willingly recite the Pledge of Allegiance and proudly sing the national anthem. But the rights embodied in the Constitution, particularly the First Amendment, protect the minority—those persons who march to their own drummers. It is they who need the protection afforded by the Constitution and it is the responsibility of federal judges to ensure that protection.'' Pappert, Slip Op. at 14.

First comes marriage then comes the Pledge . . . Where will it end? Passage of H.R. 2028 would set a dangerous precedent for responses by Members of Congress to court decisions with which they disagree. In this session alone, Congress is considering court-stripping legislation related to the Pledge of Allegiance, religious displays/Ten Commandments, marriage and another dealing with all cases related to religion and the acknowledgement of God.

Over the years, Congress has considered legislation designed to strip court jurisdiction on the issues such as public school busing, voluntary prayer and abortion. Fortunately, none of those proposals was adopted by Congress because legislators understood that setting a precedent for stripping the courts of their jurisdiction over a particular issue might, in the future, be used by some other group of advocates, when in the majority, to establish its views as the law of the land, safely out of the reach of the courts. We urge members of this Congress to oppose passage of H.R. 2028 and not to abandon this tradition of thoughtfulness and restraint.

Sincerely,

LAURA W. MURPHY,
*Director*.
TERRI A. SCHROEDER,
*Legislative Analyst*.

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THE CONSTITUTION PROJECT,
*Washington, DC, September 15, 2004*.

DEAR MEMBERS OF THE JUDICIARY COMMITTEE: I write on behalf of the Constitution Project to urge you to oppose committee passage of H.R. 2028, the ''Pledge Protection Act of 2003.''

The Constitution Project, based at Georgetown University's Public Policy Institute, specializes in creating bipartisan consensus on a variety of legal and governance issues, and promoting that consensus to policymakers, opinion leaders, the media, and the public. We have initiatives on the death penalty, liberty and national security, war powers, and judicial independence (our Courts Initiative), among others. Each of our initiatives is directed by a bipartisan committee of prominent and influential businesspeople, scholars, and former public officials.

Our Courts Initiative works to promote public education on the importance of our courts as protectors of Americans' essential constitutional freedoms. Its co-chairs are the Honorable Mickey Edwards, John Quincy Adams Lecturer at the John F. Kennedy School of Government at Harvard University and former chair of the House of Representatives Republican Policy Committee (R–OK), and the Honorable Lloyd Cutler, a prominent Washington lawyer and White House counsel to Presidents Carter and Clinton.

In 2000, the Courts Initiative created a bipartisan Task Force to examine and identify basic principles as to when the legislature acts unconstitutionally in setting the powers and jurisdiction of the courts. The Task Force was unanimous in its conclusion that some legislative acts restricting the powers and jurisdiction of the courts are unconstitutional. The Task Force also concluded that some legislative actions, even if constitutional, are undesirable. (The Task Force's findings and recommendations are published in Uncertain Justice: Politics and America's Courts 2000.)

The work of our Task Force resulted in seven consensus recommendations, including the following, which are relevant to consideration of the legislation at hand:

1. Congress and state legislatures should heed constitutional limits when considering proposals to restrict the powers and jurisdiction of the courts.

2. Legislatures should refrain from restricting court jurisdiction in an effort to control substantive judicial decisions in a manner that violates separation of powers,

due process, or other constitutional principles.

3. Legislatures should not attempt to control substantive judicial decisions by enacting legislation that restricts court jurisdiction over particular types of cases.

4. Legislatures should refrain from restricting access to the courts and should take necessary affirmative steps to ensure adequate access to the courts for all Americans.

Specifically, our Task Force was unanimous in its view that there are some constitutional limits on the authority of the legislature to restrict court jurisdiction in an effort to control substantive judicial decisions. In particular, separation of powers, due process, and other constitutional provisions limit such authority. Task Force members had differing views about the scope and source of the constitutional limit on the legislature's power in this area. (For instance, some believed that restrictions on jurisdiction become unconstitutional when they destroy the essential role of the Supreme Court. Others relied on a reading of the Vesting Clause of Article III, which places judicial power—the power to decide cases—in the hands of the courts alone.) Nonetheless, all believed that constitutional limitations exists.

Apart from the constitutionality of laws restricting federal court jurisdiction, the Task Force was also unanimous in its view that legislative acts stripping courts of jurisdiction to hear particular types of cases in an effort to control substantive judicial decisions are undesirable and inappropriate in a democratic system with co-equal branches of government. Legislative restriction of jurisdiction in response to particular substantive decisions unduly politicizes the judicial process, and attempts by legislatures to control substantive outcomes by curtailing judicial jurisdiction are inappropriate, even if believed constitutional. (Indeed, it was striking that members of Citizens for Independent Courts reflecting a broad ideological range—from, for example, Leonard Leo of the Federalist Society to Steven Shapiro of the American Civil Liberties Union—agreed that restrictions on jurisdiction to achieve substantive changes in the law are unwise and undesirable policy.)

The Task Force was also unanimous that legislation that restricts access to the courts and precludes individuals from using a judicial forum to vindicate rights is undesirable and unconstitutional. Rights are meaningless without a forum in which they can be vindicated. Therefore, access to the courts at both the federal and state levels is essential in order for rights to have effect. Legislatures have the duty to ensure meaningful access to the courts and legislative actions that preclude this are undesirable and unconstitutional.

Our Task Force reached these conclusions and recommendations rightly. From its beginning, our system of constitutional democracy has depended on the independence of the judiciary. Judges are able to protect citizens' basic rights and decide cases fairly only if free to make decisions according to the law, without regard to political or public pressure. Similarly, the judiciary can maintain the checks and balances essential to preserving a healthy separation of powers only if able to resist overreaching by the political branches. Indeed, the cornerstone of American liberty is the power of the courts to protect individual rights from momentary excesses of political and popular majorities.

In recent years, as part of the polarization and posturing that increasingly characterize our national and state politics, threats to judicial independence have become more commonplace. Attacks on judges for unpopular decisions, even those made in good faith, have become more rampant. Politicians are responding to unpopular decisions and litigants by attempting to restrict courts' powers in certain kinds of cases. However, Americans have much to lose if we do not exercise self-restraint and instead choose short-term political gain at the expense of judicial independence. The independence of our judiciary is, as Chief Justice Rehnquist described, ''one of the crown jewels of our system of government.''

In conclusion, while Article III of our Constitution gives Congress the power to regulate federal court jurisdiction, this power is not unlimited, and Congress should not—and in some instances may not—use its power to restrict federal court jurisdiction in ways that infringe upon separation of powers, violate individual rights and equal protection, or offend federalism. H.R. 2028 is poised to do all three by stripping federal courts of the authority to hear cases involving the Pledge of Allegiance, including when such cases involve claims of free speech and religious freedom. Such jurisdiction-stripping threatens the critical and unique role that the federal courts play in constitutional balance of powers, protecting individual rights, and interpreting constitutional law.

For the reasons stated above, as well as those detailed our Task Force's findings and recommendations, we at the Constitution Project urge you to oppose H.R. 2028. Thank you for your consideration.

Sincerely,

KATHRYN A. MONROE,
*Director, Courts Initiative.*

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BAPTIST JOINT COMMITTEE,
*Washington, DC, September 14, 2004.*

DEAR REPRESENTATIVE: The Baptist Joint Committee (BJC) urges you to vote No on H.R. 2028, the so-called ''Pledge Protection Act.'' The BJC is a nearly 70-year-old organization committed to the principle that religion must be freely exerecised, neither advanced nor inhibited by government. We oppose any legislation that seeks to strip the federal courts of their fundamental role in protecting individual liberties.

The existence of an independent judiciary, free from political or public pressure, has been essential to our nation's success in protecting religious liberty for all Americans. Indeed, the role of the federal courts has long been recognized as essential in the battle for full religious liberty. As Justice Jackson stated in the case of West Virginia State Board of Education v. Barnett: ''The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.'' 319 U.S. 624, 639 (1943).

Moreover, the result of any particular case does not undermine the important role of the judiciary. The misnamed ''Pledge Protection Act'' represents a dangerous attack on our tradition of religious freedom, on the constitutional separation of powers and indeed our system of government. It represents an unwarranted attempt to restrict the power of the federal judicial system.

Whatever the motivation, there is insufficient basis to depart from a long-standing congressional custom against using jurisdiction-stripping to control the federal courts. Federal judicial review has consistently supported the proper separation of church and state so vital to all Americans, and we must trust that the courts will continue to do so. We ask you to reject H.R. 2028.

Sincerely,

J. BRENT WALKER,
*Executive Director.*
K. HOLLYN HOLLMAN,
*General Counsel.*

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BOB BARR,
*Atlanta, GA, July 19, 2004.*

Re Upcoming vote on the Marriage Protection Act, H.R. 3313.

DEAR REPRESENTATIVE: I would like to take this opportunity to express my concerns with the Marriage Protection Act, H.R. 3313, which I understand may be on the House floor as early as this week. While I understand and appreciate the reason that supporters of this bill are trying to pass this legislation, I respectfully disagree on the need for the bill and see the potential of a bad precedent for future legislation. For these reasons, I urge that members vote against H.R. 3313.

H.R. 3313 would preclude federal courts, including the Supreme Court, from reviewing the constitutionality of the cross-state recognition section of the Defense of Marriage Act (''DOMA''). If H.R. 3313 is enacted, each of the 50 state supreme courts would be a final authority on the constitionality of DOMA, with no opportunity for either a state (as a defendant) or a plaintiff to appeal a decision to the Supreme Court.

As the principal author and lead sponsor of DOMA, I completely share the views of the supporters of H.R. 3313 who view DOMA as critical to our federalist system of government, and as integral to the proper resolution of the difficult questions raised by any state extending marriage rights to same-sex couples. DOMA is an important law that will help each state in the nation retain its own sovereignty over the fundamental state issue of who is married under its laws.

However, where I differ with the supporters of H.R. 3313 is in my confidence that the Supreme Court will not invalidate DOMA. During the lengthy consideration of DOMA, the House of Representatives heard detailed testimony on the constitionality of DOMA. A parade of legal experts—including the Justice Department—determined that DOMA is fully constitutional. Although there were a few naysayers and wishful thinkers who opined that DOMA is unconstitutional, the overwhelming weight of authority was clear that DOMA is constitutional. Based on the exhaustive review of these opinions, Congress overwhelmingly passed DOMA and it was signed into law by President Clinton.

DOMA remains good law. It has never been invalidated by any court anywhere in the country. It is a sound and valid exercise of congressional authority, pursuant to the Full Faith and Credit Clause of the Constitution.

Some supporters of H.R. 3313 point to the Supreme Court's opinion last year in Lawrence v. Texas, in which the Court invalidated a state sodomy law, as reason for concern that the Court could invalidate DOMA. However, I believe the Supreme Court justifiably would see a world of difference between a sodomy law that applied only to homosexual relations, and a federal law allowing the enforcement of nearly uniform state policies prohibiting cross-state recognition of marriages of same-sex couples. Moreover, when the Supreme Court correctly invalidated a racially discriminatory marriage law in Loving v. Virginia, it applied the highest level judicial scrutiny to the state's marriage law. The Supreme Court always applies the highest level of scrutiny to race claims, but minimal level to sexual orientation claims. Serious legal scholars do not see that changing.

Moreover, because H.R. 3313 does not strip state courts of jurisdiction to hear challenges to the cross-state recognition section of DOMA, the result will be that each of the 50 state supreme courts will be the final authority on the constitutionality of a federal law. The chaotic result could be 50 different interpretations reached by state supreme courts, with no possibility of the U.S. Supreme Court reversing any incorrect interpretation of the federal DOMA. The potential for mischief by these courts is obvious. Ironically, I fear an increased likelihood of an adverse decision on DOMA's constitutionality if H.R. 3313 becomes law.

However, the principal problem with H.R. 3313 is not just that it is protecting a wholly constitutional law that needs no additional protection, but that it sets a harmful precedent for the future. Our healthy democracy depends on having three separate and independent branches of government. I have long been concerned about a runaway judiciary, but I am also concerned about having a Congress or President unchecked by the independent judiciary established by the Constitution.

H.R. 3313 will needlessly set a dangerous precedent for future Congresses that might want to protect unconstitutional legislation from judicial review. During my time in Congress, I saw many bills introduced that would violate the Takings Clause, the Second Amendment, the Tenth Amendment, and many other constitutional protections. My main concern with H.R. 3313 is that it will lay the path for the sponsors of such unconstitutional legislation to simply add the language from H.R. 3313 to their bills. The fundamental protections afforded by the Constitution would be rendered meaningless if others follow the path set by H.R. 3313.

For these reasons, I urge you to vote against this well-intentioned, but unnecessary legislation. The Congress should keep in place the separation of powers outlined in the Constitution, rather than act hastily in fear of an outcome on DOMA that is unlikely in the first instance.

Thank you for your attention to this issue, and with warm regards, I remain.

Very truly yours,

BOB BARR,
*Member of Congress, 1995–2003.*

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JULY 13, 2004.

Hon. JERROLD NADLER,
*House of Representatives,*
*Washington, DC.*

DEAR CONGRESSMAN NADLER: I am happy to respond to your inquiry of July 9, asking for elaboration of my testimony before the Subcommittee on the Constitution of the Judiciary Committee of the House of Representatives, concerning the constitutionality of congressional power to control federal court jurisdiction on the interpretation and review of the Defense of Marriage Act.

I cannot emphasize strongly enough that while I believe that Congress's power to regulate federal court jurisdiction is broad, the Constitution places clear limits on that power which must be observed. As I believe I made clear in both my written and oral testimony, nothing in Article III provides Congress with the power to exclude from all independent judicial review the constitutionality of any governmental action, state or federal. However, as long as the state courts remain open and available for this purpose, due process would not be violated by congressional exclusion of the jurisdiction of either the lower federal courts or the Supreme Court.

I see from your inquiry, however, that I may have failed to anticipate in my testimony several other potential permutations and combinations of jurisdictional restriction related to the Defense of Marriage Act, and if so I sincerely apologize. There are conceivably two other situations which could give rise to possibly serious constitutional problems, and I write this letter in order to provide you with my views on those instances.

First, it is quite clear that Congress lacks constitutional authority to vest the federal courts with jurisdiction to apply or enforce the Defense of Marriage Act while simultaneously restricting those courts' jurisdiction either to interpret or to review the constitutionality of that legislation. As famed jurisdiction scholar Henry Hart wrote many years ago, ''the difficulty involved in asserting any judicial control in the face of a total denial of jurisdiction doesn't exist if Congress gives jurisdiction but puts strings on it. . . . [I]f Congress directs an Article III court to decide a case, I can easily read into Article III a limitation on the power of Congress to tell the court how to decide it.'' Henry Hart, The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic, 66 Harv. L. Rev. 1362, 1372–1373 (1953) (emphasis in original). For a detailed discussion of my views on this issue, see Martin H. Redish, Federal Jurisdiction: Tensions in the Allocation of Judicial Power 47–52 (2d ed. 1990).

Second, to the extent even the total exclusion of federal court jurisdiction were imposed, there may be a constitutional problem if, in order to enforce and protect underlying constitutional rights, a reviewing court would have to directly control the actions of a federal officer through the writs of habeas corpus, mandamus or injunction. For while it has long been understood that state courts provide an adequate forum to protect and enforce federal rights, it is also well established—in a line of cases beginning in 1821—that state courts lack authority directly to control the actions of federal officers. See *McClung* v. *Silliman*, 19 U.S. (6 Wheat.) 598 (1821) (mandamus); *Tarble's Case*, 80 U.S. (13 Wall.) 397 (1871) (habeas corpus). While there exists no definitive Supreme Court decision denying state courts power to issue injunctions to federal officers, there does exist a strong line of cases in the lower federal courts to this effect. See, e.g., *Kennedy* v. *Bruce*, 298 F.2d 860 (1962). Moreover, the logic which led the Supreme Court to deny state courts the power to issue mandamus or habeas relief to federal officers logically applies with the same force to writs of injunction. Thus, if a federal right may only be enforced through issuance of a directly controlling order to a federal officer, exclusion of all federal court jurisdiction could arguably give rise to a serious constitutional problem, because the state courts would be simultaneously closed to the issuance of such relief.

While there does exist some language in Supreme Court doctrine (particularly in Tarble's Case) suggesting that state courts inherently lack such power as a constitutional matter, it is difficult to believe this conclusion would be adhered to today. In light of the Madisonian Compromise's inherent assumption that if Congress declined to exercise its discretion under Article III, section 1 to create lower federal courts state courts could perform the exact same functions, it is highly unlikely that the framers intended to impose such an absolute constitutional bar to state court power to directly control the actions of federal officers. In my scholarship, therefore, I have argued that the reasoning of Tarble's Case can be reworked ''into simply an inference of congressional intent to exclude state court power in the face of congressional silence . . . because, were Congress actually to consider the question, it likely would not want state courts . . . to have the authority to impair the operation of federal programs by directly controlling the actions of federal officers.'' Martin H. Redish, Constitutional Limitations on Congressional Power to Control Federal Jurisdiction: A Reaction to Professor Sager, 77 Nw. U. L. Rev. 143, 158–159 (1982). Thus, under my reading of this line of cases, if Congress so desired it could revoke the limits on state court power imposed by the Tarble line of cases, simply by explicitly vesting in the state courts the power to control federal officers through the issuance of the writs previously mentioned. Absent such explicit congressional directive, however, the rule of Tarble, closing the state courts for this limited purpose, would remain intact.

The issue becomes more complicated where, as here, Congress considers excluding all federal court power to review the constitutionality of federal officer behavior. There are respected scholars—particularly Professor Paul Bator and other revisers of the Hart and Wechsler text—who believe that were Congress to automatically exclude all federal court jurisdiction to enforce constitutional rights and interests, the state court bar imposed by the Tarble line of cases would automatically be revoked. However, I do not agree. I believe that unless Congress simultaneously and expressly revokes the limit on state court authority to issue directly controlling writs to federal officers, its exclusion of federal court power to issue such writs inexorably leads to a violation of due process. For in such a situation, neither the state courts nor federal courts would be available to protect constitutional rights, and the due process right to an independent judicial forum for enforcement of constitutional rights would therefore have been violated.

It is true, of course, that normally a reviewing court will assume that Congress did not intend to violate constitutional rights. Therefore one might reason that the closing off of the federal courts should automatically be taken as an opening of the state courts. However, I believe that before Congress closes off all federal court authority to review the constitutionality of a statute and to control federal office actions in order to protect particular constitutional rights, it must be aware of certain facts. First, Congress must recognize that some adequate and independent judicial forum must be available to control federal officers in order to protect constitutional rights. Second, it must be aware that once it has closed all federal courts for this purpose, the only courts that will be available to control federal officer action through issuance of appropriate writs will be the state courts—without any opportunity for policing or unifying review in any federal court, including the Supreme Court. If Congress wishes to create such an unstable situation, I believe it has power to do so (though once again I should note that certain language in Tarble suggests that the limit imposed on state court power derives from the Constitution, rather than congressional will; if such reasoning were to be adopted today, then the issue would be taken from Congress's hands and the closing of the federal courts to the issuance of such directly controlling writs would necessarily violate due process). Absent express revocation of the limits imposed on state court jurisdiction imposed by the Tarble line of cases, I believe, Congress will not have evinced the requisite consideration of these important issues. In this sense, the rule of interpretation that I have advocated in similar to the ''clear statement'' rule presently invoked by the Supreme Court for congressional revocation of state sovereign immunity.

I must emphasize the uncertainty that surrounds the Tarble line of cases. First, it is

unclear whether the Supreme Court there intended to erect a constitutional barrier to state court issuance of directly controlling writs to federal officers, and if so whether it would still be adhered to today. Second, assuming the barrier is not deemed to be of constitutional status, it is unclear whether congressional exclusion of federal judicial power to issue such writs would be taken automatically to revoke the Tarble restriction on state court power over federal officers. There simply is no case law on that issue. Moreover, as already mentioned, my view that express congressional revocation of the Tarble barrier is required to render the congressional exclusion of federal court power to issue the directly controlling writs of mandamus, habeas corpus and injunction constitutional has been challenged by other respected scholars. Nevertheless, the only way that Congress could be certain, at this point, that its exclusion of all federal court power directly to control federal officer behavior when constitutional rights are at stake would satisfy due process is at the same time to expressly authorize state courts to issue these writs to federal officers. Absent such an express congressional authorization, the constitutionality of the restriction on federal court review power would at the very least be in doubt, and, in my opinion, unconstitutional.

I apologize for so complex an answer to your question, but I am afraid I see no means of explaining the potential pitfalls facing Congress in any simpler manner. In any event, I hope you find this response helpful. If I can be of assistance in any other way, please do not hesitate to contact me.

Sincerely yours,

MARTIN H. REDISH,
*Northwestern University School of Law.*

□ 1215

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. AKIN), the author of the bill.

Mr. AKIN. Mr. Chairman, we have heard a lot of legalese this morning, and perhaps trying to make a subject that is not very complicated a lot more complicated. The simple question is whether or not school kids are going to be able to say the Pledge of Allegiance the way we have done it for the last 50 years.

Some may say that is not that important an issue, but I would ask this question: If Members were asked, and perhaps it would be one of these big old TV cameras, and somebody came up and said, you have lived in America all these years, how would you, in the simplest form, describe what is the glue that holds us all together as Americans? What is the heart of America? If, like an onion, we peeled off the layers and got to the very center, what is it that makes America such a unique and special place? What is it that made people from all different nationalities come here and call themselves Americans? What is it that makes illegal immigrants try to come here? What is it that makes America special?

I think the answer can be found in our birthday document, our Declaration of Independence. It sets out essentially a three-part formula. It says we hold these truths to be self-evident, that all men are created equal and endowed by their creator with certain inalienable rights, and among these is life, liberty and the pursuit of happiness. And it goes on to say the job of government is to protect those rights. The three-part formula is that there is a God; God grants all people everywhere certain basic fundamental rights; and it is the job of government to protect those rights.

Now, if we allow activist judges to start creating law and say it is wrong to somehow allow school children to say ''under God'' in the Pledge, we have emasculated the very heart of what America has always been about.

This is quite simply a matter of judges turning the first amendment upside down. The first amendment was supposed to be about free speech, religious or political free speech, and now these judges are censoring our very Pledge of Allegiance and telling school kids they cannot say the Pledge. If we allow activist judges to go there, what is next?

Behind me, set in brass above the Speaker's desk, ''In God we trust.'' Is this a sense of the co-equal power of the branches of government that the court can next step in here and take ''In God we trust'' off that? Are they going to tell us we cannot have chaplains? Are they going to go to the Jefferson Monument that has in stone that God that gave us life, gave us liberties, and can the liberties of the people be secure if we remove the conviction that those liberties are the gift of God? Is that going to be plastered over? Are we going to get rid of the Gettysburg Address? How far will we let them go?

Yet my colleagues have been arguing that anything the court says; it is unconstitutional to challenge the Supreme Court. In my State of Missouri, the Dred Scott decision was brought, and the Supreme Court said black people are not actually people. That was a dumb decision, and we need to be able to tell the Supreme Court or any other court that makes ridiculous decisions they are wrong. Yet we are hearing it is off base to try to check their authority. It is the job of the other two branches of government to draw up short the judiciary when they exceed their constitutional authority. And legislating from the bench and using the first amendment as a tool of censorship certainly qualifies that we should weigh in.

Mr. Chairman, I would close by saying that I have heard a number of assertions that there is absolutely no precedent to use article III section 2. And yet, if Members were to simply check with the congressional research people, as our office has done, they would tell Members they cannot print them all out there are so many examples. In the 107th Congress, most of us voted for the PATRIOT Act. The PATRIOT Act has article III section 2 language in it, and we have it used in all kinds and numbers of ways.

A certain prominent Senator from South Dakota made an amendment to a bill that said we are going to clear the undergrowth from the forest of the Black Hills. That, of course, is against environmental law, but the problem is that all that undergrowth was fueling forest fires. This particular gentleman made the comment and put it into law, regardless of what any Federal court says, we are going to clear the undergrowth. Another use of the limitation of the appellate jurisdiction of the courts. There are numerous cases to that regard. Certainly, these charges are completely and factually inaccurate.

Mr. NADLER. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER), the Democratic whip of the House.

Mr. HOYER. Mr. Chairman, 2 minutes is obviously not sufficient time to respond to simplistic arguments. The previous speaker said he has heard simple legal arguments. He talked about why people came to America.

I chaired the Commission on Security and Cooperation in Europe, the Helsinki Commission, and I went to numerous countries in which the judiciary was not independent, where it was dictated to by the legislature and the executive departments if the judiciary did not do what the legislature and the executive wanted them to do. That is the perverseness of this legislation. That is the demagoguery of this legislation. This is the simplistic approach that this legislation takes.

Let me say, I believe that ''under God'' in the Pledge of Allegiance is absolutely appropriately there. It is constitutional, and it ought to be there. And frankly, if the Supreme Court ruled it was unconstitutional, I would vote for a constitutional amendment to ensure its presence.

The gentleman is correct; Thomas Jefferson intoned those compelling words that we get our rights not from the legislature, not from the executive, not even from the majority. Those basic rights are within us as children of God. That is the difference between this country. That is what Marbury v. Madison meant. It meant a legislature, irrespective of its animus, irrespective of the prejudice that it wanted to include, not in this instance but in other instances, could be overseen by the courts of this United States.

The gentleman mentioned the Dred Scott decision. It was not the legislature that overturned that decision or the majority of Americans that overturned that decision; it was the Supreme Court of the United States ultimately that said that is wrong. The gentleman is absolutely correct; the Supreme Court said separate is not equal. But had they been precluded from having the jurisdiction over that case, we would still have segregated schools. We would still have separate but equal, but it was the courts that stepped in and made sure that the dream of America was the reality of America.

Defeat this legislation. There is no case pending. It has been dismissed by the Supreme Court.

No court in this Nation has precluded. Every child in America now stands and proudly stands, as we do in this chamber, and pledges allegiance to our flag and to this Nation under God, indivisible with liberty and justice for all. But we have found through the centuries that justice, justice, justice is protected by our independent judiciary. Let us keep it that way for all Americans. Defeat this legislation.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Chairman, I rise today in proud support of H.R. 2028, the Pledge Protection Act, introduced by the gentleman from Missouri (Mr. AKIN). We are here today because, once again, activist judges have taken it upon themselves to dictate law in this country, believing they know better than all Americans, they know better than the State legislatures or the Federal legislature, and they know better than the Founding Fathers themselves, they think.

The Pledge Protection Act defends the constitutionality of reciting the Pledge of Allegiance by simply restricting the jurisdictions of some lower Federal courts. This body here is more than within our bounds to limit the role of Federal court jurisdiction.

The power of Congress is granted in article III of the Constitution. The clause states, ''The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish.''

Accordingly, the Constitution provides that the lower courts are entirely creatures of Congress, as is the jurisdiction of the Supreme Court.

Just as this Congress is checked every so often by the power of the Presidential veto, and we are checked every 2 years by re-elections, we in turn have the ability to check or rein in abusive and out-of-line courts.

The Pledge closely reflects the noblest intentions of our Founding Fathers and the inspiration that has led to the creation of this great Nation, and that is why I can confidently say that nothing in the reciting of the Pledge discriminates against any religious minorities or abuses any rights.

The phrase ''under God'' simply acknowledges that our Founding Fathers, who were leaders in the fight for our independence and the authors of our Nation's framework, did so with the inspiration and their belief in a divine being.

We all know this House starts each morning with the Pledge as we begin our business, and I believe that right should not be taken away from the children of this country as well.

Mr. NADLER. Mr. Chairman, I yield for the purpose of a making a unanimous consent request to the gentleman from Texas (Mr. GREEN).

(Mr. GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Chairman, I include my statement for the RECORD supporting the Watt amendment, and also supporting the original Protect the Pledge Act.

Mr. Chairman, I rise today in support of the Watt amendment to H.R. 2028, the Protect the Pledge Act. This amendment is plain and simple; it would restore H.R. 2028 to its original language.

I strongly support the Pledge of Allegiance. In fact, in the last Congress I introduced H.J. Res. 103, an amendment to the Constitution that would affirm that the Pledge of Allegiance in no way violates the First Amendment. Unfortunately, Congress did not pass the resolution before it adjourned for the 107th Congress. As an original cosponsor of H.R. 2028, I had hoped that it would protect the Pledge of Allegiance from unnecessary court battles without infringing on the rights of the people. However, with H.R. 2028 in its current form Congress has lost its balance between our constitutional rights and the law.

The Pledge of Allegiance is an important symbol of the privileges and rights that our founding fathers fought so desperately to preserve. Although the major controversy surrounding the pledge rests on the words "under God," H.R. 2028 blatantly ignores the words "with liberty and justice for all."

Every citizen has the right to due process under the law. By stripping the Supreme Court of jurisdiction to hear cases pertaining to the Pledge, we take away the basic right for everyone to have their case heard before the highest court in the land. Article III of the Constitution states that Congress has the power to define the jurisdiction of the Federal district and appellate courts, but we do not have the power to decide which cases the Supreme Court can and cannot hear.

The Watt amendment restores the Protect the Pledge Act to its original language. I urge my colleagues to support this amendment and protect our constitutional rights.

Mr. NADLER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, obviously, I stand here today formerly a second-class citizen in America, and if it had not been for the courts of the United States of America, article III courts and the United States Supreme Court, I would still be in a place with nowhere to be able to seek redress of my grievances.

Let me make it clear that I voted to retain the language ''under God'' in the Pledge of Allegiance, and I did so because I believe it is protected by the first amendment. That amendment allows us to exercise our freedom of religion, but this is at best political chicanery. This is a joke, and the reason is, I would ask my colleagues on the other side of the aisle why they did not put this kind of legislation to eliminate the right of the Federal courts and the Supreme Court to engage in the oversight of election laws? The reason, because they got the decision they wanted in 2000.

This is a bill that destroys the Constitution as we know it. Article III of the U.S. Constitution vests the judicial power of the United States in one Supreme Court. How can we eliminate the appellate jurisdiction of the Article III courts and the Supreme Court that leaves all of America a lack of opportunity to address their grievances no matter who they are?

I pledge allegiance to the flag. I respect the language ''under God,'' but it is the right of the American people to at least go into the courts to address their grievances.

And what about religion? If one has a religion that gives them the instruction to not recite that kind of language, that individual has the right, as an expression of their right of religious freedom, to do so or to seek redress of grievances in the courts. Again, this is political opportunity, but I would join my colleagues in eliminating the rights of the Federal courts and the Supreme Court to decide any election case so we will not have the biased decision that was rendered in the Bush v. Gore decision of 2000. If they join me on that, maybe we will have a sense of fairness. Today, we do not.

I stand with the Constitution which says we have a right to be able to address our grievances in the courts of the United States of America. We have the right to freedom of religion. We should vote down this bill as one that puts a stain on the Constitution of the United States of America. Remember—our history—that of minorities in this country—was only made better many times by the decisions of the Federal courts.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I beg to disagree with the gentlewoman from Texas (Ms. JACKSON-LEE). It was not the Supreme Court that gave her and her ancestors their freedom; it was the 600,000 people who died during the Civil War that did that and allowed the Congress to pass three constitutional amendments which guaranteed freedom for former slaves and their descendants.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

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

□ 1230

Mr. STEARNS. Mr. Chairman, I would say to the 30-second speech by the chairman of the Committee on the Judiciary, Amen to what he just said.

Let me give a hypothetical example to the people on this side of the aisle who are predominately against this amendment. Let us say that it turned out that the Supreme Court wanted to take the words ''In God We Trust'' off the marble slab that stands on top of the flag in the Speaker's rostrum. At what point would you as a Member of

Congress get up and say enough is enough for the Supreme Court to do this? I mean, at what point does your side have to be so upset to get involved to really exercise what the Constitution allows?

It has been repeated many times under article III, section 2 of the Constitution, we in this body have the right, and some would say we have the duty, to limit the jurisdiction of Federal courts. I certainly would hope if they tried to strip ''In God We Trust'' off the Speaker's rostrum that they on that side of the aisle would stand up and say enough is enough and agree that we would allow Congress to exercise its prerogative under article III, section 2 of the Constitution.

Also, I brought this up before, all of those on this side of the aisle know that TOM DASCHLE, the minority leader, inserted a provision in legislation to prohibit the courts from hearing cases about brush clearings in South Dakota.

POINT OF ORDER

Ms. PELOSI. Mr. Chairman, I make a point of order.

Mr. Chairman, the gentleman was referencing activities as far as the other body is concerned, naming a Senator by name. Is that not out of order by this body?

Mr. SENSENBRENNER. Mr. Chairman, on the point of order, the gentleman from Florida was referencing a provision in a conference report that was adopted by this body as well as by the other body and became law.

The CHAIRMAN pro tempore. All Members should refrain from improper references to Members of the other body.

Mr. STEARNS. Mr. Chairman, I did mention in my speech about a provision in legislation that was inserted; so I thought that was important.

In July we passed the Marriage Protection Act, removing the Federal courts' jurisdiction from questions arising under the Defense of Marriage Act. Frankly, is marriage not more important than the forests that I mentioned previously that was inserted in legislation?

So I am honored to support this bill and to protect the Pledge of Allegiance from further judicial interference.

I will include my entire statement in the RECORD.

Mr. Chairman, for decades, activist judges have been free to impose their own beliefs on the American people with impunity.

We have had to endure egregious decisions about abortion, obscenity, school prayer and homosexual "marriage," to name but a few issues.

On each of these issues, the vast majority of the American people took the exact opposite position as the federal court.

This was especially true when the 9th Circuit Court of Appeals declared that the words "under God" in the Pledge of Allegiance are unconstitutional.

But I am glad to note that Congress has recently been exercising its constitutional prerogative to limit the federal courts.

Under Article III, Section 2 of the Constitution, we have the right—some would say the duty—to limit the jurisdiction of the federal courts.

It is not like it hasn't been done before.

In the 1868 landmark case of Ex parte McCardle, the U.S. Supreme Court agreed that Congress had the constitutional right to remove jurisdiction from the court in a pending case.

More recently, Senate Minority Leader TOM DASCHLE inserted a provision in legislation to prohibit the courts from hearing cases about brush clearing in South Dakota.

And in July, we passed the "Marriage Protection Act," removing the federal court's jurisdiction from questions arising under the Defense of Marriage Act.

Frankly, isn't marriage and the Pledge more important than forests?

I am honored to support this bill and to protect the Pledge of Allegiance from further judicial interference.

Mr. Chairman, for years the Federal Courts have been taking jurisdiction away from Congress. It is only proper that we exercise our constitutional right to limit their jurisdiction.

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

The reference to Senator DASCHLE was not true. We rebutted it in the debate last time. I will reference something for the RECORD so we do not waste time on this untruth anymore now.

Brush Clearing Rider: Most notably, the Majority claims that a rider to the 2002 Supplemental Appropriations Act authored by the senior senator from South Dakota approving logging and clearance measures by the Forest Service in the Black Hills of South Dakota serves as a precedent for the enactment of these types of court-stripping measures.

The problem with this argument is that, while the rider restricted ''judicial review'' of ''any [logging or clearance] action'' by the Forest Service, it did not restrict federal judicial review of the rider itself or its constitutionality. Indeed, the federal courts did review the validity of the rider, and explicitly found that the ''challenged legislation's jurisdictional bar did not apply to preclude Court of Appeals' review as to the legislation's validity''

Mr Chairman, I yield 2 minutes to the distinguished gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, if anyone had told me that coming to the Congress of the United States of America, representing my district, I would have to be on the floor of Congress defending the constitutional rights of the Supreme Court to make constitutional rulings, I would have told them they are crazy. This is absolutely outrageous. The gentleman just asked when do we get so angry that we agree to strip the Court of its constitutional responsibility.

Mr. Chairman, I have disagreed with any number of decisions of the Supreme Court. I disagree with the fact that the Dred Scott decision said separate was all right, separate but equal. And in the last 2002 election, I disagreed with the fact that the Supreme Court gave the Presidency to George W. Bush. But my colleagues did not see me and others coming in here and talking about stripping them of their ability to make constitutional decisions.

The court-stripping proposed in this bill would destroy the Supreme Court's historical function as the interpreter and ultimate arbiter of what the Constitution requires. This misguided legislation to strip the Supreme Court of its appellate jurisdiction also would have seriously damaging implications for the relationships among our three branches of government. This bill and other court-stripping bills proposed by the Republicans would be laughable if the results of enacting this bill were not so tragic and not so threatening to the constitutional rights of our people and the independence of the Federal judiciary.

If H.R. 2028 were passed into law, it would constitute the first and only time Congress has enacted legislation totally eliminating any Federal court from considering the constitutionality of Federal legislation, in this case the Pledge of Allegiance.

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

Mr. NADLER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Washington (Mr. INSLEE).

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

Mr. INSLEE. Mr. Chairman, yes, we are one Nation under God, and we are one Nation under the Constitution, until today.

I voted some time ago to keep the words ''under God'' in the Pledge, and I will vote today to keep the Supreme Court in its constitutional business of enforcing the Bill of Rights. The Republican Party today intends to treat the Bill of Rights the way the Soviet Union operated during their long tyranny. Because in the Soviet Union, one could go next to Lenin's grave and see their beautiful bill of rights nicely illuminated, looked fine. But the Soviet Union lacked one thing: they stripped their courts of the ability to enforce their own bill of rights. And today the Republican Party intends to do the same thing in America.

In America we should not abandon what we learned as kids in school, that checks and balances are necessary to our fundamental liberties. And sometimes the Supreme Court gets it wrong, but heaven help the day that one trusts liberty to Congress, where the day that Congress is in session, their life and liberty is in danger. We have got to depend on the U.S. Supreme Court.

Mr. NADLER. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), Democratic leader.

Ms. PELOSI. Mr. Chairman, with our troops in harm's way and a deteriorating situation in Iraq and with our country facing the clear and present danger of terrorism, there are grave and great issues that Congress must address.

But what are we doing here today? Are we debating the 9/11 Commission

recommendations to secure our Nation? Are we providing health insurance to millions of Americans who have lost their insurance under this President, providing jobs to the millions of unemployed Americans and fully funding our schools?

No, Mr. Chairman. Instead, we are gathering here to once again debate undermining the Constitution of the United States and dishonoring the oath of office that we take to protect and defend the Constitution.

The bill before us claims to protect the Pledge of Allegiance. But protect the Pledge from what? Our Supreme Court has not undermined the constitutionality of the Pledge.

With the reversal of the Newdow case, there is only one major appeals court decision that has addressed the constitutionality of the Pledge; and that court, the seventh circuit, has upheld the Pledge.

This is a piece of legislation in search of a solution for a problem that does not exist.

Millions of Americans daily and proudly pledge ''one Nation under God, indivisible, with liberty and justice for all.'' Let me be clear. I defer to no one in my defense of the voluntary recitation of the Pledge. I strongly believe that the phrase ''under God'' and the Pledge itself is an uplifting expression of support for the United States. I love the Pledge.

The distinguished chairman of the Committee on the Judiciary referenced the Civil War in response to a statement made by the gentlewoman from Texas (Ms. JACKSON-LEE) and said it was not the Supreme Court that increased freedom in our country for all Americans; it was the Civil War and the amendments that followed it. That certainly was an important part of it. But absent the Brown v. The Board of Education decision, we would not be enjoying the freedoms we have for all Americans today.

But since the gentleman referenced the Civil War, I want to call to our colleagues' attention a quote that is familiar to all of them. It is from Lincoln's second inaugural address: ''With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive to finish the work we are in, to bind up our Nation's wounds.'' President Lincoln called upon God.

Another of my favorite inaugural addresses is that of President Kennedy and his inaugural address. He said: ''With good conscience our only reward, with history the final judge of our deeds, let us go forth to lead the land we love, asking His blessing and His help and knowing that here on Earth God's work must truly be our own.''

So evoking God's will and calling upon Him to guide us in our work is something that is very important to all Members of Congress on both sides of the aisle. I resent the comments made by some that there is anything less than that commitment on both sides of the aisle.

This bill not only does not protect the Pledge; it violates the spirit of the Pledge by professing a lack of faith in the constitutional framework. It has been a settled principle since Chief Justice John Marshall's opinion in 1803 in Marbury v. Madison that ''it is emphatically the province and the duty of the judicial department to say what the law is.'' The Federalist Papers, subsequent decisions of the Court, and the judicial branch's role as a co-equal branch all strongly suggest that Congress cannot prohibit courts from determining constitutional questions.

There is no question that this bill does not pass constitutional muster. But that does not deter the bill's proponents. The gentleman from Indiana, the author of the last court-stripping bill and a key advocate for this bill, has even outdone his statement 2 months ago that 200 years of precedent in Marbury v. Madison establishing judicial review was ''wrongly decided.'' The gentleman from Indiana (Mr. HOSTETTLER) amazingly asserted in the markup of the bill last week that ''the notion of an independent judiciary is a flawed notion . . . the notion of an independent judiciary does not bear out actually in the Constitution.''

The notion of an independent judiciary is not contained in our Constitution? This is a principle that we as a power of example of our country try to convey to emerging democracies that central to democracy is an independent judiciary. And advocates for this legislation say that that is not contained in our Constitution.

Is this what the leadership of this House and the chairman of the Committee on the Judiciary really believe? I suggest that they read James Madison and Alexander Hamilton's writings in the Federalist Papers. This radical concept is completely counter to our history and our values.

Two months ago, some assured us that the court-stripping efforts would stop once they got their wanted Defense of Marriage Act. But as the gentleman from Michigan (Mr. DINGELL), distinguished dean of the House, so eloquently warned us in July, ''We should expect to see this dangerous approach repeated on a wide range of other legislation.''

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Today his prediction has come true, and there is no pretense that this will end. What is next? Voting rights? Laws that prohibit racial discrimination? Civil liberties? Our rights to privacy?

As we consider this bill, we must remember our history and protect our Constitution to ensure our liberty. We must protect the ability of the Federal judiciary to safeguard our freedoms and ensure access to the courts by all.

This bill is an assault on our cherished Constitution and the independent judiciary for its part for partisan purposes, and it is an attempt to distract the American people from the Republicans' record of failure.

Mr. Chairman, let us honor the pledge by keeping faith with its spirit. Let us pledge to be one Nation under God, indivisible, with liberty and justice for all.

This bill has been brought to the floor to embarrass some Members, so I respect whatever decisions they have to make in light of the motivation behind it. I just want the record to show why I so strongly oppose this legislation.

Mr. NADLER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, 1,800 years ago, Christians were persecuted because they would not worship the Roman emperor as a god; 450 years ago St. Thomas Moore lost his head because he would not swear an oath that king and parliament commanded that violated his Catholic belief.

But the United States is different. Our Constitution prohibits test oaths. Our Constitution protects the rights of Jehovah's Witnesses' children to refuse to recite a pledge that we hold dear but that violates the tenets of their faith.

Or at least the United States was different. This bill would leave to the States, as the gentleman from Wisconsin (Mr. SENSENBRENNER) says, the decision whether that religious liberty would be protected or not.

The issue, Mr. Chairman, in this bill is not the Pledge of Allegiance. The issue in this bill is whether we strip the courts of the power to protect our liberties against perhaps transient majorities and legislative bodies. The issue is whether we eliminate the only final protection of our liberties, of our religious and other liberties, that we have evolved. If we pass this bill and go in this direction, the United States will be a very different and a much, much less free country.

I urge the defeat of this bill.

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

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

The CHAIRMAN pro tempore (Mr. LATHAM). The gentleman is recognized for 3 minutes.

Mr. SENSENBRENNER. Mr. Chairman, on September 17, 1937, President Franklin D. Roosevelt gave a Constitution day address, and in that speech President Roosevelt said in part, ''Lay rank and file can take cheer from the historic fact that every effort to construe the Constitution as a lawyer's contract rather than a layman's charter has ultimately failed. Whenever legalistic interpretation has clashed with contemporary sense on great questions of broad national policy, ultimately the people and the Congress have had their way.''

This was a statement that was made by what is conceded on both sides of the aisle as the greatest Democratic President in the history of this country.

In the last Congress, both the House and the Senate passed and the President signed public law 107–206. Section 706(j) of that law says, ''Any action authorized by this section shall not be subject to judicial review by any court of the United States.''

Now, where were all of the Members who are complaining about this bill when that legislation came up, because it took away the right of the Federal courts to review legal issues relating to trees in South Dakota. If Congress can deny all the Federal courts the authority to hear a class of cases to protect trees, it certainly can do so to protect the States' policy regarding the Pledge of Allegiance. That is why this bill ought to be passed.

Mr. ALLEN. Mr. Chairman, I rise in strong opposition to H.R. 2028, the so-called Pledge Protection Act.

I believe that the phrase ''under God'' should remain as part of the Pledge of Allegiance, and I believe that the statute that fixed that phrase as part of the Pledge is constitutional. But I cannot support this misguided congressional power grab that would prevent the federal courts from interpreting a law passed by Congress, or deciding its constitutionality.

In the name of custom, our Republican colleagues disregard 200 years of legal and constitutional customs and precedent just to score political points in an election year.

Despite its name, this legislation does not protect the Pledge of Allegiance. It does, however, undermine the very foundation of our system of government.

We teach our children to respect the work of the Founders and the Constitution's system of checks and balances. Judicial review is a vital component of that system. Unfortunately, the so-called conservative Republican majority shows no respect today for the traditional role of our federal courts.

The bizarre effect of this bill would be to allow fifty different state courts to interpret the United States Constitution in fifty different ways. Never in our history has a state court had the final say on interpreting the U.S. Constitution. That is the role and duty of the federal judiciary by history, custom and law.

But for the Majority, there is no tradition, no custom, no practice, no matter how broadly accepted, that is immune from Republican assault.

The Framers, our original revolutionaries, were wiser and more tolerant. Reject this election year stunt.

Mr. BLUMENAUER. Mr. Chairman, this resolution represents the third time in as many years that the House has brought needless legislation to the floor to ''protect'' the Pledge of Allegiance. At a time when we should be discussing issues of great consequence, like the genocide occurring in Sudan, the implementation of the recommendations of the 9/11 Commission, and the use of our federal surface transportation dollars, the House leadership has again decided to bring up this stale topic. This time, however, the legislation is not simply frivolous; it is downright dangerous.

This bill, which will purportedly protect the Pledge of Allegiance, is the continuation of a reckless and destructive pattern to strip courts of their ability to determine the constitutionally of the Pledge of Allegiance. This is an outrageous assault on our fundamental constitutional framework. Personally, I do not think individual liberties are threatened by the words ''under God'' in the Pledge of Allegiance. Regardless, this remains a decision that should be made in federal courts—not here in Congress. The very notion of this legislation is unconstitutional. It should be fundamentally and decisively rejected today.

Mr. DINGELL. Mr. Chairman, I rise in strong opposition to H.R. 2028. Here we are again considering needless court-stripping legislation that would destroy our constitutional system of checks and balances. This time we wrap it in the flag and call it the Pledge Protection Act.

This is another extraordinary piece of arrogance on the part of the House of Representatives to pass legislation which would strip American citizens of their right to access the federal courthouse. Can you imagine anything more shameful than telling an American citizen you cannot go into court to have your concerns addressed regarding Constitutional rights, or to have those rights heard by the courts of your Nation?

I do not believe that we should strip the federal courts of jurisdiction when it comes to issues related to the Equal Protection Clause of the Constitution. It drastically interferes with the separation of powers between the three branches of our government.

While I will always defend the autonomy and the power of the legislative branch, the principle of judicial review that Chief Justice John Marshall set out in the 1803 decision Marbury v. Madison is law. This landmark case established that the Supreme Court has the right to pass on the constitutionality of an act of Congress. To whittle away one of the bedrock powers of the judicial branch is wrong for the Union and wrong for our citizenry.

Tinkering with the foundation of our judicial branch could come back to haunt us. You can be almost certain with the passage of this legislation that there are interests out there deciding what other rights can be stripped of American citizens because we disagree with them. Maybe a future Congress will want to strip court challenges to gun control legislation by gun owners or sportsmen.

Mr. Speaker, we live in one nation, under God, with liberty and justice for all. If we pass this bill, we begin to hollow out the true meaning of the pledge, the Constitution and what it means to live in this great nation.

I strongly oppose this legislation and urge my colleagues to do the same.

Mr. STARK. Mr. Chairman, I rise in opposition to H.R. 2028, the So-Called ''Pledge Protection Act.'' This potentially unconstitutional piece of legislation speaks volumes about the uncontrollable extremism of the Republican Party and its desperation to look ''conservative'' in the face of $400 billion deficits and nation-building in Iraq.

The fact that the Supreme Court already threw out the decision striking ''Under God'' from the Pledge of Allegiance makes this bill irrelevant with regard to the Pledge, and all the more frightening with regard to the true intentions of the Republicans. In the interest of politics, they would unravel our system of checks and balances and close the courthouse doors to religious minorities. They would set a new, disastrous precedent of letting 50 different state courts be the final arbiters of our laws. They prefer that state judges, rather than federal judges confirmed by the Senate, make Constitutional law.

If the right wing had been in control of the Republican Party in the 1960s, we wouldn't have desegregation or Miranda warnings, as there were court-stripping proposals on those subjects, too.

Mr. Speaker, everyone here realizes that if Congress could just pass whatever laws it wanted and throw in a line to keep them from being held unconstitutional, our Constitution and Separation of Powers would be rendered meaningless. So let's just admit what this is really about: rallying the base and attacking defenseless Americans.

Shame on any Member of this body who will trample on our Constitution just to score a few political points. If the Oath we all took to ''support and defend the Constitution of the United States'' means anything to you, you will vote ''no'' on this election-year ploy.

Mr. HOLT. Mr. Chairman, I rise in opposition to H.R. 2028, which would prevent federal courts and the Supreme Court from hearing any claim that the recitation of the Pledge of Allegiance violates the first amendment of the Constitution.

The Constitution—perhaps the greatest invention in history—has been the source of our freedom in this great country for more than two centuries. The framework of government it established has allowed our diverse people to live together, to balance our various interests, and to thrive. It has provided each citizen with broad, basic rights.

The judiciary was designed to be the one branch of the federal government that is not influenced or guided by political forces. This independent nature enables the judiciary to thoughtfully and objectively review laws enacted by the legislative branch to ensure that federal law is in line with the Constitution. Throughout the development of our nation, this check has been vital to protecting the rights of minorities.

Although the Constitution gives Congress the power to limit the jurisdiction of the federal judiciary and the appellate jurisdiction of the Supreme Court, I am certain that the founding fathers did not intend for Congress to use this power to shape the jurisdiction of the courts along ideological lines. This legislation will set a dangerous precedent by allowing Congress to insulate itself from judicial review so that it can pass legislation that it thinks may be unconstitutional. This is a clear misuse of Congressional authority and it is a cynical attempt to question the patriotism of Members of this institution.

Like every member of this body, I am proud to recite the Pledge of Allegiance as a way to express my loyalty to this Nation and its founding principles. I share the view of many Members that the current text of the Pledge of Allegiance is constitutional including the phrase ''under God''. I expressed my support for the Pledge in its current form when I joined many of my colleagues in voting for a resolution that expressed the opinion of Congress that the Ninth Circuit's decision in Newdow v. U.S. Congress was erroneous, This was an appropriate forum for me, as a Member of Congress, to express my belief in the constitutionality of the Pledge of Allegiance.

Unfortunately, those who support this legislation do seek to alter our delicate system of checks and balances and make their own decisions infallible. They are attempting to alter the intended framework of our government, which has met the needs of a diverse population and allowed us to remain indivisible in

times of crisis for more than 200 years. They ignore the fact that we are a political institution guided by public opinion that is constantly fluctuating and believe that this institution is better equipped than the judiciary to evaluate what laws violate the Constitution.

It is unclear to me where the supporters of this legislation will end in restricting an individual's ability to seek redress. In July, we passed legislation that denied individuals the ability to question the constitutionality of the Defense of Marriage Act. Today we are debating legislation that limits an individual's ability to bring a claim regarding the Pledge of Allegiance. What law will the Majority party choose next to put above the process of judicial review? At what point will the Majority party stop adding exceptions to the right to due process?

A vote against this bill signifies a desire to make the words of the Pledge of Allegiance a living reality and not a hollow promise. A vote for this legislation is a vote against the values that are embedded in our Constitution. I urge my colleagues to oppose this legislation.

Ms. LEE. Mr. Chairman, I rise in strong opposition to H.R. 2028, the Pledge Protection Act.

I am outraged that my colleagues on the other side of the aisle would give serious consideration to this legislation that infringes on the First Amendment, and blurs the Separation of Powers.

This bill is just another misguided election year ploy designed to score political points.

H.R. 2028 threatens a fundamental aspect of our constitutional structure and would set a dangerous precedent by stripping federal courts of judicial independence and pave the way to preventing federal judges from ruling on other controversial social issues.

It is unacceptable and unconstitutional to propose stripping powers from the judicial branch every time we disagree with a decision they make.

Regardless of race or creed, we should all have the right to access the federal courts to challenge a particular policy or piece of legislation. By denying this right, this bill is both bigoted and backwards.

By bringing this legislation to the Floor, the Republican Leadership has demonstrated again that they are more concerned with making political headlines than making headway on substantial legislation—like the VA–HUD appropriations bill or the National Affordable Housing Trust Fund.

My constituents who have serious needs—like housing, jobs, education, and affordable heath care. How can I explain the Republican's misplaced priorities?

And I must explain how the Leadership of this body decided to waste another legislative day on political legislation like this bill.

We need to get back to the people's business and deal with some of the real pressing issues that face our country.

I urge my colleagues to oppose this unnecessary legislation and vote against H.R. 2028.

Mr. SULLIVAN. Mr. Chairman, I rise in strong support of H.R. 2028, the Pledge Protection Act of 2004. H.R. 2028 is a commonsense piece of legislation that reserves to the state courts the authority to decide whether the Pledge of Allegiance is valid within each state's boundaries. It will place final authority over a state's pledge policy in the hands of the states themselves, where it belongs.

The role of Congress has always been clear on the limitation of jurisdiction of the federal judiciary. Integral to our American Constitutional system is each branch of government's responsibility to use its powers to prevent overreaching by the other branches. Passage of H.R. 2028, will send a strong signal to the federal judiciary that the will of the people will prevail against judicial activism on the Pledge of Allegiance.

In a Nation where the vast majority of Americans believe in a divine power, it is un-American to place our pledge in the hands of the Federal Judiciary. I believe that reciting the Pledge of Allegiance is not only a right, but also a responsibility. While no one is forced to recite it, neither should anyone be prohibited from pledging allegiance to our great country.

It is wrong for any court to impose its will on whether the overwhelming majority of Americans can publicly express a fundamental belief. The people have spoken through their elected representatives on both the federal and state levels on this issue.

I urge passage of this legislation to send a strong message of judicial restraint, and of empowerment of the people in their own government, to protect the Pledge of Allegiance for all Americans.

Mr. UDALL of Colorado. Mr. Chairman, this bill seeks to prevent any federal court—including the Supreme Court—from considering "any question pertaining to the interpretation of, or the validity under the Constitution of, the Pledge of Allegiance . . . or its recitation."

As we all know, introduction of the bill was prompted by the 2002 decision of the Court of Appeals for the Ninth Circuit in what is known as the "Newdon" case. That decision held that the 1954 legislation adding "under God" to the pledge and a California school district's policy of daily recitation of the pledge with those words were both unconstitutional. (That court later modified the decision to apply only to the school district's recitation policy.)

The school district and the United States both appealed to the Supreme Court—and on June 14th the Supreme Court reversed the decision, on the grounds that the plaintiff did not have legal standing to challenge the school district's policy.

But the Republican leadership of the House evidently is afraid that somebody else might bring a similar lawsuit—and that prospect that is so alarming to them that they have brought forward this bill, which would prevent any federal court from hearing a lawsuit like that.

I cannot support such legislation. It may or may not be constitutional—on that I defer to those with more legal expertise than I can claim. But I think it clearly is not just unnecessary but misguided and destructive.

I have no objection to the current wording of the Pledge of Allegiance. After the court of appeals announced its decision in the Newdon case I voted for a resolution—approved by the House by a vote of 416 to 3—affirming that "the Pledge of Allegiance and similar expressions are not unconstitutional expressions of religious belief" and calling for the case to be reheard.

But this bill is a different matter.

The bill may be called the "Pledge Protection Act," but that is not accurate. In reality, it not only fails to protect the pledge but also would undercut the very thing to which those who recite the pledge are expressing allegiance.

The bill fails to protect the pledge because even if it becomes law people who don't like the way the pledge is worded would still be able to bring lawsuits in state courts—and the Supreme Court could not review how state's courts ruled on those suits.

So, while Colorado's courts might uphold the current wording, the courts of other states might reach a different conclusion—meaning there would no longer be a single Pledge of Allegiance, but different pledges for different states, and the First Amendment's meaning would vary based on state lines.

And that would be directly contrary to the very idea of the United States as "one nation" that should remain "indivisible" and whose defining characteristics are devotion to "liberty and justice for all"—that is, to the very Republic (symbolized by the American flag) to which we pledge allegiance when we recite the pledge this bill pretends to "protect."

How ironic—and how pathetic. As national legislators, as Untied States Representatives, we can and should do better. We should reject this bill.

Mr. OSE. Mr. Chairman, I rise today to reluctantly voice my opposition to H.R. 2028, the Pledge Protection Act.

As a cosponsor of the original legislation, I am disheartened to see changes that have removed necessary civil rights protections. In the course of a Committee mark up, the original Pledge Protection Act was stripped and rewritten to exclude the Supreme Court from jurisdiction from hearing cases surrounding the Pledge of Allegiance.

I strongly believe that if a citizen of the United States has a grievance of a federal nature, that individual deserves his or her day in federal court. By removing the Supreme Court from jurisdiction to hear Pledge cases, the Pledge Protection Act effectively removed a citizen's day in federal court. As such, I can not support this legislation in its current form.

Mr. POMEROY. Mr. Chairman, I rise in opposition to H.R. 2028, the Pledge Protection Act.

I strongly believe that the Pledge of Allegiance, including the phrase, "under God" is a constitutional expression of patriotism. I recall reciting the Pledge of Allegiance in school as a child growing up in Valley City, North Dakota, and I believe that it plays an important role in unifying our country and celebrating our national identity.

Like my colleagues, I was outraged by past court decisions that erroneously declared the Pledge of Allegiance unconstitutional. That is why on March 20, 2003, I voted in favor of H. Res. 132, which urged the Supreme Court "to correct the constitutionally infirm and incorrect holding" by the 9th Circuit Court of Appeals in its revised decision on the Newdow v. U.S. Congress case. This resolution also expressed the sense of the House of Representatives that the recitation of the Pledge is a "patriotic" act rather than a religious one, that phrase "One Nation, under God" should remain in the Pledge and that the practice of voluntarily reciting the Pledge in public school classrooms should be encouraged by the policies of Congress. Furthermore, on July 22, 2003, I voted in favor of the amendment offered by Rep. HOSTETTLER to H.R. 2799, the Commerce, Justice and State and Related Agencies Appropriations bill, which barred the use of any of the funds appropriated by the bill to "enforce the judgment" in the Newdow v. U.S. Congress.

During the 107th Congress, I also voted in favor of H. Res. 459, which expressed the view of the House of Representatives that the 9th Circuit Court of Appeals' original decision in Newdow v. U.S. Congress to strike the words ''under God'' from the Pledge of Allegiance was incorrectly decided. Similarly, I strongly supported S. 2690, legislation that reaffirms the language of the Pledge of Allegiance, including the phrase ''one Nation under God.''

I am concerned that the passage of H.R. 2028 would deny the Supreme Court its historical role as the final authority on the constitutionality of federal laws and nullify the separation of powers set forth in the United States Constitution. Furthermore, H.R. 2028 sets a dangerous precedent for future Congresses. By adding language from H.R. 2028 to unconstitutional legislation, a future Congress could enact laws that are clearly contrary to key tenets of the Constitution while preventing the Supreme Court from ever considering their validity. Given these considerable problems with H.R. 2028, I intend on voting against this measure.

Mr. PAUL. Mr. Chairman, I am pleased to support, and cosponsor, the Pledge Protection Act (H.R. 2028), which restricts federal court jurisdiction over the question of whether the phrase ''under God'' should be included in the pledge of allegiance. Local schools should determine for themselves whether or not students should say ''under God'' in the pledge. The case finding it is a violation of the First Amendment to include the words ''under God'' in the pledge is yet another example of federal judges abusing their power by usurping state and local governments' authority over matters such as education. Congress has the constitutional authority to rein in the federal court's jurisdiction and the duty to preserve the states' republican forms of governments. Since government by the federal judiciary undermines the states' republican governments, Congress has a duty to rein in rogue federal judges. I am pleased to see Congress exercise its authority to protect the states from an out-of-control judiciary.

Many of my colleagues base their votes on issues regarding federalism on whether or not they agree with the particular state policy at issue. However, under the federalist system as protected by the Tenth Amendment to the United States Constitution, states have the authority to legislate in ways that most members of Congress, and even the majority of he citizens of other states, disapprove. Consistently upholding state autonomy does not mean approving of all actions taken by state governments; it simply means acknowledging that the constitutional limits on federal power require Congress to respect the wishes of the states even when the states act unwisely. I would remind my colleagues that an unwise state law, by definition, only affects the people of one state. Therefore, it does far less damage than a national law that affects all Americans.

While I will support this bill even if the language removing the United States Supreme Court's jurisdiction over cases regarding the pledge is eliminated, I am troubled that some of my colleagues question whether Congress has the authority to limit Supreme Court jurisdiction in this case. Both the clear language of the United States Constitution and a long line of legal precedents make it clear that Congress has the authority to limit the Supreme Court's jurisdiction. The Framers intended Congress to use the power to limit jurisdiction as a check on all federal judges, including Supreme Court judges, who, after all, have lifetime tenure and are thus unaccountable to the people.

Ironically, the author of the pledge of allegiance might disagree with our commitment to preserving the prerogatives of state and local governments. Francis Bellamy, the author of the pledge, was a self-described socialist who wished to replace the Founders' constitutional republic with a strong, centralized welfare state. Bellamy wrote the pledge as part of his efforts to ensure that children put their allegiance to the central government before their allegiance to their families, local communities, state governments, and even their creator! In fact, the atheist Bellamy did not include the words ''under God'' in his original version of the pledge. That phrase was added to the pledge in the 1950s.

Today, most Americans who support the pledge reject Bellamy's vision and view the pledge as a reaffirmation of their loyalty to the Framers' vision of a limited, federal republic that recognizes that rights come from the creator, not from the state. In order to help preserve the Framers' system of a limited federal government and checks and balances, I am pleased to support H.R. 2028, the Pledge Protection Act. I urge my colleague to do the same.

Mr. SHAYS. Mr. Chairman, I voted against H.R. 2028, the Pledge Protection Act.

The phrase ''under God'' belongs in our Pledge of Allegiance to the Flag of the United States of America and the words ''In God We Trust'' belong on our currency. The Ninth Circuit Court of Appeals made a serious error in Newdow v. U.S. Congress when they declared our Pledge unconstitutional.

When the phrase ''under God'' was added to the Pledge of Allegiance in 1954, I was in elementary school and remember feeling the phrase belonged there. It appropriately reflects the fact that a belief in God motivated the founding and development of our great Nation.

The Declaration of Independence states, ''We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights . . .'' Our forefathers understood it was not they, but He, who had bestowed upon all of us those most cherished rights to life, liberty and the pursuit of happiness upon which our model of government is based.

At Gettysburg, President Abraham Lincoln acknowledged we were a Nation under God and, during his Second Inaugural Address, he mentioned our Creator 13 times.

Those historic speeches, the Pledge of Allegiance, our currency and the Declaration of Independence are not prayers or parts of a religious service. They are a statement of our commitment as citizens to our great Nation and the role God plays in it.

Our founders envisioned a government that would allow, not discourage or punish, the free exercise of religion and we are living their dream.

I voted against the Pledge Protection Act because I have faith in our Constitution and do not believe we should preclude judges from hearing issues of social relevance, simply because we may disagree with their ultimate decisions.

The tactic of restricting courts' jurisdiction is spiraling out of control. In July, I voted against a bill that would block the courts from hearing Constitutional challenges to the Defense of Marriage Act and again today we considered legislation to tie the courts' hands. What's next?

While the courts may, from time to time, produce a ruling we question, the principle of judicial review is essential to maintaining the integrity of our system of checks and balances and I fear the path we appear to be on. We are a Nation under God, and in Him we trust.

Mr. WELDON of Florida. Mr. Chairman, I rise in strong support of the Pledge Protection Act because it upholds the rights of the overwhelming majority of American people who support the phrase ''under God'' in the Pledge of Allegiance.

H.R. 2028, of which I am a cosponsor, removes from the jurisdiction of the Federal courts questions regarding the constitutionality of the Pledge of Allegiance. It does so utilizing the powers of Congress clearly expressed in article III of the Constitution. Article III reserves for the Congress the power to regulate or completely eliminate the Supreme Court's appellate jurisdiction over a class of cases.

Chief Justice Rehnquist of the U.S. Supreme Court stated that the court has already erected ''a novel prudential principle in order to avoid reaching the merits of the constitutional claim'' that the phrase ''under God'' violates the Establishment Clause. It is clear from this precedent that the U.S. Supreme Court is most likely to rule the phrase ''under God'' unconstitutional should a case reach the high court.

Liberal activist judges are consistently working to remove the mention of ''God'' from the public realm. As a Nation that affirms in its own Declaration of Independence that God is the source of our rights, it is absolutely appropriate for Congress to act on this important issue.

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

The CHAIRMAN pro tempore. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2028

*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 ''Pledge Protection Act of 2004''.*

***SEC. 2. LIMITATION ON JURISDICTION.***

*(a) IN GENERAL.—Chapter 99 of title 28, United States Code, is amended by adding at the end the following:*

***''§ 1632. Limitation on jurisdiction***

*''No court created by Act of Congress shall have any jurisdiction, and the Supreme Court shall have no appellate jurisdiction, to hear or decide any question pertaining to the interpretation of, or the validity under the Constitution of, the Pledge of Allegiance, as defined in section 4 of title 4, or its recitation.''.*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 99 of title 28, United States Code, is amended by adding at the end the following new item:*

*''1632. Limitation on jurisdiction.''.*

The CHAIRMAN pro tempore. No amendment to the committee amendment is in order except those printed in House Report 108–693.

Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 108–693.

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SENSENBRENNER:

In section 1632 of title 28, United States Code, as added by section 2(a) of the bill, insert the following after ''or its recitation.'': ''The limitation in this section shall not apply to the Superior Court of the District of Columbia or the District of Columbia Court of Appeals.''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 781, the gentleman from Wisconsin (Mr. SENSENBRENNER) and a Member opposed each will control 5 minutes.

Mr. NADLER. Mr. Chairman, I ask unanimous consent to control the time in opposition, though I do not oppose the amendment.

The CHAIRMAN pro tempore. Without objection, the gentleman from New York (Mr. NADLER) will be recognized for 5 minutes.

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

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

Mr. Chairman, this amendment is simple. Currently the bill prevents Federal courts, including courts created by an act of Congress, from striking down ''under God'' in the Pledge, while reserving to the State courts the authority to hear cases involving the Pledge.

The District of Columbia, however, due to its unique constitutional position, does not have State courts. Instead, its courts that are the equivalent of State courts are created by an act of Congress.

So, to preserve a judicial forum for District residents regarding challenges to the Pledge, this amendment simply adds the following section to the bill: ''The limitation in this section shall not apply to the Superior Court of the District of Columbia or the District of Columbia Court of Appeals.''

This sentence preserves the authority of the District's courts to hear cases involving the Pledge. I urge its adoption.

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

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

Mr. Chairman, on this side of the aisle we do not oppose the amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, I applaud the chairman of the committee for offering the manager's amendment that grants to the D.C. residents the same rights that apply to residents of the 50 States under this bill, that is, the right to have some recourse in a local, non-Federal court. However, the manager's amendment still does nothing to address the same problem with respect to U.S. citizens who are residents of the U.S. Virgin Islands, Northern Mariana Islands, and Guam.

This amendment just goes to show that the majority was so busy stripping the courts of jurisdiction that it inadvertently stripped jurisdiction from all the courts, just as they did last week in a tort reform bill allowing foreign corporations to escape all liability for injuries to American citizens because the bill, in some cases, provided no United States jurisdiction in which the case could be brought.

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

Mr. Chairman, the reason that this amendment does not include the local courts in Puerto Rico and the territories is that those courts are not created by Act of Congress, so residents of Puerto Rico and the territories will be able to file suits regarding the Pledge in the courts that have been created by their respective legislatures pursuant to the organic Act that Congress has previously passed.

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I would say to the chairman, I think I agree with him on Puerto Rico, but disagree with regard to the Virgin Islands and others. If we could agree that the legislative intent is to make sure there will be some recourse, we could have that fixed in conference.

Mr. SENSENBRENNER. Mr. Chairman, reclaiming my time, I agree with the comments made by the gentleman from Virginia (Mr. SCOTT).

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

Mr. NADLER. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, the amendment is fine, but it does not fix the problem with the bill. Marbury versus Madison, 1803, was when the great decision was made that the judicial branch would interpret the law. Since that time, we have had, like we all learned in 8th grade, the three branches of government, and it served us pretty darn well for the last 200 years. We have a free country that lives under law.

This bill actually would try to remove the judicial branch from its job of interpreting the law, and, most importantly, making sure that the laws that the Congress passes and the actions that the executive takes meet up with the standards in the Constitution of the United States.

Now, I have been listening to the debate of the proponents of this bill with some concern. Some of the things that have been said, I wonder, can they be that dumb, or are they being venal, or is it both? Absolutely we know there is a difference between passing a statute and having that statute interpreted to see whether the statute meets constitutional muster.

Clearly, Congress has the ability to do all kinds of things with the courts. We can set statutes of limitation, we can provide for direct appeal to the Supreme Court. What we cannot do is say that the Federal courts, that the Supreme Court, cannot review what we do to see whether it meets the requirements of the Federal Constitution. That is what we are trying to do today.

Now, if we succeed, if we pass this, we will either change fundamentally the free country that we enjoy, or else we will promote a constitutional crisis. Maybe we could get a Marbury-II.

But I think there is another reason for this bill today. I think we are here today for political purposes. We are here so that certain Members of this House who try and protect the Constitution will be subject to 30-second political ads. I think that is a misuse of our processes here. Either radicals have taken over the Congress, or venality has hit a new low, and we would trash our system of government for political purposes. I think either is a disgrace.

Mr. NADLER. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, first of all, I know the author of the bill came to the floor a few moments ago, the gentleman from Missouri, and said we are trying to confuse this issue with legality.

I am actually confused by a couple of things. One, those of us who want ''God'' in the Pledge of Allegiance, we won. You would think from this debate that this morning when we took the Pledge of Allegiance, we did not say ''God.'' You would think that that crazy court in California that came up with the wrong decision was not reversed. We won that case.

The second thing I am curious about, what is it about bills and issues that you do not strip review from that you like less than this? How come when you say that there should be no abortions for women in this country, that you do not strip the review of that? How come when you do your budget,

you do not strip your review of that? How come when you do all of the other bills around, do not you love them as much? Are they not equally as important to you?

I am shocked there is any legislation you bring to this floor that you do not strip the review of the courts, because, frankly, by your interpretation of the Constitution, the court has no role there.

The final question I have, and I hate to vex my opponents on the other side with talk of legality, but if not the courts are interpreting the Constitution of the United States, who is going to do it? What is your suggestion? Are we going to have like a reality show, where maybe we let 12 people on an island come up with the decision? And what if you do not have Federal courts doing it, you just have the State courts?

Maybe I guess then the 14th Amendment is a bit troublesome. I guess there are no uniform constitutional rights in this country, no uniform right to bear arms, no uniform right to speech and to practice religion.

If anyone can answer any of those three points, I will gladly vote for this bill.

Mr. CONYERS. Mr. Chairman, while I commend Chairman SENSENBRENNER for heeding the advice of Representative BOBBY SCOTT and offering an amendment that will allow DC residents to have their day in court, I am concerned that the amendment does not grant similar protections to residents of U.S. territories.

This is because the local courts in the U.S. Virgin Islands (codified at 48 U.S.C. §1611, population 110,000 residents); the Northern Mariana Islands (codified at 48 U.S.C. §1821, population 78.000); and Guam (codified at 48 U.S.C. §1424, population 160,000); were all created by acts of Congress, not the local legislatures.

Since this bill provides that "[n]o court created by an Act of Congress" shall have any jurisdiction to hear cases concerning the constitutionality of the Pledge of Allegiance, the net result is that under H.R. 2028, no judicial review would be available for Pledge of Allegiance cases for the nearly 350,000 combined residents of these territories.

As the majority's own witness, Martin Redish, concluded at the Committee's hearing on court stripping legislation:

> . . . as long as the state courts remain available and adequate forums to adjudicate federal law and protect federal rights, it is difficult to see how the Due Process Clause would restrict congressional power to exclude federal judicial authority to adjudicate a category of cases, even one that is substantively based.

Unfortunately, under the Chairman's amendment, such a local court review would not be possible in Guam, the Virgin Islands, and the Northern Mariana Islands. As a result, the bill would continue to be unconstitutional with regard to these territories.

The CHAIRMAN pro tempore.

The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

□ 1300

The CHAIRMAN pro tempore (Mr. LATHAM). It is now in order to consider amendment No. 2 printed in House Report 108–693.

AMENDMENT NO. 2 OFFERED BY MR. WATT

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. WATT:

In section 1632 of title 28, United States Code, as added by section 2(a) of the bill, strike '', and the Supreme Court shall have no appellate jurisdiction,''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 781, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, my amendment would restore the bill to its original form. The original bill that was introduced, H.R. 2028, actually stripped only the lower courts, not the Supreme Court, of jurisdiction to hear these cases. My colleague, the gentlewoman from Illinois (Mrs. BIGGERT), who was an original supporter and sponsor of the original bill, both of us submitted amendments to the Committee on Rules asking the Committee on Rules to restore the bill to its original intention, and the Committee on Rules decided it would make my amendment in order, I guess so that it would not send a signal to the Republicans that this is a bipartisan amendment.

So I want to offer this amendment to restore the jurisdiction of the United States Supreme Court to determine constitutionality.

Mr. AKIN. Mr. Chairman, I claim the time in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, the reason why we should vote against this amendment is fairly basic and pretty simple mathematics, and that is, in the last decision, when the Newdow case was thrown out on standing, that decision made it clear that there are only three chief justices who support the Pledge of Allegiance, and three is not enough to keep ''under God'' in the pledge.

Now, what this amendment is going to do is it is going to allow the Supreme Court to hear additional or any future challenges to the Pledge of Allegiance. And when the current court hears that challenge, we are struck with that simple mathematics, that there are only three votes on the Supreme Court that would keep ''under God'' in the Pledge.

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

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in support of the Watt amendment which would restore the Supreme Court's jurisdiction over questions relating to the Pledge of Allegiance, changing the bill back to the way it read when I and 224 other Members cosponsored it.

Congress clearly has the authority under article III of the Constitution to define the jurisdiction of the Federal district and appellate courts, and the original H.R. 2028 was perfectly supportable on this point. But this new bill strips the Supreme Court jurisdiction, and I cannot support that.

Mr. Chairman, in our more than 200-year history as a Nation, there is no direct court precedent in which the Supreme Court is cut off entirely from review of a constitutional issue. Congress wisely has chosen not to test its power to deny Supreme Court review of laws Congress has passed; that is until H.R. 3313 and this amended version of H.R. 2028.

I know that the gentleman from Wisconsin (Chairman SENSENBRENNER) cited Ex Parte McCardle as authority under article III to make exceptions to the appellate jurisdiction of the Supreme Court. But in McCardle, the court recognized that other avenues and at least some level of review were available on a constitutional challenge.

I would caution my colleagues to think twice before tampering with authorities clearly granted in the Constitution. The issue today may be the Pledge, but what if the issue tomorrow is second amendment rights, civil rights, environmental protection or a host of other issues that Members may hold dear. I would ask my colleagues, do we really need 50 different versions of the Pledge of Allegiance? I certainly do not think so.

I believe that ''under God'' are two of the most important words in the Pledge. I also believe that the Supreme Court should be the final arbiter of all Federal questions. That is why I urge my colleagues to support the Watt amendment to the Pledge Protection Act.

Mr. AKIN. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, exactly what we are talking about is limiting the appellate jurisdiction of the Supreme Court, and let me just read my colleagues a couple of things. According to constitutional experts, under article III of the Constitution, Congress clearly has the ability to limit the appellate jurisdiction of the Supreme Court to review certain cases. Now, this is satisfied by constitutional experts, and who are these constitutional experts? Well, justices of the Supreme Court.

In the decision Wiscart v. Dauchy, the Court ruled, ''If Congress has provided no rule to regulate our proceedings, we cannot exercise appellate

jurisdiction; and if the rule is provided, we cannot depart from it.''

Let me read another decision, Martin v. Hunters' Lessee. The Court ruled, ''Congress is able to regulate and restrain appellate jurisdiction of the U.S. Supreme Court as public necessity requires.''

And one last decision, United States v. Bitty. The Court ruled, ''Congress holds the wisdom and authority to establish exceptions and regulations concerning the court's appellate jurisdiction.''

What we are doing here, I say to my colleagues, is letting our State courts take a look at this and not Federal activist judges.

Let us leave these decisions up to our State courts and not our Federal court system. Let us not gut the Sensenbrenner amendment, and I urge Members to vote no against the Watt amendment.

Mr. WATT. Mr. Chairman, I yield 1½ minutes to the gentleman from New Hampshire (Mr. BASS).

Mr. BASS. Mr. Chairman, I thank the gentleman for yielding me this time. I thank my colleague, the gentlewoman from Illinois, for joining him in offering what I consider to be a bipartisan amendment.

I would only point out that Newdow on its face was based on a procedural issue of standing, and the math might be quite different if the decision was based upon substance rather than standing.

I rise in support of this amendment offered by my friend, the gentleman from North Carolina (Mr. WATT). I sponsored H.R. 2028, along with 225 or so other Members of Congress, because I believe that we should have ''under God'' in the Pledge of Allegiance, and I voted on three other occasions in the same fashion.

There are two other issues involved here. The first is whether or not we want to make sure that we have ''under God'' in the Pledge of Allegiance, and the second issue is, do we want to take on a fundamental issue that has been debated in this country for over 200 years? And that is whether or not the Supreme Court has standing in appellate jurisdiction for issues that may be unconstitutional.

I come down on the side of the precedent that we have had in this country for the last 200 years. I support the Watt amendment because I support passage of the bill and the signing of the bill by the President of the United States. I want ''under God'' in the Pledge of Allegiance. I want to make policy. As a colleague of mine on the Republican side said yesterday, let us make policy, not make statements.

Vote for the Watt amendment and pass the bill.

Mr. AKIN. Mr. Chairman, I yield 4 minutes to my distinguished colleague, the gentleman from Indiana (Mr. HOSTETTLER).

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

Mr. HOSTETTLER. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in opposition to the gentleman's amendment from North Carolina and in support of the base bill that is being considered.

As I listen to the debate on this bill, I cannot help but remember the note written in the margin of the pastor's sermon where he reminds himself during a particularly questionable part of theology where he says, ''pound pulpit hard here; argument weak.'' And that is what we see here from the other side, a very weak argument, because the suggestion that is being made by several of the folks on the other side is something we are trying to do is unconstitutional.

In the markup of this bill in the Committee on the Judiciary, I was intrigued by the attempt by the other side to continue to ask Americans to leave the Constitution alone. A colleague of mine on the other side of the aisle repeatedly said, leave the Constitution alone. What he meant by that was, stop reading the Constitution. Because if you read the Constitution, you will find that in article III section 2 of the Constitution, you find the basis for the legislation, the policy that the gentleman from Missouri seeks to put into law.

In article III section 2, after referring to all of the types of cases that shall come under the jurisdiction of the Federal judiciary, it says, ''In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all of the other cases before mentioned,'' all the other cases before mentioned, ''the Supreme Court shall have appellate jurisdiction both as to law, in fact, with such expects and under such regulations as the Congress shall make.''

The notion of an independent judiciary, and it has been quoted by several folks here, my statement in the markup, the notion of an independent judiciary fails the Constitution test. The simple fact is, the framers of the Constitution did not want an unelected, unaccountable, life-tenured body, namely, the judiciary, to be able to, by writ large, enact policy across the country when the people themselves would not have an obligation or an ability to reverse it. But they gave that authority in the Constitution to the people's representatives in the Congress.

The gentlewoman from California, the minority leader, requested that Members of the House of Representatives read the Federalist Papers, and especially Hamilton, to understand the importance of the Congress' role vis-a-vis the judiciary. And as she said that I was inspired to do just that thing, and I pulled out from Alexander Hamilton, Federalist No.78, ''Whoever attentively considers the different departments of power must perceive that in a government in which they are separated from each other, the judiciary is beyond comparison the weakest of the three departments of power. It has no influence over either the sword or the purse, no direction either of the strength or of the wealth of the society and can take no active resolution whatever. It may truly be said to have neither force nor will but merely judgment and must ultimately depend upon the aid of the executive arm, even for the efficacy of its judgments. That is, from the natural feebleness of the judiciary, it is in continual jeopardy of being overpowered, awed or influenced by its coordinate branches.''

Now, does that sound like an independent judiciary? I am not sure how radical, I have heard the word ''radical'' today, radical Alexander Hamilton was. But we do know that what Hamilton, Madison, Jefferson, Washington, all of the founders, all of the framers of the Constitution wanted was to have these very important decisions, fundamental decisions about inculcating in our children the values of our families as being Americans, that they gave this opportunity, this ability to the people through their elected representatives.

Mr. WATT. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Chairman, the author of the base bill, the gentleman from Missouri, is a friend of mine, but apparently there is a second Congressman AKIN around here somewhere. Perhaps he was the one who wrote the bill.

The original version of the bill says, with respect to the jurisdiction of Federal courts inferior to the Supreme Court, and says that the Supreme Court shall be able to hear these cases. That was what the author of the bill said.

Now, the reason the author originally included that language, although he is now opposed to having it reinserted, the reason he put it in is because we do need someone to be the final arbiter of the interpretation of free speech, freedom of religion cases, of all cases, among the different States.

Imagine if we had a United States of America envisioned by the gentleman from Indiana, where every State court was free to kind of come up with their own interpretation of the Constitution of the United States. What incentive would there be on the parts of folks in Missouri, for example, or the folks in New York to have consistent constitutional values in this country?

Now, I have heard again and again, let us refer to the Constitution of the United States. I will freely confess one thing. Nowhere is judicial review in the Constitution. It was the creation of a great man that all of us went on record paying tribute to just last month. When John Marshall came up with this concept, it has been sacrosanct throughout jurisprudence since then.

But I ask my colleagues again and again, if not judicial review, then

what? Who is it that guarantees me as a member of the minority, someone who is one person who believes he has a right to stand up for gun rights, let us say, who guarantees my constitutional right to speak if not the court?

□ 1315

This is the body where the majority has its say. We do it every day. The courts are where the minority, even the tiniest of minorities, go to have their day in court. For those of you who are concerned about the Pledge of Allegiance, we won that case. We won.

We lost the case, by the way on my side, when the Supreme Court overturned precedent and appointed a President. But if we were Republicans what would we do? Strip the Supreme Court from any right to decide and let all 50 States decide who the President is?

I would conclude with a question. That is, do you believe that reproductive rights legislation should be protected from judicial review? If so, include it in your bill. Do you believe that tax should be subject to judicial review? If so, then strip the courts in those cases.

I would say to the gentleman from Indiana (Mr. HOSTETTLER) since he is on his feet, does he believe that a woman's right to choose, or your position, restricting abortion, is important of principle, that we in this Congress should strip judicial review? Yes or no.

The CHAIRMAN pro tempore (Mr. LATHAM). The gentleman's time has expired.

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

Mr. WATT. Mr. Chairman, who has the right to close?

The CHAIRMAN pro tempore. The gentleman from North Carolina (Mr. WATT).

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

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

Mr. Chairman, it is interesting. I have heard a number of people here professing that they think the words ''under God'' in the Pledge are a good thing to have. I have even heard that developed even further in references to Jefferson and to the second inaugural address of Lincoln which made references to God. And there seems to be a pretty good consensus that we want to leave the Pledge as it is.

But the interesting thing is that this amendment would clearly not leave the Pledge as it is. But I guess my question is, and we are getting to a very fundamental kind of question about what our job is as legislators here, and the question is, is it our responsibility to be a co-equal branch of government. If we really believe in the words ''under God'' in the Pledge, do we assert ourselves or do we roll over if the court decides they want to take something out that has been there for 50 years.

I guess it goes down to the very first day when we come down here to serve in this body and we put our hands up and we take an oath that says that we will uphold the Constitution. And that means that we are one of three coequal branches of government. And yet today, what I hear people saying is with their lips, I like the words ''under God,'' but I will not lift a finger, in fact, I will vote for an amendment to make sure that under God gets stripped out the next time this thing takes a trip to the Supreme Court.

I guess my question is, how bad does it have to get before we assert our authority? I mean, how far does some activist judge have to go? You just use your imagination, is not there some point when we say enough already? The fact is historically, the fact that we have a right to recognize that is long recognized. There was a number of references to Marbury versus Madison, of course that was coming out of Marshall's court. It is just interesting to note that Chief Justice Marshall recognized our constitutional right to limit the appellate jurisdiction of the Supreme Court in Druso versus the U.S.

So this is clear-cut. It is something that has always been, but we do not want to somehow do our job. We do not want to exercise the authority the Constitution gives us.

There are repeated cases, others that have not been mentioned, Barry versus Merson. This is one that says the Supreme Court ruled that its appellate power was limited because Congress had neither expressly nor implicitly given the appellate jurisdiction in a class of cases involving the writ of habeas corpus in child custody. Then we have the other one, Wiskert versus Douchey where it says, if Congress has provided no rule to regulate our proceedings, we cannot exercise appellate jurisdiction, and if the rule is provided we cannot depart from it.

I had a couple of things I wanted to say in closing. That is, there is a certain point where the courts go too far. We know where the votes are on the Supreme Court. In the last decision when Newdow was struck down, it is clear, the fact remains that there are only three votes that are going to uphold ''under God'' in the Pledge of Allegiance. If you support ''under God'' in the Pledge of Allegiance, you will have to vote this amendment down because what this amendment does is it opens a hole that the Supreme Court can take this case out of State courts.

The CHAIRMAN pro tempore. The gentleman's time has expired.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, I am a strong supporter of the Pledge of Allegiance. I believe ''under God'' should be in the Pledge of Allegiance. But what I cannot support today is legislation that basically tells the third branch of our government, go home, no thanks, we do not need you any more.

Judicial review has been a part of our democracy in this constitutional government for over 200 years. And now with the fancy language embodied in this legislation and other pieces of legislation that have been pending, they are trying to disrupt that delicate balance of power, the checks and balances that exist that allows the Federal courts from time to time to take a look at the work that we are doing in this Congress to see whether or not we are complying with the highest law of the land, the United States Constitution. That is what judicial review is all about.

What is so ironic about today's debate is that the courts have already weighed in and said that the Pledge is okay, ''under God'' is okay. So what are we doing here when we have anemic economic job growth in the country, rising health care costs and tuition that is placing college out of the reach of students. We can do better by the American people.

Mr. WATT. Mr. Chairman, how much time remains?

The CHAIRMAN pro tempore. The gentleman from North Carolina (Mr. WATT) has 2 minutes remaining. The gentleman from Missouri's time has expired.

Mr. WATT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, when I was in law school, one of the first things I learned is that if you win a debate, you sit down and quit arguing about it.

The other side has asked us several times, well, how far does the Supreme Court have to go, how far does the court have to go before we step in?

You have won the lawsuit. Newdow has been reversed.

Get a grip. You have won and you are here asking me, how far the Supreme Court has got to go?

Imagine this, no Supreme Court, no jurisdiction in the Supreme Court, and the State of South Carolina or New York strips out ''under God.'' Who would have decided the case? Who would have decided the case? Nobody would have been there to reverse Newdow. Fifty different States, 50 different rules under your bill.

What happened to the word ''indivisible'' under God? Indivisible. Does indivisible not count anymore? Fifty different rules, is that indivisibility?

What have we got to do? You won the case.

This bill is not about the Pledge of Allegiance. This is an assault on the judiciary and on the right of the American people to a uniform interpretation of what the law is. It is not the Pledge that is in need of protection. It is our constitutionally established system of government. As long as you are in control in asserting it, every time you get a result that you do not like you will be back here.

Mr. CONYERS. Mr. Chairman, I rise in support of this amendment, which would preserve Supreme Court review of appeals related to the constitutionality of the Pledge of Allegiance.

As presently drafted the legislation precludes any federal judicial review, either by a

lower federal court or the Supreme Court, of any constitutional challenge to the Pledge of Allegiance.

Aside from the obvious constitutional flaws inherent in the bill, the idea of Congress unilaterally cutting off constitutional review by the Supreme Court constitutes both a poor and dangerous legal precedent. As presently drafted, the legislation not only degrades the independence of the federal judiciary and the Supreme Court, but eliminates any possibility of developing a single uniform policy with regard to the recitation of the Pledge from the 50 state supreme courts.

Since H.R. 2028 strips the Supreme Court of the ability to review state court decisions, including those involving federal questions, a lack of uniformity in the law is an imminent threat. One's federal rights would depend on the vagaries of location. Ultimately, coercing children to recite the Pledge may be permitted in one state and not in another. This is why it is so important that we pass the Watt amendment.

The complete, unprecedented, and unnecessary stripping of Supreme Court jurisdiction inherent in the current bill would be totally at odds with the policy of checks and balances envisioned by the Nation's founders. As a matter of fact, the legislation would bring us far closer to the balkanized scenario envisioned by the Articles of Confederation, than the unified nation brought forth by the Constitution.

It is ironic that in the very same year that Congress celebrated Justice John Marshall by authorizing a commemorative coin in his honor, the Judiciary Committee would disparage him by passing legislation such as the bill that is totally inconsistent with Marshall's seminal legal opinion, Marbury v. Madison.

We should not use the issue of the constitutionality of the Pledge of Allegiance to permanently damage our courts, our constitution, and Congress. At a time when it is more important that ever that our nation stand out as a beacon of freedom, I cannot support a bill which undermines the very protector of those freedoms—our independent federal judiciary.

I urge my colleagues to vote "yes" on this important amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

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

Mr. WATT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from North Carolina (Mr. WATT) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 3 printed in House Report 108–693.

AMENDMENT NO. 3 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. JACKSON-LEE of Texas:

In section 1632 of title 28, United States Code, as added by section 2(a) of the bill, insert after ''recitation'' the following: '', except in a case in which the claim involved alleges coerced or mandatory recitation of the Pledge of Allegiance, including coercion in violation of the protection of the free exercise of religion, such as that held to be in violation of the First Amendment in West Virginia State Board of Education v. Barnett, 319 U.S. 624, 638 (1943) and Circle School v. Pappert (No. 03-3285; 3rd Circuit, August 19, 2004)''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 781, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is very simple, it leaves the door open to acknowledge a very sacred and well-believed amendment of the Constitution. My amendment seeks to protect that amendment and that is the first amendment, that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Now, many of us have risen to this floor and wanted to make sure that all who heard us knew that we stood with the Pledge of Allegiance as it is now written. And we have recited it all of our lives and accepted the language ''under God.''

That acceptance by me as an individual or my colleagues does not, in any way, give comfort to those who because of their religious faith have chosen to express.

Let me tell of a girl called Hazel who sat along side of me in my elementary school classroom. As we rose every morning to pledge allegiance to the United States of America, little Hazel sat in her seat. She was not a terrorist. She was not a radical from the left. She was not one trying to overthrow the United States of America. She was practicing her faith as her mommy and her daddy asked her to do.

It was a lonely place. Most of us looked at Hazel long and hard every day. But we were grateful that there was a teacher and a Constitution that respected Hazel's right to freedom of religion.

This law as it is presently written now says to the American people, you cannot practice your faith and you can not seek the cases by going into the courthouse, the appellate courts and the Supreme Court of the United States of America.

It is well known that the courts are given to us on the basis of judicial review. It is also well-known that many times this body has risen because they have decided that there is some kind of frivolous idea or something that we disagree with, and there have been thoughts about limiting the courts. Many times legislators have sometimes been tempted to yank controversial matters from the court's jurisdiction, as The Washington Post has indicated this morning, but cooler heads have prevailed.

We would hope that cooler heads will prevail now. Whether the Pledge violates the first amendment separation from church and State is a legal question. Congress has no business obstructing the courts from answering it. Is it not a shame that under Marbury versus Madison, we now want to egregiously rip away the rights of petitioners in the United States to go into the court.

Is it not an outrage that we would stand here as those listening to the Interim Prime Minister of Iraq this morning who cried out for justice and democracy and free courts and today, moments after he spoke, we are now stripping away the courts of the United States.

Let me just say one other thing, Mr. Chairman. Let me correct one who decides to offer my history to this body. For I live in my skin and I cannot change it. And I came to this Nation as a slave. And it may have been those who fought in the Civil War that opened the doors, but let me tell you that Jim Crow rose his ugly legal head, and for 50 years or more into the 20th century, Jim Crow's ugly laws kept me as a second class citizen. I could not vote. I could not go into accommodations. I could not go to schools that closed their doors.

Racism was here in this country and it was not until Brown versus Topeka Board of Education that the Supreme Court allowed me the opportunity to be free in this Nation.

I dare anyone to challenge that history. Slavery may have ended in its name, but it did not end in its practice. And it was the courts of the United States, the Federal courts that gave me this freedom.

Mr. Chairman, I rise to offer an amendment to the bill before us today, H.R. 2028, the Pledge Protection Act of 2003. The operative language of H.R. 2028 is contained in a single provision in section 2(a):

[n]o court created by an Act of Congress shall have any jurisdiction, and the Supreme Court shall have no appellate jurisdiction, to hear or decide any question pertaining to the interpretation of, or the validity under the Constitution of, the Pledge of Allegiance, as defined in section 4 of title 4, or its recitation.

The bill precludes any Federal judicial review of any constitutional challenge to recitation of the Pledge of Allegiance—whether it be in the lower Federal courts or in the highest court in the land, the U.S. Supreme Court. Effectively, if passed, this extremely vague legislation will relegate all claimants to State courts to review an challenges to the pledge. This possibility will lead to different constitutional constructions in each of the 50 States.

The Jackson-Lee amendment provides for an exception to the bill's preclusion for that involves allegations of coerced or mandatory recitation of the Pledge of Allegiance, including coercion in violation of the first amendment.

Closing the doors of the Federal courthouse doors to claimants will actually amount to a coercion of individuals to recite the pledge and its ''under God'' reference in violation of West Virginia State Board of Education v. Barnette.

In Barnette, the Supreme Court struck down a West Virginia law that mandated schoolchildren to recite the Pledge of Allegiance. Under the West Virginia law, religious minorities faced expulsion from school and could be subject to prosecution and fined, if convicted of violating the statute's provisions. In striking down that statute, Justice Jackson wrote for the Court:

> To believe in patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds . . . If there is any fixed star in our constitutional constellation, it is that no official, high, or petty can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.

This legislation would strip the parents of those children of the right to go to court and defend their children's religious liberty. If this legislation is passed schools could expel children for acting according to the dictates of their faith and Congress will have slammed the courthouse door shut in their faces. When I was a child, I always wondered why when the rest of the class recited the Pledge of Allegiance, she always sat quietly. Today, I understand that it was because she was of the 7th Day Adventist faith and therefore reciting the ''under God'' provision would force her to frustrate her religious faith. If H.R. 2028 were law back then, the school administrators could have forced her to say the pledge and she would have no recourse in the Federal courts.

The Jackson-Lee amendment protects religious minorities, Mr. Speaker.

Recently, a panel of the U.S. Court of Appeals for the Third Circuit held that a Pennsylvania law requiring recitation of the pledge, even when it provided a religious exception, violated the Constitution because it violated the free speech of the students.

In Circle School v. Pappert, the court found that:

> It may be useful to note our belief that most citizens of the United States willingly recite the Pledge of Allegiance and proudly sing the national anthem. But the rights embodied in the Constitution, particularly the first Amendment, protect the minority—those persons who march to their own drummers. It is they who need the protection afforded by the Constitution and it is the responsibility of federal judges to ensure that protection.

Again, under H.R. 2028, such a coercive speech case could never reach the Federal courts.

Article III of the U.S. Constitution vests ''the Judicial Power of the United States . . . in one supreme court.'' The laundry list of areas which the Federal courts have the power to hear and decide under section 2 of article III, establishes the doctrine of the ''separation of powers.'' For over 50 years, the Federal courts have played a central role in the interpretation and enforcement of civil rights laws. Bills such as H.R. 2028 and H.R. 3313, the Marriage Protection Act—bills to prevent the courts from exercising their article III functions only mask discrimination. We cannot allow bad legislation such as this to pass in the House. In the 1970s, some Members of Congress unsuccessfully sought to strip the courts of jurisdiction to hear desegregation efforts such as busing, which would have perpetuated racial inequality.

H.R. 2028, as drafted, insulates the Pledge of Allegiance as set forth in section 4 of title 4 of the United States Code from constitutional challenge in the Federal court.

However, the statute and the pledge are subject to change by future legislative bodies. This means that if some future Congress decides to insert some religiously offensive or discriminatory language in the pledge, the matter would be immune to constitutional challenge in the Federal courts. I also support the Watt amendment to restore Supreme Court Jurisdiction to this matter.

Mr. Speaker, I ask that my colleagues vote to protect the religious minorities—vote to protect judicial review—vote to protect separation of powers—vote to protect access to the Federal courts. I yield back.

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

□ 1330

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

Mr. Chairman, this amendment was defeated in committee, and it should be defeated here today because it guts the bill.

First, nothing in H.R. 2028 would allow State courts to deviate from Supreme Court precedent prohibiting the coerced recitation of the Pledge of Allegiance. Even when Federal courts are denied jurisdiction to hear certain classes of cases, and those classes of cases are thereby reserved to the State courts, the previously existing Supreme Court precedents still govern State court determinations. This is required by the Supremacy Clause of the Constitution; and in West Virginia Board of Education v. Barnette, the Supreme Court held it is unconstitutional to require individuals to salute the flag.

In that case, the Supreme Court held, ''If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.'' Under H.R. 2028 as written, that decision will preclude State courts from allowing coerced recitations of the Pledge.

State courts are not second-class courts, and they are equally capable of deciding Federal constitutional questions. The Supreme Court has clearly rejected claims that State courts are less competent to decide Federal constitutional issues than Federal courts. Even Justice William Brennan wrote in Northern Pipeline Construction Company v. Marathon Pipe Line Company that ''virtually all matters that might be heard in article III courts could also be left by Congress to State courts.'' Justice Brennan was joined in that decision by Justices Marshall, Blackmun, and Stevens.

Now what, then, could be the harm of adopting this amendment? Plenty. If we carve out an exception for cases in which coercion, for example, is involved, we will open the flood gates to expansive interpretations by the Federal courts that will gut the purpose of the bill. Carving out a coercion exemption will invite the Federal courts, including the very liberal Ninth Circuit Court of Appeals, to hold that excessive coercion exists to pressure a student to recite the Pledge simply when a majority of school children choose to recite it, but one or a few students do not want to. The inevitable claim will be that in the school environment, there is no such thing as free will whenever the majority of students are reciting the Pledge, because those that do not want to recite it will feel pressured to recite it simply because other students are reciting it. Yet again, the courts will strike a blow to the concept of free will and the concept of personal responsibility if we let them. The amendment should be defeated.

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, may I ask how much time is remaining.

The CHAIRMAN pro tempore (Mr. LATHAM). The gentlewoman from Texas (Ms. JACKSON-LEE) has 30 seconds remaining.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me first say that this amendment was made in order by the Committee on Rules, and I think that is extremely important for this body to know.

Mr. Chairman, I yield 25 seconds to the distinguished gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Chairman, I thank the gentlewoman for the time.

I guess what it comes down to is a person's view of where an individual who is in the minority on an issue, even an issue that is protected in the Constitution, where does that person go to have their rights protected? What if 435 of us believe one way about the Constitution, where does that one lone individual go?

If we do not allow them access to the court, and one highest court, to mediate disputes between the various States, we simply do not have the system that we have today, and that should be the lesson of this effort. Every school child in America who had forgotten what the courts were supposed to be should be reminded of that by this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I will just repeat myself. The issue is settled law. There cannot be a coerced or forced recitation of the Pledge. This bill does not

change that. The amendment allows the courts to determine what coercion shall be. That has far-reaching consequences. I think that the best vote to prevent unintended consequences from occurring is ''no'' on this amendment. I urge that it be defeated.

Mr. CONYERS. Mr. Chairman, the Jackson-Lee amendment is needed to make sure that the bill does not prevent religious minorities who are coerced into reciting the Pledge, in violation of their religious beliefs from having access to the Federal courts.

As presently drafted, the bill would prevent not only persons who believe that voluntary recitation of the Pledge is unconstitutional from seeking relief in Federal courts, but also those persons who assert that they are being forced into recitation of the Pledge in violation of their religious beliefs.

Cases of this nature are not infrequent. For example, in the landmark Supreme Court decision of West Virginia State Board of Education v. Barnett; the Supreme Court struck down a West Virginia law that mandated schoolchildren to recite the Pledge of Allegiance. Under the West Virginia law, religious minorities faced expulsion from school and could be subject to prosecution and fined, if convicted of violating the statute's provisions. In striking down that statute, Justice Jackson wrote for the Court:

If there is any fixed star in our constitutional constellation, it is that no official, high, or petty can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.

To argue that the State courts would still be bound by this precedent as the Chairman asserts, misses the point. Unless the State courts know the Supreme court can and will enforce its precedent, the State courts are free to ignore it. And there will be no further appeal.

Moreover, just this year, in striking down a Pennsylvania law mandating recitation of the Pledge as violating free speech the Third circuit in Circle School v. Pappert court found:

The rights embodied in the Constitution, particularly the First Amendment, protect the minority—those persons who march to their own drummers. It is they who need the protection afforded by the Constitution and it is the responsibility of federal judges to ensure that protection.

As presently drafted, the bill would strip the parents of those children of the right to go to court and defend their children's religious liberty. If this legislation is passed, schools could expel children for acting according to the dictates of their faith and Congress will have slammed the courthouse door shut in their faces. We need this amendment to make sure religious minorities continue to have access to the Federal courts in cases of religious coercion.

For these reasons I urge my colleagues to vote "yes" on this amendment.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was rejected.

AMENDMENT NO. 2 OFFERED BY MR. WATT

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from North Carolina (Mr. WATT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 217, not voting 14, as follows:

[Roll No. 466]

AYES—202

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bass
Becerra
Bell
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Bono
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Dreier
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foley
Ford
Fossella
Frank (MA)
Frost
Gephardt
Gilchrest
Gonzalez
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kolbe
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Pryce (OH)
Rangel
Reyes
Rodriguez
Rohrabacher
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Simpson
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—217

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carson (OK)
Carter
Chabot
Chandler
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Duncan
Dunn
Edwards
Ehlers
Emerson
Everett
Feeney
Ferguson
Flake
Forbes
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Granger
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—14

Bishop (GA)
Bonner
Cannon
Goss
Graves
Kleczka
Lucas (KY)
Miller (FL)
Nethercutt
Quinn
Smith (WA)
Tauzin
Thompson (MS)
Vitter

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

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

□ 1401

Mr. HOLDEN and Mr. GERLACH changed their vote from ''aye'' to ''no.''

Ms. DEGETTE and Mr. ROHRABACHER changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. THORNBERRY) having assumed the chair, Mr. LATHAM, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2028) to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies regarding the Pledge of Allegiance, pursuant to House Resolution 781, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

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

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

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

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage of H.R. 2028 will be followed by a 5-minute vote on the motion to suspend the rules and pass H.R. 1057.

The vote was taken by electronic device, and there were—yeas 247, nays 173, not voting 13, as follows:

[Roll No. 467]

YEAS—247

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carson (OK)
Carter
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Granger
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
LaHood
Lampson
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—173

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Clay
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gephardt
Gilchrest
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kolbe
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rangel
Reyes
Rodriguez
Rohrabacher
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOT VOTING—13

Bishop (GA)
Bonner
Cannon
Goss
Graves
Kleczka
Lucas (KY)
Miller (FL)
Quinn
Smith (WA)
Tauzin
Thompson (MS)
Vitter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1420

Messrs. REYES, BUTTERFIELD, CUMMINGS, ROHRABACHER, and GUTIERREZ changed their vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: ''A bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts over certain cases and controversies involving the Pledge of Allegiance.''.

A motion to reconsider was laid on the table.

## THE ADOPTION TAX RELIEF GUARANTEE ACT

The SPEAKER pro tempore (Mr. LATHAM). The unfinished business is the question of suspending the rules and passing the bill, H.R. 1057.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CAMP) that the House suspend the rules and pass the bill, H.R. 1057, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 0, not voting 19, as follows:

[Roll No. 468]

YEAS—414

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)

Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—19

Bishop (GA)
Bonner
Cannon
Deal (GA)
English
Gephardt
Goss
Graves
Kleczka
Lucas (KY)
Miller (FL)
Quinn
Rogers (MI)
Smith (WA)
Tauzin
Thompson (MS)
Tiahrt
Vitter
Weldon (PA)

□ 1432

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. TIAHRT. Mr. Speaker, on rollcall No. 468 I was inadvertently delayed. Had I been here I would have voted "yea."

## CONFERENCE REPORT ON H.R. 1308, WORKING FAMILIES TAX RELIEF ACT OF 2004

Mr. THOMAS submitted the following conference report and statement on the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes:

CONFERENCE REPORT (H. REPT. 108–696)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House to the amendments of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

***SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the "Working Families Tax Relief Act of 2004".*

*(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.*

*(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:*


*Sec. 1. Short title; amendment of 1986 Code; table of contents.*

*TITLE I—EXTENSION OF FAMILY TAX PROVISIONS*

*Sec. 101. Repeal of scheduled reductions in child tax credit, marriage penalty relief, and 10-percent rate bracket.*
*Sec. 102. Acceleration of increase in refundability of the child tax credit.*
*Sec. 103. 1-year extension of minimum tax relief to individuals.*
*Sec. 104. Earned income includes combat pay.*
*Sec. 105. Application of EGTRRA sunset to this title.*

*TITLE II—UNIFORM DEFINITION OF CHILD*

*Sec. 201. Uniform definition of child, etc.*
*Sec. 202. Modifications of definition of head of household.*
*Sec. 203. Modifications of dependent care credit.*
*Sec. 204. Modifications of child tax credit.*
*Sec. 205. Modifications of earned income credit.*
*Sec. 206. Modifications of deduction for personal exemption for dependents.*
*Sec. 207. Technical and conforming amendments.*
*Sec. 208. Effective date.*

*TITLE III—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS*

*Sec. 301. Research credit.*
*Sec. 302. Parity in the application of certain limits to mental health benefits.*
*Sec. 303. Work opportunity credit and welfare-to-work credit.*
*Sec. 304. Qualified zone academy bonds.*
*Sec. 305. Cover over of tax on distilled spirits.*
*Sec. 306. Deduction for corporate donations of scientific property and computer technology.*
*Sec. 307. Deduction for certain expenses of school teachers.*
*Sec. 308. Expensing of environmental remediation costs.*
*Sec. 309. Certain New York Liberty Zone benefits.*
*Sec. 310. Tax incentives for investment in the District of Columbia.*
*Sec. 311. Disclosure of tax information to facilitate combined employment tax reporting.*
*Sec. 312. Allowance of nonrefundable personal credits against regular and minimum tax liability.*
*Sec. 313. Credit for electricity produced from certain renewable resources.*
*Sec. 314. Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.*
*Sec. 315. Indian employment tax credit.*
*Sec. 316. Accelerated depreciation for business property on Indian reservation.*
*Sec. 317. Disclosure of return information relating to student loans.*
*Sec. 318. Elimination of phaseout of credit for qualified electric vehicles for 2004 and 2005.*
*Sec. 319. Elimination of phaseout for deduction for clean-fuel vehicle property for 2004 and 2005.*
*Sec. 320. Disclosures relating to terrorist activities.*
*Sec. 321. Joint review of strategic plans and budget for the Internal Revenue Service.*
*Sec. 322. Availability of medical savings accounts.*

*TITLE IV—TAX TECHNICAL CORRECTIONS*

*Sec. 401. Amendments related to Medicare Prescription Drug, Improvement, and Modernization Act of 2003.*

*Sec. 402. Amendments related to Jobs and Growth Tax Relief Reconciliation Act of 2003.*
*Sec. 403. Amendments related to Job Creation and Worker Assistance Act of 2002.*
*Sec. 404. Amendments related to Economic Growth and Tax Relief Reconciliation Act of 2001.*
*Sec. 405. Amendments related to Community Renewal Tax Relief Act of 2000.*
*Sec. 406. Amendments related to Taxpayer Relief Act of 1997.*
*Sec. 407. Amendments related to Small Business Job Protection Act of 1996.*
*Sec. 408. Clerical amendments.*

## *TITLE I—EXTENSION OF FAMILY TAX PROVISIONS*

### *SEC. 101. REPEAL OF SCHEDULED REDUCTIONS IN CHILD TAX CREDIT, MARRIAGE PENALTY RELIEF, AND 10-PERCENT RATE BRACKET.*

*(a) CHILD TAX CREDIT.—Subsection (a) of section 24 (relating to child tax credit) is amended to read as follows:*

*''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with respect to each qualifying child of the taxpayer an amount equal to $1,000.''.*

*(b) MARRIAGE PENALTY RELIEF IN STANDARD DEDUCTION.—*

*(1) IN GENERAL.—Paragraph (2) of section 63(c) (relating to basic standard deduction) is amended to read as follows:*

*''(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—*

*''(A) 200 percent of the dollar amount in effect under subparagraph (C) for the taxable year in the case of—*

*''(i) a joint return, or*

*''(ii) a surviving spouse (as defined in section 2(a)),*

*''(B) $4,400 in the case of a head of household (as defined in section 2(b)), or*

*''(C) $3,000 in any other case.''.*

*(2) CONFORMING AMENDMENTS.—*

*(A) Section 63(c)(4) is amended by striking ''(2)(D)'' each place it occurs and inserting ''(2)(C)''.*

*(B) Section 63(c) is amended by striking paragraph (7).*

*(c) MARRIAGE PENALTY RELIEF IN 15-PERCENT INCOME TAX BRACKET.—Paragraph (8) of section 1(f) is amended to read as follows:*

*''(8) ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.—With respect to taxable years beginning after December 31, 2003, in prescribing the tables under paragraph (1)—*

*''(A) the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (a) (and the minimum taxable income in the next higher taxable income bracket in such table) shall be 200 percent of the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (c) (after any other adjustment under this subsection), and*

*''(B) the comparable taxable income amounts in the table contained in subsection (d) shall be ½ of the amounts determined under subparagraph (A).''.*

*(d) 10-PERCENT RATE BRACKET.—*

*(1) IN GENERAL.—Clause (i) of section 1(i)(1)(B) is amended by striking ''($12,000 in the case of taxable years beginning after December 31, 2004, and before January 1, 2008)''.*

*(2) INFLATION ADJUSTMENT.—Subparagraph (C) of section 1(i)(1) is amended to read as follows:*

*''(C) INFLATION ADJUSTMENT.—In prescribing the tables under subsection (f) which apply with respect to taxable years beginning in calendar years after 2003—*

*''(i) the cost-of-living adjustment shall be determined under subsection (f)(3) by substituting '2002' for '1992' in subparagraph (B) thereof, and*

*''(ii) the adjustments under clause (i) shall not apply to the amount referred to in subparagraph (B)(iii).*

*If any amount after adjustment under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.''.*

*(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.*

### *SEC. 102. ACCELERATION OF INCREASE IN REFUNDABILITY OF THE CHILD TAX CREDIT.*

*(a) ACCELERATION OF REFUNDABILITY.—Section 24(d)(1)(B)(i) (relating to portion of credit refundable) is amended by striking ''(10 percent in the case of taxable years beginning before January 1, 2005)''.*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.*

### *SEC. 103. EXTENSION OF MINIMUM TAX RELIEF TO INDIVIDUALS.*

*(a) IN GENERAL.—Subparagraphs (A) and (B) of section 55(d)(1) of the Internal Revenue Code of 1986 (relating to exemption amount for taxpayers other than corporations) are each amended by striking ''2003 and 2004'' and inserting ''2003, 2004, and 2005''.*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.*

### *SEC. 104. EARNED INCOME INCLUDES COMBAT PAY.*

*(a) CHILD TAX CREDIT.—Section 24(d)(1) (relating to portion of credit refundable) is amended by adding at the end the following new sentence: ''For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.''.*

*(b) EARNED INCOME CREDIT.—Subparagraph (B) of section 32(c)(2) (relating to earned income) is amended—*

*(1) by striking ''and'' at the end of clause (iv),*

*(2) by striking the period at the end of clause (v) and inserting '', and'', and*

*(3) by adding at the end the following:*

*''(vi) in the case of any taxable year ending—*

*''(I) after the date of the enactment of this clause, and*

*''(II) before January 1, 2006,*

*a taxpayer may elect to treat amounts excluded from gross income by reason of section 112 as earned income.''.*

*(c) EFFECTIVE DATE.—*

*(1) CHILD TAX CREDIT.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.*

*(2) EARNED INCOME CREDIT.—The amendments made by subsection (b) shall apply to taxable years ending after the date of the enactment of this Act.*

### *SEC. 105. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.*

*Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.*

## *TITLE II—UNIFORM DEFINITION OF CHILD*

### *SEC. 201. UNIFORM DEFINITION OF CHILD, ETC.*

*Section 152 is amended to read as follows:*

### *''SEC. 152. DEPENDENT DEFINED.*

*''(a) IN GENERAL.—For purposes of this subtitle, the term 'dependent' means—*

*''(1) a qualifying child, or*

*''(2) a qualifying relative.*

*''(b) EXCEPTIONS.—For purposes of this section—*

*''(1) DEPENDENTS INELIGIBLE.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.*

*''(2) MARRIED DEPENDENTS.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.*

*''(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES.—*

*''(A) IN GENERAL.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.*

*''(B) EXCEPTION FOR ADOPTED CHILD.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—*

*''(i) for the taxable year of the taxpayer, the child has the same principal place of abode as the taxpayer and is a member of the taxpayer's household, and*

*''(ii) the taxpayer is a citizen or national of the United States.*

*''(c) QUALIFYING CHILD.—For purposes of this section—*

*''(1) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—*

*''(A) who bears a relationship to the taxpayer described in paragraph (2),*

*''(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,*

*''(C) who meets the age requirements of paragraph (3), and*

*''(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.*

*''(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—*

*''(A) a child of the taxpayer or a descendant of such a child, or*

*''(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.*

*''(3) AGE REQUIREMENTS.—*

*''(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—*

*''(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or*

*''(ii) is a student who has not attained the age of 24 as of the close of such calendar year.*

*''(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.*

*''(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—*

*''(A) IN GENERAL.—Except as provided in subparagraph (B), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—*

*''(i) a parent of the individual, or*

*''(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.*

*''(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—*

*''(i) the parent with whom the child resided for the longest period of time during the taxable year, or*

''(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

''(d) QUALIFYING RELATIVE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—

''(A) who bears a relationship to the taxpayer described in paragraph (2),

''(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

''(C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

''(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

''(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

''(A) A child or a descendant of a child.

''(B) A brother, sister, stepbrother, or stepsister.

''(C) The father or mother, or an ancestor of either.

''(D) A stepfather or stepmother.

''(E) A son or daughter of a brother or sister of the taxpayer.

''(F) A brother or sister of the father or mother of the taxpayer.

''(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

''(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

''(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

''(A) no one person contributed over one-half of such support,

''(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

''(C) the taxpayer contributed over 10 percent of such support, and

''(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

''(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

''(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

''(ii) the income arises solely from activities at such workshop which are incident to such medical care.

''(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

''(i) which provides special instruction or training designed to alleviate the disability of the individual, and

''(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

''(5) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

''(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent, and

''(B) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

''(e) SPECIAL RULE FOR DIVORCED PARENTS.—

''(1) IN GENERAL.—Notwithstanding subsection (c)(1)(B), (c)(4), or (d)(1)(C), if—

''(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

''(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

''(ii) who are separated under a written separation agreement, or

''(iii) who live apart at all times during the last 6 months of the calendar year, and

''(B) such child is in the custody of 1 or both of the child's parents for more than one-half of the calendar year,

such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

''(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

''(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

''(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

''(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, or

''(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year.

For purposes of subparagraph (B), amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

''(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

''(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

''(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.

''(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

''(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(1) CHILD DEFINED.—

''(A) IN GENERAL.—The term 'child' means an individual who is—

''(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

''(ii) an eligible foster child of the taxpayer.

''(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer, shall be treated as a child of such individual by blood.

''(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

''(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

''(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

''(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

''(3) DETERMINATION OF HOUSEHOLD STATUS.—An individual shall not be treated as a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

''(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.

''(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of subsections (c)(1)(D) and (d)(1)(C), in the case of an individual who is—

''(A) a child of the taxpayer, and

''(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account.

''(6) TREATMENT OF MISSING CHILDREN.—

''(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

''(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

''(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,

shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the child is kidnapped.

''(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

''(i) the deduction under section 151(c),

''(ii) the credit under section 24 (relating to child tax credit),

''(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

''(iv) the earned income credit under section 32.

''(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

''(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

''(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

''(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

''(7) CROSS REFERENCES.—

**"For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).".**

**SEC. 202. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.**

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) is amended to read as follows:

''(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—

''(I) is married at the close of the taxpayer's taxable year, and

''(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)(3), or both, or''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) are amended to read as follows:

''(i) subparagraph (H) of section 152(d)(2), or

''(ii) paragraph (3) of section 152(d).''.

**SEC. 203. MODIFICATIONS OF DEPENDENT CARE CREDIT.**

(a) IN GENERAL.—Section 21(a)(1) is amended by striking ''In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))'' and inserting ''In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual''.

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) is amended to read as follows:

''(1) QUALIFYING INDIVIDUAL.—The term 'qualifying individual' means—

''(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

''(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

''(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.''.

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) is amended to read as follows:

''(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.''.

**SEC. 204. MODIFICATIONS OF CHILD TAX CREDIT.**

(a) IN GENERAL.—Paragraph (1) of section 24(c) is amended to read as follows:

''(1) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.''.

(b) CONFORMING AMENDMENT.—Section 24(c)(2) is amended by striking ''the first sentence of section 152(b)(3)'' and inserting ''subparagraph (A) of section 152(b)(3)''.

**SEC. 205. MODIFICATIONS OF EARNED INCOME CREDIT.**

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) is amended to read as follows:

''(3) QUALIFYING CHILD.—

''(A) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

''(B) MARRIED INDIVIDUAL.—The term 'qualifying child' shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

''(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

''(D) IDENTIFICATION REQUIREMENTS.—

''(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

''(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) is amended by striking ''(3)(E)'' and inserting ''(3)(C)''.

(3) Section 32(m) is amended by striking ''subsections (c)(1)(F)'' and inserting ''subsections (c)(1)(E)''.

**SEC. 206. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.**

Subsection (c) of section 151 is amended to read as follows:

''(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.''.

**SEC. 207. TECHNICAL AND CONFORMING AMENDMENTS.**

(1) Section 2(a)(1)(B)(i) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(2) Section 21(e)(5) is amended—

(A) by striking ''paragraph (2) or (4) of'' in subparagraph (A), and

(B) by striking ''within the meaning of section 152(e)(1)'' and inserting ''as defined in section 152(e)(3)(A)''.

(3) Section 21(e)(6)(B) is amended by striking ''section 151(c)(3)'' and inserting ''section 152(f)(1)''.

(4) Section 25B(c)(2)(B) is amended by striking ''151(c)(4)'' and inserting ''152(f)(2)''.

(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) are each amended by striking ''paragraphs (1) through (8) of section 152(a)'' both places it appears and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(B) Section 51(i)(1)(C) is amended by striking ''152(a)(9)'' and inserting ''152(d)(2)(H)''.

(6) Section 72(t)(2)(D)(i)(III) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(7) Section 72(t)(7)(A)(iii) is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.

(8) Section 42(i)(3)(D)(ii)(I) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(9) Subsections (b) and (c)(1) of section 105 are amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(10) Section 120(d)(4) is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.

(11) Section 125(e)(1)(D) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(12) Section 129(c)(2) is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.

(13) The first sentence of section 132(h)(2)(B) is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.

(14) Section 153 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 170(g)(1) is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.

(16) Section 170(g)(3) is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(17) Section 213(a) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(18) The second sentence of section 213(d)(11) is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(19) Section 220(d)(2)(A) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(20) Section 221(d)(4) is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.

(21) Section 529(e)(2)(B) is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(22) Section 2032A(c)(7)(D) is amended by striking ''section 151(c)(4)'' and inserting ''section 152(f)(2)''.

(23) Section 2057(d)(2)(B) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(24) Section 7701(a)(17) is amended by striking ''152(b)(4), 682,'' and inserting ''682''.

(25) Section 7702B(f)(2)(C)(iii) is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(26) Section 7703(b)(1) is amended—

(A) by striking ''151(c)(3)'' and inserting ''152(f)(1)'', and

(B) by striking ''paragraph (2) or (4) of''.

**SEC. 208. EFFECTIVE DATE.**

The amendments made by this title shall apply to taxable years beginning after December 31, 2004.

## TITLE III—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

**SEC. 301. RESEARCH CREDIT.**

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) (relating to termination) is amended by striking ''June 30, 2004'' and inserting ''December 31, 2005''.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''June 30, 2004'' and inserting ''December 31, 2005''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 2004.

**SEC. 302. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.**

(a) IN GENERAL.—Section 9812(f) is amended—

(1) by striking ''and'' at the end of paragraph (1), and

(2) by striking paragraph (2) and inserting the following new paragraphs:

''(2) on or after January 1, 2004, and before the date of the enactment of the Working Families Tax Relief Act of 2004, and

''(3) after December 31, 2005.''.

(b) ERISA.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking ''on or after December 31, 2004'' and inserting ''after December 31, 2005''.

(c) PHSA.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg-5(f)) is amended by striking ''on or after December 31, 2004'' and inserting ''after December 31, 2005''.

(d) EFFECTIVE DATES.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 303. WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.**

(a) EXTENSION OF CREDIT.—

(1) IN GENERAL.—Section 51(c)(4) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(2) LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51A(f) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2003.

**SEC. 304. QUALIFIED ZONE ACADEMY BONDS.**

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''and 2003'' and inserting ''2003, 2004, and 2005''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after December 31, 2003.

**SEC. 305. COVER OVER OF TAX ON DISTILLED SPIRITS.**

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2004'' and inserting ''January 1, 2006''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to articles brought into the United States after December 31, 2003.

**SEC. 306. DEDUCTION FOR CORPORATE DONATIONS OF SCIENTIFIC PROPERTY AND COMPUTER TECHNOLOGY.**

(a) IN GENERAL.—Section 170(e)(6)(G) is amended by striking ''2003'' and inserting ''2005''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2003.

**SEC. 307. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.**

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2003'' and inserting '', 2003, 2004, or 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses paid or incurred in taxable years beginning after December 31, 2003.

**SEC. 308. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.**

(a) EXTENSION OF TERMINATION DATE.—Subsection (h) of section 198 is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures paid or incurred after December 31, 2003.

**SEC. 309. CERTAIN NEW YORK LIBERTY ZONE BENEFITS.**

(a) EXTENSION OF TAX-EXEMPT BOND FINANCING.—Subparagraph (D) of section 1400L(d)(2) is amended by striking ''2005'' and inserting ''2010''.

(b) EXTENSION OF ADVANCE REFUNDINGS.—Section 1400L(e)(1) is amended by striking ''2005'' and inserting ''2006''.

(c) CLARIFICATION OF BONDS ELIGIBLE FOR ADVANCE REFUNDING.—Section 1400L(e)(2)(B) (relating to bonds described) is amended by striking '', or'' and inserting ''or the Municipal Assistance Corporation, or''.

(d) EFFECTIVE DATE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 301 of the Job Creation and Worker Assistance Act of 2002.

**SEC. 310. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.**

(a) DESIGNATION OF ZONE.—Subsection (f) of section 1400 is amended by striking ''December 31, 2003'' both places it appears and inserting ''December 31, 2005''.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—Subsection (b) of section 1400A is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking ''January 1, 2004'' each place it appears and inserting ''January 1, 2006''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking ''December 31, 2008'' and inserting ''December 31, 2010'', and

(ii) by striking ''2008'' in the heading and inserting ''2010''.

(B) Section 1400B(g)(2) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

(C) Section 1400F(d) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking ''January 1, 2004'' and inserting ''January 1, 2006''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 2004.

(2) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—The amendment made by subsection (b) shall apply to obligations issued after the date of the enactment of this Act.

**SEC. 311. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.**

(a) IN GENERAL.—Paragraph (5) of section 6103(d) (relating to disclosure to State tax officials and State and local law enforcement agencies) is amended to read as follows:

''(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—

''(A) IN GENERAL.—The Secretary may disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.

''(B) TERMINATION.—The Secretary may not make any disclosure under this paragraph after December 31, 2005.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

**SEC. 312. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.**

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking ''RULE FOR 2000, 2001, 2002, AND 2003.—'' and inserting ''RULE FOR TAXABLE YEARS 2000 THROUGH 2005.—'', and

(2) by striking ''or 2003'' and inserting ''2003, 2004, or 2005''.

(b) CONFORMING PROVISIONS.—

(1) Section 904(h) is amended by striking ''or 2003'' and inserting ''2003, 2004, or 2005''.

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2004 or 2005.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. 313. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.**

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking ''January 1, 2004'' and inserting ''January 1, 2006''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2003.

**SEC. 314. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.**

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking ''January 1, 2004'' and inserting ''January 1, 2006''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

**SEC. 315. INDIAN EMPLOYMENT TAX CREDIT.**

Section 45A(f) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

**SEC. 316. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.**

Section 168(j)(8) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

**SEC. 317. DISCLOSURE OF RETURN INFORMATION RELATING TO STUDENT LOANS.**

Section 6103(l)(13)(D) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

**SEC. 318. ELIMINATION OF PHASEOUT OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES FOR 2004 AND 2005.**

(a) IN GENERAL.—Paragraph (2) of section 30(b) is amended to read as follows:

''(2) PHASEOUT.—In the case of any qualified electric vehicle placed in service after December 31, 2005, the credit otherwise allowable under subsection (a) (determined after the application of paragraph (1)) shall be reduced by 75 percent.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2003.

**SEC. 319. ELIMINATION OF PHASEOUT FOR DEDUCTION FOR CLEAN-FUEL VEHICLE PROPERTY FOR 2004 AND 2005.**

(a) IN GENERAL.—Subparagraph (B) of section 179A(b)(1) is amended to read as follows:

''(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2005, the limit otherwise allowable under subparagraph (A) shall be reduced by 75 percent.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after December 31, 2003.

**SEC. 320. DISCLOSURES RELATING TO TERRORIST ACTIVITIES.**

(a) IN GENERAL.—Clause (iv) of section 6103(i)(3)(C) and subparagraph (E) of section 6103(i)(7) are both amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(b) DISCLOSURE OF TAXPAYER IDENTITY TO LAW ENFORCEMENT AGENCIES INVESTIGATING TERRORISM.—Subparagraph (A) of section 6103(i)(7) is amended by adding at the end the following new clause:

''(v) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to disclosures on or after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

**SEC. 321. JOINT REVIEW OF STRATEGIC PLANS AND BUDGET FOR THE INTERNAL REVENUE SERVICE.**

(a) IN GENERAL.—Paragraph (2) of section 8021(f) (relating to joint reviews) is amended by striking ''2004'' and inserting ''2005''.

(b) REPORT.—Subparagraph (C) of section 8022(3) (regarding reports) is amended—

(1) by striking ''2004'' and inserting ''2005'', and

(2) by striking ''with respect to—'' and all that follows and inserting ''with respect to the matters addressed in the joint review referred to in section 8021(f)(2).''.

(c) TIME FOR JOINT REVIEW.—The joint review required by section 8021(f)(2) of the Internal Revenue Code of 1986 to be made before June 1, 2004, shall be treated as timely if made before June 1, 2005.

**SEC. 322. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.**

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking ''2003'' each place it appears in the text and headings and inserting ''2005''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 220(j) is amended—

(A) in the text by striking ''or 2002'' each place it appears and inserting ''2002, or 2004'', and

(B) in the heading by striking ''OR 2002'' and inserting ''2002, OR 2004''.

(2) Subparagraph (A) of section 220(j)(4) is amended by striking ''and 2002'' and inserting ''2002, and 2004''.

(3) Subparagraph (C) of section 220(j)(2) is amended to read as follows:

''(C) NO LIMITATION FOR 2000 OR 2003.—The numerical limitation shall not apply for 2000 or 2003.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

(d) TIME FOR FILING REPORTS, ETC.—

(1) The report required by section 220(j)(4) of the Internal Revenue Code of 1986 to be made on August 1, 2004, shall be treated as timely if made before the close of the 90-day period beginning on the date of the enactment of this Act.

(2) The determination and publication required by section 220(j)(5) of such Code with respect to calendar year 2004 shall be treated as timely if made before the close of the 120-day period beginning on the date of the enactment of this Act. If the determination under the preceding sentence is that 2004 is a cut-off year under section 220(i) of such Code, the cut-off date under such section 220(i) shall be the last day of such 120-day period.

## TITLE IV—TAX TECHNICAL CORRECTIONS

**SEC. 401. AMENDMENTS RELATED TO MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003.**

(a) AMENDMENTS RELATED TO SECTION 1201 OF THE ACT.—

(1) Paragraph (2) of section 26(b) is amended by striking ''and'' at the end of subparagraph (Q), by striking the period at the end of subparagraph (R) and inserting '', and'', and by adding at the end the following new subparagraph:

''(S) section 223(f)(4) (relating to additional tax on health savings account distributions not used for qualified medical expenses).

(2) Paragraph (3) of section 35(g) is amended to read as follows:

''(3) MEDICAL AND HEALTH SAVINGS ACCOUNTS.—Amounts distributed from an Archer MSA (as defined in section 220(d)) or from a health savings account (as defined in section 223(d)) shall not be taken into account under subsection (a).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

**SEC. 402. AMENDMENTS RELATED TO JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003.**

(a) AMENDMENTS RELATED TO SECTION 302 OF THE ACT.—

(1) Clause (i) of section 1(h)(1)(D) is amended by inserting ''(determined without regard to paragraph (11))'' after ''net capital gain''.

(2) Subclause (I) of section 1(h)(11)(B)(iii) is amended—

(A) by striking ''section 246(c)(1)'' and inserting ''section 246(c)'',

(B) by striking ''120-day period'' and inserting ''121-day period'', and

(C) by striking ''90-day period'' and inserting ''91-day period''.

(3) Clause (ii) of section 1(h)(11)(D) is amended by striking ''an individual'' and inserting ''a taxpayer to whom this section applies''.

(4) Paragraph (4) of section 691(c) is amended by striking ''of any gain''.

(5)(A) Subparagraph (B) of section 854(b)(1) is amended—

(i) by striking clauses (iii) and (iv), and

(ii) by amending clause (i) to read as follows:

''(i) IN GENERAL.—In any case in which—

''(I) a dividend is received from a regulated investment company (other than a dividend to which subsection (a) applies),

''(II) such investment company meets the requirements of section 852(a) for the taxable year during which it paid such dividend, and

''(III) the qualified dividend income of such investment company for such taxable year is less than 95 percent of its gross income,

then, in computing qualified dividend income, there shall be taken into account only that portion of such dividend designated by the regulated investment company.''.

(B) Subparagraph (C) of section 854(b)(1) is amended to read as follows:

''(C) LIMITATIONS.—

''(i) SUBPARAGRAPH (A).—The aggregate amount which may be designated as dividends under subparagraph (A) shall not exceed the aggregate dividends received by the company for the taxable year.

''(ii) SUBPARAGRAPH (B).—The aggregate amount which may be designated as qualified dividend income under subparagraph (B) shall not exceed the sum of—

''(I) the qualified dividend income of the company for the taxable year, and

''(II) the amount of any earnings and profits which were distributed by the company for such taxable year and accumulated in a taxable year with respect to which this part did not apply.''.

(C) Paragraph (2) of section 854(b) is amended by striking ''as a dividend for purposes of the maximum rate under section 1(h)(11) and'' and inserting ''as qualified dividend income for purposes of section 1(h)(11) and as dividends for purposes of''.

(D) Paragraph (5) of section 854(b) is amended to read as follows:

''(5) QUALIFIED DIVIDEND INCOME.—For purposes of this subsection, the term 'qualified dividend income' has the meaning given such term by section 1(h)(11)(B).''.

(E) Paragraph (2) of section 857(c) is amended to read as follows:

''(2) SECTION (1)(h)(11).—

''(A) IN GENERAL.—In any case in which—

''(i) a dividend is received from a real estate investment trust (other than a capital gain dividend), and

''(ii) such trust meets the requirements of section 856(a) for the taxable year during which it paid such dividend,

then, in computing qualified dividend income, there shall be taken into account only that portion of such dividend designated by the real estate investment trust.

''(B) LIMITATION.—The aggregate amount which may be designated as qualified dividend income under subparagraph (A) shall not exceed the sum of—

''(i) the qualified dividend income of the trust for the taxable year,

''(ii) the excess of—

''(I) the sum of the real estate investment trust taxable income computed under section 857(b)(2) for the preceding taxable year and the income subject to tax by reason of the application of the regulations under section 337(d) for such preceding taxable year, over

''(II) the sum of the taxes imposed on the trust for such preceding taxable year under section 857(b)(1) and by reason of the application of such regulations, and

''(iii) the amount of any earnings and profits which were distributed by the trust for such taxable year and accumulated in a taxable year with respect to which this part did not apply.

''(C) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a real estate investment trust which may be taken into account as qualified dividend income shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 60 days after the close of its taxable year.

''(D) QUALIFIED DIVIDEND INCOME.—For purposes of this paragraph, the term 'qualified dividend income' has the meaning given such term by section 1(h)(11)(B).''.

(F) With respect to any taxable year of a regulated investment company or real estate investment trust ending on or before November 30, 2003, the period for providing notice of the qualified dividend amount to shareholders under sections 854(b)(2) and 857(c)(2)(C) of the Internal Revenue Code of 1986, as amended by this section, shall not expire before the date on which the statement under section 6042(c) of such Code is required to be furnished with respect to the last calendar year beginning in such taxable year.

(6) Paragraph (2) of section 302(f) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended to read as follows:

''(2) PASS-THRU ENTITIES.—In the case of a pass-thru entity described in subparagraph (A), (B), (C), (D), (E), or (F) of section 1(h)(10) of the Internal Revenue Code of 1986, as amended by this Act, the amendments made by this section shall apply to taxable years ending after December 31, 2002; except that dividends received by such an entity on or before such date shall not be treated as qualified dividend income (as defined in section 1(h)(11)(B) of such Code, as added by this Act).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in section 302 of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

**SEC. 403. AMENDMENTS RELATED TO JOB CREATION AND WORKER ASSISTANCE ACT OF 2002.**

(a) AMENDMENTS RELATED TO SECTION 101 OF THE ACT.—

(1) Clause (i) of section 168(k)(2)(B) is amended to read as follows:

''(i) IN GENERAL.—The term 'qualified property' includes any property if such property—

''(I) meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

''(II) has a recovery period of at least 10 years or is transportation property,

''(III) is subject to section 263A, and

''(IV) meets the requirements of clause (ii) or (iii) of section 263A(f)(1)(B) (determined as if such clauses also apply to property which has a long useful life (within the meaning of section 263A(f))).''.

(2)(A) Subparagraph (D) of section 168(k)(2) is amended by adding at the end the following new clauses:

''(iii) SYNDICATION.—For purposes of subparagraph (A)(ii), if—

''(I) property is originally placed in service after September 10, 2001, by the lessor of such property,

''(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date such property was originally placed in service, and

''(III) the user of such property after the last sale during such 3-month period remains the same as when such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date of such last sale.

''(iv) LIMITATIONS RELATED TO USERS AND RELATED PARTIES.—The term 'qualified property' shall not include any property if—

''(I) the user of such property (as of the date on which such property is originally placed in service) or a person which is related (within the meaning of section 267(b) or 707(b)) to such user or to the taxpayer had a written binding contract in effect for the acquisition of such property at any time on or before September 10, 2001, or

''(II) in the case of property manufactured, constructed, or produced for such user's or person's own use, the manufacture, construction, or production of such property began at any time on or before September 10, 2001.''.

(B) Clause (ii) of section 168(k)(2)(D) is amended by inserting ''clause (iii) and'' before ''subparagraph (A)(ii)''.

(b) AMENDMENTS RELATED TO SECTION 102 OF THE ACT.—

(1) Subparagraph (H) of section 172(b)(1) is amended by striking ''a taxpayer which has''.

(2) In the case of a net operating loss for a taxable year ending during 2001 or 2002—

(A) an application under section 6411(a) of the Internal Revenue Code of 1986 with respect to such loss shall not fail to be treated as timely filed if filed before November 1, 2002,

(B) any election made under section 172(b)(3) of such Code may (notwithstanding such section) be revoked before November 1, 2002, and

(C) any election made under section 172(j) of such Code shall (notwithstanding such section) be treated as timely made if made before November 1, 2002.

(3) Section 102(c)(2) of the Job Creation and Worker Assistance Act of 2002 (Public Law 107–147) is amended by striking ''before January 1, 2003'' and inserting ''after December 31, 1990''.

(4)(A) Subclause (I) of section 56(d)(1)(A)(i) is amended by striking ''attributable to carryovers''.

(B) Subclause (I) of section 56(d)(1)(A)(ii) is amended—

(i) by striking ''for taxable years'' and inserting ''from taxable years'', and

(ii) by striking ''carryforwards'' and inserting ''carryovers''.

(c) AMENDMENTS RELATED TO SECTION 301 OF THE ACT.—

(1) Subparagraph (D) of section 1400L(a)(2) is amended—

(A) by striking ''subchapter B'' and inserting ''subchapter A'', and

(B) in clause (ii), by striking ''subparagraph (B)'' and inserting ''this paragraph''.

(2) Subparagraph (D) of section 1400L(b)(2) is amended by inserting '', and clause (iv) thereof shall be applied by substituting 'qualified New York Liberty Zone property' for 'qualified property' '' before the period at the end.

(3) Subsection (c) of section 1400L is amended by adding at the end the following new paragraph:

''(5) ELECTION OUT.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(C)(iii) shall apply.''.

(4) Paragraph (2) of section 1400L(f) is amended by inserting before the period '', determined without regard to subparagraph (C)(i) thereof''.

(d) AMENDMENT RELATED TO SECTION 405 OF THE ACT.—The last sentence of section 4006(a)(3)(E)(iii)(IV) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)(iii)(IV)) is amended—

(1) by inserting ''or this subparagraph'' after ''this clause'' both places it appears, and

(2) by inserting ''(other than sections 4005, 4010, 4011, and 4043)'' after ''subsections''.

(e) AMENDMENT RELATED TO SECTION 411 OF THE ACT.—Subparagraph (B) of section 411(c)(2) of the Job Creation and Worker Assistance Act of 2002 is amended by striking ''Paragraph (2)'' and inserting ''Paragraph (1)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Job Creation and Worker Assistance Act of 2002 to which they relate.

**SEC. 404. AMENDMENTS RELATED TO ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.**

(a) AMENDMENT RELATED TO SECTION 401 OF THE ACT.—Clause (i) of section 530(d)(2)(C) is amended by striking ''higher'' after ''qualified''.

(b) AMENDMENTS RELATED TO SECTION 611 OF THE ACT.—

(1) Paragraph (3) of section 45A(c) is amended by inserting '', except that the base period taken into account for purposes of such adjustment shall be the calendar quarter beginning October 1, 1993'' before the period at the end.

(2) Subparagraph (A) of section 415(d)(4) is amended by adding at the end the following new sentence: ''This subparagraph shall also apply for purposes of any provision of this title that provides for adjustments in accordance with the method contained in this subsection, except to the extent provided in such provision.''.

(c) AMENDMENT RELATED TO SECTION 614 OF THE ACT.—Clause (ii) of section 4972(c)(6)(A) is amended to read as follows:

''(ii) the amount of contributions described in section 401(m)(4)(A), or''.

(d) AMENDMENT RELATED TO SECTION 637 OF THE ACT.—Clause (i) of section 408(p)(6)(A) is amended by adding at the end the following new sentence: ''For purposes of the preceding sentence, amounts described in section 6051(a)(3) shall be determined without regard to section 3401(a)(3).''.

(e) AMENDMENT RELATED TO SECTION 641 OF THE ACT.—Subparagraph (B) of section 403(a)(4) is amended to read as follows:

''(B) CERTAIN RULES MADE APPLICABLE.—The rules of paragraphs (2) through (7) and (9) of section 402(c) and section 402(f) shall apply for purposes of subparagraph (A).''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 to which they relate.

**SEC. 405. AMENDMENTS RELATED TO COMMUNITY RENEWAL TAX RELIEF ACT OF 2000.**

(a) AMENDMENTS RELATED TO SECTION 401 OF THE ACT.—

(1) Subsection (c) of section 1234B is amended by adding at the end the following new sentence: ''The Secretary may prescribe regulations regarding the status of contracts the values of which are determined directly or indirectly by reference to any index which becomes (or ceases to be) a narrow-based security index (as defined for purposes of section 1256(g)(6)).''.

(2) Paragraph (6) of section 1256(g) is amended by adding at the end the following new sentence: ''The Secretary may prescribe regulations regarding the status of options the values of which are determined directly or indirectly by reference to any index which becomes (or ceases to be) a narrow-based security index (as so defined).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in section 401 of the Community Renewal Tax Relief Act of 2000.

**SEC. 406. AMENDMENTS RELATED TO TAXPAYER RELIEF ACT OF 1997.**

(a) AMENDMENT RELATED TO SECTION 211 OF THE ACT.—Subparagraph (B) of section 529(c)(5) is amended to read as follows:

''(B) TREATMENT OF DESIGNATION OF NEW BENEFICIARY.—The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a rollover to the account of a new beneficiary) unless the new beneficiary is—

''(i) assigned to the same generation as (or a higher generation than) the old beneficiary (determined in accordance with section 2651), and

''(ii) a member of the family of the old beneficiary.''.

(b) AMENDMENT RELATED TO SECTION 213 OF THE ACT.—Clause (iii) of section 530(d)(4)(B) is amended by striking ''account holder'' and inserting ''designated beneficiary''.

(c) AMENDMENT RELATED TO SECTION 226 OF THE ACT.—Section 1397E is amended by adding at the end the following new subsection:

''(i) S CORPORATIONS.—In the case of a qualified zone academy bond held by an S corporation which is an eligible taxpayer—

''(1) each shareholder shall take into account such shareholder's pro rata share of the credit, and

''(2) no basis adjustments to the stock of the corporation shall be made under section 1367 on account of this section.''.

(d) AMENDMENT RELATED TO SECTION 311 OF THE ACT.—Subparagraph (B) of section 55(b)(3) is amended by striking ''the amount on which a tax is determined under'' and inserting ''an amount equal to the excess described in''.

(e) AMENDMENTS RELATED TO SECTION 1001 OF THE ACT.—

(1) Paragraph (2) of section 1259(c) is amended by striking ''The term 'constructive sale' shall not include any contract'' and inserting ''A taxpayer shall not be treated as having made a constructive sale solely because the taxpayer enters into a contract''.

(2) Subparagraphs (A) and (B)(i) of section 1259(c)(3) are each amended by striking ''be treated as a constructive sale'' and inserting ''cause a constructive sale''.

(3) Clause (i) of section 1259(c)(3)(A) is amended by striking ''before the end of'' and inserting ''on or before''.

(4) Clause (ii) of section 1259(c)(3)(B) is amended by striking ''substantially similar''.

(5) Subclause (I) of section 1259(c)(3)(B)(ii) is amended to read as follows:

''(I) which would (but for this subparagraph) cause the requirement of subparagraph (A)(iii) not to be met with respect to the transaction described in clause (i) of this subparagraph,''.

(6) Subclause (II) of such section is amended by inserting ''on or'' before ''before the 30th day''.

(7) The heading for subparagraph (B) of section 1259(c)(3) is amended by striking ''POSITIONS WHICH ARE REESTABLISHED'' and inserting ''CERTAIN CLOSED TRANSACTIONS WHERE RISK OF LOSS ON APPRECIATED FINANCIAL POSITION DIMINISHED''.

(f) AMENDMENTS RELATED TO SECTION 1015 OF THE ACT.—

(1) Section 246(c)(1)(A) is amended by striking ''90-day period'' and inserting ''91-day period''.

(2) Section 246(c)(2)(B) is amended—

(A) by striking ''180-day period'' and inserting ''181-day period'', and

(B) by striking ''90-day period'' and inserting ''91-day period''.

(g) AMENDMENTS RELATED TO SECTION 1053 OF THE ACT.—

(1) Section 901(k)(1)(A)(i) is amended by striking ''30-day period'' and inserting ''31-day period''.

(2) Section 901(k)(3)(B) is amended—

(A) by striking ''90-day period'' and inserting ''91-day period'', and

(B) by striking ''30-day period'' and inserting ''31-day period''.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

**SEC. 407. AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996.**

(a) AMENDMENT RELATED TO SECTION 1307 OF THE ACT.—Subsection (b) of section 1377 (relating to post-termination transition period) is

*amended by adding at the end the following new paragraph:*

*''(3) SPECIAL RULES FOR AUDIT RELATED POST-TERMINATION TRANSITION PERIODS.—*

*''(A) NO APPLICATION TO CARRYOVERS.—Paragraph (1)(B) shall not apply for purposes of section 1366(d)(3).*

*''(B) LIMITATION ON APPLICATION TO DISTRIBUTIONS.—Paragraph (1)(B) shall apply to a distribution described in section 1371(e) only to the extent that the amount of such distribution does not exceed the aggregate increase (if any) in the accumulated adjustments account (within the meaning of section 1368(e)) by reason of the adjustments referred to in such paragraph.''.*

*(b) AMENDMENTS RELATED TO SECTION 1432 OF THE ACT.—Paragraph (26) of section 401(a) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) through (I) as subparagraphs (C) through (H), respectively.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Small Business Job Protection Act of 1996 to which they relate.*

***SEC. 408. CLERICAL AMENDMENTS.***

*(a) INTERNAL REVENUE CODE OF 1986.—*

*(1) Subclause (II) of section 1(g)(7)(B)(ii) is amended by striking ''10 percent.'' and inserting ''10 percent''.*

*(2) Clause (ii) of section 1(h)(6)(A) is amended—*

*(A) in subclause (I), by striking ''(5)(B)'' and inserting ''(4)(B)'', and*

*(B) in subclause (II), by striking ''(5)(A)'' and inserting ''(4)(A)''.*

*(3) Subclause (I) of section 42(d)(2)(D)(iii) is amended by striking ''section 179(b)(7)'' and inserting ''section 179(d)(7)''.*

*(4) Subsection (f) of section 72 is amended by striking ''Economic Growth and Tax Relief Reconciliation Act of 2001'' and inserting ''Economic Growth and Tax Relief Reconciliation Act of 2001)''.*

*(5)(A) Section 138 and paragraph (2) of section 26(b) are each amended by striking ''Medicare+Choice MSA'' each place it appears in the text and inserting ''Medicare Advantage MSA''.*

*(B) The heading for section 138 is amended to read as follows:*

***''SEC. 138. MEDICARE ADVANTAGE MSA.''.***

*(C) The heading for subsection (b) of section 138 is amended by striking ''MEDICARE+CHOICE MSA'' and inserting ''MEDICARE ADVANTAGE MSA''.*

*(D) The heading for paragraph (2) of section 138(c) is amended by striking ''MEDICARE+CHOICE MSA'' and inserting ''MEDICARE ADVANTAGE MSA''.*

*(E) Clause (i) of section 138(c)(2)(C) is amended by striking ''Medicare+Choice MSAs'' and inserting ''Medicare Advantage MSAs''.*

*(F) Subsection (f) of section 138 is amended by striking ''Medicare+Choice MSA's'' and inserting ''Medicare Advantage MSAs''.*

*(G) The item relating to section 138 in the table of sections for part III of subchapter B of chapter 1 is amended to read as follows:*

*''Sec. 138. Medicare Advantage MSA.''.*

*(6) Clause (ii) of section 168(k)(2)(D) is amended—*

*(A) by inserting ''is'' after ''if property'', and*

*(B) by striking ''is'' in subclause (I).*

*(7) Each of the following provisions is amended by inserting ''Robert T. Stafford'' before ''Disaster Relief and Emergency Assistance Act'':*

*(A) Section 165(i)(1).*

*(B) Section 165(k).*

*(C) Section 1033(h)(3).*

*(D) Section 5064(b)(3).*

*(E) Section 5708(a).*

*(8) The heading for subparagraph (F) of section 168(k)(2) is amended by striking ''MINIUMUM'' and inserting ''MINIMUM''.*

*(9) Paragraph (1) of section 246A(b) is amended by striking ''section 243(c)(4)'' and inserting ''section 243(d)(4)''.*

*(10) Clause (ii) of section 263(g)(2)(B) is amended by striking ''1278'' and inserting ''1276''.*

*(11) Clause (ii) of section 403(b)(7)(A) is amended by striking ''section 3121(a)(1)(D)'' and inserting ''section 3121(a)(5)(D)''.*

*(12) Paragraph (1) of section 408(a) is amended by striking ''457(e)(16)'' and inserting ''457(e)(16),''.*

*(13) Paragraph (2) of section 408(n) is amended by striking ''section 101(6)'' and inserting ''paragraph (6) or (7) of section 101''.*

*(14) The table contained in section 411(a)(12)(B) is amended by striking the last line and inserting the following:*

*''6 or more 100.''.*

*(15) Paragraph (7) of section 414(q) is amended by striking ''section'' and inserting ''subsection''.*

*(16) Subparagraph (A) of section 416(i)(1) is amended in the matter following clause (iii) by striking ''in the case of plan years'' and inserting ''In the case of plan years''.*

*(17) Subparagraph (C) of section 415(c)(7) is amended by striking ''subparagraph (D)'' and inserting ''subparagraph (B)''.*

*(18) The item relating to section 1234B in the table of sections for part IV of subchapter P of chapter 1 is amended to read as follows:*

*''Sec. 1234B. Gains or losses from securities futures contracts.''.*

*(19) Subsection (h) of section 1296 is amended by striking ''paragraphs (2) and (3) of section 851(b)'' and inserting ''section 851(b)(2)''.*

*(20) The table of sections for part II of subchapter A of chapter 11 is amended by inserting after the item relating to section 2010 the following new item:*

*''Sec. 2011. Credit for State death taxes.''.*

*(21) The table of sections for subchapter A of chapter 13 is amended by inserting after the item relating to section 2603 the following new item:*

*''Sec. 2604. Credit for certain State taxes.''.*

*(22) Subsection (c) of section 4973 is amended by striking ''subsection (a)(2)'' and inserting ''subsection (a)(3)''.*

*(23) Paragraph (2) of section 4978(a) is amended by striking ''60 percent'' and inserting ''(60 percent''.*

*(24) Paragraph (4) of section 6103(p) is amended by striking ''subsection (l)(16) or (17)'' each place it appears and inserting ''subsection (l)(16) or (18)''.*

*(b) OTHER LAWS.—*

*(1) Subsection (c) of section 156 of the Community Renewal Tax Relief Act of 2000 (114 Stat. 2763A–623) is amended in the first sentence by inserting ''than'' after ''not later''.*

*(2) Paragraph (6) of section 1(a) of Public Law 107–22 shall be applied by substituting ''part VIII'' for ''part VII'' in such paragraph.*

*(3) Subparagraph (A) of section 1(b)(3) of Public Law 107–22 shall be applied by substituting ''EDUCATIONAL'' for ''EDUCATION'' in the matter preceding subparagraph (A) in such section.*

*(4) Paragraph (1) of section 204(e) of the Railroad Retirement and Survivors' Improvement Act of 2001 shall be applied by substituting ''Section 24(d)(2)(A)(iii)'' for ''Section 24(d)(3)(A)(iii)'' in such paragraph.*

*(5) Paragraph (2) of section 412(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by substituting ''Section 221(f)(1)'' for ''Section 221(g)(1)'' in such paragraph.*

*(6) Subsection (b) of section 531 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by substituting ''section'' for ''subsection'' in such subsection.*

*(7) Paragraph (3) of section 619(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by substituting ''after the item relating to section 45D'' for ''at the end'' in such paragraph.*

*(8) The table contained in section 203(a)(4)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(4)(B)) is amended by striking the last line and inserting the following:*

*''6 or more 100.''.*

*(9) Paragraph (3) of section 652(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by inserting ''each place it appears'' before ''in the next to last sentence'' in such paragraph.*

*And the House agree to the same.*

*That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:*

*In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following: ''An Act to amend the Internal Revenue Code of 1986 to provide tax relief for working families, and for other purposes.''.*

*And the House agree to the same.*

*For consideration of the House amendment and the Senate amendment, and modifications committed to conference:*

*WILLIAM THOMAS,*
*TOM DELAY,*
*Managers on the Part of the House.*

*CHUCK GRASSLEY,*
*DON NICKLES,*
*TRENT LOTT,*
*MAX BAUCUS,*
*BLANCHE L. LINCOLN,*
*Managers on the Part of the Senate.*

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the amendments of the Senate to the bill (H.R. 1308), to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House amendment struck out all of the Senate amendment after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the House amendment and the Senate amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

## I. EXTENSION OF CERTAIN EXPIRING PROVISIONS

### A. EXTENSION OF THE CHILD TAX CREDIT, ACCELERATION OF REFUNDABILITY OF THE CHILD TAX CREDIT AND TREATMENT OF COMBAT PAY AS EARNED INCOME FOR PURPOSES OF THE CHILD TAX CREDIT AND EARNED INCOME CREDIT

(Secs. 101–104 of the conference agreement, sec. 101 of the House bill, secs. 101–103 of the Senate amendment, and sec. 24 and 32 of the Code)

PRESENT LAW

*In general*

For 2004, an individual may claim a $1,000 tax credit for each qualifying child under the age of 17. In general, a qualifying child is an individual for whom the taxpayer can claim a dependency exemption and who is the taxpayer's son or daughter (or descendent of either), stepson or stepdaughter (or descendent of either), or eligible foster child.

The child tax credit is scheduled to revert to $700 in 2005, and then, over several years, increase to $1,000.

Table 1, below, shows the scheduled amount of the child tax credit.

TABLE 1.—SCHEDULED AMOUNT OF THE CHILD TAX CREDIT

| Taxable year | Credit amount per child |
|---|---|
| 2003–2004 | $1,000 |
| 2005–2008 | 700 |
| 2009 | 800 |
| 2010 [1] | 1,000 |

[1] The credit reverts to $500 in taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA (the ''Economic Growth and Tax Relief Reconciliation Act of 2001,'' Pub. L. No. 107–16).

The child tax credit is phased out for individuals with income over certain thresholds. Specifically, the otherwise allowable child tax credit is reduced by $50 for each $1,000 (or fraction thereof) of modified adjusted gross income over $75,000 for single individuals or heads of households, $110,000 for married individuals filing joint returns, and $55,000 for married individuals filing separate returns.[1] The length of the phase-out range depends on the number of qualifying children. For example, the phase-out range for a single individual with one qualifying child is between $75,000 and $95,000 of modified adjusted gross income. The phase-out range for a single individual with two qualifying children is between $75,000 and $115,000.

The amount of the tax credit and the phase-out ranges are not adjusted annually for inflation.

*Refundability*

For 2004, the child credit is refundable to the extent of 10 percent of the taxpayer's taxable earned income (which is taken into account in determining taxable income) in excess of $10,750.[2] The percentage is increased to 15 percent for taxable years 2005 and thereafter. Families with three or more children are allowed a refundable credit for the amount by which the taxpayer's social security taxes exceed the taxpayer's earned income credit, if that amount is greater than the refundable credit based on the taxpayer's taxable earned income in excess of $10,750 (for 2004). The refundable portion of the child credit does not constitute income and is not treated as resources for purposes of determining eligibility or the amount or nature of benefits or assistance under any Federal program or any State or local program financed with Federal funds. For taxable years beginning after December 31, 2010, the sunset provision of EGTRRA applies to the 15–percent rule for allowing refundable child credits.

*Alternative minimum tax liability*

The child credit is allowed against the individual's regular income tax and alternative minimum tax. For taxable years beginning after December 31, 2010, the sunset provision of EGTRRA applies to the rules allowing the child credit against the alternative minimum tax.

HOUSE BILL

The bill increases the credit to $1,000 for taxable years 2005–2009. Therefore, the maximum child credit is $1,000 per child for taxable years 2003–2010.[3] The bill also accelerates to 2003 the increase in refundability of the child credit to 15 percent of the taxpayer's earned income in excess of $10,500 (with indexing). Finally, the bill provides that the beginning point of the phase-out range for the child credit is $150,000 for married individuals filing joint returns ($75,000 for unmarried individuals and married individuals filing separately) for taxable years beginning after December 31, 2002, and before January 1, 2011. All modifications to the child credit under the bill are subject to the sunset provision of EGTRRA.

*Effective date.*—Taxable years beginning after December 31, 2002.

SENATE AMENDMENT

The Senate amendment accelerates to 2003 the increase in refundability of the child credit to 15 percent of the taxpayer's earned income in excess of $10,500 (with indexing). The Senate amendment also provides that taxpayers eligible for such additional refundable child credit amount will receive this additional amount as an advance payment. No advance payments may be made after December 31, 2003. Also, the Senate amendment provides that the beginning point of the phase-out range for the credit for married individuals filing joint returns is increased to $115,000 in 2008 and 2009 and $150,000 in 2010. It also provides that the beginning point for such phase-out range in the case of unmarried individuals and married individuals filing separately will be one-half of the beginning point of the phase-out range for married individuals filing joint returns for taxable years beginning in 2008 through 2010. Finally, the Senate amendment provides that any amount excluded from gross income under section 112 of the Code (relating to certain combat zone compensation) is treated as earned income for purposes of the calculation of the child tax credit. All modifications to the child credit under the Senate amendment are subject to the sunset provision of EGTRRA.

*Effective date.*—The provision is effective for taxable years beginning after December 31, 2002.

CONFERENCE AGREEMENT

*In general*

The conference agreement increases the child credit to $1,000 for taxable years 2005-2009. Therefore, the maximum child tax credit is $1,000 per child for taxable years 2005–2010. All modifications to the child credit under the conference agreement are subject to the sunset provision of EGTRRA.[4]

*Refundability*

The conference agreement accelerates to 2004 the increase in refundability of the child credit to 15 percent of the taxpayer's earned income in excess of $10,750 (with indexing).

*Combat pay treated as earned income*

The conference agreement provides that combat pay that is otherwise excluded from gross income under section 112 is treated as earned income which is taken into account in computing taxable income for purposes of calculating the refundable portion of the child credit.

The conference agreement provides that any taxpayer may elect to treat combat pay that is otherwise excluded from gross income under section 112 as earned income for purposes of the earned income credit. This election is available with respect to any taxable year ending after the date of enactment and before January 1, 2006.

*Effective dates*

The provision generally applies to taxable years beginning after December 31, 2004. The provision relating to the acceleration of the refundability of the child credit applies to taxable years beginning after December 31, 2003. The provision relating to the treatment of combat pay as earned income for purposes of the child credit is effective for taxable years beginning after December 31, 2003. The earned income credit election is effective for taxable years ending after the date of enactment and before January 1, 2006.

B. EXTEND MARRIAGE PENALTY RELIEF

(Sec. 101 of the conference agreement and secs. 1 and 63 of the Code)

1. Standard deduction marriage penalty relief (sec. 63 of the Code)

PRESENT LAW

*Marriage penalty*

A married couple generally is treated as one tax unit that must pay tax on the couple's total taxable income. Although married couples may elect to file separate returns, the rate schedules and other provisions are structured so that filing separate returns usually results in a higher tax than filing a joint return. Other rate schedules apply to single persons and to single heads of households.

A ''marriage penalty'' exists when the combined tax liability of a married couple filing a joint return is greater than the sum of the tax liabilities of each individual computed as if they were not married. A ''marriage bonus'' exists when the combined tax liability of a married couple filing a joint return is less than the sum of the tax liabilities of each individual computed as if they were not married.

*Basic standard deduction*

Taxpayers who do not itemize deductions may choose the basic standard deduction (and additional standard deductions, if applicable),[5] which is subtracted from adjusted gross income (''AGI'') in arriving at taxable income. The size of the basic standard deduction varies according to filing status and is adjusted annually for inflation.[6] In general, two unmarried individuals have standard deductions whose sum exceeds the standard deduction for a married couple filing a joint return. EGTRRA increased the basic standard deduction for a married couple filing a joint return, providing for a phase-in of the increase until the basic standard deduction for a married couple filing a joint return equaled twice the basic standard deduction for an unmarried individual filing a single return by 2009.[7] The Jobs and Growth Tax Relief Reconciliation Act of 2003 (''JGTRRA'') accelerated the phase-in, providing that the basic standard deduction for a married couple filing a joint return equaled twice the basic standard deduction for an unmarried individual filing a single return for 2003 and 2004, reverting to the phase-in schedule provided by EGTRAA for 2005–2009.

Table 2, below, shows the standard deduction for married couples filing a joint return as a percentage of the standard deduction for single individuals during the phase-in period.

[1] Modified adjusted gross income is the taxpayer's total gross income plus certain amounts excluded from gross income (i.e., excluded income of U.S. citizens or residents living abroad (sec. 911); residents of Guam, American Samoa, and the Northern Mariana Islands (sec. 931); and residents of Puerto Rico (sec. 933)).

[2] The $10,750 amount is indexed for inflation.

[3] The credit reverts to $500 in taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

[4] The credit reverts to $500 in taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

[5] Additional standard deductions are allowed with respect to any individual who is elderly (age 65 or over) or blind.

[6] For 2004 the basic standard deduction amounts are: (1) $4,850 for unmarried individuals; (2) $9,700 for married individuals filing a joint return; (3) $7,150 for heads of households; and (4) $4,850 for married individuals filing separately.

[7] The basic standard deduction for a married taxpayer filing separately will continue to equal one-half of the basic standard deduction for a married couple filing jointly; thus, the basic standard deduction for unmarried individuals filing a single return and for married couples filing separately will be the same after the phase-in period.

TABLE 2.—SCHEDULED AMOUNT OF THE BASIC STANDARD DEDUCTION FOR MARRIED COUPLES FILING JOINT RETURNS

| Taxable year | Standard deduction |
|---|---|
| 2005 | 174 |
| 2006 | 184 |
| 2007 | 187 |
| 2008 | 190 |
| 2009 and 2010 [1] | 200 |

[1] The basic standard deduction increases are repealed for taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement increases the basic standard deduction amount for joint returns to twice the basic standard deduction amount for single returns effective for 2005–2008. Therefore, the basic standard deduction for joint returns is twice the basic standard deduction for single returns for taxable years 2005–2010. All modifications to the basic standard deduction under the conference agreement are subject to the sunset provision of EGTRRA.

*Effective date.*—The conference agreement provision is effective for taxable years beginning after December 31, 2004.

2. Increase the size of the 15-percent rate bracket for married couples filing joint returns (sec. 1 of the Code)

PRESENT LAW

*In general*

Under the Federal individual income tax system, an individual who is a citizen or resident of the United States generally is subject to tax on worldwide taxable income. Taxable income is total gross income less certain exclusions, exemptions, and deductions. An individual may claim either a standard deduction or itemized deductions.

An individual's income tax liability is determined by computing his or her regular income tax liability and, if applicable, alternative minimum tax liability.

*Regular income tax liability*

Regular income tax liability is determined by applying the regular income tax rate schedules (or tax tables) to the individual's taxable income and then is reduced by any applicable tax credits. The regular income tax rate schedules are divided into several ranges of income, known as income brackets, and the marginal tax rate increases as the individual's income increases. The income bracket amounts are adjusted annually for inflation. Separate rate schedules apply based on filing status: single individuals (other than heads of households and surviving spouses), heads of households, married individuals filing joint returns (including surviving spouses), married individuals filing separate returns, and estates and trusts. Lower rates may apply to capital gains.

In general, the bracket breakpoints for single individuals are approximately 60 percent of the rate bracket breakpoints for married couples filing joint returns.[8] The rate bracket breakpoints for married individuals filing separate returns are exactly one-half of the rate brackets for married individuals filing joint returns. A separate, compressed rate schedule applies to estates and trusts.

*15-percent regular income tax rate bracket*

EGTRRA increased the size of the 15-percent regular income tax rate bracket for a married couple filing a joint return to twice the size of the corresponding rate bracket for a single individual filing a single return, phasing in the increase over four years, beginning in 2005. JGTRRA accelerated these increases, making the size of the 15-percent regular income tax rate bracket for a married couple filing a joint return equal to twice the size of the corresponding rate bracket for a single individual filing a single return for taxable years beginning in 2003 and 2004. For taxable years beginning after 2004, the applicable percentages will revert to those provided by EGTRRA. Table 3, below, shows the size of the 15-percent bracket during the phase-in period.

TABLE 3.—SCHEDULED SIZE OF THE 15-PERCENT RATE BRACKET FOR MARRIED COUPLES FILING JOINT RETURNS

| Taxable year | End point of 15-percent rate bracket for married couples filing joint returns as percentage of end point of 15-percent rate bracket for unmarried individuals |
|---|---|
| 2005 | 180 |
| 2006 | 187 |
| 2007 | 193 |
| 2008 through 2010[1] | 200 |

[1] The increases in the 15-percent rate bracket for married couples filing a joint return are repealed for taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement increases the size of the 15-percent rate bracket for joint returns to twice the size of the corresponding rate bracket for single returns effective for 2005–2007. Therefore, the size of the 15-percent rate bracket for joint returns is twice the size of the corresponding rate bracket for single returns for taxable years 2005–2010. The modification to the 15-percent rate bracket under the conference agreement is subject to the sunset provision of EGTRRA.

*Effective date.*—The conference agreement provision is effective for taxable years beginning after December 31, 2004.

C. EXTEND SIZE OF 10-PERCENT RATE BRACKET FOR INDIVIDUALS

(Sec. 101 of the conference agreement and sec. 1 of the Code)

PRESENT LAW

*In general*

Under the Federal individual income tax system, an individual who is a citizen or a resident of the United States generally is subject to tax on worldwide taxable income. Taxable income is total gross income less certain exclusions, exemptions, and deductions. An individual may claim either a standard deduction or itemized deductions.

An individual's income tax liability is determined by computing his or her regular income tax liability and, if applicable, alternative minimum tax liability.

*Regular income tax liability*

Regular income tax liability is determined by applying the regular income tax rate schedules (or tax tables) to the individual's taxable income. This tax liability is then reduced by any applicable tax credits. The regular income tax rate schedules are divided into several ranges of income, known as income brackets, and the marginal tax rate increases as the individual's income increases. The income bracket amounts are adjusted annually for inflation. Separate rate schedules apply based on filing status: single individuals (other than heads of households and surviving spouses), heads of households, married individuals filing joint returns (including surviving spouses), married individuals filing separate returns, and estates and trusts. Lower rates may apply to capital gains.

*Ten-percent regular income tax rate*

EGTRRA created a new 10-percent rate that applied to the first $6,000 of taxable income for single individuals, $10,000 of taxable income for heads of households, and $12,000 for married couples filing joint returns, and provided a scheduled increase effective beginning in 2008 under which the $6,000 amount would increase to $7,000 and the $12,000 amount would increase to $14,000, with such amounts adjusted annually for inflation for taxable years beginning after December 31, 2008. JGTRRA accelerated the scheduled increases to 2003 and 2004 (with indexing). For 2004, the size of the 10–percent bracket for single individuals is $7,150 ($14,300 for married individuals filing a joint return). For 2005–2010, the size of the 10–percent bracket reverts to the levels provided under EGTRRA. Thus the amounts drop to $6,000 for single individuals, $10,000 for heads of households and $12,000 for married individuals filing a joint return) for 2005–2007. In 2008, the amounts will increase to $7,000 ($14,000 for married individuals filing a joint return). These amounts ($7,000 for single individuals, $10,000 for heads of households and $14,000 for married individuals) are adjusted annually for inflation for taxable years beginning after December 31, 2008. The 10–percent rate bracket will expire for taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the size of the 10–percent rate bracket through 2010. Specifically, the size of the 10–percent rate bracket for 2005 through 2010 is set at the 2003 level ($7,000 for single individuals, $10,000 for heads of households and $14,000 for married individuals) with annual indexing from 2003. The modifications to the 10–percent rate bracket under the conference agreement are subject to the sunset provision of EGTRRA.

*Effective date.*—The conference agreement provision is effective for taxable years beginning after December 31, 2004.

D. EXTEND ALTERNATIVE MINIMUM TAX EXEMPTION FOR INDIVIDUALS

(Sec. 103 of the conference agreement and sec. 55 of the Code)

PRESENT LAW

The alternative minimum tax is the amount by which the tentative minimum tax exceeds the regular income tax. An individual's tentative minimum tax is the sum of (1) 26 percent of so much of the taxable excess as does not exceed $175,000 ($87,500 in the case of a married individual filing a separate return) and (2) 28 percent of the remaining taxable excess. The taxable excess is so much of the alternative minimum taxable income (''AMTI'') as exceeds the exemption amount. The maximum tax rates on net capital gain and dividends used in computing the regular tax are used in computing the tentative minimum tax. AMTI is the individual's taxable income adjusted to take account of specified preferences and adjustments.

The exemption amount is: (1) $45,000 ($58,000 for taxable years beginning before 2005) in the case of married individuals filing a joint return and surviving spouses; (2) $33,750 ($40,250 for taxable years beginning

[8] Under present law, the rate bracket breakpoint for the 35-percent marginal tax rate is the same for single individuals and married couples filing joint returns.

before 2005) in the case of other unmarried individuals; (3) $22,500 ($29,000 for taxable years beginning before 2005) in the case of married individuals filing a separate return; and (4) $22,500 in the case of an estate or trust. The exemption amount is phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns, an estate, or a trust. These amounts are not indexed for inflation.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the increased alternative minimum tax exemption amounts to taxable years beginning in 2005.

*Effective date.*—The provision applies to taxable years beginning after December 31, 2004.

## II. PROVISIONS RELATING TO THE MILITARY

### A. Exclusion of Gain on Sale of a Principal Residence by a Member of the Uniformed Services or the Foreign Service

(Sec. 201 of the House bill and sec. 121 of the Code)

PRESENT LAW[9]

Under present law, an individual taxpayer may exclude up to $250,000 ($500,000 if married filing a joint return) of gain realized on the sale or exchange of a principal residence. To be eligible for the exclusion, the taxpayer must have owned and used the residence as a principal residence for at least two of the five years ending on the sale or exchange. A taxpayer who fails to meet these requirements by reason of a change of place of employment, health, or, to the extent provided under regulations, unforeseen circumstances is able to exclude an amount equal to the fraction of the $250,000 ($500,000 if married filing a joint return) that is equal to the fraction of the two years that the ownership and use requirements are met. There are no special rules relating to members of the uniformed services or the Foreign Service of the United States.

HOUSE BILL

Under the bill, an individual may elect to suspend for a maximum of five years the five-year test period for ownership and use during certain absences due to service in the uniformed services or the Foreign Service of the United States. The uniformed services include: (1) the Armed Forces (the Army, Navy, Air Force, Marine Corps, and Coast Guard); (2) the commissioned corps of the National Oceanic and Atmospheric Administration; and (3) the commissioned corps of the Public Health Service. If the election is made, the five-year period ending on the date of the sale or exchange of a principal residence does not include any period up to five years during which the taxpayer or the taxpayer's spouse is on qualified official extended duty as a member of the uniformed services or in the Foreign Service of the United States. For these purposes, qualified official extended duty is any period of extended duty while serving at a place of duty at least 150 miles away from the taxpayer's principal residence or under orders compelling residence in Government furnished quarters. Extended duty is defined as any period of duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period. The election may be made with respect to only one property for a suspension period.

*Effective date.*—The provision is effective for sales or exchanges after May 6, 1997.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[10]

### B. Exclusion From Gross Income of Certain Death Gratuity Payments

(Sec. 202 of the House bill and sec. 134 of the Code)

PRESENT LAW[11]

Present law provides that qualified military benefits are not included in gross income. Generally, a qualified military benefit is any allowance or in-kind benefit (other than personal use of a vehicle) which: (1) is received by any member or former member of the uniformed services of the United States or any dependent of such member by reason of such member's status or service as a member of such uniformed services; and (2) was excludable from gross income on September 9, 1986, under any provision of law, regulation, or administrative practice which was in effect on such date. Generally, other than certain cost of living adjustments, no modification or adjustment of any qualified military benefit after September 9, 1986, is taken into account for purposes of this exclusion from gross income. Qualified military benefits include certain death gratuities. The amount of the military death gratuity benefit has been increased since September 9, 1986 to $6,000 pursuant to Chapter 75 of Title 10 of the United States Code. However, the amount of the exclusion from gross income was not increased to take into account this change.

HOUSE BILL

The bill extends the exclusion from gross income for military benefits to any adjustment to the amount of the death gratuity payable under Chapter 75 of Title 10 of the United States Code that is pursuant to a provision of law enacted before December 31, 1991, with respect to the death of certain members of the Armed services on active duty, inactive duty training, or engaged in authorized travel.

*Effective date.*—The provision is effective with respect to deaths occurring after September 10, 2001.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[12]

### C. Exclusion for Amounts Received Under Department of Defense Homeowners Assistance Program

(Sec. 203 of the House bill and sec. 132 of the Code)

PRESENT LAW[13]

*Homeowners Assistance Program payment*

The Department of Defense Homeowners Assistance Program (''HAP'') provides payments to certain employees and members of the Armed Forces to offset the adverse effects on housing values that result from a military base realignment or closure.[14]

In general, under HAP, eligible individuals receive either: (1) a cash payment as compensation for losses that may be or have been sustained in a private sale, in an amount not to exceed the difference between (a) 95 percent of the fair market value of their property prior to public announcement of intention to close all or part of the military base or installation and (b) the fair market value of such property at the time of the sale; or (2) as the purchase price for their property, an amount not to exceed 90 percent of the prior fair market value as determined by the Secretary of Defense, or the amount of the outstanding mortgages.

*Tax treatment*

Unless specifically excluded, gross income for Federal income tax purposes includes all income from whatever source derived. Amounts received under HAP are received in connection with the performance of services. These amounts are includible in gross income as compensation for services to the extent such payments exceed the fair market value of the property relinquished in exchange for such payments. Additionally, such payments are wages for Federal Insurance Contributions Act (''FICA'') tax purposes (including Medicare).

HOUSE BILL

The bill generally exempts from gross income amounts received under the HAP (as in effect on the date of enactment of this bill). Amounts received under the program also are not considered wages for FICA tax purposes (including Medicare). The excludable amount is limited to the reduction in the fair market value of property.

*Effective date.*—The provision is effective for payments made after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[15]

### D. Expansion of Combat Zone Filing Rules to Contingency Operations

(Sec. 204 of the House bill and sec. 7508 of the Code)

PRESENT LAW[16]

*General time limits for filing tax returns*

Individuals generally must file their Federal income tax returns by April 15 of the year following the close of a taxable year. The Secretary may grant reasonable extensions of time for filing such returns. Treasury regulations provide an additional automatic two-month extension (until June 15

[9] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[10] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[11] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[12] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[13] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[14] The payments are authorized under the provisions of 42 U.S.C. section 3374.

[15] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[16] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

for calendar-year individuals) for United States citizens and residents in military or naval service on duty on April 15 of the following year (the otherwise applicable due date of the return) outside the United States. No action is necessary to apply for this extension, but taxpayers must indicate on their returns (when filed) that they are claiming this extension. Unlike most extensions of time to file, this extension applies to both filing returns and paying the tax due.

Treasury regulations also provide, upon application on the proper form, an automatic four-month extension (until August 15 for calendar-year individuals) for any individual timely filing that form and paying the amount of tax estimated to be due.

In general, individuals must make quarterly estimated tax payments by April 15, June 15, September 15, and January 15 of the following taxable year. Wage withholding is considered to be a payment of estimated taxes.

*Suspension of time periods*

In general, the period of time for performing various acts under the Code, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, is suspended for any individual serving in the Armed Forces of the United States in an area designated as a ''combat zone'' during the period of combatant activities. An individual who becomes a prisoner of war is considered to continue in active service and is therefore also eligible for these suspension of time provisions. The suspension of time also applies to an individual serving in support of such Armed Forces in the combat zone, such as Red Cross personnel, accredited correspondents, and civilian personnel acting under the direction of the Armed Forces in support of those Forces. The designation of a combat zone must be made by the President in an Executive Order. The President must also designate the period of combatant activities in the combat zone (the starting date and the termination date of combat).

The suspension of time encompasses the period of service in the combat zone during the period of combatant activities in the zone, as well as (1) any time of continuous qualified hospitalization resulting from injury received in the combat zone[17] or (2) time in missing in action status, plus the next 180 days.

The suspension of time applies to the following acts:

(1) Filing any return of income, estate, or gift tax (except employment and withholding taxes);

(2) Payment of any income, estate, or gift tax (except employment and withholding taxes);

(3) Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court;

(4) Allowance of a credit or refund of any tax;

(5) Filing a claim for credit or refund of any tax;

(6) Bringing suit upon any such claim for credit or refund;

(7) Assessment of any tax;

(8) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;

(9) Collection of the amount of any liability in respect of any tax;

(10) Bringing suit by the United States in respect of any liability in respect of any tax; and

(11) Any other act required or permitted under the internal revenue laws specified by the Secretary of the Treasury.

Individuals may, if they choose, perform any of these acts during the period of suspension. Spouses of qualifying individuals are entitled to the same suspension of time, except that the spouse is ineligible for this suspension for any taxable year beginning more than two years after the date of termination of combatant activities in the combat zone.

HOUSE BILL

The bill applies the special suspension of time period rules to persons deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation or that becomes a contingency operation. A contingency operation is defined[18] as a military operation that is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force, or results in the call or order to (or retention of) active duty of members of the uniformed services during a war or a national emergency declared by the President or Congress.

*Effective date.*—The provision applies to any period for performing an act that has not expired before the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[19]

E. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS

(Sec. 205 of the House bill and sec. 501(c)(19) of the Code)

PRESENT LAW[20]

Under present law, a veterans' organization as described in section 501(c)(19) of the Code generally is exempt from taxation. The Code defines such an organization as a post or organization of past or present members of the Armed Forces of the United States: (1) that is organized in the United States or any of its possessions; (2) no part of the net earnings of which inures to the benefit of any private shareholder or individual; and (3) that meets certain membership requirements. The membership requirements are that (1) at least 75 percent of the organization's members are past or present members of the Armed Forces of the United States, and (2) substantially all of the remaining members are cadets or are spouses, widows, or widowers of past or present members of the Armed Forces of the United States or of cadets. No more than 2.5 percent of an organization's total members may consist of individuals who are not veterans, cadets, or spouses, widows, or widowers of such individuals.

Contributions to an organization described in section 501(c)(19) may be deductible for Federal income or gift tax purposes if the organization is a post or organization of war veterans.

HOUSE BILL

The bill permits ancestors or lineal descendants of past or present members of the Armed Forces of the United States or of cadets to qualify as members for purposes of the ''substantially all'' test. The bill does not change the requirement that 75 percent of the organization's members must be past or present members of the Armed Forces of the United States.

*Effective date.*—The provision is effective for taxable years beginning after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[21]

F. CLARIFICATION OF TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS PROVIDED TO MEMBERS OF THE UNIFORMED SERVICES OF THE UNITED STATES

(Sec. 206 of the House bill and sec. 134 of the Code)

PRESENT LAW[22]

Present law provides that qualified military benefits are not included in gross income. Generally, a qualified military benefit is any allowance or in-kind benefit (other than personal use of a vehicle) which: (1) is received by any member or former member of the uniformed services of the United States or any dependent of such member by reason of such member's status or service as a member of such uniformed services; and (2) was excludable from gross income on September 9, 1986, under any provision of law, regulation, or administrative practice which was in effect on such date. Generally, other than certain cost of living adjustments, no modification or adjustment of any qualified military benefit after September 9, 1986, is taken into account for purposes of this exclusion from gross income.

HOUSE BILL

The bill clarifies that dependent care assistance provided under a dependent care assistance program (as in effect on the date of enactment of this bill) for a member of the uniformed services by reason of such member's status or service as a member of the uniformed services is excludable from gross income as a qualified military benefit subject to the present-law rules. The uniformed services include: (1) the Armed Forces (the Army, Navy, Air Force, Marine Corps, and Coast Guard); (2) the commissioned corps of the National Oceanic and Atmospheric Administration; and (3) the commissioned corps of the Public Health Service. Amounts received under the program also are not considered wages for Federal Insurance Contributions Act tax purposes (including Medicare).

*Effective date.*—The provision is effective for taxable years beginning after December 31, 2002. No inference is intended as to the tax treatment of such amounts for prior taxable years.

[17] Two special rules apply to continuous hospitalization inside the United States. First, the suspension of time provisions based on continuous hospitalization inside the United States are applicable only to the hospitalized individual; they are not applicable to the spouse of such individual. Second, in no event do the suspension of time provisions based on continuous hospitalization inside the United States extend beyond five years from the date the individual returns to the United States. These two special rules do not apply to continuous hospitalization outside the United States.

[18] The definition is by cross-reference to 10 U.S.C. 101.

[19] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[20] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[21] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[22] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[23]

G. TREATMENT OF SERVICE ACADEMY APPOINTMENTS AS SCHOLARSHIPS FOR PURPOSES OF QUALIFIED TUITION PROGRAMS AND COVERDELL EDUCATION SAVINGS ACCOUNTS

(Sec. 207 of the House bill and secs. 529 and 530 of the Code)

PRESENT LAW[24]

The Code provides tax-exempt status to qualified tuition programs, meaning programs established and maintained by a State or agency or instrumentality thereof or by one or more eligible educational institutions under which a person (1) may purchase tuition credits or certificates on behalf of a designated beneficiary which entitle the beneficiary to the waiver or payment of qualified higher education expenses of the beneficiary, or (2) in the case of a program established by and maintained by a State or agency or instrumentality thereof, may make contributions to an account which is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account. Contributions to qualified tuition programs may be made only in cash. Qualified tuition programs must have adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of amounts necessary to provide for the qualified higher education expenses of the beneficiary.

The Code provides tax-exempt status to Coverdell education savings accounts (''ESAs''), meaning certain trusts or custodial accounts which are created or organized in the United States exclusively for the purpose of paying the qualified education expenses of a designated beneficiary. Contributions to ESAs may be made only in cash. Annual contributions to ESAs may not exceed $2,000 per beneficiary (except in cases involving certain tax-free rollovers) and may not be made after the designated beneficiary reaches age 18.

Earnings on contributions to an ESA or a qualified tuition program generally are subject to tax when withdrawn. However, distributions from an ESA or qualified tuition program are excludable from the gross income of the distributee to the extent that the total distribution does not exceed the qualified education expenses incurred by the beneficiary during the year the distribution is made.

If the qualified education expenses of the beneficiary for the year are less than the total amount of the distribution from an ESA or qualified tuition program, then the qualified education expenses are deemed to be paid from a pro-rata share of both the principal and earnings components of the distribution. In such a case, only a portion of the earnings is excludable (i.e., the portion of the earnings based on the ratio that the qualified education expenses bear to the total amount of the distribution) and the remaining portion of the earnings is includible in the beneficiary's gross income.

The earnings portion of a distribution from an ESA or a qualified tuition program that is includible in income is generally subject to an additional 10 percent tax. The 10 percent additional tax does not apply if a distribution is made on account of the death or disability of the designated beneficiary, or on account of a scholarship received by the designated beneficiary (to the extent it does not exceed the amount of the scholarship).

Service obligations are required of recipients of appointments to the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy. Because of these service obligations, appointments to the Academies are not considered scholarships for purposes of the waiver of the additional 10 percent tax on withdrawals from ESAs and qualified tuition programs that are not used for qualified education purposes.

HOUSE BILL

The bill permits penalty-free withdrawals from Coverdell education savings accounts and qualified tuition programs made on account of the attendance of the beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy.

The amount of funds that can be withdrawn penalty free is limited to the costs of advanced education as defined in 10 U.S.C. section 2005(e)(3) (as in effect on the date of the enactment of the bill) at such Academies.

*Effective date.*—The provision applies to taxable years beginning after December 31, 2002.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[25]

H. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS

(Sec. 208 of the House bill and sec. 162 of the Code)

PRESENT LAW[26]

National Guard and Reserve members may claim itemized deductions for their nonreimbursable expenses for transportation, meals, and lodging when they must travel away from home (and stay overnight) to attend National Guard and Reserve meetings. These overnight travel expenses are combined with other miscellaneous itemized deductions on Schedule A of the individual's income tax return and are deductible only to the extent that the aggregate of these deductions exceeds two percent of the taxpayer's adjusted gross income. No deduction is generally permitted for commuting expenses to and from drill meetings.

HOUSE BILL

The bill provides an above-the-line deduction for the overnight transportation, meals, and lodging expenses of National Guard and Reserve members who must travel away from home more than 100 miles (and stay overnight) to attend National Guard and Reserve meetings. Accordingly, these individuals incurring these expenses can deduct them from gross income regardless of whether they itemize their deductions. The amount of the expenses that may be deducted may not exceed $1,500 per taxable year and is only available for any period during which the individual is more than 100 miles from home in connection with such services.

*Effective date.*—The provision is effective with respect to amounts paid or incurred in taxable years beginning after December 31, 2002.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[27]

I. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS

(Sec. 301 of the House bill and sec. 501 of the Code)

PRESENT LAW[28]

Under present law, the Internal Revenue Service generally issues a letter revoking recognition of an organization's tax-exempt status only after (1) conducting an examination of the organization, (2) issuing a letter to the organization proposing revocation, and (3) allowing the organization to exhaust the administrative appeal rights that follow the issuance of the proposed revocation letter. In the case of an organization described in section 501(c)(3), the revocation letter immediately is subject to judicial review under the declaratory judgment procedures of section 7428. To sustain a revocation of tax-exempt status under section 7428, the IRS must demonstrate that the organization is no longer entitled to exemption. There is no procedure under current law for the IRS to suspend the tax-exempt status of an organization.

To combat terrorism, the Federal government has designated a number of organizations as terrorist organizations or supporters of terrorism under the Immigration and Nationality Act, the International Emergency Economic Powers Act, and the United Nations Participation Act of 1945.

HOUSE BILL

The bill suspends the tax-exempt status of an organization that is exempt from tax under section 501(a) for any period during which the organization is designated or identified by U.S. Federal authorities as a terrorist organization or supporter of terrorism. The bill also makes such an organization ineligible to apply for tax exemption under section 501(a). The period of suspension runs from the date the organization is first designated or identified (or from the date of enactment of the bill, whichever is later) to the date when all designations or identifications with respect to the organization have been rescinded pursuant to the law or Executive order under which the designation or identification was made.

The bill describes a terrorist organization as an organization that has been designated or otherwise individually identified (1) as a terrorist organization or foreign terrorist organization under the authority of section 212(a)(3)(B)(vi)(II) or section 219 of the Immigration and Nationality Act; (2) in or pursuant to an Executive order that is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act for the purpose of imposing on such organization an economic or other sanction; or (3) in or pursuant to an

[23] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[24] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[25] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[26] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[27] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[28] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

Executive order that refers to the provision and is issued under the authority of any Federal law if the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989). During the period of suspension, no deduction for any contribution to a terrorist organization is allowed under the Code, including under sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522.

No organization or other person may challenge, under section 7428 or any other provision of law, in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person, the suspension of tax-exemption, the ineligibility to apply for tax-exemption, a designation or identification described above, the timing of the period of suspension, or a denial of deduction described above. The suspended organization may maintain other suits or administrative actions against the agency or agencies that designated or identified the organization, for the purpose of challenging such designation or identification (but not the suspension of tax-exempt status under this provision).

If the tax-exemption of an organization is suspended and each designation and identification that has been made with respect to the organization is determined to be erroneous pursuant to the law or Executive order making the designation or identification, and such erroneous designation results in an overpayment of income tax for any taxable year with respect to such organization, a credit or refund (with interest) with respect to such overpayment shall be made. If the operation of any law or rule of law (including res judicata) prevents the credit or refund at any time, the credit or refund may nevertheless be allowed or made if the claim for such credit or refund is filed before the close of the one-year period beginning on the date that the last remaining designation or identification with respect to the organization is determined to be erroneous.

The bill directs the IRS to update the listings of tax-exempt organizations to take account of organizations that have had their exemption suspended and to publish notice to taxpayers of the suspension of an organization's tax-exemption and the fact that contributions to such organization are not deductible during the period of suspension.

*Effective date.*—The provision is effective for designations made before, on, or after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[29]

### J. EXTENSION OF CERTAIN TAX RELIEF PROVISIONS TO ASTRONAUTS

(Sec. 401 of the House bill and secs. 101, 692, and 2201 of the Code)

PRESENT LAW[30]

*In general*

The Victims of Terrorism Tax Relief Act of 2001 (the ''Victims Act'') provided certain income and estate tax relief to individuals who die from wounds or injury incurred as a result of the terrorist attacks against the United States on September 11, 2001, and April 19, 1995 (the bombing of the Alfred P. Murrah Federal Building in Oklahoma City) or as a result of illness incurred due to an attack involving anthrax that occurred on or after September 11, 2001, and before January 1, 2002.

*Income tax relief*

The Victims Act extended relief similar to the present-law treatment of military or civilian employees of the United States who die as a result of terrorist or military activity outside the United States to individuals who die as a result of wounds or injury which were incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, and individuals who die as a result of illness incurred due to an attack involving anthrax that occurs on or after September 11, 2001, and before January 1, 2002. Under the Victims Act, such individuals generally are exempt from income tax for the year of death and for prior taxable years beginning with the taxable year prior to the taxable year in which the wounds or injury occurred.[31] The exemption applies to these individuals whether killed in an attack (e.g., in the case of the September 11, 2001, attack in one of the four airplanes or on the ground) or in rescue or recovery operations.

Present law provides tax relief of at least $10,000 to each eligible individual regardless of the income tax liability of the individual for the eligible tax years. If an eligible individual's income tax for years eligible for the exclusion under the provision is less than $10,000, the individual is treated as having made a tax payment for such individual's last taxable year in an amount equal to the excess of $10,000 over the amount of tax not imposed under the provision.

Subject to rules prescribed by the Secretary, the exemption from tax does not apply to the tax attributable to (1) deferred compensation which would have been payable after death if the individual had died other than as a specified terrorist victim, or (2) amounts payable in the taxable year which would not have been payable in such taxable year but for an action taken after September 11, 2001. Thus, for example, the exemption does not apply to amounts payable from a qualified plan or individual retirement arrangement to the beneficiary or estate of the individual. Similarly, amounts payable only as death or survivor's benefits pursuant to deferred compensation preexisting arrangements that would have been paid if the death had occurred for another reason are not covered by the exemption. In addition, if the individual's employer makes adjustments to a plan or arrangement to accelerate the vesting of restricted property or the payment of nonqualified deferred compensation after the date of the particular attack, the exemption does not apply to income received as a result of that action.[32] Also, if the individual's beneficiary cashed in savings bonds of the decedent, the exemption does not apply. On the other hand, the exemption does apply, for example, to a final paycheck of the individual or dividends on stock held by the individual when paid to another person or the individual's estate after the date of death but before the end of the taxable year of the decedent (determined without regard to the death). The exemption also applies to payments of an individual's accrued vacation and accrued sick leave.

The tax relief does not apply to any individual identified by the Attorney General to have been a participant or conspirator in any terrorist attack to which the provision applies, or a representative of such individual.

*Exclusion of death benefits*

The Victims Act generally provides an exclusion from gross income for amounts received if such amounts are paid by an employer (whether in a single sum or otherwise[33]) by reason of the death of an employee who dies as a result of wounds or injury which were incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, or as a result of illness incurred due to an attack involving anthrax that occurred on or after September 11, 2001, and before January 1, 2002. Subject to rules prescribed by the Secretary, the exclusion does not apply to amounts that would have been payable if the individual had died for a reason other than the attack. The exclusion does apply, however, to death benefits provided under a qualified plan that satisfy the incidental benefit rule.

For purposes of the exclusion, self-employed individuals are treated as employees. Thus, for example, payments by a partnership to the surviving spouse of a partner who died as a result of the September 11, 2001, attacks may be excludable under the provision.

The tax relief does not apply to any individual identified by the Attorney General to have been a participant or conspirator in any terrorist attack to which the provision applies, or a representative of such individual.

*Estate tax relief*

Present law provides a reduction in Federal estate tax for taxable estates of U.S. citizens or residents who are active members of the U.S. Armed Forces and who are killed in action while serving in a combat zone (sec. 2201). This provision also applies to active service members who die as a result of wounds, disease, or injury suffered while serving in a combat zone by reason of a hazard to which the service member was subjected as an incident of such service.

In general, the effect of section 2201 is to replace the Federal estate tax that would otherwise be imposed with a Federal estate tax equal to 125 percent of the maximum State death tax credit determined under section 2011(b). Credits against the tax, including the unified credit of section 2010 and the State death tax credit of section 2011, then apply to reduce (or eliminate) the amount of the estate tax payable.

Generally, the reduction in Federal estate taxes under section 2201 is equal in amount to the ''additional estate tax.'' The additional estate tax is the difference between the Federal estate tax imposed by section 2001 and 125 percent of the maximum State death tax credit determined under section 2011(b) as in effect prior to its repeal by EGTRRA.

The Victims Act generally treats individuals who die from wounds or injury incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, or as a result of illness incurred due to an attack involving anthrax that occurred on or after September 11, 2001, and before January 1, 2002, in the same manner as if they were active members of the U.S. Armed Forces killed in action while serving in a combat zone or dying as a result of wounds or injury suffered while serving in a combat zone for purposes of section 2201. Consequently, the estates of these individuals are eligible for the reduction in Federal estate tax provided by section 2201. The tax relief does not apply to any individual identified by the Attorney General to have been a participant or conspirator in any terrorist

[29] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[30] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[31] Present law does not provide relief from self-employment tax liability.

[32] Such amounts may, however, be excludable from gross income under the death benefit exclusion provided in section 102 of the Victims Act.

[33] Thus, for example, payments made over a period of years could qualify for the exclusion.

attack to which the provision applies, or a representative of such individual.

The Victims Act also changed the general operation of section 2201, as it applies to both the estates of service members who qualify for special estate tax treatment under present and prior law and to the estates of individuals who qualify for the special treatment only under the Act. Under the Victims Act, the Federal estate tax is determined in the same manner for all estates that are eligible for Federal estate tax reduction under section 2201. In addition, the executor of an estate that is eligible for special estate tax treatment under section 2201 may elect not to have section 2201 apply to the estate. Thus, in the event that an estate may receive more favorable treatment without the application of section 2201 in the year of death than it would under section 2201, the executor may elect not to apply the provisions of section 2201, and the estate tax owed (if any) would be determined pursuant to the generally applicable rules.

Under the Victims Act, section 2201 no longer reduces Federal estate tax by the amount of the additional estate tax. Instead, the Victims Act provides that the Federal estate tax liability of eligible estates is determined under section 2001 (or section 2101, in the case of decedents who were neither residents nor citizens of the United States), using a rate schedule that is equal to 125 percent of the pre-EGTRRA maximum State death tax credit amount. This rate schedule is used to compute the tax under section 2001(b) or section 2101(b) (i.e., both the tentative tax under section 2001(b)(1) and section 2101(b), and the hypothetical gift tax under section 2001(b)(2) are computed using this rate schedule). As a result of this provision, the estate tax is unified with the gift tax for purposes of section 2201 so that a single graduated (but reduced) rate schedule applies to transfers made by the individual at death, based upon the cumulative taxable transfers made both during lifetime and at death.

In addition, while the Victims Act provides an alternative reduced rate table for purposes of determining the tax under section 2001(b) or section 2101(b), the amount of the unified credit nevertheless is determined as if section 2201 did not apply, based upon the unified credit as in effect on the date of death. For example, in the case of victims of the September 11, 2001, terrorist attack, the applicable unified credit amount under section 2010(c) would be determined by reference to the actual section 2001(c) rate table.

HOUSE BILL

The bill extends the exclusion from income tax, the exclusion for death benefits, and the estate tax relief available under the Victims of Terrorism Tax Relief Act of 2001 to astronauts who lose their lives on a space mission (including the individuals who lost their lives in the space shuttle Columbia disaster).

*Effective date.*—The provision is generally effective for qualified individuals whose lives are lost on a space mission after December 31, 2002.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[34]

[34] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

## III. OTHER PROVISIONS

### A. Establish Uniform Definition of a Qualifying Child

(Secs. 201–208 of the conference agreement, and secs. 2, 21, 24, 32, 151, and 152 of the Code)

PRESENT LAW

*In general*

Present law contains five commonly used provisions that provide benefits to taxpayers with children: (1) the dependency exemption; (2) the child credit; (3) the earned income credit; (4) the dependent care credit; and (5) head of household filing status. Each provision has separate criteria for determining whether the taxpayer qualifies for the applicable tax benefit with respect to a particular child. The separate criteria include factors such as the relationship (if any) the child must bear to the taxpayer, the age of the child, and whether the child must live with the taxpayer. Thus, with respect to the same individual, a taxpayer is required to determine eligibility for each benefit separately, and an individual who qualifies a taxpayer for one provision does not automatically qualify the taxpayer for another provision.

*Dependency exemption*[35]

*In general*

Taxpayers are entitled to a personal exemption deduction for the taxpayer, his or her spouse, and each dependent. For 2004, the amount deductible for each personal exemption is $3,100. The deduction for personal exemptions is phased out for taxpayers with incomes above certain thresholds.[36]

In general, a taxpayer is entitled to a dependency exemption for an individual if the individual: (1) satisfies a relationship test or is a member of the taxpayer's household for the entire taxable year; (2) satisfies a support test; (3) satisfies a gross income test or is a child of the taxpayer under a certain age; (4) is a citizen or resident of the U.S. or resident of Canada or Mexico;[37] and (5) did not file a joint return with his or her spouse for the year.[38] In addition, the taxpayer identification number of the individual must be included on the taxpayer's return.

*Relationship or member of household test*

*Relationship test.*—The relationship test is satisfied if an individual is the taxpayer's (1) son or daughter or a descendant of either (e.g., grandchild or great-grandchild); (2) stepson or stepdaughter; (3) brother or sister (including half brother, half sister, stepbrother, or stepsister); (4) parent, grandparent, or other direct ancestor (but not foster parent); (5) stepfather or stepmother; (6) brother or sister of the taxpayer's father or mother; (7) son or daughter of the taxpayer's brother or sister; or (8) the taxpayer's father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.

An adopted child (or a child who is a member of the taxpayer's household and who has been placed with the taxpayer for adoption) is treated as a child of the taxpayer. A foster child is treated as a child of the taxpayer if the foster child is a member of the taxpayer's household for the entire taxable year.

*Member of household test.*—If the relationship test is not satisfied, then the individual may be considered the dependent of the taxpayer if the individual is a member of the taxpayer's household for the entire year. Thus, a taxpayer may be eligible to claim a dependency exemption with respect to an unrelated child who lives with the taxpayer for the entire year.

For the member of household test to be satisfied, the taxpayer must both maintain the household and occupy the household with the individual.[39] A taxpayer or other individual does not fail to be considered a member of a household because of ''temporary'' absences due to special circumstances, including absences due to illness, education, business, vacation, and military service.[40] Similarly, an individual does not fail to be considered a member of the taxpayer's household due to a custody agreement under which the individual is absent for less than six months.[41] Indefinite absences that last for more than the taxable year may be considered ''temporary.'' For example, the IRS has ruled that an elderly woman who was indefinitely confined to a nursing home was temporarily absent from a taxpayer's household. Under the facts of the ruling, the woman had been an occupant of the household before being confined to a nursing home, the confinement had extended for several years, and it was possible that the woman would die before becoming well enough to return to the taxpayer's household. There was no intent on the part of the taxpayer or the woman to change her principal place of abode.[42]

*Support test*

*In general.*—The support test is satisfied if the taxpayer provides over one half of the support of the individual for the taxable year. To determine whether a taxpayer has provided more than one half of an individual's support, the amount the taxpayer contributed to the individual's support is compared with the entire amount of support the individual received from all sources, including the individual's own funds.[43] Governmental payments and subsidies (e.g., Temporary Assistance to Needy Families, food stamps, and housing) generally are treated as support provided by a third party. Expenses that are not directly related to any one member of a household, such as the cost of food for the household, must be divided among the members of the household. If any person furnishes support in kind (e.g., in the form of housing), then the fair market value of that support must be determined.

*Multiple support agreements.*—In some cases, no one taxpayer provides more than one half of the support of an individual. Instead, two or more taxpayers, each of whom would be able to claim a dependency exemption but for the support test, together provide more than one half of the individual's support. If this occurs, the taxpayers may agree to designate that one of the taxpayers who individually provides more than 10 percent of the

[35] Secs. 151 and 152. Under the statutory structure, section 151 provides for the deduction for personal exemptions with respect to ''dependents.'' The term ''dependent'' is defined in section 152. Most of the requirements regarding dependents are contained in section 152; section 151 contains additional requirements that must be satisfied in order to obtain a dependency exemption with respect to a dependent (as so defined). In particular, section 151 contains the gross income test, the rules relating to married dependents filing a joint return, and the requirement for a taxpayer identification number. The other rules discussed here are contained in section 151.

[36] Sec. 151(d)(3).

[37] A legally adopted child who does not satisfy the residency or citizenship requirement may nevertheless qualify as a dependent (provided other applicable requirements are met) if (1) the child's principal place of abode is the taxpayer's home and (2) the taxpayer is a citizen or national of the United States. Sec. 152(b)(3).

[38] This restriction does not apply if the return was filed solely to obtain a refund and no tax liability would exist for either spouse if they filed separate returns. Rev. Rul. 54–567, 1954–2 C.B. 108.

[39] Treas. Reg. sec. 1.152–1(b).

[40] Id.

[41] Id.

[42] Rev. Rul. 66–28, 1966–1 C.B. 31.

[43] In the case of a son, daughter, stepson, or stepdaughter of the taxpayer who is a full-time student, scholarships are not taken into account for purpose of the support test. Sec. 152(d).

individual's support can claim a dependency exemption for the child. Each of the others must sign a written statement agreeing not to claim the exemption for that year. The statements must be filed with the income tax return of the taxpayer who claims the exemption.

*Special rules for divorced or legally separated parents.*—Special rules apply in the case of a child of divorced or legally separated parents (or parents who live apart at all times during the last six months of the year) who provide over one half the child's support during the calendar year.[44] If such a child is in the custody of one or both of the parents for more than one half of the year, then the parent having custody for the greater portion of the year is deemed to satisfy the support test; however, the custodial parent may release the dependency exemption to the noncustodial parent by filing a written declaration with the IRS.[45]

*Gross income test*

In general, an individual may not be claimed as a dependent of a taxpayer if the individual has gross income that is at least equal to the personal exemption amount for the taxable year.[46] If the individual is the child of the taxpayer and under age 19 (or under age 24, if a full-time student), the gross income test does not apply.[47] For purposes of this rule, a ''child'' means a son, daughter, stepson, or stepdaughter (including an adopted child of the taxpayer, a foster child who resides with the taxpayer for the entire year, or a child placed with the taxpayer for adoption by an authorized adoption agency).

*Earned income credit*[48]

*In general*

In general, the earned income credit is a refundable credit for low-income workers. The amount of the credit depends on the earned income of the taxpayer and whether the taxpayer has one, more than one, or no ''qualifying children.'' In order to be a qualifying child for the earned income credit, an individual must satisfy a relationship test, a residency test, and an age test. In addition, the name, age, and taxpayer identification number of the qualifying child must be included on the return.

*Relationship test*

An individual satisfies the relationship test under the earned income credit if the individual is the taxpayer's: (1) son, daughter, stepson, or stepdaughter, or a descendant of any such individual;[49] (2) brother, sister, stepbrother, or stepsister, or a descendant of any such individual, who the taxpayer cares for as the taxpayer's own child; or (3) eligible foster child.

An eligible foster child is an individual (1) who is placed with the taxpayer by an authorized placement agency, and (2) who the taxpayer cares for as her or his own child. A married child of the taxpayer is not treated as meeting the relationship test unless the taxpayer is entitled to a dependency exemption with respect to the married child (e.g., the support test is satisfied) or would be entitled to the exemption if the taxpayer had not waived the exemption to the noncustodial parent.[50]

*Residency test*

The residency test is satisfied if the individual has the same principal place of abode as the taxpayer for more than one half of the taxable year. The residence must be in the United States.[51] As under the dependency exemption (and head of household filing status), temporary absences due to special circumstances, including absences due to illness, education, business, vacation, and military service are not treated as absences for purposes of determining whether the residency test is satisfied.[52] Under the earned income credit, there is no requirement that the taxpayer maintain the household in which the taxpayer and the qualifying individual reside.

*Age test*

In general, the age test is satisfied if the individual has not attained age 19 as of the close of the calendar year.[53] In the case of a full-time student, the age test is satisfied if the individual has not attained age 24 as of the close of the calendar year. In the case of an individual who is permanently and totally disabled, no age limit applies.

*Child credit*[54]

Taxpayers with incomes below certain amounts are eligible for a child credit for each qualifying child of the taxpayer. The amount of the child credit is up to $1,000, in the case of taxable years beginning in 2003 or 2004. The child credit reverts to $700 for taxable years beginning in 2005 through 2008, $800 for taxable years beginning in 2009, and $1,000 for taxable years beginning in 2010. The credit declines to $500 in taxable year 2011.[55] For purposes of this credit, a qualifying child is an individual: (1) with respect to whom the taxpayer is entitled to a dependency exemption for the year; (2) who satisfies the same relationship test applicable to the earned income credit; and (3) who has not attained age 17 as of the close of the calendar year.[56] In addition, the child must be a citizen or resident of the United States.[57] A portion of the child credit is refundable under certain circumstances.[58]

*Dependent care credit*[59]

The dependent care credit may be claimed by a taxpayer who maintains a household that includes one or more qualifying individuals and who has employment-related expenses. A qualifying individual means (1) a dependent of the taxpayer under age 13 for whom the taxpayer is entitled to a dependency exemption,[60] (2) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself,[61] or (3) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself. In addition, a taxpayer identification number for the qualifying individual must be included on the return.

A taxpayer is considered to maintain a household for a period if over one half the cost of maintaining the household for the period is furnished by the taxpayer (or, if married, the taxpayer and his or her spouse). Costs of maintaining the household include expenses such as rent, mortgage interest (but not principal), real estate taxes, insurance on the home, repairs (but not home improvements), utilities, and food eaten in the home.

A special rule applies in the case of a child who is under age 13 or is physically or mentally incapable of caring for himself or herself if the custodial parent has waived his or her dependency exemption to the noncustodial parent.[62] For the dependent care credit, the child is treated as a qualifying individual with respect to the custodial parent, not the parent entitled to claim the dependency exemption.

*Head of household filing status*[63]

A taxpayer may claim head of household filing status if the taxpayer is unmarried (and not a surviving spouse) and pays more than one half of the cost of maintaining as his or her home a household which is the principal place of abode for more than one half of the year of (1) an unmarried son, daughter, stepson or stepdaughter of the taxpayer or an unmarried descendant of the taxpayer's son or daughter, (2) an individual described in (1) who is married, if the taxpayer may claim a dependency exemption with respect to the individual (or could claim the exemption if the taxpayer had not waived the exemption to the noncustodial parent), or (3) a relative with respect to whom the taxpayer may claim a dependency exemption.[64] If certain other requirements are satisfied, head of household filing status also

[44] For purposes of this rule, a ''child'' means a son, daughter, stepson, or stepdaughter (including an adopted child or foster child, or child placed with the taxpayer for adoption). Sec. 152(e)(1)(A).

[45] Special support rules also apply in the case of certain pre-1985 agreements between divorced or legally separated parents. Sec. 152(e)(4).

[46] Certain income from sheltered workshops is not taken into account in determining the gross income of permanently and totally disabled individuals. Sec. 151(c)(5).

[47] Sec. 151(c). The IRS has issued guidance stating that for purposes of the dependency exemption, an individual attains a specified age on the anniversary of the date that the child was born (e.g., a child born on January 1, 1987, attains the age of 17 on January 1, 2004). Rev. Rul. 2003–72, 2003–33 I.R.B. 346.

[48] Sec. 32.

[49] A child who is legally adopted or placed with the taxpayer for adoption by an authorized adoption agency is treated as the taxpayer's own child. Sec. 32(c)(3)(B)(iv).

[50] Sec. 32(c)(3)(B)(ii).

[51] The principal place of abode of a member of the Armed Services is treated as in the United States during any period during which the individual is stationed outside the United States on active duty. Sec. 32(c)(4).

[52] IRS Publication 596, Earned Income Credit (EIC), at 14. H. Rep. 101–964 (October 27, 1990), at 1037.

[53] The IRS has issued guidance stating that for purposes of the earned income credit, an individual attains a specified age on the anniversary of the date that the child was born (e.g., a child born on January 1, 1987, attains the age of 17 on January 1, 2004). Rev. Rul. 2003–72, 2003–33 I.R.B. 346.

[54] Sec. 24.

[55] EGTRRA, Pub. L. No. 107–16, sec. 901(a) (2001).

[56] The IRS has issued guidance stating that for purposes of the child credit, an individual attains a specified age on the anniversary of the date that the child was born (e.g., a child born on January 1, 1987, attains the age of 17 on January 1, 2004). Rev. Rul. 2003–72, 2003–33 I.R.B. 346.

[57] The child credit does not apply with respect to a child who is a resident of Canada or Mexico and is not a U.S. citizen, even if a dependency exemption is available with respect to the child. Sec. 24(c)(2). The child credit is, however, available with respect to a child dependent who is not a resident or citizen of the United States if: (1) the child has been legally adopted by the taxpayer; (2) the child's principal place of abode is the taxpayer's home; and (3) the taxpayer is a U.S. citizen or national. See sec. 24(c)(2) and sec. 152(b)(3).

[58] Sec. 24(d).

[59] Sec. 21.

[60] The IRS has issued guidance stating that for purposes of the dependent care credit, an individual attains a specified age on the anniversary of the date that the child was born (e.g., a child born on January 1, 1987, attains the age of 17 on January 1, 2004). Rev. Rul. 2003–72, 2003–33 I.R.B. 346.

[61] Although such an individual must be a dependent of the taxpayer as defined in section 152, it is not required that the taxpayer be entitled to a dependency exemption with respect to the individual under section 151. Thus, such an individual may be a qualifying individual for purposes of the dependent care credit, even though the taxpayer is not entitled to a dependency exemption because the individual does not meet the gross income test.

[62] Sec. 21(e)(5).

[63] Sec. 2(b).

[64] Sec. 2(b)(1)(A)(ii), as qualified by sec. 2(b)(3)(B). An individual for whom the taxpayer is entitled to

may be claimed if the taxpayer is entitled to a dependency exemption with respect to one of the taxpayer's parents.

HOUSE BILL

No provision.

SENATE AMENDMENT

*In general*

*In general*

The Senate amendment establishes a uniform definition of qualifying child for purposes of the dependency exemption, the child credit, the earned income credit, the dependent care credit, and head of household filing status. A taxpayer generally may claim an individual who does not meet the uniform definition of qualifying child (with respect to any taxpayer) as a dependent if the present-law dependency requirements are satisfied. The Senate amendment generally does not modify other parameters of each tax benefit (e.g., the earned income requirements of the earned income credit) or the rules for determining whether individuals other than children of the taxpayer qualify for each tax benefit.

Under the uniform definition, in general, a child is a qualifying child of a taxpayer if the child satisfies each of three tests: (1) the child has the same principal place of abode as the taxpayer for more than one half the taxable year; (2) the child has a specified relationship to the taxpayer; and (3) the child has not yet attained a specified age. A tie-breaking rule applies if more than one taxpayer claims a child as a qualifying child.

Under the Senate amendment, the present-law support and gross income tests for determining whether an individual is a dependent generally do not apply to a child who meets the requirements of the uniform definition of qualifying child.

*Residency test*

Under the uniform definition's residency test, a child must have the same principal place of abode as the taxpayer for more than one half of the taxable year. It is intended that, as is the case under present law, temporary absences due to special circumstances, including absences due to illness, education, business, vacation, or military service, are not treated as absences.

*Relationship test*

In order to be a qualifying child under the Senate amendment, the child must be the taxpayer's son, daughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, or a descendant of any such individual. An individual legally adopted by the taxpayer, or an individual who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, is treated as a child of such taxpayer by blood. A foster child who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction is treated as the taxpayer's child.[65]

*Age test*

Under the Senate amendment, the age test varies depending upon the tax benefit involved. In general, a child must be under age 19 (or under age 24 in the case of a full-time student) in order to be a qualifying child.[66] In general, no age limit applies with respect to individuals who are totally and permanently disabled within the meaning of section 22(e)(3) at any time during the calendar year. The Senate amendment retains the present-law requirements that a child must be under age 13 (if he or she is not disabled) for purposes of the dependent care credit, and under age 17 (whether or not disabled) for purposes of the child credit.

*Children who support themselves*

Under the Senate amendment, a child who provides over one half of his or her own support generally is not considered a qualifying child of another taxpayer. The Senate amendment retains the present-law rule, however, that a child who provides over one half of his or her own support may constitute a qualifying child of another taxpayer for purposes of the earned income credit.

*Tie-breaking rules*

If a child would be a qualifying child with respect to more than one individual (e.g., a child lives with his or her mother and grandmother in the same residence) and more than one person claims a benefit with respect to that child, then the following ''tie-breaking'' rules apply. First, if only one of the individuals claiming the child as a qualifying child is the child's parent, the child is deemed the qualifying child of the parent. Second, if both parents claim the child and the parents do not file a joint return, then the child is deemed a qualifying child first with respect to the parent with whom the child resides for the longest period of time, and second with respect to the parent with the highest adjusted gross income. Third, if the child's parents do not claim the child, then the child is deemed a qualifying child with respect to the claimant with the highest adjusted gross income.

*Interaction with present-law rules*

Taxpayers generally may claim an individual who does not meet the uniform definition of qualifying child with respect to any taxpayer as a dependent if the present-law dependency requirements (including the gross income and support tests) are satisfied.[67] Thus, for example, as under present law, a taxpayer may claim a parent as a dependent if the taxpayer provides more than one half of the support of the parent and the parent's gross income is less than the exemption amount. As another example, under the Senate amendment a grandparent may claim a dependency exemption with respect to a grandson who does not reside with any taxpayer for over one half the year, if the grandparent provides more than one half of the support of the grandson and the grandson's gross income is less than the exemption amount.

*Citizenship and residency*

Children who are U.S. citizens living abroad or non-U.S. citizens living in Canada or Mexico may qualify as a qualifying child, as is the case under the present-law dependency tests. A legally adopted child who does not satisfy the residency or citizenship requirement may nevertheless qualify as a qualifying child (provided other applicable requirements are met) if (1) the child's principal place of abode is the taxpayer's home and (2) the taxpayer is a citizen or national of the United States.

*Children of divorced or legally separated parents*

The Senate amendment retains the present-law rule that allows a custodial parent to release the claim to a dependency exemption (and, therefore, the child credit) to a noncustodial parent. Thus, under the Senate amendment, custodial waivers that are in place and effective on the date of enactment will continue to be effective after the date of enactment if they continue to satisfy the waiver rule. In addition, the Senate amendment retains the custodial waiver rule for purposes of the dependency exemption (and, therefore, the child credit) for decrees of divorce or separate maintenance or written separation agreements that become effective after the date of enactment. Under the Senate amendment, as under present law, the custodial waiver rules do not affect eligibility with respect to children of divorced or legally separated parents for purposes of the earned income credit, the dependent care credit, and head of household filing status.

While retaining the substantive effect of the present-law waiver provisions, the Senate amendment modifies the mechanical structure of the rules. Under present law, a waiver may be made with respect to the dependency exemption. The waiver then automatically carries over to the child credit, because in order to claim the child credit, the taxpayer must be allowed the dependency exemption with respect to the child. Thus, if the dependency exemption is waived, the child credit applies to the taxpayer who is allowed the dependency exemption under the waiver.

The Senate amendment obtains the same result, but through a slightly modified statutory structure. Under the Senate amendment, if a waiver is made, the waiver applies for purposes of determining whether a child meets the definition of a qualifying child or a qualifying relative under section 152(c) or 152(d) as amended by the provision. While the definition of qualifying child is generally uniform, for purposes of the earned income credit, head of household status, and the dependent care credit, the definition of qualifying child is made without regard to the waiver provision.[68] Thus, as under present law, a waiver that applies for the dependency exemption will also apply for the child credit, and the waiver will not apply for purposes of the other provisions.

*Other provisions*

The Senate amendment retains the applicable present-law requirements that a taxpayer identification number for a child be provided on the taxpayer's return. For purposes of the earned income credit, a qualifying child is required to have a social security number that is valid for employment in the United States (that is, the child must be a U.S. citizen, permanent resident, or have a certain type of temporary visa).

*Effect of Senate amendment on particular tax benefits*

*Dependency exemption*

For purposes of the dependency exemption, the Senate amendment defines a dependent as a qualifying child or a qualifying relative. The qualifying child test eliminates the support test (other than in the case of a child who provides more than one half of his or her own support), and replaces it with the residency requirement described above. Further, the present-law gross income test does not apply to a qualifying child. The rules relating to multiple support agreements do not apply with respect to qualifying children because the support test does not apply to them. Special tie-breaking rules (described above) apply if more than one taxpayer claims a qualifying child under the Senate amendment. These tie-breaking rules do not apply if a child constitutes a qualifying child

claim a dependency exemption by reason of a multiple support agreement does not qualify the taxpayer for head of household filing status.

[65] The provision eliminates the present-law rule requiring that if a child is the taxpayer's sibling or stepsibling or a descendant of any such individual, the taxpayer must care for the child as if the child were his or her own child.

[66] The provision retains the present-law definition of full-time student set forth in section 151(c)(4).

[67] Individuals who satisfy the present-law dependency tests and who are not qualifying children are referred to as ''qualifying relatives'' under the provision.

[68] See secs. 2(b)(1)(A)(i) and 32(c)(3)(A) as amended by the provision, and sec. 21(e)(5).

with respect to multiple taxpayers, but only one eligible taxpayer actually claims the qualifying child.

The Senate amendment generally permits taxpayers to continue to apply the present-law dependency exemption rules to claim a dependency exemption for a qualifying relative who does not satisfy the qualifying child definition. In such cases, the present-law gross income and support tests, including the special rules for multiple support agreements, the special rules relating to income of handicapped dependents, and the special support test in case of students, continue to apply for purposes of the dependency exemption.

As is the case under present law, a child who provides over half of his or her own support is not considered a dependent of another taxpayer under the Senate amendment. Further, an individual shall not be treated as a dependent of any taxpayer if such individual has filed a joint return with the individual's spouse for the taxable year.

*Earned income credit*

In general, the Senate amendment adopts a definition of qualifying child that is similar to the present-law definition under the earned income credit. The present-law requirement that a foster child and certain other children be cared for as the taxpayer's own child is eliminated. The present-law tie-breaker rule applicable to the earned income credit is used for purposes of the uniform definition of qualifying child. The Senate amendment retains the present-law requirement that the taxpayer's principal place of abode must be in the United States.

*Child credit*

The present-law child credit generally uses the same relationships to define an eligible child as the uniform definition. The present-law requirement that a foster child and certain other children be cared for as the taxpayer's own child is eliminated. The age limitation under the Senate amendment retains the present-law requirement that the child must be under age 17, regardless of whether the child is disabled.

*Dependent care credit*

The present-law requirement that a taxpayer maintain a household in order to claim the dependent care credit is eliminated. Thus, if other applicable requirements are satisfied, a taxpayer may claim the dependent care credit with respect to a child who lives with the taxpayer for more than one half the year, even if the taxpayer does not provide more than one half of the cost of maintaining the household.

The rules for determining eligibility for the credit with respect to an individual who is physically or mentally incapable of caring for himself or herself are amended to include a requirement that the taxpayer and the dependent have the same principal place of abode for more than one half the taxable year.

*Head of household filing status*

Under the Senate amendment, a taxpayer is eligible for head of household filing status only with respect to a qualifying child or an individual for whom the taxpayer is entitled to a dependency exemption. Under the Senate amendment, a taxpayer may claim head of household filing status if the taxpayer is unmarried (and not a surviving spouse) and pays more than one half of the cost of maintaining as his or her home a household which is the principal place of abode for more than one half the year of (1) a qualifying child, or (2) an individual for whom the taxpayer may claim a dependency exemption. As under present law, a taxpayer may claim head of household status with respect to a parent for whom the taxpayer may claim a dependency exemption and who does not live with the taxpayer, if certain requirements are satisfied.

*Effective date.*—The provision is effective for taxable years beginning after December 31, 2003.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision with the following modifications. The conference agreement modifies the definition of adopted child, for purposes of determining whether an adopted child is treated as a child by blood, to mean an individual who is legally adopted by the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer.

*Effective date.*—The provision is effective for taxable years beginning after December 31, 2004.

## IV. REVENUE PROVISIONS

### A. Extension of Customs User Fees

(Sec. 301 of the Senate amendment)

PRESENT LAW

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (Pub. L. No. 99–272), authorized the Secretary of the Treasury to collect certain service fees. Section 412 (Pub. L. No. 107–296) of the Homeland Security Act of 2002 authorized the Secretary of the Treasury to delegate such authority to the Secretary of Homeland Security. Provided for under 19 U.S.C. 58c, these fees include: processing fees for air and sea passengers, commercial trucks, rail cars, private aircraft and vessels, commercial vessels, dutiable mail packages, barges and bulk carriers, merchandise, and Customs broker permits. COBRA was amended on several occasions but most recently by Pub. L. No. 108–121, which extended authorization for the collection of these fees through March 1, 2005.[69]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends the fees authorized under the Consolidated Omnibus Budget Reconciliation Act of 1985 through March 31, 2010.

*Effective date.*—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## V. OTHER PROVISIONS

### A. Extension of the Research Credit

(Sec. 301 of the conference agreement and sec. 41 of the Code)

PRESENT LAW

Section 41 provided a research tax credited equal to 20 percent of the amount by which a taxpayer's qualified research expenses for a taxable year exceeded its base amount for that year. Taxpayers were permitted to elect an alternative incremental research credit regime in which the taxpayer was assigned a three-tiered fixed-base percentage and the credit rate likewise is reduced. Under the alternative credit regime, a credit rate of 2.65 percent applied to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of one percent but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 3.2 percent applied to the extent that a taxpayer's current-year research expenses exceeded a base amount computed by using a fixed-base percentage of 1.5 percent but did not exceed a base amount computed by using a fixed-base percentage of two percent. A credit rate of 3.75 percent applied to the extent that a taxpayer's current-year research expenses exceeded a base amount computed by using a fixed-base percentage of two percent.

A 20-percent research tax credit also applied to the excess of (1) 100 percent of corporate cash expenses (including grants or contributions) paid for basic research conducted by universities (and certain nonprofit scientific research organizations) over (2) the sum of (a) the greater of two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation.

The research tax credit expired and generally does not apply to amounts paid or incurred after June 30, 2004.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the present-law research credit to qualified amounts paid or incurred before January 1, 2006.

*Effective date.*—Effective for amounts paid or incurred after June 30, 2004.

### B. Extension of Parity in the Application of Certain Limits to Mental Health Benefits

(Sec. 302 of the conference agreement, sec. 9812 of the Code, sec. 712 of ERISA, and section 2705 of the PHSA)

PRESENT LAW

The Mental Health Parity Act of 1996 amended the Employee Retirement Income Security Act of 1974 (''ERISA'') and the Public Health Service Act (''PHSA'') to provide that group health plans that provide both medical and surgical benefits and mental health benefits cannot impose aggregate lifetime or annual dollar limits on mental health benefits that are not imposed on substantially all medical and surgical benefits. The provisions of the Mental Health Parity Act were initially effective with respect to plan years beginning on or after January 1, 1998, for a temporary period. Since enactment, the mental health parity requirements in ERISA and the PHSA have been extended on more than one occasion and currently are scheduled to expire with respect to benefits for services furnished on or after December 31, 2004.

The Taxpayer Relief Act of 1997 added to the Code the requirements imposed under the Mental Health Parity Act, and imposed an excise tax on group health plans that fail to meet the requirements. The excise tax is equal to $100 per day during the period of noncompliance and is generally imposed on the employer sponsoring the plan if the plan fails to meet the requirements. The maximum tax that can be imposed during a taxable year cannot exceed the lesser of 10 percent of the employer's group health plan expenses for the prior year or $500,000. No tax is imposed if the Secretary determines that the employer did not know, and exercising reasonable diligence would not have known, that the failure existed.

The Code provisions were initially effective with respect to plan years beginning on or after January 1, 1998, for a temporary period.[70] The Code provisions have been extended on a number of occasions, and expired

[69] Sec. 201; 117 Stat. 1335.

[70] The excise tax does not apply to benefits for services furnished on or after September 30, 2001, and before January 10, 2002.

with respect to benefits for services furnished after December 31, 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the ERISA and PHSA provisions relating to mental health parity to benefits for services furnished before January 1, 2006. The conference agreement also extends the Code provisions relating to mental health parity to benefits for services furnished on or after the date of enactment and before January 1, 2006. Thus, the excise tax on failures to meet the requirements imposed by the Code provisions does not apply after December 31, 2003, and before the date of enactment.

*Effective date.*—The provision is effective on the date of enactment.

C. EXTENSION OF THE WORK OPPORTUNITY TAX CREDIT

(Sec. 303 of the conference agreement and sec. 51 of the Code)

PRESENT LAW

*Work opportunity tax credit*

*Targeted groups eligible for the credit*

The work opportunity tax credit is available on an elective basis for employers hiring individuals from one or more of eight targeted groups. The eight targeted groups are: (1) certain families eligible to receive benefits under the Temporary Assistance for Needy Families Program; (2) high-risk youth; (3) qualified ex-felons; (4) vocational rehabilitation referrals; (5) qualified summer youth employees; (6) qualified veterans; (7) families receiving food stamps; and (8) persons receiving certain Supplemental Security Income (SSI) benefits.

A qualified ex-felon is an individual certified as: (1) having been convicted of a felony under State or Federal law; (2) being a member of an economically disadvantaged family; and (3) having a hiring date within one year of release from prison or conviction.

*Qualified wages*

Generally, qualified wages are defined as cash wages paid by the employer to a member of a targeted group. The employer's deduction for wages is reduced by the amount of the credit.

*Calculation of the credit*

The credit equals 40 percent (25 percent for employment of 400 hours or less) of qualified first-year wages. Generally, qualified first-year wages are qualified wages (not in excess of $6,000) attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer. Therefore, the maximum credit per employee is $2,400 (40 percent of the first $6,000 of qualified first-year wages). With respect to qualified summer youth employees, the maximum credit is $1,200 (40 percent of the first $3,000 of qualified first-year wages).

*Minimum employment period*

No credit is allowed for qualified wages paid to employees who work less than 120 hours in the first year of employment.

*Coordination of the work opportunity tax credit and the welfare-to-work tax credit*

An employer cannot claim the work opportunity tax credit with respect to wages of any employee on which the employer claims the welfare-to-work tax credit.

*Other rules*

The work opportunity tax credit is not allowed for wages paid to a relative or dependent of the taxpayer. Similarly wages paid to replacement workers during a strike or lockout are not eligible for the work opportunity tax credit. Wages paid to any employee during any period for which the employer received on-the-job training program payments with respect to that employee are not eligible for the work opportunity tax credit. The work opportunity tax credit generally is not allowed for wages paid to individuals who had previously been employed by the employer. In addition, many other technical rules apply.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the work opportunity tax credit for two years (through December 31, 2005).

*Effective date.*—The extension of the work opportunity tax credit is effective for wages paid or incurred for individuals beginning work after December 31, 2003.

D. EXTENSION OF THE WELFARE-TO-WORK TAX CREDIT

(Sec. 303 of the conference agreement and sec. 51A of the Code)

PRESENT LAW

*Welfare-to-work tax credit*

*Targeted group eligible for the credit*

The welfare-to-work tax credit is available on an elective basis to employers of qualified long-term family assistance recipients. Qualified long-term family assistance recipients are: (1) members of a family that has received family assistance for at least 18 consecutive months ending on the hiring date; (2) members of a family that has received such family assistance for a total of at least 18 months (whether or not consecutive) after August 5, 1997 (the date of enactment of the welfare-to-work tax credit) if they are hired within 2 years after the date that the 18–month total is reached; and (3) members of a family who are no longer eligible for family assistance because of either Federal or State time limits, if they are hired within 2 years after the Federal or State time limits made the family ineligible for family assistance.

*Qualified wages*

Qualified wages for purposes of the welfare-to-work tax credit are defined more broadly than the work opportunity tax credit. Unlike the definition of wages for the work opportunity tax credit which includes simply cash wages, the definition of wages for the welfare-to-work tax credit includes cash wages paid to an employee plus amounts paid by the employer for: (1) educational assistance excludable under a section 127 program (or that would be excludable but for the expiration of sec. 127); (2) health plan coverage for the employee, but not more than the applicable premium defined under section 4980B(f)(4); and (3) dependent care assistance excludable under section 129. The employer's deduction for wages is reduced by the amount of the credit.

*Calculation of the credit*

The welfare-to-work tax credit is available on an elective basis to employers of qualified long-term family assistance recipients during the first two years of employment. The maximum credit is 35 percent of the first $10,000 of qualified first-year wages and 50 percent of the first $10,000 of qualified second-year wages. Qualified first-year wages are defined as qualified wages (not in excess of $10,000) attributable to service rendered by a member of the targeted group during the one-year period beginning with the day the individual began work for the employer. Qualified second-year wages are defined as qualified wages (not in excess of $10,000) attributable to service rendered by a member of the targeted group during the one-year period beginning immediately after the first year of that individual's employment for the employer. The maximum credit is $8,500 per qualified employee.

*Minimum employment period*

No credit is allowed for qualified wages paid to a member of the targeted group unless they work at least 400 hours or 180 days in the first year of employment.

*Coordination of the work opportunity tax credit and the welfare-to-work tax credit*

An employer cannot claim the work opportunity tax credit with respect to wages of any employee on which the employer claims the welfare-to-work tax credit.

*Other rules*

The welfare-to-work tax credit incorporates directly or by reference many of these other rules contained on the work opportunity tax credit.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the welfare-to-work tax credit for two years (through December 31, 2005).

*Effective date.*—The extension of the welfare-to-work tax credit is effective for wages paid or incurred for individuals beginning work after December 31, 2003.

E. QUALIFIED ZONE ACADEMY BONDS

(Sec. 304 of the conference agreement and sec. 1397E of the Code)

PRESENT LAW

Generally, ''qualified zone academy bonds'' are bonds issued by a State or local government, provided that at least 95 percent of the proceeds are used for one or more qualified purposes with respect to a ''qualified zone academy'' and private entities have promised to contribute to the qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds. Qualified purposes with respect to any qualified zone academy are (1) rehabilitating or repairing the public school facility in which the academy is established, (2) providing equipment for use at such academy, (3) developing course materials for education at such academy, and (4) training teachers and other school personnel. A total of $400 million of qualified zone academy bonds was authorized to be issued annually in calendar years 1998 through 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the authority to issue qualified zone academy bonds through 2005.

*Effective date.*—The authority to issue qualified zone academy bonds is effective for obligations issued after December 31, 2003.

F. EXTENSION OF COVER OVER OF EXCISE TAX ON DISTILLED SPIRITS TO PUERTO RICO AND VIRGIN ISLANDS

(Sec. 305 of the conference agreement and sec. 7652 of the Code)

PRESENT LAW

A $13.50 per proof gallon (a proof gallon is a liquid gallon consisting of 50 percent alcohol) excise tax is imposed on distilled spirits

produced in or imported into the United States.

The Code provides for cover over (payment) to Puerto Rico and the Virgin Islands of the excise tax imposed on rum imported into the United States, without regard to the country of origin. The amount of the cover over is limited under section 7652(f) to $10.50 per proof gallon ($13.25 per proof gallon during the period July 1, 1999 through December 31, 2003).

Thus, tax amounts attributable to rum produced in Puerto Rico are covered over to Puerto Rico. Tax amounts attributable to rum produced in the Virgin Islands are covered over to the Virgin Islands. Tax amounts attributable to rum produced in neither Puerto Rico nor the Virgin Islands are divided and covered over to the two possessions under a formula. All of the amounts covered over are subject to the limitation.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement temporarily suspends the $10.50 per proof gallon limitation on the amount of excise taxes on rum covered over to Puerto Rico and the Virgin Islands. Under the conference agreement, the cover over amount of $13.25 per proof gallon is extended for rum brought into the United States after December 31, 2003 and before January 1, 2006. After December 31, 2005, the cover over amount reverts to $10.50 per proof gallon.

*Effective date.*—The provision is effective for articles brought into the United States after December 31, 2003.

G. CHARITABLE CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT USED FOR EDUCATIONAL PURPOSES

(Sec. 306 of the conference agreement and sec. 170 of the Code)

PRESENT LAW

A deduction by a corporation for charitable contributions of computer technology and equipment generally is limited to the corporation's basis in the property. However, certain corporations may claim a deduction in excess of basis for a qualified computer contribution. Such enhanced deduction for qualified computer contributions expired for contributions made during any taxable year beginning after December 31, 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the enhanced deduction for qualified computer contributions to contributions made during any taxable year beginning before January 1, 2006.

*Effective date.*—Taxable years beginning after December 31, 2003.

H. CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS

(Sec. 307 of the conference agreement and sec. 62 of the Code)

PRESENT LAW

In general, ordinary and necessary business expenses are deductible (sec. 162). However, in general, unreimbursed employee business expenses are deductible only as an itemized deduction and only to the extent that the individual's total miscellaneous deductions (including employee business expenses) exceed two percent of adjusted gross income. An individual's otherwise allowable itemized deductions may be further limited by the overall limitation on itemized deductions, which reduces itemized deductions for taxpayers with adjusted gross income in excess of $142,700 (for 2004). In addition, miscellaneous itemized deductions are not allowable under the alternative minimum tax.

Certain expenses of eligible educators are allowed an above-the-line deduction. Specifically, for taxable years beginning in 2002 and 2003, an above-the-line deduction is allowed for up to $250 annually of expenses paid or incurred by an eligible educator for books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom. To be eligible for this deduction, the expenses must be otherwise deductible under 162 as a trade or business expense. A deduction is allowed only to the extent the amount of expenses exceeds the amount excludable from income under section 135 (relating to education savings bonds), 529(c)(1) (relating to qualified tuition programs), and section 530(d)(2) (relating to Coverdell education savings accounts).

An eligible educator is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year. A school means any school which provides elementary education or secondary education, as determined under State law.

The above-the-line deduction for eligible educators is not allowed for taxable years beginning after December 31, 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the above-the-line deduction for two years, i.e., for taxable years beginning in 2004 and 2005.

*Effective date.*—The conference agreement is effective for taxable years beginning in 2004 and 2005.

I. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS

(Sec. 308 of the conference agreement and sec. 198 of the Code)

PRESENT LAW

Taxpayers can elect to treat certain environmental remediation expenditures that would otherwise be chargeable to capital account as deductible in the year paid or incurred (sec. 198). The deduction applies for both regular and alternative minimum tax purposes. The expenditure must be incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

A ''qualified contaminated site'' generally is any property that (1) is held for use in a trade or business, for the production of income, or as inventory and (2) is at a site on which there has been a release (or threat of release) or disposal of certain hazardous substances as certified by the appropriate State environmental agency (so called ''brownfields''). However, sites that are identified on the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 cannot qualify as targeted areas.

Eligible expenditures were those paid or incurred before January 1, 2004.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the present law expensing provision for two years (through December 31, 2005).

*Effective date.*—Effective for expenses paid or incurred after December 31, 2003.

J. NEW YORK LIBERTY ZONE PROVISIONS

(Sec. 309 of the conference agreement and sec. 1400L of the Code)

PRESENT LAW

An aggregate of $8 billion in tax-exempt private activity bonds is authorized for the purpose of financing the construction and repair of infrastructure in New York City (''Liberty Zone bonds''). The bonds must be issued before January 1, 2005.

Certain bonds used to fund facilities located in New York City are permitted one additional advance refunding before January 1, 2005 (''advance refunding bonds''). In addition to satisfying other requirements, the bond refunded must be (1) a State or local bond that is a general obligation of New York City, (2) a State or local bond issued by the New York Municipal Water Finance Authority or Metropolitan Transportation Authority of the City of New York, or (3) a qualified 501(c)(3) bond which is a qualified hospital bond issued by or on behalf of the State of New York or the City of New York. The maximum amount of advance refunding bonds is $9 billion.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends authority to issue Liberty Zone bonds through December 31, 2009. The conference agreement also extends the additional advance refunding authority through December 31, 2005. In addition, the conference agreement provides that bonds of the Municipal Assistance Corporation are eligible for advance refunding.

The purpose in extending the New York Liberty Bond program through December 31, 2009, is to facilitate the full designation of New York Liberty Bond authority. Congress could consider a further extension of the New York Liberty Bond program beyond 2009 if circumstances justify such an extension.

*Effective date.*—The Liberty Zone bonds and general additional advance refunding provisions are effective on the date of enactment. The provision relating to the advance refunding of bonds of the Municipal Assistance Corporation is effective as if included in the amendments made by section 301 of the Job Creation and Worker Assistance Act of 2002.

K. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA

(Sec. 310 of the conference agreement and secs. 1400, 1400A, 1400B, 1400C, and 1400F of the Code)

PRESENT LAW

Certain economically depressed census tracts within the District of Columbia are designated as the District of Columbia Enterprise Zone (the ''D.C. Zone'') within which businesses and individual residents are eligible for special tax incentives. The designation expired on December 31, 2003.

First-time homebuyers of a principal residence in the District of Columbia are eligible for a nonrefundable tax credit of up to $5,000 of the amount of the purchase price. The credit expired for property purchased after December 31, 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the D.C. Zone designation and related tax incentives for two years. The conference agreement extends the first-time homebuyer credit for two years.

*Effective date.*—The extension of the D.C. Zone designation and related tax incentives is generally effective on January 1, 2004, except that the provision relating to tax-exempt financing incentives applies to obligations issued after the date of enactment.

L. COMBINED EMPLOYMENT TAX REPORTING

(Sec. 311 of the conference agreement and sec. 6103 of the Code)

PRESENT LAW

Traditionally, Federal tax forms are filed with the Federal government and State tax forms are filed with individual States. This necessitates duplication of items common to both returns.

The Taxpayer Relief Act of 1997 permitted implementation of a limited demonstration project to assess the feasibility and desirability of expanding combined Federal and State reporting. First, it was limited to the sharing of information between the State of Montana and the IRS. Second, it was limited to employment tax reporting. Third, it was limited to disclosure of the name, address, TIN, and signature of the taxpayer, which is information common to both the Montana and Federal portions of the combined form. Fourth, it was limited to a period of five years (expiring August 5, 2002).

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement provides authority through December 31, 2005, for any State to participate in a combined Federal and State employment tax reporting program, provided that the program has been approved by the Secretary.

*Effective date.*—The provision takes effect on the date of enactment.

M. NONREFUNDABLE PERSONAL CREDITS ALLOWED AGAINST THE ALTERNATIVE MINIMUM TAX

(Sec. 312 of the conference agreement and sec. 26 of the Code)

PRESENT LAW

Present law provides for certain nonrefundable personal tax credits (i.e., the dependent care credit, the credit for the elderly and disabled, the adoption credit, the child tax credit,[71] the credit for interest on certain home mortgages, the HOPE Scholarship and Lifetime Learning credits, the credit for savers, and the D.C. first-time homebuyer credit).

For taxable years beginning in 2003, all the nonrefundable personal credits are allowed to the extent of the full amount of the individual's regular tax and alternative minimum tax.

For taxable years beginning after 2003, the credits (other than the adoption credit, child credit and credit for savers) are allowed only to the extent that the individual's regular income tax liability exceeds the individual's tentative minimum tax, determined without regard to the minimum tax foreign tax credit. The adoption credit, child credit, and IRA credit are allowed to the full extent of the individual's regular tax and alternative minimum tax.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the provision allowing the nonrefundable personal credits to the full extent of the regular tax and the alternative minimum tax for taxable years beginning in 2004 and 2005.

*Effective date.*—Taxable years beginning after December 31, 2003.

N. EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES

(Sec. 313 of the conference agreement and sec. 45 of the Code)

PRESENT LAW

An income tax credit is allowed for the production of electricity from either qualified wind energy, qualified ''closed-loop'' biomass, or qualified poultry waste facilities. The amount of the credit is 1.8 cents per kilowatt hour for 2004. The credit amount is indexed for inflation.

The credit applies to electricity produced by a wind energy facility placed in service after December 31, 1993, and before January 1, 2004, to electricity produced by a closed-loop biomass facility placed in service after December 31, 1992, and before January 1, 2004, and to a poultry waste facility placed in service after December 31, 1999, and before January 1, 2004. The credit is allowable for production during the 10–year period after a facility is originally placed in service.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the placed in service date for wind energy facilities, ''closed-loop'' biomass facilities, and poultry waste facilities to include facilities placed in service prior to January 1, 2006.

*Effective date.*—Effective for facilities placed in service after December 31, 2003.

O. SUSPENSION OF 100-PERCENT-OF-NET-INCOME LIMITATION ON PERCENTAGE DEPLETION FOR OIL AND GAS FROM MARGINAL WELLS

(Sec. 314 of the conference agreement and sec. 613A of the Code)

PRESENT LAW

Percentage depletion method for oil and gas properties applies to independent producers and royalty owners. Generally, under the percentage depletion method, 15 percent of the taxpayer's gross income from an oil- or gas-producing property is allowed as a deduction in each taxable year. The amount deducted generally may not exceed 100 percent of the net income from the property in any year (the ''net-income limitation''). The 100-percent net-income limitation for marginal wells is suspended for taxable years beginning after December 31, 1997, and before January 1, 2004.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the suspension of the net-income limitation for marginal wells for taxable years beginning before January 1, 2006.

*Effective date.*—The provision is effective for taxable years beginning after December 31, 2003.

P. INDIAN EMPLOYMENT TAX CREDIT

(Sec. 315 of the conference agreement and sec. 45A of the Code)

PRESENT LAW

In general, a credit against income tax liability is allowed to employers for the first $20,000 of qualified wages and qualified employee health insurance costs paid or incurred by the employer with respect to certain employees (sec. 45A). The credit is equal to 20 percent of the excess of eligible employee qualified wages and health insurance costs during the current year over the amount of such wages and costs incurred by the employer during 1993. The credit is an incremental credit, such that an employer's current-year qualified wages and qualified employee health insurance costs (up to $20,000 per employee) are eligible for the credit only to the extent that the sum of such costs exceeds the sum of comparable costs paid during 1993. No deduction is allowed for the portion of the wages equal to the amount of the credit.

The wage credit is available for wages paid or incurred on or after January 1, 1994, in taxable years that begin before January 1, 2005.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the Indian employment credit incentive for one year (to taxable years beginning before January 1, 2006).

*Effective date.*—The provision is effective on the date of enactment.

Q. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATIONS

(Sec. 316 of the conference agreement and sec. 168(j) of the Code)

PRESENT LAW

With respect to certain property used in connection with the conduct of a trade or business within an Indian reservation, depreciation deductions under section 168(j) will be determined using the following recovery periods:

| | |
|---|---|
| 3-year property | 2 |
| 5-year property | 3 |
| 7-year property | 4 |
| 10-year property | 6 |
| 15-year property | 9 |
| 20-year property | 12 |
| Nonresidential real property | 22 |

''Qualified Indian reservation property'' eligible for accelerated depreciation includes property which is (1) used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation, (2) not used or located outside the reservation on a regular basis, (3) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)), and (4) described in the recovery-period table above. In addition, property is not ''qualified Indian reservation property'' if it is placed in service for purposes of conducting gaming activities. Certain ''qualified infrastructure property'' may be eligible for the accelerated depreciation even if located outside an Indian reservation, provided that the purpose of such property is to connect with qualified infrastructure property located within the reservation (e.g., roads, power lines, water systems, railroad spurs, and communications facilities).

The depreciation deduction allowed for regular tax purposes is also allowed for purposes of the alternative minimum tax. The accelerated depreciation for Indian reservations is available with respect to property placed in service on or after January 1, 1994, and before January 1, 2005.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

[71] A portion of the child credit may be refundable.

CONFERENCE AGREEMENT

The conference agreement extends eligibility for the special depreciation periods to property placed in service before January 1, 2006.

*Effective date.*—The provision is effective on the date of enactment.

R. DISCLOSURE OF RETURN INFORMATION RELATING TO STUDENT LOANS

(Sec. 317 of the conference agreement and sec. 6103(l)(13) of the Code)

PRESENT LAW

An exception to the general rule prohibiting disclosure is provided for disclosure to the Department of Education (but not to contractors thereof) to establish an appropriate repayment amount for an applicable student loan. The Department of Education disclosure authority is scheduled to expire after December 31, 2004.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the disclosure authority relating to the disclosure of return information to carry out income-contingent repayment of student loans. Under the conference agreement, no disclosures can be made after December 31, 2005.

*Effective date.*—The provision is effective on the date of enactment.

S. CREDIT FOR QUALIFIED ELECTRIC VEHICLES

(Sec. 318 of the conference agreement and sec. 30 of the Code)

PRESENT LAW

A 10-percent tax credit is provided for the cost of a qualified electric vehicle, up to a maximum credit of $4,000. A qualified electric vehicle generally is a motor vehicle that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current. The full amount of the credit is available for purchases prior to 2004. The credit phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006. Under the phase down, the credit for 2004 is 75 percent of the otherwise allowable credit.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Repeals the phase down of the allowable tax credit for electric vehicles in 2004 and 2005. Thus, a taxpayer who purchases a qualifying vehicle may claim 100 percent of the otherwise allowable credit for vehicles purchased in 2004 and 2005. For vehicles purchased in 2006 the credit remains at 25 percent of the otherwise allowable amount as under present law.

*Effective date.*—Effective for vehicles placed in service after December 31, 2003.

T. DEDUCTION FOR QUALIFIED CLEAN-FUEL VEHICLE PROPERTY

(Sec. 319 of the conference agreement and sec. 179A of the Code)

PRESENT LAW

Certain costs of qualified clean-fuel vehicle may be expensed and deducted when such property is placed in service. Qualified clean-fuel vehicle property includes motor vehicles that use certain clean-burning fuels (natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity and any other fuel at least 85 percent of which is methanol, ethanol, any other alcohol or ether). The maximum amount of the deduction is $50,000 for a truck or van with a gross vehicle weight over 26,000 pounds or a bus with seating capacities of at least 20 adults; $5,000 in the case of a truck or van with a gross vehicle weight between 10,000 and 26,000 pounds; and $2,000 in the case of any other motor vehicle. The deduction phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006. Under the phase down, the deduction permitted for 2004 is 75 percent of the otherwise allowable amount.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Repeals the phase down of the allowable deduction for clean-fuel vehicles in 2004 and 2005. Thus, a taxpayer who purchases a qualifying vehicle may claim 100 percent of the otherwise allowable deduction for vehicles purchased in 2004 and 2005. For vehicles purchased in 2006 the deduction remains at 25 percent of the otherwise allowable amount as under present law.

*Effective date.*—Effective for vehicles placed in service after December 31, 2003.

U. DISCLOSURES RELATING TO TERRORIST ACTIVITIES

(Sec. 320 of the conference agreement and sec. 6103 of the Code)

PRESENT LAW

In connection with terrorist activities, the IRS was permitted to disclose return information, other than taxpayer return information, to officers and employees of Federal law enforcement upon a written request. The Code required the request to be made by the head of the Federal law enforcement agency (or his delegate) involved in the response to or investigation of terrorist incidents, threats, or activities, and set forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity. Disclosure of the information was permitted to officers and employees of the Federal law enforcement agency who were personally and directly involved in the response to or investigation of terrorist incidents, threats, or activities. The information was to be used by such officers and employees solely for such response or investigation.[72]

The Code permitted the head of the Federal law enforcement agency to redisclose the information to officers and employees of State and local law enforcement personally and directly engaged in the response to or investigation of the terrorist incident, threat, or activity. The State or local law enforcement agency was required to be part of an investigative or response team with the Federal law enforcement agency for these disclosures to be made.[73]

Return information includes a taxpayer's identity.[74] If a taxpayer's identity is taken from a return or other information filed with or furnished to the IRS by or on behalf of the taxpayer, it is taxpayer return information. Since taxpayer return information was not covered by this disclosure authorization, taxpayer identity so obtained could not be disclosed under this authority and thus associated with the other information being provided.

The Code also allowed the IRS to disclose return information (other than taxpayer return information) upon the written request of an officer or employee of the Department of Justice or Treasury who is appointed by the President with the advice and consent of the Senate, or who is the Director of the U.S. Secret Service, if such individual is responsible for the collection and analysis of intelligence and counterintelligence concerning any terrorist incident, threat, or activity.[75] Taxpayer identity information for this purpose was not considered taxpayer return information. Such written request was required to set forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity. Disclosures under this authority were permitted to be made to those officers and employees of the Department of Justice, Treasury, and Federal intelligence agencies who were personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity. Such disclosures were permitted solely for the use of such officers and employees in such investigation, collection, or analysis.

The IRS, on its own initiative, was permitted to disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate investigating Federal law enforcement agency.[76] Taxpayer identity information for this purpose was not considered taxpayer return information. The head of the agency was permitted to redisclose such information to officers and employees of such agency to the extent necessary to investigate or respond to the terrorist incident, threat, or activity.

If taxpayer return information was sought, the disclosure was required to be made pursuant to the ex parte order of a Federal district court judge or magistrate.

No disclosures may be made under these provisions after December 31, 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the disclosure authority relating to terrorist activities. Under the conference agreement, no disclosures can be made after December 31, 2005.

The conference agreement also makes a technical change to clarify that a taxpayer's identity is not treated as taxpayer return information for purposes of disclosures to law enforcement agencies regarding terrorist activities.

*Effective date.*—The provision extending authority is effective for disclosures made on or after the date of enactment. The technical change is effective as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

V. EXTENSION OF ARCHER MEDICAL SAVINGS ACCOUNTS (''MSAs'')

(Sec. 322 of the conference agreement and sec. 220 of the Code)

PRESENT LAW

*In general*

Within limits, contributions to an Archer MSA are deductible in determining adjusted gross income if made by an eligible individual and are excludable from gross income and wages for employment tax purposes if made by the employer of an eligible individual. Earnings on amounts in an Archer MSA are not currently taxable. Distributions from an Archer MSA for medical expenses are not includible in gross income.

[72] Sec. 6103(i)(7)(A).
[73] Sec. 6103(i)(7)(A)(ii).
[74] Sec. 6103(b)(2)(A).
[75] Sec. 6103(i)(7)(B).
[76] Sec. 6103(i)(3)(C).

Distributions not used for medical expenses are includible in gross income. In addition, distributions not used for medical expenses are subject to an additional 15-percent tax unless the distribution is made after age 65, death, or disability.

*Eligible individuals*

Archer MSAs are available to employees covered under an employer-sponsored high deductible plan of a small employer and self-employed individuals covered under a high deductible health plan.[77] An employer is a small employer if it employed, on average, no more than 50 employees on business days during either the preceding or the second preceding year. An individual is not eligible for an Archer MSA if he or she is covered under any other health plan in addition to the high deductible plan.

*Tax treatment of and limits on contributions*

Individual contributions to an Archer MSA are deductible (within limits) in determining adjusted gross income (i.e., ''above-the-line''). In addition, employer contributions are excludable from gross income and wages for employment tax purposes (within the same limits), except that this exclusion does not apply to contributions made through a cafeteria plan. In the case of an employee, contributions can be made to an Archer MSA either by the individual or by the individual's employer.

The maximum annual contribution that can be made to an Archer MSA for a year is 65 percent of the deductible under the high deductible plan in the case of individual coverage and 75 percent of the deductible in the case of family coverage.

*Definition of high deductible plan*

A high deductible plan is a health plan with an annual deductible of at least $1,700 and no more than $2,600 in the case of individual coverage and at least $3,450 and no more than $5,150 in the case of family coverage. In addition, the maximum out-of-pocket expenses with respect to allowed costs (including the deductible) must be no more than $3,450 in the case of individual coverage and no more than $6,300 in the case of family coverage.[78] A plan does not fail to qualify as a high deductible plan merely because it does not have a deductible for preventive care as required by State law. A plan does not qualify as a high deductible health plan if substantially all of the coverage under the plan is for permitted coverage (as described above). In the case of a self-insured plan, the plan must in fact be insurance (e.g., there must be appropriate risk shifting) and not merely a reimbursement arrangement.

*Cap on taxpayers utilizing Archer MSAs and expiration of pilot program*

The number of taxpayers benefiting annually from an Archer MSA contribution is limited to a threshold level (generally 750,000 taxpayers). The number of Archer MSAs established has not exceeded the threshold level.

After 2003, no new contributions may be made to Archer MSAs except by or on behalf of individuals who previously had Archer MSA contributions and employees who are employed by a participating employer.

Trustees of Archer MSAs are generally required to make reports to the Treasury by August 1 regarding Archer MSAs established by July 1 of that year. If any year is a cut-off year, the Secretary is required to make and publish such determination by October 1 of such year.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends Archer MSAs through December 31, 2005. The conference agreement also provides that the reports required by MSA trustees for 2004 are treated as timely if made within 90 days after the date of enactment. In addition, the determination of whether 2004 is a cut-off year and the publication of such determination is to be made within 120 days of the date of enactment. If 2004 is a cut-off year, the cut-off date will be the last day of such 120–day period.

*Effective date.*—The provision is generally effective on January 1, 2004. The provisions relating to reports and the determination by the Secretary are effective on the date of enactment.

W. EXTENSION OF JOINT REVIEW OF STRATEGIC PLANS AND BUDGET FOR THE INTERNAL REVENUE SERVICE

(Sec. 321 of the conference agreement and secs. 8021 and 8022 of the Code)

PRESENT LAW

The Code required the Joint Committee on Taxation to conduct a joint review[79] of the strategic plans and budget of the IRS from 1999 through 2003.[80] The Code also required the Joint Committee to provide an annual report[81] from 1999 through 2003 with respect to:

Strategic and business plans for the IRS;

Progress of the IRS in meeting its objectives;

The budget for the IRS and whether it supports its objectives;

Progress of the IRS in improving taxpayer service and compliance;

Progress of the IRS on technology modernization; and

The annual filing season.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement requires that the Joint Committee conduct a joint review before June 1, 2005. The conference agreement also requires that the Joint Committee provide an annual report with respect to such joint review, and specifies that the content of the annual report is the matters addressed in the joint review.[82]

*Effective date.*—The conference agreement is effective on the date of enactment.

VI. TAX TECHNICAL CORRECTIONS

(Secs. 401–408 of the conference agreement)

PRESENT LAW

Certain recently enacted tax legislation needs technical, conforming, and clerical amendments in order properly to carry out the intention of the Congress.[83]

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes technical corrections to recently enacted tax legislation. Except as otherwise provided, the amendments made by the technical corrections contained in the conference agreement take effect as if included in the original legislation to which each amendment relates. The following is a description of the provisions contained in the technical corrections title:

*Amendments related to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003*

*Additional tax relating to health savings accounts.*—Under present law, section 26(b) provides that ''regular tax liability'' does not include certain ''additional taxes'' and similar amounts. Under present law, regular tax liability does not include the additional tax on Archer MSA distributions not used for qualified medical expenses (sec. 220(f)(4)). The provision adds to the list of such amounts the additional tax on distributions not used for qualified medical expenses (sec. 223(f)(4)) under the rules relating to health savings accounts.

*Health coverage tax credit.*—Under present law, section 35(g)(3) provides that any amount distributed from an Archer MSA will not be taken into account for purposes of determining the amount of health coverage tax credit (''HCTC'') an individual is eligible to receive. Under the provision, section 35(g)(3) is amended to provide that amounts distributed from health savings accounts are not to be taken into account for purposes of determining the amount of HCTC an individual is entitled to receive.

*Amendments related to the Jobs and Growth Tax Relief Reconciliation Act of 2003*

*Dividends taxed at capital gain rates.*—Section 302 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (''JGTRRA'') generally provides that qualified dividend income of taxpayers other than corporations is taxed at the same tax rates as the net capital gain. The conference agreement makes the following amendments to the provisions adopted by that section:[84]

The provision clarifies that the determination of net capital gain, for purposes of determining the amount taxed at the 25–percent rate (section 1(h)(1)(D)(i)), is made without regard to qualified dividend income.

Under present law, the deduction for estate taxes paid on gain that is income in respect of a decedent reduces the amount of gain otherwise taken into account in computing the amount eligible for the lower tax rates on net capital gain (sec. 691(c)(4)). Since it is not entirely clear under present law whether this provision also applies to qualified dividends eligible for the lower tax rates on net capital gain, the conference agreement clarifies that the provision does so apply.

The provision clarifies that the extraordinary dividend rule applies to trusts and estates as well as individuals.

The provision rewrites portions of the provisions relating to the treatment of dividends received from a regulated investment company (''RIC'') or a real estate investment trust (''REIT'') to set forth the rules directly

[77] Self-employed individuals include more than two-percent shareholders of S corporations who are treated as partners for purposes of fringe benefit rules pursuant to section 1372.

[78] These dollar amounts are for 2004. These amounts are indexed for inflation, rounded to the nearest $50.

[79] The joint review was required to include two members of the majority and one member of the minority of the Senate Committees on Finance, Appropriations, and Governmental Affairs, and of the House Committees on Ways and Means, Appropriations, and Government Reform and Oversight.

[80] Sec. 8021(f).

[81] Sec. 8022(3)(C).

[82] Accordingly, the provision deletes the specific list of matters required to be covered in the annual report.

[83] Tax technical corrections legislation, the ''Tax Technical Corrections Act of 2003,'' was introduced in the House of Representatives (H.R. 3654) on December 8, 2003, and in the Senate (S. 1984) on December 9, 2003.

[84] IR–2004–22 (Feb. 19, 2004) announced that the IRS agreed to make the technical correction provisions relating to dividends contained in the Technical Corrections Act of 2003, as introduced, available to taxpayers in advance of their passage.

rather than be reference to rules applicable to dividends received by corporate shareholders.

The provision provides that all distributions by a RIC or REIT of the earnings and profits from C corporation years can be treated as qualifying dividends eligible for the lower rate.

The provision extends the 60–day period for notifying shareholders of the amount of the qualified dividend income distributed by a RIC or REIT for taxable years ending on or before November 30, 2003, to the date the 1099–DIV for 2003 is required.

The provision provides that, in the case of partnerships, S corporations, common trust funds, trusts, and estates, section 302 of JGTRRA applies to taxable years ending after December 31, 2002, except that dividends received by the entity prior to January 1, 2003, are not treated as qualified dividend income. JGTRRA provided a similar rule in the case of RICs and REITs.

*Satisfaction of certain holding period requirements if stock is acquired on the day before ex-dividend date.*—Under several similar holding period requirements relating to the tax consequences of receiving dividends, a taxpayer who acquires stock the day before the ex-dividend date cannot satisfy these holding period requirements with respect to the dividend. The conference agreement modifies the stock holding period requirements to permit taxpayers to satisfy the requirements when they acquire stock on the day before the ex-dividend date of the stock. Specifically, the conference agreement modifies the holding period requirement for the dividends-received deduction under section 246(c) (as modified by section 1015 of the Taxpayer Relief Act of 1997) by changing from 90 days to 91 days (and from 180 days to 181 days in the case of certain dividends on preferred stock) the period within which a taxpayer may satisfy the requirement. In addition, the conference agreement modifies the holding period requirement for foreign tax credits with respect to dividends under section 901(k) (enacted in section 1053 of the Taxpayer Relief Act of 1997) by changing from 30 days to 31 days (and from 90 days to 91 days in the case of certain dividends on preferred stock) the period within which a taxpayer may satisfy the requirement. The conference agreement modifies the holding period requirement for dividends to be taxed at the tax rates applicable to net capital gain under section 1(h)(11) (enacted in section 302 of JGTRRA) by changing from 120 days to 121 days (and from 180 days to 181 days in the case of certain dividends on preferred stock) the period within which a taxpayer may satisfy the requirement.

*Amendments related to the Job Creation and Worker Assistance Act of 2002*

*Bonus depreciation.*—Section 101 of the Job Creation and Worker Assistance Act of 2002 (''JCWA'') provides generally for 30–percent additional first-year depreciation for qualifying property. Qualifying property is defined to include certain property subject to the capitalization rules of section 263A by reason of having an estimated production period exceeding 2 years or an estimated production period exceeding 1 year and a cost exceeding $1 million (secs. 168(k)(2)(B)(i)(III) and 263A(f)(1)(B)(ii) or (iii)). An unintended interpretation of this rule could preclude property from qualifying for bonus depreciation if it meets this description but is subject to the capitalization rules of section 263A by reason of section 263A(f)(1)(B)(i) (having a long useful life). The provision clarifies that qualifying property includes such property that is subject to the capitalization rules of section 263A and is described in the provisions requiring an estimated production period exceeding 2 years or an estimated production period exceeding 1 year and a cost exceeding $1 million.

Section 101 of JCWA provides a binding contract rule in determining property that qualifies for it. The requirements that must be satisfied in order for property to qualify include that (1) the original use of the property must commence with the taxpayer on or after September 11, 2001, (2) the taxpayer must purchase the property after September 10, 2001, and before September 11, 2004, and (3) no binding written contract for the acquisition of the property is in effect before September 11, 2001 (or, in the case of self-constructed property, manufacture, construction, or production of the property does not begin before September 11, 2001). In addition, JCWA provides a special rule in the case of certain leased property. In the case of any property that is originally placed in service by a person and that is sold to the taxpayer and leased back to such person by the taxpayer within three months after the date that the property was placed in service, the property is treated as originally placed in service by the taxpayer not earlier than the date that the property is used under the leaseback. JCWA did not specifically address the syndication of a lease by the lessor.

The provision clarifies that property qualifying for additional first-year depreciation does not include any property if the user or a related party to the user or owner of such property had a written binding contract in effect for the acquisition of the property at any time on or before September 10, 2001 (or, in the case of self-constructed property, the manufacture, construction, or production of the property began on or before September 10, 2001). For example, if a taxpayer sells to a related party property that was under construction on or prior to September 10, 2001, the property does not qualify for the additional first-year depreciation deduction. Similarly, if a taxpayer sells to a related party property that was subject to a binding written contract on or prior to September 10, 2001, the property does not qualify for the additional first-year depreciation deduction. As a further example, if a taxpayer sells property and leases the property back in a sale-leaseback arrangement, and the lessee had a binding written contract in effect for the acquisition of such property on or prior to September 10, 2001, then the lessor is not entitled to the additional first-year depreciation deduction.

In addition, the provision provides that if property is originally placed in service by a lessor (including by operation of section Code 168(k)(2)(D)(i)), such property is sold within three months after the date that the property was placed in service, and the user of such property does not change, then the property is treated as originally placed in service by the taxpayer not earlier than the date of such sale.

*Five-year carryback of net operating losses (''NOLs'').*—Section 102 of JCWA temporarily extends the NOL carryback period to five years (from two years, or three years in certain cases) for NOLs arising in taxable years ending in 2001 and 2002. The Act was enacted in March 2002, after some taxpayers had filed returns for 2001.

The provision (1) clarifies that only the NOLs arising in taxable years ending in 2001 and 2002 qualify for the 5-year period, and (2) provides that any election to forego any carrybacks of NOLs arising in 2001 or 2002 can be revoked prior to November 1, 2002. The provision also allows taxpayers until November 1, 2002, to use the tentative carryback adjustment procedures of section 6411 for NOLs arising in 2001 and 2002 (without regard to the 12-month limitation in section 6411). In addition, the provision clarifies that an election to disregard the 5-year carryback for certain NOLs is treated as timely made if made before November 1, 2002 (notwithstanding that section 172(j) requires the election to be made by the due date (including extensions) for filing the taxpayer's return for the year of the loss).[85]

The provision also makes several clerical changes to the NOL provisions relating to the alternative minimum tax.

*New York Liberty Zone bonus depreciation.*—Section 301 of JCWA provides tax benefits for the area of New York City damaged in terrorist attacks on September 11, 2001 (an area defined in the provision and named the New York Liberty Zone). Under these rules, an additional first-year depreciation deduction is allowed equal to 30 percent of the adjusted basis of qualified New York Liberty Zone (''Liberty Zone'') property. A taxpayer is allowed to elect out of the additional first-year depreciation for any class of property for any taxable year. In addition, the Act provides a special rule in the case of certain leased property. In the case of any property that is originally placed in service by a person and that is sold to the taxpayer and leased back to such person by the taxpayer within three months after the date that the property was placed in service, the property would be treated as originally placed in service by the taxpayer not earlier than the date that the property is used under the leaseback. JCWA did not specifically address the syndication of a lease by the lessor.

The provision clarifies that property qualifying for additional first-year depreciation does not include any property if the user or a related party to the user or owner of such property had a written binding contract in effect for the acquisition of the property at any time before September 11, 2001 (or in the case of self constructed property the manufacture, construction, or production of the property began before September 11, 2001). In addition, the provision provides that if property is originally placed in service by a lessor (including by operation of section 168(k)(2)(D)(i)), such property is sold within three months after the date that the property was placed in service, and the user of such property does not change, then the property is treated as originally placed in service by the taxpayer not earlier than the date of such sale.

*New York Liberty Zone expensing.*—Section 301 of JCWA increases the amount a taxpayer may expense under section 179 to the lesser of $35,000 or the amount of Liberty Zone property placed in service for the year. In addition, section 301(a) of the Act states that if property qualifies for both the general additional first-year depreciation and Liberty Zone additional first-year depreciation, it is deemed to be eligible for the general additional first-year depreciation and is not considered Liberty Zone property (i.e., only one 30-percent additional first-year depreciation deduction is allowed). Because only Liberty Zone property is eligible for the increased section 179 expensing amount, this rule has the unintended consequence of denying the increased section 179 expensing to Liberty Zone property. The provision corrects this unintended result (such that qualifying Liberty Zone property qualifies for both the 30-percent additional first-year depreciation and the additional section 179 expensing).

*Provide election out of Liberty Zone five-year depreciation for leasehold improvements.*—Section 1400L(c), as added by section 301 of JCWA, provides for a 5-year recovery period for depreciation of qualified New York Liberty Zone leasehold improvement property

[85] The corrections are consistent with the guidance issued by the IRS (Rev. Proc. 2002–40, 2002–1 C. B. 1096).

that is placed in service after September 10, 2001, and before January 1, 2007 (and meets certain other requirements). Unlike the rules relating to bonus depreciation and to Liberty Zone bonus depreciation property (see Code sections 168(k)(2)(C)(iii) and 1400L(b)(2)(C)(iv)), which permit a taxpayer to elect out, this 5-year depreciation rule is not elective. The provision adds a rule permitting taxpayers to elect out of the 5-year recovery period.

*Interest rate for defined benefit plan funding requirements.*—Section 405(c) of JCWA increases the interest rate used in determining the amount of unfunded vested benefits for PBGC variable rate premium purposes for plan years beginning in 2002 or 2003 from 85 percent to 100 percent of the interest rate on 30-year Treasury securities for the month preceding the month in which the applicable plan year begins. The provision makes conforming changes so that this rule applies for purposes of notices and reporting required under Title IV of ERISA with respect to underfunded plans.

*Exclusion for employer-provided adoption assistance.*—The provision corrects an incorrect reference in a technical correction to a provision relating to the exclusion for employer-provided adoption assistance.

*Amendments related to the Economic Growth and Tax Relief Reconciliation Act of 2001*

*Coverdell education savings accounts.*—The provision corrects the application of a conforming change to the rule coordinating Coverdell education savings accounts with Hope and Lifetime Learning credits and qualified tuition programs. The conforming change was made in connection with the expansion of Coverdell education savings accounts to elementary and secondary education expenses in section 401 of the Economic Growth and Tax Relief Reconciliation Act of 2001 ''(EGTRRA'').

*Base period for cost-of-living adjustments to Indian employment credit rule.*—The Indian employment credit is not available with respect to an employee whose wages exceed $30,000 (sec. 45A). For years after 1994, this $30,000 amount is adjusted for cost-of-living increases at the same time, and in the same manner, as cost-of-living adjustments to the dollar limits on qualified retirement plan benefits and contributions under section 415. Section 611 of EGTRAA increases the dollar limits under section 415 and adds a new base period for making cost-of-living adjustments. The provision clarifies that the preexisting base period applies for purposes of the Indian employment credit.

*Rounding rule for retirement plan benefit and contribution limits.*—Section 611 of EGTRRA increases the dollar limits on qualified retirement plan benefits and contributions under Code section 415, and adds a new rounding rule for cost-of-living adjustments to the dollar limit on annual additions to defined contribution plans. This new rounding rule is in addition to a pre-existing rounding rule that applies to benefits payable under defined benefit plans. The provision clarifies that the pre-existing rounding rule applies for purposes of other Code provisions that refer to Code section 415 and do not contain a specific rounding rule.

*Excise tax on nondeductible contributions.*—Under section 614 of EGTRRA, the limits on deductions for employer contributions to qualified retirement plans do not apply to elective deferrals, and elective deferrals are not taken into account in applying the deduction limits to other contributions. The provision makes a conforming change to the Code provision that applies an excise tax to nondeductible contributions.

*SIMPLE plan contributions for domestic or similar workers.*—Section 637 of EGTRRA provides an exception to the application of the excise tax on nondeductible retirement plan contributions in the case of contributions to a SIMPLE IRA or SIMPLE section 401(k) plan that are nondeductible solely because they are not made in connection with a trade or business of the employer (e.g., contributions on behalf of a domestic worker). Section 637 of EGTRRA did not specifically modify the present-law requirement that compensation for purposes of determining contributions to a SIMPLE plan must be wages subject to income tax withholding, even though wages paid to domestic workers are not subject to income tax withholding. The provision revises the definition of compensation for purposes of determining contributions to a SIMPLE plan to include wages paid to domestic workers, even though such amounts are not subject to income tax withholding.

*Rollovers among various types of retirement plans.*—Section 641 of EGTRRA expanded the rollover rules to allow rollovers among various types of tax-favored retirement plans. The provision makes a conforming change to the cross-reference to the rollovers rules in the Code provision relating to qualified retirement annuities.

*Amendment related to the Community Renewal Tax Relief Act of 2000*

*Tax treatment of options and securities futures contracts.*—The provision clarifies that the Secretary of the Treasury has the authority to prescribe regulations regarding the status of an option or a contract the value of which is determined directly or indirectly by reference to an index which becomes (or ceases to be) a narrow-based security index (as defined in section 1256(g)(6)). This authority includes, but is not limited to, regulations that provide for preserving the status of such an option or contract as appropriate.

*Amendments related to the Taxpayer Relief Act of 1997*

*Qualified tuition programs.*—Section 211 of the Taxpayer Relief Act of 1997 modified section 529(c)(5), relating to gift tax rules for qualified tuition programs, but did not include in the statutory language the requirement that, upon a change in the designated beneficiary of the program, the new beneficiary must be a member of the family of the old beneficiary for gift taxes not to apply. The legislative history for the provision stated that the new beneficiary had to be of the same generation as the old beneficiary and a member of the family of the old beneficiary for gift taxes not to apply. The provision clarifies that the gift taxes apply unless the new beneficiary is of the same (or higher) generation than the old beneficiary and is a member of the family of the old beneficiary.

*Coverdell education savings accounts.*—The provision corrects section 530(d)(4)(B)(iii), relating to Coverdell education savings accounts, by substituting for the undefined term ''account holder'' the defined term ''designated beneficiary.''

*Constructive sale exception.*—Section 1001(a) of the Taxpayer Relief Act of 1997 provides an exception from constructive sale treatment for any transaction that is closed before the end of the thirtieth day after the close of the taxable year in which the transaction was entered into, provided certain requirements are met after closing the transaction (section 1259(c)(3)). In the case of positions that are reestablished following a closed transaction but prior to satisfying the requirements for the exception from constructive sale treatment, the exception applies in a similar manner if the reestablished position itself is closed and similar requirements are met after closing the reestablished position. The provision clarifies that the exception applies in the same manner to all closed transactions, including reestablished positions that are closed.

*Basis adjustments for QZAB held by S corporation.*—Under present law, a shareholder of an S corporation that is an eligible financial institution may claim a credit with respect to a qualified zone academy bond (''QZAB'') held by the S corporation. The amount of the credit is included in gross income of the shareholder. An unintended interpretation of these rules would be that the shareholder's basis in the stock of the S corporation is increased by the amount of the income inclusion, notwithstanding that the benefit of the credit flows directly to the shareholder rather than to the corporation, and the corporation has no additional assets to support the basis increase. The provision clarifies that the basis of stock in an S corporation is not affected by the QZAB credit.

*Capital gains and AMT.*—The provision provides that the maximum amount of adjusted net capital gain eligible for the five-percent rate under the alternative minimum tax is the excess of the maximum amount of taxable income that may be taxed at a rate of less than 25 percent under the regular tax (for example, $56,800 for a joint return in 2003) over the taxable income reduced by the adjusted net capital gain.

The provision may be illustrated by the following example:

For example, assume that a married couple with no dependents in 2003 has $32,100 of salary, $82,000 of long-term capital gain from the sale of stock, $73,000 of itemized deductions consisting entirely of state and local taxes and allowable miscellaneous itemized deductions. For purposes of the regular tax, the taxable income is $35,000 ($32,100 plus $82,000 minus $73,000 minus $6,100 deduction for personal exemptions). For purposes of the alternative minimum tax, the taxable excess is $56,100 ($32,100 plus $82,000 less the $58,000 exemption amount).

Under present law, the amount taxed under the regular tax at five percent is $35,000 (the lesser of (i) taxable income ($35,000), (ii) adjusted net capital gain ($82,000), or (iii) the excess of the maximum amount taxed at the 10- and 15-percent rates ($56,800 in 2003) over the ordinary taxable income (zero)). Thus, the regular tax is $1,750.

Under present law, $35,000 is taxed at five percent in computing the alternative minimum tax (the lesser of (i) amount of the adjusted net capital gain which is taxed at the five percent under the regular tax ($35,000), or (ii) the taxable excess ($56,100)). The remaining $21,100 of taxable excess is taxed at 15 percent, for a total tentative minimum tax of $4,915.

Under the provision, in computing the alternative minimum tax, $56,100 is taxed at five percent (the lesser of (i) the taxable excess ($56,100), (ii) the adjusted net capital gain ($82,000), or (iii) the excess of the maximum amount taxed at the 10- and 15-percent rates under the regular tax ($56,800) over the ordinary taxable income (zero)). The tentative minimum tax is $2,805.

*Amendment related to the Small Business Job Protection Act of 1996*

*S corporation post-termination transition period.*—Shareholders of an S corporation whose status as an S corporation terminates are allowed a period of time after the termination (the post-termination transition period (''PTTP'')) to utilize certain of the benefits of S corporation status. The shareholders may claim losses and deductions previously suspended due to lack of stock or debt basis up to the amount of the stock basis as of the last day of the PTTP (sec. 1366(d)). Also, shareholders may receive cash

distributions from the corporation during the PTTP that are treated as returns of capital to the extent of any balance in the S corporation's accumulated adjustments account (''AAA'') (sec. 1371(e)).

The PTTP generally begins on the day after the last day of the corporation's last tax year as an S corporation and ends on the later of the day which is one year after such last day or the due date for filing the return for such last year as an S corporation (including extensions). Section 1307 of the Small Business Job Protection Act of 1996 added a new 120-day PTTP following an audit of the corporation that adjusts an S corporation item of income, loss, or deduction arising during the most recent period while the corporation was an S corporation. This provision was enacted to allow the tax-free distribution of any additional income determined in the audit.

As a result of the 1996 legislation, an S corporation shareholder might take the position that an audit adjustment allows the shareholder to utilize suspended losses and deductions in excess of the amount of the audit deficiency. For example, assume that, at the end of the one-year PTTP following the termination of a corporation's S corporation status, a shareholder has $1 million of suspended losses in the corporation. Later, the shareholder purchases additional stock in the corporation for $1 million. The corporation's audit determines a $25,000 increase in the S corporation's income. Although the $25,000 increase in income would allow $25,000 of suspended losses to be allowed, the shareholder might take the position that the entire $1,000,000 of suspended losses could be utilized during the 120-day PTTP following the end of the audit. Similarly, an S corporation that had failed to distribute the entire amount in its AAA during the one-year PTTP following the loss of S corporation status might argue that it could distribute that amount, in addition to the amount determined in the audit, during the 120-day period following the audit.

The provision provides that the 120-day PTTP added by the 1996 Act does not apply for purposes of allowing suspended losses to be deducted (since the increased income determined in the audit can be offset with the losses), and allows tax-free distributions of money by the corporation during the 120-day period only to the extent of any increase in the AAA by reason of adjustments from the audit.

*Defined contribution plans.*—The Small Business Job Protection Act of 1996 amended section 401(a)(26) (generally requiring that a qualified retirement plan benefit the lesser of 50 employees or 40 percent of the employer's workforce) so that it no longer applies to defined contribution plans. Section 401(a)(26)(C) (which treats employees as benefiting in certain circumstances) was not repealed even though it relates only to defined contribution plans. The provision repeals section 401(a)(26)(C).

*Clerical amendments*

The conference agreement makes a number of clerical and typographical amendments.

## VII. TAX COMPLEXITY ANALYSIS

The following tax complexity analysis is provided pursuant to section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998, which requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service (''IRS'') and the Treasury Department) to provide a complexity analysis of tax legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or a Conference Report containing tax provisions. The complexity analysis is required to report on the complexity and administrative issues raised by provisions that directly or indirectly amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses. For each such provision identified by the staff of the Joint Committee on Taxation, a summary description of the provision is provided along with an estimate of the number and type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

1. Modifications to the child tax credit and earned income credit (secs. 101, 102, 103, and 104 of the conference agreement)

*Summary description of provision*

The amount of the child credit is increased to $1,000 for 2005–2009. The conference agreement also accelerates to 2004 the increase in refundability of the child credit to 15 percent of the taxpayer's earned income in excess of $10,750.

The conference agreement provides that combat pay that is otherwise excluded from gross income under section 112 is treated as earned income which is taken into account in computing taxable income for purposes of calculating the refundable portion of the child credit.

The conference agreement provides that any taxpayer may elect to treat combat pay that is otherwise excluded from gross income under section 112 as earned income for purposes of the earned income credit. This election is available with respect to any taxable year ending after the date of enactment and before January 1, 2006.

All modifications to the child credit and earned income credit under the conference agreement are subject to the sunset provision of EGTRRA.

*Number of affected taxpayers*

It is estimated that the provisions will affect approximately 28 million individual tax returns.

*Discussion*

Individuals should not have to keep additional records due to this provision, nor will additional regulatory guidance be necessary to implement this provision.

2. Standard deduction tax relief (sec. 101 of the conference agreement)

*Summary description of provision*

The conference agreement accelerates the increase in the basic standard deduction amount for joint returns to twice the basic standard deduction amount for unmarried individual returns effective for 2005–2008. All modifications to the basic standard deduction under the conference agreement are subject to the sunset provision of EGTRRA.

*Number of affected taxpayers*

It is estimated that the provision will affect approximately 22 million individual returns.

*Discussion*

It is not anticipated that individuals will need to keep additional records due to this provision. The higher basic standard deduction should not result in an increase in disputes with the IRS, nor will regulatory guidance be necessary to implement this provision. In addition, the provision should not increase individuals' tax preparation costs.

Some taxpayers who currently itemize deductions may respond to the provision by claiming the increased standard deduction in lieu of itemizing. According to estimates by the staff of the Joint Committee on Taxation, approximately three million individual tax returns will realize greater tax savings from the increased standard deduction than from itemizing their deductions. In addition to the tax savings, such taxpayers will no longer have to file Schedule A to Form 1040 and a significant number of them will no longer need to engage in the record keeping inherent in itemizing below-the-line deductions. Moreover, by claiming the standard deduction, such taxpayers may qualify to use simpler versions of the Form 1040 (i.e., Form 1040EZ or Form 1040A) that are not available to individuals who itemize their deductions. These forms simplify the return preparation process by eliminating from the Form 1040 those items that do not apply to particular taxpayers.

This reduction in complexity and record keeping also may result in a decline in the number of individuals using a tax preparation service or a decline in the cost of using such a service. Furthermore, if the provision results in a taxpayer qualifying to use one of the simpler versions of the Form 1040, the taxpayer may be eligible to file a paperless Federal tax return by telephone. The provision also should reduce the number of disputes between taxpayers and the IRS regarding substantiation of itemized deductions.

3. Expansion of the 15-percent rate bracket (sec. 101 of the conference agreement)

*Summary description of provision*

The bill accelerates the increase of the size of the 15–percent regular income tax rate bracket for married individuals filing joint returns to twice the width of the 15–percent regular income tax rate bracket for unmarried individual returns effective for 2005–2007. All modifications to the 15–percent rate bracket under the conference agreement are subject to the sunset provision of EGTRRA.

*Number of affected taxpayers*

It is estimated that the provision will affect approximately 19 million individual tax returns.

*Discussion*

It is not anticipated that individuals will need to keep additional records due to this provision. The increased size of the 15-percent regular income tax rate bracket for married individuals filing joint returns should not result in an increase in disputes with the IRS, nor will regulatory guidance be necessary to implement this provision.

4. Ten-percent income tax rate for individuals (sec. 101 of the conference agreement)

*Summary description of provision*

The conference agreement extends the size of the 10-percent rate bracket through 2010. Specifically, the size of the 10-percent rate bracket for 2005 through 2010 is set at the 2003 level ($7,000 for single individuals, $10,000 for heads of households and $14,000 for married individuals) with annual indexing from 2003. The modifications to the 10-percent rate bracket under the conference agreement are subject to the sunset provision of EGTRRA.

*Number of affected taxpayers*

It is estimated that the provision will affect approximately 73 million individual tax returns.

*Discussion*

It is not anticipated that individuals will need to keep additional records due to this provision. It should not result in an increase in disputes with the IRS, nor will regulatory guidance be necessary to implement this provision. In addition, the provision should not increase the tax preparation costs for most individuals. Reductions in the regular income tax as a result of these rate reductions will cause some taxpayers to become subject to the alternative minimum tax.

5. Uniform definition of qualifying child (secs. 201–207 of the conference agreement)

*Summary description of provision*

The bill creates a uniform definition of qualifying child for purposes of the dependency exemption, child credit, earned income

credit, dependent care credit, and head of household filing status. The bill is effective for taxable years beginning after December 31, 2004.

*Number of affected taxpayers*

It is estimated that the provisions will affect over 40 million individual tax returns.

*Discussion*

Adopting a uniform definition of qualifying child will make it easier for taxpayers to determine whether they qualify for various tax benefits for children and reduce inadvertent errors arising from confusion due to different definitions of qualifying child. The use of a residency test for the uniform definition should be easier to apply than a support test.

The bill will provide simplification to substantial numbers of taxpayers. However, the transition from the present-law system to a uniform definition of child will add temporary complexity from the tax administration perspective. The IRS will be required to modify forms and instructions to implement the uniform definition of child, and taxpayers will be required to learn a new set of rules. There may be confusion for taxpayers who may no longer be eligible to claim a child for certain purposes under the Code. These changes could lead to increased taxpayer errors in filing. In the long run, these effects will be mitigated and the benefits of making the uniform definition will result in less complexity and better tax administration.

**ESTIMATED REVENUE EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1308, THE "WORKING FAMILIES TAX RELIEF ACT OF 2004"**

**Fiscal Years 2005 - 2014**

*[Millions of Dollars]*

| Provision | Effective | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2005-09 | 2005-14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Tax Reduction Provisions** | | | | | | | | | | | | | |
| 1. Extension of Family Tax Provisions: | | | | | | | | | | | | | |
| a. Extend $1,000 child tax credit through 12/31/09 | tyba 12/31/04 | -2,638 | -13,193 | -13,198 | -13,227 | -12,376 | -6,942 | --- | --- | --- | --- | -54,632 | -61,574 |
| b. Extend marriage penalty relief through 12/31/08 | tyba 12/31/04 | -5,415 | -5,412 | -3,050 | -1,493 | -323 | --- | --- | --- | --- | --- | -15,693 | -15,693 |
| c. Extend 10% bracket through 12/31/10 | tyba 12/31/04 | -4,262 | -6,423 | -6,796 | -4,330 | -3,229 | -3,315 | -1,006 | --- | --- | --- | -25,040 | -29,361 |
| 2. Accelerate refundability of child credit to 2004 | tyba 12/31/03 | -1,993 | --- | --- | --- | --- | --- | --- | --- | --- | --- | -1,993 | -1,993 |
| 3. Extend individual AMT relief through12/31/05 | tyba 12/31/04 | -9,031 | -13,546 | --- | --- | --- | --- | --- | --- | --- | --- | -22,577 | -22,577 |
| 4. Inclusion of combat pay in earned income for purposes of the child tax credit and for purposes of earned income credit at taxpayer's election | [1] | -49 | -50 | -24 | -21 | -18 | -19 | -17 | --- | --- | --- | -162 | -199 |
| **Total of Tax Reduction Provisions** | | **-23,388** | **-38,624** | **-23,068** | **-19,071** | **-15,946** | **-10,276** | **-1,023** | **0** | **0** | **0** | **-120,097** | **-131,397** |
| **Uniform Definition of a Qualifying Child for the Dependency Exemption, the Child Credit, the EIC, the Dependent Care Credit, and Head-of-Household Filing Status** | **tyba 12/31/04** | **-84** | **-206** | **-209** | **-218** | **-225** | **-229** | **-183** | **-75** | **-75** | **-76** | **-942** | **-1,579** |
| **Extension of Certain Expiring Provisions** | | | | | | | | | | | | | |
| 1. Extension of the R&E credit (sunset 12/31/05) | epoia 6/30/04 | -3,480 | -1,986 | -936 | -678 | -390 | -90 | --- | --- | --- | --- | -7,470 | -7,560 |
| 2. Parity in the application of certain limits to mental health benefits (sunset 12/31/05) [2] | DOE | -4 | -43 | -10 | --- | --- | --- | --- | --- | --- | --- | -57 | -57 |
| 3. Work opportunity tax credit (sunset 12/31/05) | wpoifibwa 12/31/03 | -278 | -181 | -81 | -39 | -23 | -9 | -1 | --- | --- | --- | -603 | -614 |
| 4. Welfare-to-work tax credit (sunset 12/31/05) | wpoifibwa 12/31/03 | -35 | -39 | -28 | -14 | -7 | -4 | -1 | [3] | --- | --- | -122 | -127 |
| 5. Qualified zone academy bonds (sunset 12/31/05) | oia 12/31/03 | -3 | -10 | -20 | -27 | -28 | -28 | -28 | -28 | -28 | -28 | -89 | -231 |
| 6. Increase in limit on cover over of rum excise tax revenues (from $10.50 to $13.25 per proof gallon) to Puerto Rico and the Virgin Islands (sunset 12/31/05) | abiUSa 12/31/03 | -151 | -18 | --- | --- | --- | --- | --- | --- | --- | --- | -169 | -169 |
| 7. Extension of enhanced deduction for qualified computer contributions (sunset for taxable years beginning after 12/31/05) | cmd tyba 12/31/03 | -198 | -62 | --- | --- | --- | --- | --- | --- | --- | --- | -260 | -260 |
| 8. Above-the-line deduction for teacher classroom expenses capped at $250 annually (sunset 12/31/05) | tyba 12/31/03 | -227 | -192 | --- | --- | --- | --- | --- | --- | --- | --- | -419 | -419 |
| 9. Expensing of "Brownfields" environmental remediation costs (sunset 12/31/05) | epoia 12/31/03 | -409 | -93 | 32 | 38 | 39 | 34 | 30 | 26 | 22 | 20 | -394 | -261 |

| Provision | Effective | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2005-09 | 2005-14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 10. New York Liberty Zone bond provisions [4]: | | | | | | | | | | | | | |
| a. Extend authority to issue Liberty Zone bonds (sunset 12/31/09); add municipal assistance corporation to eligible advance refunding bonds | generally 1/1/05 | -4 | -18 | -34 | -47 | -58 | -65 | -65 | -65 | -65 | -65 | -162 | -486 |
| b. Extend authority to issue advance refunding bonds (sunset 12/31/05) | 1/1/05 | -6 | -15 | -16 | -15 | -12 | -10 | -8 | -6 | -4 | -2 | -64 | -93 |
| 11. Tax incentives for investment in the District of Columbia (sunset 12/31/05) | [5] | -161 | -56 | -18 | -12 | -17 | -62 | -74 | -42 | -42 | -37 | -264 | -522 |
| 12. Combined employment tax reporting (sunset 12/31/05) | do/a DOE | *No Revenue Effect* | | | | | | | | | | | |
| 13. Treatment of nonrefundable personal credits under the individual alternative minimum tax (sunset 12/31/05) [6] | tyba 12/31/03 | -332 | -260 | --- | --- | --- | --- | --- | --- | --- | --- | -592 | -592 |
| 14. Tax credit for electricity production from wind, closed-loop biomass, and poultry litter -- facilities placed in service date (sunset 12/31/05) | fpisa 12/31/03 | -44 | -75 | -97 | -111 | -127 | -139 | -144 | -149 | -151 | -126 | -454 | -1,163 |
| 15. Extension of suspension of 100% of taxable income limit with respect to marginal production (through 12/31/05) | tyba 12/31/03 | -78 | -16 | --- | --- | --- | --- | --- | --- | --- | --- | -94 | -94 |
| 16. Indian employment tax credit (sunset 12/31/05) | 1/1/05 | -25 | -34 | -10 | --- | --- | --- | --- | --- | --- | --- | -68 | -68 |
| 17. Accelerated depreciation for business property on Indian reservation (sunset 12/31/05) | 1/1/05 | -150 | -261 | -97 | 21 | 71 | 111 | 90 | 48 | 5 | -10 | -418 | -173 |
| 18. Disclosure of tax return information to carry out administration of income contingent repayment of student loans (sunset 12/31/05) [7] | 1/1/05 | *No Revenue Effect* | | | | | | | | | | | |
| 19. Tax credit for qualified electric vehicles (100% benefit through 12/31/05) | ppisa 12/31/03 | -5 | -1 | [8] | [8] | [8] | [8] | [8] | [8] | --- | --- | -5 | -5 |
| 20. Deduction for clean-fuel vehicles (100% benefit through 12/31/05) | ppisa 12/31/03 | -119 | -16 | 25 | 16 | 12 | 7 | 2 | --- | --- | --- | -81 | -72 |
| 21. Disclosures relating to terrorist activities (sunset 12/31/05): | | | | | | | | | | | | | |
| a. Extension of authority to make disclosures regarding terrorist activities | dmo/a DOE | *No Revenue Effect* | | | | | | | | | | | |
| b. Technical correction regarding disclosure of taxpayer identity to law enforcement officials investigating terrorist activities | [9] | *No Revenue Effect* | | | | | | | | | | | |
| 22. Availability of Archer medical savings accounts (sunset 12/31/05) | 1/1/04 | *Negligible Revenue Effect* | | | | | | | | | | | |
| 23. Joint Committee on Taxation report and joint hearing on IRS strategic plans (sunset 12/31/05) | DOE | *No Revenue Effect* | | | | | | | | | | | |
| **Total of Extension of Certain Expiring Provisions** | | **-5,709** | **-3,376** | **-1,290** | **-868** | **-540** | **-255** | **-199** | **-216** | **-263** | **-248** | **-11,785** | **-12,966** |
| **Technical Correction Provisions** | **DOE** | ***No Revenue Effect*** | | | | | | | | | | | |
| **NET TOTAL [10]** | | **-29,181** | **-42,206** | **-24,567** | **-20,157** | **-16,711** | **-10,760** | **-1,405** | **-291** | **-338** | **-324** | **-132,824** | **-145,942** |

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. Date of enactment is assumed to be October 1, 2004.

*[Legend and Footnotes for Table appear on the following page]*

**Legend and Footnotes for Table:**

Legend for "Effective" column:

abiUSa = articles brought into the United States after
cmd = contributions made during
do/a = disclosures on or after
dmo/a = disclosures made on or after
DOE = date of enactment
epoia = expenditures paid or incurred after
fpisa = facilities placed in service after
oia = obligations issued after
ppisa = property placed in service after
tyba = taxable years beginning after
wpoifibwa = wages paid or incurred for individuals beginning work after

[1] For purposes of the child tax credit, effective for taxable years beginning after December 31, 2003; for purposes of earned income credit at taxpayer's election, effective for taxable years ending after the date of enactment and before January 1, 2006.
[2] This provision will have a negligible effect on penalty excise tax receipts. However it will have an indirect effect on income tax receipts through increases in employer-contributions for health insurance and corresponding decreases in cash wages. The table shows this indirect revenue effect, which was estimated by the Congressional Budget Office.
[3] Loss of less than $500,000.
[4] The New York City Liberty Zone is defined as all business addresses located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan, New York, NY.
[5] Generally effective January 1, 2004, except for the bond provision which is effective for obligations issued after the date of enactment.
[6] The "Economic Growth and Tax Relief Reconciliation Act of 2001" provides that the child tax credit and adoption tax credit are allowed for purposes of the alternative minimum tax for 2002 through 2010.
[7] Estimate provided by the Congressional Budget Office.
[8] Gain of less than $500,000.
[9] Effective as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

| | | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2005-09 | 2005-14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| HIDE Family tax provisions | --- | --- | 4,784 | 4,468 | 4,472 | 4,464 | 2,842 | 133 | --- | --- | --- | 18,188 | 21,163 |
| HIDE Refundability acceleration | --- | 1,929 | --- | --- | --- | --- | --- | --- | --- | --- | --- | 1,929 | 1,929 |
| HIDE Combat pay | --- | 46 | 47 | 24 | 21 | 18 | 19 | 17 | --- | --- | --- | 157 | 193 |
| HIDE UDQC | --- | --- | 38 | 39 | 40 | 43 | 44 | 45 | 25 | 26 | 26 | 159 | 325 |
| HIDE Rum cover | --- | 151 | 18 | --- | --- | --- | --- | --- | --- | --- | --- | 169 | 169 |
| [10] Includes the following change in outlays | | 2,126 | 4,887 | 4,531 | 4,533 | 4,525 | 2,905 | 195 | 25 | 26 | 26 | 20,602 | 23,779 |

For consideration of the House amendment and the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
TOM DELAY,
*Managers on the Part of the House.*

CHUCK GRASSLEY,
DON NICKLES,
TRENT LOTT,
MAX BAUCUS,
BLANCHE L. LINCOLN,
*Managers on the Part of the Senate.*

## VITIATION OF MOTION TO INSTRUCT CONFEREES ON H.R. 1308, WORKING FAMILIES TAX RELIEF ACT OF 2004

The SPEAKER pro tempore. Under clause 8 of rule XX, the filing of the conference report on H.R. 1308 has vitiated the motion to instruct offered by the gentleman from Kansas (Mr. MOORE), which was debated yesterday and on which further proceedings were postponed.

## PRIVILEGED REPORT REQUESTING PRESIDENT TO PROVIDE CERTAIN INFORMATION TO HOUSE OF REPRESENTATIVES RESPECTING NATIONAL ENERGY POLICY DEVELOPMENT GROUP

Mr. BARTON of Texas, from the Committee on Energy and Commerce, submitted a privileged report (Rept. No. 108–697) together with dissenting views, requesting the President of the United States to provide certain information to the House of Representatives respecting the National Energy Policy Development Group, which was referred to the House Calendar and ordered to be printed.

## PERSONAL EXPLANATION

Mr. BECERRA. Mr. Speaker, yesterday, September 22, during the final series of votes, I did not record a floor vote on rollcall No. 462, the Olver amendment to H.R. 5025, the Transportation and Related Agencies Appropriations Act for fiscal year 2005.

Mr. Speaker, had I recorded a vote on the Olver amendment, I would have unequivocally voted aye on rollcall vote No. 462, and wish to be recorded as such.

## PROVIDING FOR CONSIDERATION OF H. RES. 785, WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 785 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 785

*Resolved*, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of September 23, 2004, providing for consideration or disposition of a conference report to accompany the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my neighbor, the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

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

Mr. REYNOLDS. Mr. Speaker, House Resolution 785 is a same day rule that waives clause 6(a) of rule XIII requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules.

The rule applies the waiver to a special rule reported on the legislative day September 23, 2004, providing for consideration or disposition of a conference report to accompany the bill H.R. 1308, the Working Families Tax Relief Act.

This rule today is the first step to permit the House to consider a conference report that will infuse our economy with job creating tax relief, investment incentives and overall economic growth.

For well over a year, this body has been debating the relief provided by the Working Families Tax Relief Act and, with today's action, we once again display our continued commitment to strong economic growth. We also demonstrate to American workers, businesses and families that this Congress will protect their stability.

Mr. Speaker, through a series of tax cuts, this Congress has acted to create jobs and protect American families. Our strong leadership has resulted in the shortest and shallowest recession in our Nation's history. A delay in the consideration of this conference report for the Working Families Tax Relief Act will put American jobs and families and the strength of our economy at risk.

Mr. Speaker, I strongly urge my colleagues to support this rule so we may proceed with debate on this time sensitive tax relief package.

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

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

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I thank my neighbor for yielding me time.

Mr. Speaker, we have before us a rule that allows for same day consideration of a conference report for H.R. 1308, a bill to extend the middle-class tax provisions in the 2001 tax bill.

Mr. Speaker, I strongly believe that any time the body chooses to stray from the regular order of business, it had better be for a darn good reason. It had better be to respond to some catastrophic or emergency situation.

Things are dire out there for the 2.7 million Americans who have lost their good-paying manufacturing jobs since 2001. These workers live in a constant state of emergency and face the catastrophic prospect of losing their homes or sending their children to bed with empty stomachs. The fact the body has failed to extend unemployment insurance for nearly a year is a catastrophic failure, not a catastrophic success.

Mr. Speaker, there are a number of other bills languishing in conference committees that certainly warrant emergency consideration. What about the transportation bill? Immediate consideration of this bill could bring millions of Americans a step closer to getting back to work, because it is a job creation bill.

And what about addressing the WTO tariffs on American exports? Should we not take immediate action to clear the path for more of our manufacturers to export their goods?

Mr. Speaker, as you can see, there is no shortage of bills that could be justifiably brought to the House floor under martial law, but, unfortunately, the bill we have before us today fails to meet that standard.

Although I think everyone here in the House supports extending the middle class tax cuts, I do not like running roughshod over the rules of the House. What is this emergency? The earliest that any of these provisions would expire is December 31.

Mr. Speaker, the majority has not made its case for taking this extraordinary action. The conference report was filed late this afternoon. In fact, we do not have any paper on it at all. So that makes it impossible for us to even continue with the bill. But for a bill that is going to cost nearly $150 billion, the majority owes it to us to provide us the time to read it.

For these reasons, I cannot support the use of a martial law rule.

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

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

Mr. Speaker, there are some points well taken, except we have been working 18 months on this legislation in bipartisan fashion in both bodies and we now have a conclusion. I also think we have certainly got strong opinions as we complete this of Members that will support this and Members that will not. I believe it will pass with some bipartisan support.

But also it is important that we have the opportunity that we can get our work done today, because otherwise my belief is that many would ask that we vote tomorrow, which, if we complete our work today, would keep an

orderly fashion of having our work done and Members also back into their districts.

So, as we move forward, it is my hope that we have a vote on the rule, and that the body will consider that we move forward with the opportunity of reviewing the conference report that was put together in a bipartisan fashion in both the other body and this body.

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

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank my friend from New York for yielding me this time.

Mr. Speaker, this is an extraordinary process that we use when we consider a bill the same day it is reported out. One of the concerns I have about the process is that I want to make sure the Members understand exactly what is in the bill that they are asking to be considered and the process that it went through.

I think it is important to point out that the underlying bill that we are talking about contains many important changes in the Tax Code that are supported on both sides of the aisle. There is no question that Democrats support an extension of the 10 percent bracket provision, child credits and marriage penalty relief, and certainly Alternative Minimum Tax relief, where more and more of our constituents are falling within the Alternative Minimum Tax, and extension of the so-called extenders, the research and others that would otherwise expire. That is without question. And there has been bipartisan efforts to try to make sure that those provisions in the Code are extended or made permanent.

But this is where the bipartisanship ends, because there has not been an effort made to do this in a way that is in the best interests of the taxpayers of this country.

Our only opportunity to raise these issues will be on the rules that are going to be presented today. My friend from New York will explain later the previous question votes we are going to ask to be taken, because that is going to be our only opportunity to raise the faults that are in the underlying bill, because, as I said, the substantive provisions are provisions that are supported by both Democrats and Republicans.

The first problem is that these are just temporary changes. We do not make them permanent. As my friend from New York pointed out, we have until the end of this year on most of these provisions. Some of the provisions are extended for a year, some for 2 years, some for a little bit longer, but none of them are made permanent. So, once again, we are not really confronting the issue of making this predictable for the taxpayers of this country.

But the more serious faults that will be raised by the previous questions deal with the fact that despite the efforts that we have made in a bipartisan opportunity to pay for these tax cuts so we do not add to the $400 billion annual deficit, we have offered ways to pay for these tax changes. The underlying bill is scored to add another $150 billion to the deficit of this country. Where does this end?

Give us an opportunity to give proposals to offset the cost so that we are not adding to the red ink of the Nation. We should have that opportunity, and I think we could do that with a strong bipartisan vote in this body.

The second problem, Mr. Speaker, quite frankly, is that we did not correct a major problem with the Earned Income Tax Credit and to a certain degree with the refundable child credit, and that is we are not treating our military fairly.

We all talk in our districts and here on the floor about the tremendous sacrifices being made by the men and women who are in harm's way serving our military in Iraq and Afghanistan. They put their lives on the line for us every day, and we are thankful. But we should show it by deeds. We have pointed out that because of the tax treatment of military pay, our men and women who are in harm's way will not get the full relief provided under this bill. That is wrong.

The conferees from the other body made a suggestion that would have fixed this, one which is supported by the Democrats in this body. It is hard to believe that you get a more favorable tax treatment in the military if you serve in the United States than if you serve in Iraq. That is just wrong, and we should fix it.

But instead of accepting the reasonable offer made by the Members from the other body, because of the House position of the Republicans, we have a very small, temporary fix for 1 year that will not provide the full relief to our military, which is kind of complicated, quite frankly, adding to the complexity of the Code without fixing the problem.

That is wrong, and we should take care of that now. If there is an urgency, the urgency should be with our military and to make sure we do not discriminate against them.

So, Mr. Speaker, I take this opportunity to point out to my colleagues, yes, we will not have a lot of time to consider this bill. It was just reported out today. There are a lot of good provisions in this bill. But, once again, it is a missed opportunity. It is a missed opportunity for fiscal responsibility, it is a missed opportunity to correct a problem with our military pay, and I hope that you will support the request made by the gentlewoman from New York in regards to the previous questions so we can fix these errors.

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

Mr. Speaker, I know that it is not a missed opportunity for those millions of taxpayers who are going to be assisted by this. While I respect my colleague from Maryland, I think there is a couple of things we need to look at to set the record straight. I was prepared to do it as we do the rule on the legislation, but maybe now is a good time.

This bill provides nearly $200 million in assistance for our military. This bill has 23 annual extenders for tax provisions that we have worked on in the past. It is going to address child tax credit that we have passed overwhelmingly in this House in a bipartisan provision. It is going to address the marriage penalty, which this House has, again, done in overwhelming provisions in past votes.

We have a 10 percent bracket, which is there. Without passage of the legislation, the bracket would start to fade until it is totally removed from the Tax Code, and that would affect 73 million families who will be paying higher income taxes next year. Over the next 10 years, these families will pay out a total of $2,400 more in taxes. That is a bill that this House has passed in previous times.

When we look at the AMT relief which was created more than 30 years ago as a way to prevent high income taxpayers from avoiding income tax payments, something happened, and the failure to index AMT for inflation has resulted in millions of Americans paying for this onerous double tax.

□ 1445

As a result, by 2010, one in three American taxpayers will be hid in the shadow of the AMT tax. Both in the 2001 and 2003 growth packages, Congress worked to ensure the new tax cuts would not force more taxpayers into the AMT trap. Yet, the provisions preventing millions of middle-class Americans from being hit with the AMT will expire at the end of this year. This is why the legislation is so critical, to prevent these Americans from being hit with the unsuspected tax.

So when we look at this legislation, when the House is scheduled to adjourn on October 1, and we look at this House that may extend itself a few days in closing, we need to also keep on track moving legislation that is ready for the body to consider.

I would also say that when we look at this, which was provided for, the paying of this, in the House-crafted budget that was adopted by this body, the extension of family tax relief is already provided for in the House-passed budget resolution. That resolution would cut the deficit in half over 5 years without raising taxes, so this bill is paid for.

The second aspect is the Democrats have agreed to extending the child tax credit, the 10 percent bracket, and the marriage penalty relief. However, to accomplish the offsets, they want means of more than $130 billion in either tax hikes or spending cuts. The Democrats are not prepared to make the tough choices regarding which taxes to increase or which programs to

cut. We are going to talk about a procedural provision of whether we adopt this rule to consider same-day or not versus the aspect of an alternative, which I welcome as they bring their legislation before the House.

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

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, to my distinguished friend from New York, I was at the tax conference last night, and I would just like to yield him enough time to respond. Did he say that this $147 billion bill is paid for? No, I do not think so. I do not think he said that.

Mr. REYNOLDS. Mr. Speaker, is the gentleman asking me if I would yield on his time?

Mr. RANGEL. Mr. Speaker, I want to ask the gentleman whether or not he said to this body that this bill, this tax cut bill, which he gave all the virtues of what it does for the middle class and all of the corporations with the extenders, did he imply that this does not throw us $147 billion further into deficit?

Mr. REYNOLDS. No, I will give the gentleman exactly what I said, if the gentleman will yield.

Mr. RANGEL. I yield to the gentleman from New York (Mr. REYNOLDS.)

Mr. REYNOLDS. Mr. Speaker, I said the extension of the family tax relief is already provided for in the House-passed budget resolution. That resolution would cut the deficit in half over 5 years without raising taxes. I believe that the previous speaker on the minority side, the gentleman from Maryland, made a statement that he felt that it was not paid for.

Mr. RANGEL. Well, reclaiming my time, I thank the gentleman, but let me join in with the gentleman from Maryland because, clearly, those of us that work on the committee know that there are a lot of virtues in this bill. True, we have a couple of poison pills in there that relate to unfair treatment of the young people who are married, who have kids, who are doing combat duty, and also by having the index on who is eligible for the refundable tax credit, having it move from 10,000 to 70,000; we exclude some 9.2 million children. Those are the poison pills that I think that a lot of Members are willing to swallow for the good that is in the bill.

But one of the most important things that Americans are missing and the majority does not hear about is who pays for these tax cuts. All tax cuts for working individuals have merit, but this bill, according to the Joint Committee on Taxation, will cost us $149 billion. We tried as Democrats in the conference to take the loopholes, to bring the tax savings and to bring the revenues to make this revenue-neutral so that we could have the benefits without the deficit. But what happened last night was that the Republicans said they wanted to save these revenue raises. They want to save these corporate loopholes for the next tax bill, which they call the jobs bill, which I call the offshore jobs bill, but the next bill, some call the FSC bill, but whatever they call this bill, they want to have that paid for as opposed to this bill.

So what I am saying is that it is close to election, and everybody wants to vote for a tax cut. The Republicans have so carefully and cynically, on the eve of an election, planned several tax cuts and make other tax cuts permanent in order to try to get the Democrats to vote no, not because we are against the tax cuts but because we have some sense of responsibility as citizens and legislators to believe in what Republicans used to believe in, and that is a balanced budget. I am too old to think it would happen in my lifetime, but as the Republicans put raising the debt ceiling on the back burner, as they put the size of the deficit spending on the back burner, all Americans should know that, as we enjoy this day of tax cuts that the gentleman from New York talked about, that our children will be paying for these for decades to come.

So I will suggest to my colleagues, it has to stop somewhere. We have a responsibility as legislators to try to leave a world better than the one that we inherited. We cannot do this with a $200 billion war. We cannot do this by denying benefits to those low-income people who are fighting this war, who are in combat, and we cannot do it by leaving a legacy to our children and our grandchildren that they will have to pay.

I thank the gentleman from New York for responding. He may think we have paid for this in a big budget, but they sure did not pay for it last night.

Mr. REYNOLDS. Mr. Speaker, upon reflection and in listening to the distinguished gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means and one who is the senior member of the New York delegation, I agree with him that we should phase out and change the AMT tax, and I have watched him advocate a lot of other things. A few times I have not seen him want to pay for it except for raising taxes.

But the thing I heard most out of the debate was not about helping the American family put more money back into their pockets, not about the middle class, which some of the politicians outside this body would talk about middle-class warfare and all of the other type of class war discussion.

Today, if we are allowed to start the debate on this bill, we will begin to help the middle class because, otherwise, if the Congress does not act, families will face a tax increase next year. For example, next year, the $1,000 child tax credit drops to $700 per child. The 10 percent bracket will apply to less than an individual's income, and the marriage penalty provision will provide less relief for couples.

I did not hear the aspect of a debate over how we get it done out of the distinguished ranking member. What I heard was the Democrats may look bad however they vote versus a decision of whether you are going to help the middle class today with a tax cut or whether you are going to raise taxes by not getting the job done. I hope we will pass this same-day rule so we can bring the legislation to the floor.

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

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, I thank the gentlewoman for yielding me this time.

This is a sad day for this body, and a sad day for the country in many ways, I think. The gentleman from New York (Mr. RANGEL) and others have touched on it. I have not spoken on the floor in a long time on very much, but I heard the gentleman from New York (Mr. REYNOLDS) talk about tax increases.

What we are afraid to say today is that we are actually raising taxes on people who earn less than $11,000 a year. As hard as it is to believe that Republicans, who tout themselves as tax-cutters over and over and over and over again to the point that they would even call some of us to accept a round of tax cuts, fully aware that they will increase the budget deficit by $150 billion; they could not find it in their hearts to find $4.3 billion over 5 years to 9.2 million of the poorest children in this country whose parents, I might add, work every day. They do not sit around waiting on a check, I say to my colleagues; they work just like you and I do, and all they ask is for the same ability to avoid a tax increase.

So I would say to the gentleman from New York (Mr. REYNOLDS) and his friends, you are raising taxes as you would accuse us of doing, on people who earn $11,000 a year or less.

But I say to my Democratic colleagues, we should not be so saddened by this, because you will remember that the President has had a change of opinion on a variety of issues. When Enron and WorldCom collapsed, the President initially opposed any changes to ensure that the big corporate cheaters who robbed pensionholders and shareholders and workers of their savings, he initially said no to reform. And then he flip-flopped; he said yes.

When the Homeland Security Department was offered as an idea, Mr. Speaker, the President initially opposed that, and then he flip-flopped in favor of the right thing to do and decided to support it. When the 9/11 Commission idea was offered by many Members, including Tim Roemer, as an idea to help America atone and reconcile, he said, no way, and then he flip-flopped and said we should create one. When the 9/11 Commission made recommendations about how to change

the intelligence structure in this country, the President said no way will we have a central director of intelligence or one with budgetary authority, and thank God, he flip-flopped.

So I say to my friend, and I would ask my friend, and he is a friend of the President, give us one more flip-flop. There is still an opportunity to not raise taxes on people earning $11,000 a year or less, Mr. Speaker, 9.2 million children, $4.3 billion over 5 years.

If all of us just decide to give up one project in our districts from all the pork we pass in this Congress, we can probably accommodate it.

Mr. Speaker, one more flip-flop is all we ask for: $4.3 billion over 5 years. You have my support, and I promise you I will not call you a flip-flopper on this one if you will just do it for the kids.

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

I hope my colleague will take the opportunity to brief himself on the income tax savings for middle-income families, a Joint Economic Committee study done by the gentleman from New Jersey (Vice Chairman SAXTON) of the Joint Economic Committee of the Congress; possibly that will provide him some assistance on some of the points that he has made.

The impending tax increases, unless Congress takes action, the following tax increases will automatically occur. I want all of my colleagues from all walks of life to look at what actually is at risk here if this legislation is not passed before we adjourn. The impending tax increases, unless Congress takes action, the following increases will automatically occur: In 2005, the child tax credit will decrease from $1,000 to $700.

The standard deduction for couples as a percentage of the standard deduction for singles will decrease from 200 percent to 174 percent, reinstating the marriage penalty. The top end of the 15 percent marginal income tax bracket for couples as a percentage of the top end for singles will decrease from 200 percent to 174 percent, reinstating the marriage penalty.

The 10 percent marginal income tax bracket will contract from covering the first $7,000 of income for singles and $14,000 for joint filers to covering only the first $6,000 of income for singles and $12,000 for joint filers.

The bonus depreciation will decrease from 50 percent to 30 percent.

The exemption of the alternative minimum tax will decrease from $40,250 to $33,750, Mr. Speaker, for single filers, and from $58,000 to $45,000 for married couples filing jointly.

In 2006, the section 179 small business expensing cap will decrease from $100,000 to $25,000, and the definition of small business will decrease from $400,000 to $200,000.

In 2009, the personal capital gains rate will increase from 15 percent to 20 percent. Dividends will no longer be taxed on the personal capital gains rate, thereby increasing the double taxation of dividends by as much as 62 percent.

In 2011, the marginal income tax rates will increase as follows: 35 percent bracket will increase to 39.6 percent; 33 percent bracket will increase to 36 percent; 28 percent bracket will increase to 31 percent; the 25 percent bracket will increase to 28 percent; and the 10 percent bracket will increase to 15 percent.

The child tax credit will decrease from $1,000 to $500. The annual education IRA contribution limit will decrease from $2,000 to $500.

The standard deduction for couples as a percentage of the standard deduction for singles will decrease from 200 percent to 167 percent, reinstating the marriage penalty. The top end of the 15 percent marginal income tax bracket for couples as a percentage of the top end for singles will decrease from 200 percent to 167 percent, reinstating the marriage penalty.

□ 1500

The estate tax using the stepped-up basis will return with a 60 percent maximum rate, including surtax, and a $1 million exemption after years of decreasing estate tax rates, increasing exemptions, and one year using the more fair carry-over basis to calculate the tax due. The annual IRA contribution limit will decrease from 5,000 to a post-2008 inflation of 2,000.

So we can see that if Congress takes action, we will help all taxpayers that are paying taxes to put money back in their pocket versus having it in the government. As we consider whether we have a same-day, I again urge the adoption of this rule so we can consider the underlying legislation in the next rule.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, I enjoyed the answer of the gentleman, and I just want to engage him in a brief colloquy. That was an answer to a question I did not ask.

I simply asked the question, why are we raising taxes on families earning $11,000 a year or less? When given the opportunity to cut taxes for them in the form of a child tax credit beginning in 2005, you chose and your side chose not to extend the tax cuts to them, $4.3 billion over 5 years. I am using only your language. In essence, you are raising taxes on people who earn $11,000 a year or less.

Now, if the gentleman would answer that question, I am probably going to vote for the bill. I just do not know why we cannot add an additional $4.3 billion. What is $4.3 billion amongst friends when you are spending all that you are spending for everybody else? The poorest families in the country, 9.2 million children, it is $4.3 billion over 5 years. My understanding, I was not there, but every press report says that the Republican leadership in the House did not support the Republican chairman of the finance committee in the Senate.

All of this is big talk to the people at home. What it means is we are raising taxes on people who earn $11,000. So if you are watching, if you can afford a TV or you know somebody that earns $11,000 a year, they are raising taxes on you this afternoon.

I would yield to my friend, I would ask him why are you raising taxes on people who earn $11,000 a year or less in this country?

I would not want to answer it either. So I say to my friend, I hope in light of the litany of things I mentioned with my friend, the President, we need one more flip-flop. One more flip-flop can save monies for families earning $11,000 a year or less. I am blessed. I am not in that category. Those of you who support things we have supported in the Congress and friends we have outside of it, we are not in that category. But for those who are, we are raising taxes this evening in this Congress on behalf of people who earn $11,000 a year or less who work day in and day out.

I would not want to defend it either. And the gentleman from New York (Mr. REYNOLDS) is my friend. I do not blame him. I would not want to defend it either.

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

Mr. Speaker, I look forward to this gentleman and any others coming to the Committee on Rules if we get consideration of the same-day so we can hear any amendments that they would like to discuss. But as we well know, a conference report is not amendable, so it will be an up or down vote.

I do not know many taxpayers that are $11,000 that have to pay an income tax that we are considering. I thought the earned income tax credit is a refundable tax credit offered by the Federal Government; I know New York has its own EITC, and that rate is 27.5 of a qualifying taxpayer's Federal EITC in the tax year 2002 and that the Federal and State EITC or for the working people that earn low or moderate income. So I certainly will continue to listen to my colleague, as I always do on his thoughts, both on this as an individual, Member to Member, but also anything he would like to bring on the floor of the debate when the distinguished Committee on Ways and Means will continue in what I believe will be a proper debate.

Mr. FORD. Mr. Speaker, will the gentleman yield?

Mr. REYNOLDS. I yield to the gentleman from Tennessee.

Mr. FORD. Folks who are enjoying part of this tax credit today, in 2005 will see that tax cut decrease or eliminated all together. Which, if I understand the definition of a tax increase, that indeed is a tax increase on people earning $11,000 a year or less.

So can we at least agree that this is a tax increase on people who earn

$11,000 a year, on people who work and earn $11,000 a year or less in this country?

I might add, I invite the gentleman to my district, and anyone else who may choose to come, and we can hold a town hall meeting, and I will amass, unfortunately, a decent-sized group who are affected negatively by this.

I yield back to my colleague for an answer. I used his time, so I thank him for the time.

Mr. REYNOLDS. I will bring this debate to a closure.

Mr. FORD. Mr. Speaker, I just want to know if it is a tax increase.

Mr. REYNOLDS. Then I will not yield so I can complete my question on my time. If the gentleman gets time from his ranking member of this debate, we will certainly continue.

Mr. FORD. I apologize to the gentleman.

Mr. REYNOLDS. Mr. Speaker, in consultation with the Committee on Ways and Means and, of course, this is more appropriate on the underlying legislation, or I suppose even we could request them on the next rule, EIC has been expanded dramatically in this legislation which is going to assist in a number of fashions. I am not exactly sure as the gentleman from Tennessee (Mr. FORD) has outlined a particular part that he has talked about on 11,000; but the EIC is expanded just on the aspect of making sure that we capture helping low income wage earners so that they are not caught in this.

As I said, in my State, the EITC has been extensively of assistance to our poor and low income family wage earners.

I would hope that we can move forward to a closure of this rule on same-day, take a vote on it, see if the body will consider then the rule on the underlying legislation, to consider this legislation so that all Members will have an opportunity to participate in the debate, and then we can have consideration of whether we pass this conference report, which has been 18 months in the making. Most of these are extenders and legislation that all Members are well aware of.

We have had strong bipartisan support for this legislation as has been considered in this body in the past. Otherwise, as I understand it, if we are not able to take this legislation up today, it will cause us to be continuing our work tomorrow if we cannot complete our work today.

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

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time. May I inquire if the gentleman does.

Mr. REYNOLDS. Mr. Speaker, I have no further speakers, and I am prepared to close.

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

Mr. Speaker, before I yield back my time, I will be asking for a ''no'' vote on the previous question; and if the previous question is defeated, I would offer an amendment that upon its adoption of the rule, the Enrolling Clerk is instructed to add language to the conference report that does two things:

First, it directs the Secretary of the Treasury to pay for the cost of the bill by rolling back part of the tax breaks for those with incomes exceeding a million dollars annually. These millionaires will still receive a substantial portion of their tax cuts, but this modest rollback covers the cost of this bill for middle-income American families.

Second, it fixes a serious flaw in the conference report that negatively affects our military families. Because combat pay is exempt from taxation, many low-income military families with children are ineligible for the low-income tax credits or the child care tax credits. Democrats would change this so that soldiers would be able to count combat pay as income when applying for both the child tax credits and the earned income tax credit over the next 5 years.

The majority only wants to provide a 2-year extension of the EITC provision. Mr. Speaker, I think most Members want to see the tax breaks in this bill extended, particularly the child tax credit. However, many of us are very concerned about the legislation's substantial price tag, and I think this is a fair and a reasonable way to address that cost.

I want to stress that a ''no'' vote on the previous question will not stop consideration of the conference report for the tax bill. But a ''no'' vote will simply allow the House to amend the rule to make the changes necessary to pay for the tax cuts and not increase our already bloated deficit. However, a ''yes'' vote on the previous question will not allow these changes to be made, will drive up our debt to the tune of $149 billion.

I urge a ''no'' vote on the previous question so we can fix the conference report and provide tax relief to those who need it most.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, again, I urge a ''no'' vote on the previous question, and I yield back the balance of my time.

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

Mr. Speaker, it is important for the record as this has had substantial debate on the underlying bill of future consideration of the next rule. There is only one change to the EIC in this bill which is an expansion for military families, in contradiction to some of the debate before.

The bill allows military families to include combat pay in the EIC and child credits, and that provision is in the legislation that will be considered later if this bill is now passed as a rule before us.

So to get back to where we are, we have a rule that is requesting consideration of this body of a same-day rule that if we pass it today, we will continue in being able to do our work on a conference report rule to consider the legislation, the underlying bill today. If not, it would seem to me, as I understand it from previous briefings before coming to the floor, if we are not allowed to continue our work today, we will then find ourselves working tomorrow on this legislation because we were not able to complete it today.

So the resolution before us today and the rule is for same-day consideration of the legislation that will be the underlying legislation rule next. I would hope that we could pass this legislation and vote for the previous question so that we can move forward.

Mr. REYNOLDS. Mr. Speaker, when I was responding to Mr. FORD's remarks about those earning under $11,000 per year, I inadvertently referred to the EIC, when I meant to refer to the refundable portion of the child credit. It is important to note that the bill does not increase taxes on anyone and actually increases the refundability of the child credit for low-income families.

The material previously referred to by Ms. SLAUGHTER is as follows:

PREVIOUS QUESTION FOR H. RES. 785 RULE WAIVING 2/3RDS ON SEPTEMBER 23, 2004 FOR RULE PROVIDING CONSIDERATION OF H.R. 1308 CHILD TAX CREDIT CONFERENCE REPORT

At the end of the resolution add the following new section:

Sec. 2.(a) A concurrent resolution specified in subsection (b) is hereby adopted.

(b) The concurrent resolution referred to in subsection (a) is a concurrent resolution—

(1) which has no preamble;

(2) the title of which is as follows: ''Providing for Corrections to the Enrollment of the Conference Report on the Bill H.R. 1308''; and

(3) the text of which is as follows:

CONCURRENT RESOLUTION

Directing the Clerk of the House of Representatives to take certain actions in the enrollment of H.R. 1308.

*Resolved by the House of Representatives (the Senate concurring)*, That, in the enrollment of the bill, H.R. 1308, the Clerk of the House of Representatives shall—strike the language in the bill that terminates the provision in the bill relating to the treatment of combat pay under the earned income tax credit, so as to make that provision permanent.

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

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

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

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

The yeas and nays were ordered.

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

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 12 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1554

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 3 o'clock and 54 minutes p.m.

## REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1308, WORKING FAMILIES TAX RELIEF ACT OF 2004

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–699) on the resolution (H. Res. 794) waiving points of order against the conference report to accompany the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

The SPEAKER pro tempore. The pending business is the question on ordering the previous question on H. Res. 785 on which further proceedings were postponed earlier today.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question on which the yeas and nays are ordered.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 211, nays 196, not voting 26, as follows:

[Roll No. 469]

YEAS—211

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Nethercutt
Neugebauer
Ney
Northup
Nussle
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—196

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

NOT VOTING—26

Bishop (GA)
Bonner
Cannon
Deal (GA)
Fattah
Garrett (NJ)
Gephardt
Graves
Herseth
Istook
Kleczka
Lucas (KY)
Manzullo
Miller (FL)
Myrick
Norwood
Nunes
Osborne
Quinn
Smith (WA)
Stark
Tauzin
Thompson (MS)
Turner (OH)
Udall (CO)
Vitter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1618

Messrs. OBERSTAR, FORD and POMEROY changed their vote from ''yea'' to ''nay.''

Mr. BALLENGER and Mr. WALSH changed their vote from ''nay'' to ''yea.''

Stated for:

Mr. TURNER of Ohio. Mr. Speaker, on rollcall No. 469 I was unavoidably detained. Had I been present, I would have voted "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## CONFERENCE REPORT ON H.R. 1308, WORKING FAMILIES TAX RELIEF ACT OF 2004

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 794 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 794

*Resolved*, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to accelerate the increase in refundability of the child tax credit, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman

from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

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

Mr. REYNOLDS. Mr. Speaker, House Resolution 794 is a customary rule providing for consideration of the conference report on H.R. 1308, the Working Families Tax Relief Act of 2004. The rule waives all points of order against the conference report and against its consideration. The rule also provides the conference report will be considered as read.

Mr. Speaker, as we prepare to head home to our districts for the weekend, there are two things that I look forward to telling my constituents that this Congress accomplished today: Cutting taxes and creating jobs. They are two of the most important things we can do for the hard-working people who sent us here to represent them.

We all know the unfortunate hits America's economy has suffered over the past several years. But through the strength of this administration and the will of this Congress, we have made great strides in recovering from horrific terrorist attacks, corporate scandals and a recession.

Time and time again, this Congress has responded to adversity with sound economic policies that continue to grow our economy. Thanks to the Economic Growth and Tax Relief Act and the Jobs and Growth Tax Relief Act, we have given taxpayers in my district and all across America greater control over their hard-earned dollars.

Not only does this provide greater motivation for savings and investment, but it also protects and creates jobs. The Working Families Tax Relief Act before us today is yet another step in our plan to create a fair and reasonable tax system for hard-working Americans and continue the path of new job creation.

In March of 2003, this House passed our original version of the bill by a voice vote under suspension of the rules. In June of that same year we passed the bill for a second time.

Mr. Speaker, in the 18 months that we have been debating this bill, our constituents have waited patiently for the tax relief they deserve. Today, that long wait ends.

The underlying conference report includes much of the previous House passed language, providing more and longer lasting benefits for families of all income levels.

It extends the child tax credit of $1,000 per eligible child that is currently scheduled to sunset in 2005. The conference report makes this a meaningful credit available through 2010.

Important tax relief for married couples is also extended in the conference report. The House voted overwhelmingly in April of this year to make marriage penalty relief permanent, and we have yet another opportunity today to do the right thing.

Mr. Speaker, the conference report also expands the 10 percent bracket originally created in the Economic Growth and Tax Relief Reconciliation Act of 2001, and which overwhelmingly passed this House once again just over 4 months ago. This provision means substantial tax relief for low-income workers by taxing the first $14,000 of earnings for married couples and the first $7,000 for single taxpayers at a 10 percent rate instead of a 15 percent rate.

Without extensions of the child tax credit, marriage penalty relief and the expansion of the 10 percent bracket, working families would face a $109 billion tax increase over the next 10 years. This House simply cannot delay and must pass this measure in order to remove these excess tax burdens from our hard-working families.

Mr. Speaker, the report additionally provides the middle class with relief from the Alternative Minimum Tax, the AMT. While the calculation for the AMT is quite complicated, the negative result is simple to understand: It is an extra tax some have to pay on top of their regular income tax.

Originally conceived to prevent those with a very higher income from abusing tax benefits to unfairly reduce or eliminate their tax liability, the AMT has unintentionally ensnared millions of middle-class taxpayers. In May of this year, the AMT tax exemption was widely supported in this House on a bipartisan basis. Without this much needed extension, more middle income families will be pushed into the AMT, resulting in a tax hike of $23 billion in the next 10 years.

The conference report also continues to honor our servicemen and women in combat zones with nearly $200 million in tax assistance through the inclusion of tax-free combat pay when calculating their refundable child credit and an increase in the Earned Income Credit.

Our brave men and women in uniform continue to defend the freedoms this Nation holds dear, and every day they work to protect us from those who would do us harm. They do not just deserve our thanks and appreciation, they deserve this sensible assistance for their hard work and sacrifice.

The conference report further provides that the tax-exempt status of an organization is automatically suspended during any period in which the organization is designated as a terrorist organization or is listed in or designated by an executive order as supporting terrorism.

Mr. Speaker, also included in the underlying conference report is a 1-year extension of over 20 various expiring tax provisions, including the research and development tax credit, which is so important to business across the country.

In all, $13 billion of needed tax relief is provided for with these extensions.

Of particular importance to my home State of New York is the expansion of authority to issue advance refunding of Liberty Zone bonds through 2009. The Liberty Zone bond financing was intended to encourage the commercial revitalization of Lower Manhattan, and in particular, the World Trade Center site following the devastating attacks of September 11.

Currently scheduled to expire this December, I am pleased this conference report recognized the importance of the program and has included this much-needed extension.

Mr. Speaker, a yes vote today seizes on the momentum we have created towards a strong economy and job creation and sends a clear message that this Congress supports putting real dollars back where they belong, into the hands of hard-working men and women. A no vote simply prevents us this needed relief from becoming reality and denies our constituency the assistance they deserve.

I urge my colleagues to join me in supporting the rule and the underlying conference report.

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

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

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks, and include extraneous material.)

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I will include for the RECORD the revenue effects of the bill we are discussing. Up at the top here it says ''very preliminary.'' Given what we went through with the Medicare bill and the fact that we are still now getting revised estimates on what that cost, I thought that was a very interesting thing, and I have not seen that before. So I will put that in the RECORD.

Mr. Speaker, I rise in opposition to this rule. It provides the House with only an hour to debate a tax package that was rushed in so fast that we are not sure the ink is dry.

The conference report before us contains many provisions that have broad bipartisan support. Members on both sides of the aisle strongly support the $1,000 per child credit and the new larger 10 percent bracket, and they provide real tax relief for working families. Additionally, the research and development tax credit, work opportunity tax credits and tax incentives for Qualified Zone Academy Bonds all have a great deal of support.

Further, we all probably can agree on the importance of the bill's alternative minimum tax relief provisions. The AMT has increasingly become a major source of headaches for middle-class taxpayers. Last year alone, 3.3 million taxpayers unwittingly found themselves subject to this onerous tax because of the 2001 tax bill. Without further congressional action, the number

of Americans who will have to deal with it will grow over 30 million by 2010. While I am pleased that the conference addresses the AMT, it is only a Band-Aid. Providing a permanent remedy to this egregious problem will be costly, but it must be done.

As you can see, Mr. Speaker, there is little fault to find in what the conferees chose to include in their final tax package, except the cost, which, as I said, is very preliminary. I only hope that the conference report for the pork-laden, Christmas-tree-like corporate tax bill that this body passed in June is as reasonable.

That said, the critical question for our Members to ask about this $150 billion bill is who is going to bear the cost? Our children? Our grandchildren? Both?

The House leadership may not have qualms about putting off questions about the fiscal consequences, but, as a mother and grandmother, I certainly do. We could have paid for it by simply taking back a portion of the recent tax reductions enjoyed by taxpayers who earn over $1 million a year. Unfortunately, the majority refused to consider this approach, choosing instead to push us further into debt by $150 billion.

□ 1630

I do not understand this tactic. It is irresponsible and indefensible, especially given what the Congressional Budget Office told us 2 short weeks ago. The 2004 deficit will be our largest in history, $422 billion, surpassing last year's record by $47 billion. At this rate, how on earth do we ever stand a chance of bringing the budget back to balance?

We can do better, and we must do better. And I also have no confidence in what we are being told, as I have said, about the cost of the bill. In the past 4 years, my experience has certainly taught me to question the cost estimates that were provided.

Back in 2000, the majority went to great pains to deliver a package that would be scored at $350 billion, and they devised a scheme of phase-ins and phase-outs to arrive at that number. Now, we know the tax cuts have an actual cost of about $620 billion, according to the administration's own office.

In addition to putting the true cost of the tax cut at nearly double the initial estimate, OMB attributed $290 billion of our deficit to the 2001 tax bill, and yet this House refuses to recognize that. Then, let me say again, there is a medicare bill. In June 2003, Congress was told the bill would cost no more than $400 billion over 10 years. Then, we learned about the coercive tactics used to arrive at that magic number and that the actual number of $134 billion more was kept from us.

Today, we understand that there is more to come and that the actual cost now of the medicare bill is $576 billion over 10 years, $176 billion more than we voted on just a few months ago. So keep your eyes open on this one, because if you blink, you may miss millions more added to the price tag.

Mr. Speaker, given the record, how can we trust the cost of this bill?

For all of these reasons and despite my support for middle-class tax cuts, I oppose this rule because we are not allowed to do anything, not only about the extraordinary cost but for the children of our soldiers who are left out of this bill completely and lose their tax credit.

Mr. Speaker, I will insert for the RECORD at this time the material I referred to earlier.

23-Sep-04 12:27PM

#04-2 155
**VERY PRELIMINARY**
23-Sep-04

**ESTIMATED REVENUE EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1308, THE "WORKING FAMILIES TAX RELIEF ACT OF 2004"**

**Fiscal Years 2005 - 2014**

*[Millions of Dollars]*

| Provision | Effective | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2005-09 | 2005-14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Tax Reduction Provisions** | | | | | | | | | | | | | |
| 1. Extension of Family Tax Provisions: | | | | | | | | | | | | | |
| a. Extend $1,000 child tax credit through 12/31/09 | tyba 12/31/04 | -2,638 | -13,193 | -13,198 | -13,227 | -12,376 | -6,942 | — | — | — | — | -54,632 | -61,574 |
| b. Extend marriage penalty relief through 12/31/08 | tyba 12/31/04 | -5,415 | -5,412 | -3,050 | -1,493 | -323 | — | — | — | — | — | -15,693 | -15,693 |
| c. Extend 10% bracket through 12/31/10 | tyba 12/31/04 | -4,262 | -6,423 | -6,796 | -4,330 | -3,229 | -3,315 | -1,006 | — | — | — | -25,040 | -29,361 |
| 2. Accelerate refundability of child credit to 2004 | tyba 12/31/03 | -1,993 | — | — | — | — | — | — | — | — | — | -1,993 | -1,993 |
| 3. Extend individual AMT relief through12/31/05 | tyba 12/31/04 | -9,031 | -13,546 | — | — | — | — | — | — | — | — | -22,577 | -22,577 |
| 4. Inclusion of combat pay in earned income for purposes of the child tax credit and for purposes of earned income credit at taxpayer's election | [1] | -49 | -50 | -24 | -21 | -18 | -19 | -17 | — | — | — | -162 | -199 |
| **Total of Tax Reduction Provisions** | | **-23,388** | **-38,624** | **-23,068** | **-19,071** | **-15,946** | **-10,276** | **-1,023** | **0** | **0** | **0** | **-120,097** | **-131,397** |
| **Uniform Definition of a Qualifying Child for the Dependency Exemption, the Child Credit, the EIC, the Dependent Care Credit, and Head-of-Household Filing Status** | **tyba 12/31/04** | **-84** | **-206** | **-209** | **-218** | **-225** | **-229** | **-183** | **-75** | **-75** | **-76** | **-942** | **-1,579** |
| **Extension of Certain Expiring Provisions** | | | | | | | | | | | | | |
| 1. Extension of the R&E credit (sunset 12/31/05) | epoia 6/30/04 | -3,480 | -1,986 | -936 | -678 | -390 | -90 | — | — | — | — | -7,470 | -7,560 |
| 2. Parity in the application of certain limits to mental health benefits (sunset 12/31/05) [2] | DOE | -4 | -43 | -10 | — | — | — | — | — | — | — | -57 | -57 |
| 3. Work opportunity tax credit (sunset 12/31/05) | wpoifibwa 12/31/03 | -278 | -181 | -81 | -39 | -23 | -9 | -1 | — | — | — | -603 | -614 |
| 4. Welfare-to-work tax credit (sunset 12/31/05) | wpoifibwa 12/31/03 | -35 | -39 | -28 | -14 | -7 | -4 | -1 | [3] | — | — | -122 | -127 |
| 5. Qualified zone academy bonds (sunset 12/31/05) | oia 12/31/03 | -3 | -10 | -20 | -27 | -28 | -28 | -28 | -28 | -28 | -28 | -89 | -231 |
| 6. Increase in limit on cover over of rum excise tax revenues (from $10.50 to $13.25 per proof gallon) to Puerto Rico and the Virgin Islands (sunset 12/31/05) | abiUSa 12/31/03 | -151 | -18 | — | — | — | — | — | — | — | — | -169 | -169 |
| 7. Extension of enhanced deduction for qualified computer contributions (sunset for taxable years beginning after 12/31/05) | cmd tyba 12/31/03 | -198 | -62 | — | — | — | — | — | — | — | — | -260 | -260 |
| 8. Above-the-line deduction for teacher classroom expenses capped at $250 annually (sunset 12/31/05) | tyba 12/31/03 | -227 | -192 | — | — | — | — | — | — | — | — | -419 | -419 |
| 9. Expensing of "Brownfields" environmental remediation costs (sunset 12/31/05) | epoia 12/31/03 | -409 | -93 | 32 | 38 | 39 | 34 | 30 | 26 | 22 | 20 | -394 | -261 |

| Provision | Effective | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2005-09 | 2005-14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 10. New York Liberty Zone bond provisions [4]: | | | | | | | | | | | | | |
| a. Extend authority to issue Liberty Zone bonds (sunset 12/31/09); add municipal assistance corporation to eligible advance refunding bonds | generally 1/1/05 | -4 | -18 | -34 | -47 | -58 | -65 | -65 | -65 | -65 | -65 | -162 | -486 |
| b. Extend authority to issue advance refunding bonds (sunset 12/31/05) | 1/1/05 | -6 | -15 | -16 | -15 | -12 | -10 | -8 | -6 | -4 | -2 | -64 | -93 |
| 11. Tax incentives for investment in the District of Columbia (sunset 12/31/05) | [5] | -161 | -56 | -18 | -12 | -17 | -62 | -74 | -42 | -42 | -37 | -264 | -522 |
| 12. Combined employment tax reporting (sunset 12/31/05) | do/a DOE | *No Revenue Effect* | | | | | | | | | | | |
| 13. Treatment of nonrefundable personal credits under the individual alternative minimum tax (sunset 12/31/05) [6] | tyba 12/31/03 | -332 | -260 | — | — | — | — | — | — | — | — | -592 | -592 |
| 14. Tax credit for electricity production from wind, closed-loop biomass, and poultry litter – facilities placed in service date (sunset 12/31/05) | fpisa 12/31/03 | -44 | -75 | -97 | -111 | -127 | -139 | -144 | -149 | -151 | -126 | -454 | -1,163 |
| 15. Extension of suspension of 100% of taxable income limit with respect to marginal production (through 12/31/05) | tyba 12/31/03 | -78 | -16 | — | — | — | — | — | — | — | — | -94 | -94 |
| 16. Indian employment tax credit (sunset 12/31/05) | 1/1/05 | -25 | -34 | -10 | — | — | — | — | — | — | — | -68 | -68 |
| 17. Accelerated depreciation for business property on Indian reservation (sunset 12/31/05) | 1/1/05 | -150 | -261 | -97 | 21 | 71 | 111 | 90 | 48 | 5 | -10 | -418 | -173 |
| 18. Disclosure of tax return information to carry out administration of income contingent repayment of student loans (sunset 12/31/05) [7] | 1/1/05 | *No Revenue Effect* | | | | | | | | | | | |
| 19. Tax credit for qualified electric vehicles (100% benefit through 12/31/05) | ppisa 12/31/03 | -5 | -1 | [8] | [8] | [8] | [8] | [8] | [8] | — | — | -5 | -5 |
| 20. Deduction for clean-fuel vehicles (100% benefit through 12/31/05) | ppisa 12/31/03 | -119 | -16 | 25 | 16 | 12 | 7 | 2 | — | — | — | -81 | -72 |
| 21. Disclosures relating to terrorist activities (sunset 12/31/05): | | | | | | | | | | | | | |
| a. Extension of authority to make disclosures regarding terrorist activities | dmo/a DOE | *No Revenue Effect* | | | | | | | | | | | |
| b. Technical correction regarding disclosure of taxpayer identity to law enforcement officials investigating terrorist activities | [9] | *No Revenue Effect* | | | | | | | | | | | |
| 22. Availability of Archer medical savings accounts (sunset 12/31/05) | 1/1/04 | *Negligible Revenue Effect* | | | | | | | | | | | |
| 23. Joint Committee on Taxation report and joint hearing on IRS strategic plans (sunset 12/31/05) | DOE | *No Revenue Effect* | | | | | | | | | | | |
| **Total of Extension of Certain Expiring Provisions** | | -5,709 | -3,376 | -1,290 | -868 | -540 | -255 | -199 | -216 | -263 | -248 | -11,785 | -12,966 |
| **Technical Correction Provisions** | DOE | ***No Revenue Effect*** | | | | | | | | | | | |
| **NET TOTAL [10]** | | -29,181 | -42,206 | -24,567 | -20,157 | -16,711 | -10,760 | -1,405 | -291 | -338 | -324 | -132,824 | -145,942 |

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. Date of enactment is assumed to be October 1, 2004.

*[Legend and Footnotes for Table #04-2 155 appear on the following page]*

**Legend and Footnotes for Table #04-2 155:**

Legend for "Effective" column:

abiUSa = articles brought into the United States after
cmd = contributions made during
do/a = disclosures on or after
dmo/a = disclosures made on or after
DOE = date of enactment
epoia = expenditures paid or incurred after
fpisa = facilities placed in service after
oia = obligations issued after
ppisa = property placed in service after
tyba = taxable years beginning after
wpoifibwa = wages paid or incurred for individuals beginning work after

[1] For purposes of the child tax credit, effective for taxable years beginning after December 31, 2003; for purposes of earned income credit at taxpayer's election, effective for taxable years ending after the date of enactment and before January 1, 2006.
[2] This provision will have a negligible effect on penalty excise tax receipts. However it will have an indirect effect on income tax receipts through increases in employer-contributions for health insurance and corresponding decreases in cash wages. The table shows this indirect revenue effect, which was estimated by the Congressional Budget Office.
[3] Loss of less than $500,000.
[4] The New York City Liberty Zone is defined as all business addresses located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan, New York, NY.
[5] Generally effective January 1, 2004, except for the bond provision which is effective for obligations issued after the date of enactment.
[6] The "Economic Growth and Tax Relief Reconciliation Act of 2001" provides that the child tax credit and adoption tax credit are allowed for purposes of the alternative minimum tax for 2002 through 2010.
[7] Estimate provided by the Congressional Budget Office.
[8] Gain of less than $500,000.
[9] Effective as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2005-09 | 2005-14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| [10] Includes the following change in outlays | 2,126 | 4,887 | 4,531 | 4,533 | 4,525 | 2,905 | 195 | 25 | 26 | 26 | 20,602 | 23,779 |

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

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

First, in listening to the gentlewoman's remarks on the general preliminary estimates that were there, as I understand it, that is what is published before the legislation is passed. Also, for the RECORD, I would like to have the final, which was prepared by the Joint Committee on Taxation, which is on their website for the Members who may not be in the chamber now if they choose to use it, but I would like to have this inserted into the RECORD as the final numbers.

Also, as I have listened to some of the aspects about this bill, both in the previous rule and now, that it is not paid for, I think there are a couple of things that also need to be on record. This bill prevents a tax increase on families, and it is very clear, if we do nothing, that taxes will go up, and so, actually, we are preventing that. Secondly, the relief that is provided for in the President's budget which holds the line on spending, it cuts the deficit in half over 5 years. The recent data from the Treasury Department show we are on track to meeting the President's budget goals. Finally, the Treasury data shows that tax receipts are increasing, despite the President's tax relief, proof that tax relief leads to economic growth.

JOINT COMMITTEE ON TAXATION
September 23, 2004
JCX-60-04

ESTIMATED REVENUE EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1308,
THE "WORKING FAMILIES TAX RELIEF ACT OF 2004"

Fiscal Years 2005 - 2014

*[Millions of Dollars]*

| Provision | Effective | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2005-09 | 2005-14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Tax Reduction Provisions** | | | | | | | | | | | | | |
| 1. Extension of Family Tax Provisions: | | | | | | | | | | | | | |
| a. Extend $1,000 child tax credit through 12/31/09 | tyba 12/31/04 | -2,638 | -13,193 | -13,198 | -13,227 | -12,376 | -6,942 | --- | --- | --- | --- | -54,632 | -61,574 |
| b. Extend marriage penalty relief through 12/31/08 | tyba 12/31/04 | -5,415 | -5,412 | -3,050 | -1,493 | -323 | --- | --- | --- | --- | --- | -15,693 | -15,693 |
| c. Extend 10% bracket through 12/31/10 | tyba 12/31/04 | -4,262 | -6,423 | -6,796 | -4,330 | -3,229 | -3,315 | -1,006 | --- | --- | --- | -25,040 | -29,361 |
| 2. Accelerate refundability of child credit to 2004 | tyba 12/31/03 | -1,993 | --- | --- | --- | --- | --- | --- | --- | --- | --- | -1,993 | -1,993 |
| 3. Extend individual AMT relief through12/31/05 | tyba 12/31/04 | -9,031 | -13,546 | --- | --- | --- | --- | --- | --- | --- | --- | -22,577 | -22,577 |
| 4. Inclusion of combat pay in earned income for purposes of the child tax credit and for purposes of earned income credit at taxpayer's election | [1] | -49 | -50 | -24 | -21 | -18 | -19 | -17 | --- | --- | --- | -162 | -199 |
| **Total of Tax Reduction Provisions** | | **-23,388** | **-38,624** | **-23,068** | **-19,071** | **-15,946** | **-10,276** | **-1,023** | **---** | **---** | **---** | **-120,097** | **-131,397** |
| **Uniform Definition of a Qualifying Child for the Dependency Exemption, the Child Credit, the EIC, the Dependent Care Credit, and Head-of-Household Filing Status** | **tyba 12/31/04** | **-84** | **-206** | **-209** | **-218** | **-225** | **-229** | **-183** | **-75** | **-75** | **-76** | **-942** | **-1,579** |
| **Extension of Certain Expiring Provisions** | | | | | | | | | | | | | |
| 1. Extension of the R&E credit (sunset 12/31/05) | epoia 6/30/04 | -3,480 | -1,986 | -936 | -678 | -390 | -90 | --- | --- | --- | --- | -7,470 | -7,560 |
| 2. Parity in the application of certain limits to mental health benefits (sunset 12/31/05) [2] | DOE | -4 | -43 | -10 | --- | --- | --- | --- | --- | --- | --- | -57 | -57 |
| 3. Work opportunity tax credit (sunset 12/31/05) | wpoifibwa 12/31/03 | -278 | -181 | -81 | -39 | -23 | -9 | -1 | --- | --- | --- | -603 | -614 |
| 4. Welfare-to-work tax credit (sunset 12/31/05) | wpoifibwa 12/31/03 | -35 | -39 | -28 | -14 | -7 | -4 | -1 | [3] | --- | --- | -122 | -127 |
| 5. Qualified zone academy bonds (sunset 12/31/05) | oia 12/31/03 | -3 | -10 | -20 | -27 | -28 | -28 | -28 | -28 | -28 | -28 | -89 | -231 |
| 6. Increase in limit on cover over of rum excise tax revenues (from $10.50 to $13.25 per proof gallon) to Puerto Rico and the Virgin Islands (sunset 12/31/05) | abiUSa 12/31/03 | -151 | -18 | --- | --- | --- | --- | --- | --- | --- | --- | -169 | -169 |
| 7. Extension of enhanced deduction for qualified computer contributions (sunset for taxable years beginning after 12/31/05) | cmd tyba 12/31/03 | -198 | -62 | --- | --- | --- | --- | --- | --- | --- | --- | -260 | -260 |
| 8. Above-the-line deduction for teacher classroom expenses capped at $250 annually (sunset 12/31/05) | tyba 12/31/03 | -227 | -192 | --- | --- | --- | --- | --- | --- | --- | --- | -419 | -419 |
| 9. Expensing of "Brownfields" environmental remediation costs (sunset 12/31/05) | epoia 12/31/03 | -409 | -93 | 32 | 38 | 39 | 34 | 30 | 26 | 22 | 20 | -394 | -261 |

| Provision | Effective | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2005-09 | 2005-14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 10. New York Liberty Zone bond provisions [4]: | | | | | | | | | | | | | |
| a. Extend authority to issue Liberty Zone bonds (sunset 12/31/09); add municipal assistance corporation to eligible advance refunding bonds | generally 1/1/05 | -4 | -18 | -34 | -47 | -58 | -65 | -65 | -65 | -65 | -65 | -162 | -486 |
| b. Extend authority to issue advance refunding bonds (sunset 12/31/05) | 1/1/05 | -6 | -15 | -16 | -15 | -12 | -10 | -8 | -6 | -4 | -2 | -64 | -93 |
| 11. Tax incentives for investment in the District of Columbia (sunset 12/31/05) | [5] | -161 | -56 | -18 | -12 | -17 | -62 | -74 | -42 | -42 | -37 | -264 | -522 |
| 12. Combined employment tax reporting (sunset 12/31/05) | do/a DOE | No Revenue Effect | | | | | | | | | | | |
| 13. Treatment of nonrefundable personal credits under the individual alternative minimum tax (sunset 12/31/05) [6] | tyba 12/31/03 | -332 | -260 | --- | --- | --- | --- | --- | --- | --- | --- | -592 | -592 |
| 14. Tax credit for electricity production from wind, closed-loop biomass, and poultry litter -- facilities placed in service date (sunset 12/31/05) | fpisa 12/31/03 | -44 | -75 | -97 | -111 | -127 | -139 | -144 | -149 | -151 | -126 | -454 | -1,163 |
| 15. Extension of suspension of 100% of taxable income limit with respect to marginal production (through 12/31/05) | tyba 12/31/03 | -78 | -16 | --- | --- | --- | --- | --- | --- | --- | --- | -94 | -94 |
| 16. Indian employment tax credit (sunset 12/31/05) | 1/1/05 | -25 | -34 | -10 | --- | --- | --- | --- | --- | --- | --- | -68 | -68 |
| 17. Accelerated depreciation for business property on Indian reservation (sunset 12/31/05) | 1/1/05 | -150 | -261 | -97 | 21 | 71 | 111 | 90 | 48 | 5 | -10 | -418 | -173 |
| 18. Disclosure of tax return information to carry out administration of income contingent repayment of student loans (sunset 12/31/05) [7] | 1/1/05 | No Revenue Effect | | | | | | | | | | | |
| 19. Tax credit for qualified electric vehicles (100% benefit through 12/31/05) | ppisa 12/31/03 | -5 | -1 | [8] | [8] | [8] | [8] | [8] | [8] | --- | --- | -5 | -5 |
| 20. Deduction for clean-fuel vehicles (100% benefit through 12/31/05) | ppisa 12/31/03 | -119 | -16 | 25 | 16 | 12 | 7 | 2 | --- | --- | --- | -81 | -72 |
| 21. Disclosures relating to terrorist activities (sunset 12/31/05): | | | | | | | | | | | | | |
| a. Extension of authority to make disclosures regarding terrorist activities | dmo/a DOE | No Revenue Effect | | | | | | | | | | | |
| b. Technical correction regarding disclosure of taxpayer identity to law enforcement officials investigating terrorist activities | [9] | No Revenue Effect | | | | | | | | | | | |
| 22. Availability of Archer medical savings accounts (sunset 12/31/05) | 1/1/04 | Negligible Revenue Effect | | | | | | | | | | | |
| 23. Joint Committee on Taxation report and joint hearing on IRS strategic plans (sunset 12/31/05) | DOE | No Revenue Effect | | | | | | | | | | | |
| **Total of Extension of Certain Expiring Provisions** | | -5,709 | -3,376 | -1,290 | -868 | -540 | -255 | -199 | -216 | -263 | -248 | -11,785 | -12,966 |
| **Technical Correction Provisions** | DOE | No Revenue Effect | | | | | | | | | | | |
| **NET TOTAL [10]** | | -29,181 | -42,206 | -24,567 | -20,157 | -16,711 | -10,760 | -1,405 | -291 | -338 | -324 | -132,824 | -145,942 |

Joint Committee on Taxation

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NOTE: Details may not add to totals due to rounding. Date of enactment is assumed to be October 1, 2004.

*[Legend and Footnotes for JCX-60-04 appear on the following page]*

**Legend and Footnotes for JCX-60-04:**

Legend for "Effective" column:

abiUSa = articles brought into the United States after
cmd = contributions made during
do/a = disclosures on or after
dmo/a = disclosures made on or after
DOE = date of enactment
epoia = expenditures paid or incurred after
fpisa = facilities placed in service after
oia = obligations issued after
ppisa = property placed in service after
tyba = taxable years beginning after
wpoifibwa = wages paid or incurred for individuals beginning work after

[1] For purposes of the child tax credit, effective for taxable years beginning after December 31, 2003; for purposes of earned income credit at taxpayer's election, effective for taxable years ending after the date of enactment and before January 1, 2006.

[2] This provision will have a negligible effect on penalty excise tax receipts. However it will have an indirect effect on income tax receipts through increases in employer-contributions for health insurance and corresponding decreases in cash wages. The table shows this indirect revenue effect, which was estimated by the Congressional Budget Office.

[3] Loss of less than $500,000.

[4] The New York City Liberty Zone is defined as all business addresses located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan, New York, NY.

[5] Generally effective January 1, 2004, except for the bond provision which is effective for obligations issued after the date of enactment.

[6] The "Economic Growth and Tax Relief Reconciliation Act of 2001" provides that the child tax credit and adoption tax credit are allowed for purposes of the alternative minimum tax for 2002 through 2010.

[7] Estimate provided by the Congressional Budget Office.

[8] Gain of less than $500,000.

[9] Effective as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2005-09 | 2005-14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| [10] Includes the following change in outlays | 2,126 | 4,887 | 4,531 | 4,533 | 4,525 | 2,905 | 195 | 25 | 26 | 26 | 20,602 | 23,779 |

Mr. Speaker, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I thank the gentleman from New York for yielding me this time to speak on this issue. There are so many important tax issues involved in the legislation that this rule would allow that we cannot cover them all in the time allotted, but I think it is important that we address several that are extremely important.

First of all, this administration inherited a recession. Our goal was to bring us out of the recession. A number of these tax cuts and adjustments, tax credits, helped bring our Nation out of a recession. If we allow those tax cuts to be removed, meaning increased taxes, we do not help our economy and certainly will do the opposite and, in fact, will put a number of families in a difficult situation as well as a number of businesses.

I am interested in a number of the provisions that will help our employers, especially the research and development tax credit. In my district, the companies creating new jobs are the ones that have benefited from the R&D tax credit. In fact, one just this week held a job fair to fill 150 new positions. They have benefited significantly from the R&D tax credit. A number of those savings are being used to hire new folks. That is important to us.

Another issue to help employers is the work opportunity tax credit, not only to help employers, but to help those who are involved in getting off welfare. It is a credit for those who hire people who are getting off welfare. That encourages employers to employ those who are getting off welfare. Why would we want that to end?

Also, the expensing of brownfield remediation costs: Throughout the Northeast and the Midwest, we have brownfields that are being redeveloped and the remediation costs are very expensive. Allowing the expensing of some of those remediation costs is encouraging employers again to take over those properties, develop them and create new jobs in communities that desperately need them.

The tax credit for electricity produced from renewable sources, from what I understand, both sides of this aisle are very interested in finding better renewable energy resources. Well, if we remove that tax credit for developing those resources, we are not going to see as much activity. We all know that, if you want less of something, tax it.

What we have done is cut taxes and encouraged growth. We have created tax credits to encourage research and encourage employment. We need to extend the tax cuts, extend the tax credits and make sure we are not, in effect, going to increase taxes on Americans and job creators.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 5½ minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, this morning in the Wall Street Journal, former Republican Congressman Joe Scarborough wrote, and this is a conservative, a Republican former member from Florida: ''Ten years ago, Republican congressional candidates like me were running as Washington outsiders, promising to balance the budget and pay off the debt,'' but, Joe Scarborough added, bluntly, ''we lied.''

That is what Joe Scarborough said, referring to ''we'' being Republicans running as outsiders for the Congress of the United States. Joe Scarborough, ''We lied.''

Mr. Speaker, that is Joe Scarborough, former member of your Republican Conference, issuing that indictment. Not STENY HOYER, not the gentlewoman from California (Ms. PELOSI), not even my friend, the gentleman from Washington (Mr. MCDERMOTT), but Joe Scarborough: ''We lied.''

Last year's record budget deficits of $375 billion will be eclipsed by a projected deficit of $422 billion this year and deficits totaling nearly $2.3 trillion in the next 10 years. That is the result of ''we lied.'' And because of the Republican Party's fiscal mismanagement, this Congress is on the verge of increasing the ceiling on the national debt for the third time in 3 years to $8.1 trillion, but it lacks the courage to do so on an up-or-down vote before the November elections. The gentleman from Texas (Mr. STENHOLM) has tried to have us do that.

Very frankly, if that is the issue, I vote aye. I am not for America welching on its debts. I am not for doing it secretly. I am not for doing it in the dead of night. I am not for hypocrisy which said, when we were in charge, oh, you cannot do that, and when you are in charge, hiding it under the rug.

Now, Mr. Speaker, I join virtually every Member of this body on both sides of the aisle in supporting the extension of middle-class tax cuts, the child tax credit, marriage penalty relief and expansion of the 10 percent income tax bracket. But we cannot continue to disregard fiscal reality. It is very nice to say that we are going to give everybody a tax cut and have the gentlewoman from Pennsylvania come up here and say, the extensions will help. They will; we agree with her. But deep deficits will not help our economy in the years ahead. We cannot ignore the historical turnaround from budget surpluses to record deficits and exploding debt during the last 4 years.

We conservatives are offended by going deeply into debt. Fiscal irresponsibility is radical, is not conservative. It puts our country at risk. We cannot continue to pretend the tax cuts have no effect on our Nation's ability to invest in homeland security, invest in education, veterans and health care, and we must not ignore this generation's responsibility to our children and grandchildren.

I have three children and three grandchildren, and we are putting them very deeply into debt. That is wrong. Saddling them with deeper debt and a diminished future is nothing less than fiscal child abuse. Hear me: fiscal child abuse.

I urge my colleagues to vote conservatively, to make sure that we do not plunge this country deeper into debt. Let us extend these tax cuts, but let us pay for them. That is what this generation has a responsibility to do for the next generation.

Let me continue to read from what I know my colleagues want to hear from their conservative colleague, Mr. Scarborough: ''Mr. Bush, like most Republicans these days, only pays lip service to smaller government and balanced budgets. He is, after all, a President who inherited a $155 billion surplus and turned it into a $442 billion deficit.'' Mr. Scarborough, our conservative former colleague said, ''It is ironic that we Republicans took control of Congress in 1994 by attacking Bill Clinton for his free-spending ways. But spending grew annually under Mr. Clinton at a 3.4 percent rate, while exploding under President Bush at a 10.4 percent clip. Republicans taking credit for restraining Mr. Clinton need to explain why they did not hold their own President to the same standards.''

How ironic it is that my Republican friends claim credit for restraining the government when we had the presidency, but they cannot do it when their own President is in charge. Can anybody believe that representation?

I am going to vote no on this tax bill. I urge others to. The individual items in this bill are good, but the overall policy is disastrous, and Joe Scarborough told the truth.

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

We are getting into some of the theatrics of politics 40 days before an election. I accept that. But I also want to say that before Joe Scarborough was elected in 1994, in the time he served, it was the failed liberal policies of 40 years that knew tax and spend, in this House and allowed the policy that started in 1995 which was to stop a train wreck, and also begin to move forward in recovering from the largest tax increase in American history in 1993.

Now, what I also find ironic, the Democratic leadership of the House never listened to Joe Scarborough when he was a Member but might choose to now that he is a pundit and an author.

But the fact is, as we look at this legislation on the underlying bill, as we consider this rule today, this rule prevents a tax increase on families, middle-class American families that the politics of America has been addressing day in and day out while the 2004 election is underway. If you do not vote for

it, you begin to threaten the aspect that middle America will have a tax increase.

This relief is provided for in the President's budget, which holds the line on spending and cuts the deficit in half over 5 years. Recent data from the Treasury Department shows we can and we are on track in meeting the President's budget goals. The Treasury data shows that tax receipts are increasing, despite the President's tax relief, proof that tax relief leads to economic growth.

Finally, Mr. Speaker, if you look at the Joint Economic Committee United States Congress Report, in their summary it clearly says in there that raising taxes to cover budget deficits is usually a bad idea because it reduces incentives to work, save and invest.

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

□ 1645

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

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. STENHOLM).

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

Mr. STENHOLM. Mr. Speaker, the comments of my friend from New York, I feel compelled to remind everyone of the words of the late Will Rogers when he said, ''It ain't people's ignorance that bothers me so much. It's them knowing so much that ain't so that is the problem.''

We can talk about this all that we want to, and I rise in strong opposition to this rule, but any Member who has ever stood on this floor and talked about fiscal responsibility should vote no on this rule. All Members who care about the future integrity of the Social Security system should vote no on this rule. All Members who care about the legacy that we will leave for future generations should vote against this rule, and you know it in your heart.

Now, I too strongly support middle class tax relief. I support extending the marriage penalty relief. I support continuing the $1,000 per child tax credit and the expanded 10 percent tax credit. I have been a strong advocate for extending the wind energy tax credit.

The question is whether or not we will provide tax relief to middle income families. The debate is not whether we should do so with borrowed money, adding more debt on top of our $7.3 trillion national debt. We should not pay for tax cuts by borrowing money against our children's future. That is the argument we make today.

Congress should be required to sit down and figure out how to make things fit within a budget just like families across the country do every day as I hear from my friends on this side all the time, except when it counts. Unfortunately, the leadership of the House seems to have forgotten that common-sense principle. Instead of figuring out how to make these tax cuts fit within our budget, the majority has decided to avoid making tough choices. Every dime of these tax cuts will be added to the debt we will leave for our children and grandchildren, and you know it.

In the next couple of weeks, we will have to vote to raise the debt ceiling unless we hide it. Last year foreign interests financed more than 70 percent of our $374 billion deficit. More than $1.8 trillion of this debt we now talk about, well, we do not talk about it on this side of the aisle, is held by foreign investors.

I find it particularly ironic that we are considering legislation that would add $146 billion to that debt on the same day the House Committee on the Judiciary has scheduled to act on a balanced budget amendment to the Constitution. If a balanced budget amendment were already in the Constitution, we would not be able to continue following the budget policies being advocated by the majority. It seems only fair that those who support the amendment, as I do, be willing to budget accordingly by paying, rather than borrowing, for the policies they advocate.

The legislation before us is a perfect example of why we need a balanced budget constitutional amendment, to protect the rights of future generations who are not represented in our political system, but will bear the burden of our decisions today. It is easy for politicians to vote for tax cuts or spending increases that will benefit current voters and leave the bill to our children and grandchildren who do not have a vote.

Passing legislation cutting taxes or increasing spending without offsets today will increase the debt tax that must be paid by future generations and can never be repealed. The debt tax will consume 40 percent of all individual income taxes paid this year and will keep growing as long as we continue to pass legislation putting our Nation deeper into debt.

Continuing to run up the national debt will ensure that we and our children and grandchildren will be overtaxed for the rest of our lives. We should defeat this rule so the conferees can go back and put together a package that provides tax relief to working men and women without increasing taxes on our children and grandchildren.

To my friend from New York (Mr. REYNOLDS), let me remind him, it took our country 204 years to borrow the first $1 trillion, 204 years. We are borrowing $1 trillion every year and a half under the policies that you have got the guts to stand up here and say we ought to keep following.

Then vote for increasing the debt ceiling and tell the American people before November 2 this is the result of the policies. We are borrowing the money to have the policies that we are giving to you. Vote for us. Forget our grandchildren.

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

Well, there they go again. Let us have a plan where we will sell a loaf of bread that says we will cut middle class taxes, but then again, I do not really have a plan on how to do it.

I have been in the majority before getting here and serving in the majority since the day I got here, but that majority of the previous 40 years has nicely gotten trenched into the minority because they have a lot of rhetoric but they have not put forth a plan as to how to get the job done.

So when you look at this, the Democrats have agreed to extending child tax credit, the 10 percent tax bracket, the marriage penalty relief, however, to accomplish the offsets they want, it means they have to come up with $130 billion of either tax hikes or spending cuts. The Democrats are not prepared to make that tough choice regarding which taxes to increase or which programs to cut. They want to come up and say, I am for cutting the middle class tax, but then again, I do not see this, I do not see that, BBA, debt, but there is never a solution.

So the Democrats' plan is a zero sum game here, it provides tax relief with one hand and takes it away with the other. So the Members who should vote no on this rule are the ones not interested in helping millions of American families that deserve tax relief.

Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Speaker, I thank the gentleman for yielding me time.

This debate is about one basic thing. Do you think the money coming into the Federal Government is the people's money or the government's money?

Number one, what are we talking about today? What we are talking about is whether we should keep taxes at the levels they are today. Should we keep the child tax credit where it is? Should we keep the marriage penalty relief where it is by and large? And what they are saying on the other side is, okay, if we want to keep these taxes from going up, we got to raise more taxes.

So what we are looking at here is an emphasis. Is it the people's money or is it the government's money? We believe this is the people's money. We believe most importantly that people ought to be able to keep more of their paycheck in their pockets. And what we get from the other side is, to pay for this, let us raise taxes. So we are saying, to prevent these taxes from going up, we will raise taxes over here.

What we are trying to do, Mr. Speaker, is accelerate the policies and keep the policies that have been working. Letting people keep more of their own hard earned money has been good for the economy and good for the individuals and good for the families of America. Just take a look at the fact that over the last year where we have had lower tax rates we have brought in

more revenues. That is right. We have got $56 billion in higher revenues this year, the deficit has gone down, under the lower tax rates that we are paying today, than a year ago under higher tax rates.

Why? Because we have better economic growth, because we have more jobs being produced in this economy, because more people are paying taxes because they have a job to pay taxes in.

So why would we want to go down the road of raising taxes to keep these tax levels where they are, to kill the goose that is laying the golden egg that is giving us this economic recovery that is now underway. Point number one.

Point number two, this is already in the President's budget. The President's budget, which is to slash the deficit in half within 5 years, accommodates this policy. I wish we had a budget resolution in full force which is what we passed in the House which froze domestic spending, met our priorities overseas in fighting the war on terrorism, in protecting the homeland and froze domestic spending. Unfortunately, the other body failed to do this.

So the question before us on this rule is do you think that the middle class families ought to be able to keep more of their own money? Do you think that these tax extenders which would go away and raise taxes on the economy and raise taxes on businesses should come into law or not? Or should we keep these tax increases from hitting the economy? Should we have keep these taxes from being raised on families, and is the only way to do that to just raise taxes on someone else?

No. Let us put the emphasis where it ought to be, on spending. Let us put the emphasis on where it ought to be, on letting people keep more hard earned money in their paychecks, in their wallets. Let us not put the emphasis on continuing to raise taxes.

There is a fundamental, philosophical difference between the two parties. You are seeing it on display here on the House floor. We just fundamentally disagree. We believe that people ought to be able to keep more of their own hard-earned money. It is a belief we have. And that belief has translated time and time again, under Jack Kennedy, under Calvin Coolidge, under Ronald Reagan, and, yes, now under this current President, to produce better economic growth, better economic policy and, yes, more revenues. That is what is happening today.

Let us keep the taxes low. Let us prevent the families have having tax increases. Let us not raise taxes. Let us keep them low. I urge adoption of this rule.

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

If I could say to the previous speaker, the idea of it being the people's money, obviously, all taxes are the people's money. It is also the people's debt that we are running up. They might want us to have some consideration for that.

Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, today we prepare to pass what this majority has called ''The All American Tax Relief Act.'' But that name masks the fact that the Republicans are, in fact, increasing the taxes on 4 million working Americans. If I could make reference to the prior speaker, these are 4 million people who are getting their taxes increased. Because the House Republican leadership refused to lower the income threshold for the child tax credit, 9 million children are being deliberately left out of the tax relief that is included in this legislation. This is the story.

The eligibility level for the child tax credit will rise to $11,000 next year. So a family making $10,000, that qualifies now will be in for a rude awakening on April 15. They will not qualify. And because household income has actually declined by more than $1,500 under this administration, many families whose income taxes have gone down in the last 4 years will see their child tax credit shrink or even disappear next year because of this bill. So much for no new taxes.

And the Republican leadership has demonstrated the depth of their disdain for these families, saying that the child tax credit is not intended to serve as a ''welfare program.'' But these families are not on welfare. They work hard. They earn the minimum wage. And I would challenge any Member of this body to raise a family earning the minimum wage. It is just about impossible. As a matter of fact, this body voted itself a raise in salary just not a week ago.

Righting this injustice would cost about $4.3 billion, a little more than a third of the cost of the $12 billion in tax breaks for big businesses in this bill.

This very morning, The Wall Street Journal, the article on page 2, some top companies avoided Federal income tax under Bush. So much for the people being able to get a break. It would appear that the friends of the administration, the large corporations are getting a break. Eighty-two of the country's largest profitable corporations have paid no Federal income tax in at least one of the last 3 years. Yet this Republican leadership saw fit to give them more tax breaks while raising taxes on minimum wage families and middle class families.

What this administration does is reward wealth and it taxes wages. So this is the All American Tax Relief. Eighty-two of our most profitable corporations, companies like Enron, pay nothing in income tax. Twelve billion dollars in tax breaks at the last minute for businesses. Nine million children are left out in the cold.

I want to remind this majority, those children are every bit as American as the rest. They deserve better than this tax.

Mr. REYNOLDS. Mr. Speaker, as I said earlier, we are getting down into election year, and I am so used to the other side of the aisle using class warfare, more importantly, I guess the American people are, that it is totally false, the information coming out here.

The information is false. The bill does not increase taxes on anyone. It actually increases the refundability of the child tax credit for low income families; $23 billion comes back to low income working families to help them, and they do not pay income tax in the category that is the outlay.

So, in other words, low income families who pay no income tax at all still will receive an additional $23 billion in the bill.

□ 1700

As I said, Mr. Speaker, it is an election year. Prior to 2001, the child credit was refundable only for those families with three or more children. This President, under 2001 tax relief, made all families with children eligible for the refundable child credit.

The size of the refundable credit is based on the family's earned income in excess of $10,000, which is indexed for inflation; and what I am seeing from the other side of the aisle is argument that the $10,000 limit should not be indexed for inflation so that families can receive a bigger check from the government. Ironically, they did not make this argument in 2001 when the refund was created in the first place.

It is very important that our colleagues understand $23 billion of outlays are going to help people who do not pay income tax in the low-income levels of our society.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

(Mr. MCDERMOTT asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. MCDERMOTT. Mr. Speaker, I will enter into the RECORD at this point an article from the Boston Globe entitled ''Sticking it to working families,'' that shows how this Congress is raising taxes on 4 million low-income families which support 9 million children.

[From the Boston Globe, Sept. 21, 2004]

STICKING IT TO WORKING FAMILIES

(By Thomas Oliphant)

WASHINGTON.—Only in George Bush's privileged America could the following outrage occur:

Despite the president's supposed theological objection to tax increases, that is exactly what about 4 million families with roughly 9 million children are about to experience, with Bush's cynical support.

The outrage is actually worse, because the shiv is about to be stuck in these hand-working families under the guise of an effort to help them.

Congress is about to pass a catch-all measure allegedly designed to deal with several

problems affecting middle-income and lower-income working families arising from the tax cuts of recent years. The problems are a graphic illustration of how shoddy legislation written by people who mostly focus on big-shot lobbyists can cause ordinary Americans to plummet through the cracks. At issue is the child tax credit—which first appeared in tax law in the late 1990s in a budget deal between the Clinton administration and the Republican Congress. This provision permits a deduction from income taxes due for each child under the age of 17 in a household. In 2001, the value of the credit was set to gradually increase to $1,000 per child, but in the package of additional tax cuts enacted two years later, the phase-in was eliminated and the full, $1,000 figure was made immediately effective.

The problem arises because parts of the law governing the child tax credit are ''indexed'' to remove the effects of inflation and parts are not. The value of the credit itself, for example, is not indexed; neither are the income amounts above which the value of the credit begins to phase out ($75,000 for a head of household, $110,000 for a married couple).

On the other hand, the income thresholds above which a working person can claim a ''refundable'' child tax credit—a check from the government if income tax liability is so low to begin with that the person would not get his full credit—are indexed for inflation. The original legislation permitted a refundable child tax credit for families worth up to 10 percent of their earnings above $10,000. That indexed earnings amount is now $10,750.

And there's the rub. An analysis by the Urban Institute and the University of Wisconsin offers the example of a married couple with two children who work at the federal minimum wage of a puny $5.15 an hour. Three years ago, their income of $20,6000 would have produced a child tax credit refund of $1,060. With a higher threshold two years later, the credit's value drops 5 percent to $1,010.

But that's just the tip of the iceberg. As ordinary Americans know too well, incomes downscale in the United States have been worse than stagnant in this decade. Not only has the minimum wage not budged in seven years, but family incomes above that have also suffered severely since 2000, and the suffering has been proportionately greater the lower you go on the income scale.

Moreover, this decline in earnings (even before inflation in cases like workers with less than a high school education or single parents) has been accompanied by large increases in the cost of necessities—including everything from gasoline to health insurance for those low-income workers lucky enough to have any. In the expert analysis—Leonard Burman of the Urban Institute and John Karl Scholz of the University of Wisconsin—a single parent who got a $109 credit in 2001 would have received nothing last year even though her earnings fell.

Looking ahead to next year and beyond, it is helpful that the refund rate will rise to 15 from 10 percent, but it will largely ignore the working families with the lowest incomes. As the analysis sums up: ''The higher phase-in rate will do nothing to abate the underlying problem that arises from stagnant income growth at the bottom of the earnings distribution. Low-income households with earnings that grow slower than inflation will see their child tax credit erode in real terms every year, and at a rate that is even faster than their decline in real earnings.''

Bush and his Republican Congress buddies could fix all this substantially, by simply restoring the original $10,000 threshold. The cost to the government would have been $4.3 billion over five years.

The fact that they did nothing is eloquent testimony to the status of working families in today's political culture. The next time Bush trumpets his opposition to tax increases, John Kerry should say something about the 4 million families Bush prefers not to count.

Mr. Speaker, low- and middle-income Americans need help. They need help paying for college, health care, and things that every family needs. When I heard the House is going to do this, I thought, oh, boy, I better get my rubber stamp and get out and help the President do it. It sounded like a good idea. The middle class has been pummeled in the last years.

Between 1979 and the year 2000, the income of the top 5 percent in this country has increased 200 percent. During the same period, the income of the middle class grew by 12 percent, and low-income families have seen their income actually drop. Roughly during the same period, the top 5 percent saw their income tax rates sliced in half and enjoyed a precipitous decline in taxation of their investment income. Meanwhile, Social Security and Medicare taxes, a burden carried primarily by the low- and middle-class taxpayers, grew 82 percent faster than their incomes did.

Mr. Speaker, when President Bush came in, income inequality got worse. The Bush tax cuts increased the after-tax income of the top 5 percent by 8 percent, while our middle class watched their incomes decline during the same period.

We have to do something to help the middle class; but after reading this bill, I learned that my colleagues are asking us to play charades today.

This bill gives the average middle-class household $169 of tax relief, but guess what, it gives the top 5 percent $2,000 worth of tax cuts. So for every dollar that my colleagues provide in tax relief to the middle income, they provide $10 additional for the top 5 percent of income earners, which happens to include ourselves. Where is the fairness? Where are our priorities if we vote for this thing?

New data from the U.S. Labor Department indicates that since Bush took office at least 670,000 manufacturing jobs have been lost to foreign trade. The CRS, the Congressional Research Service, recently estimated that 860,000 service sector jobs were shifted offshore in 2003 and 2004.

Mr. Bush went to Harvard Law School or went to business school, I guess; but I do not think it had much effect on him. He has not asked the Congress to do anything to address our competitiveness problem. He just asked us to pass tax cuts for the richest among us. Mr. Speaker, he may have gone to grad school or business school, but it really has done nothing for him.

The bill before us is going to add $146 billion to our budget deficit. Where are we going to get that from? We are going to borrow it. We are going to go to the Chinese and say, hey, we have got some notes we want to sell you; would you like to buy some of our notes? How about you, Japanese; would you like to buy some of our notes? That is where this tax cut is coming from. The gentleman says it is coming from our money; it is not. It is coming out of the Japanese if they buy the bonds.

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

Half of the cost of this bill is child credit, which has an income limit. High-income people do not qualify. So I want to make sure that is on the record after my colleague just spoke.

My colleague is right, though, that low-income families do need help, and that is just exactly what this conference report does. It provides $23 billion in outlays. In other words, low-income families who pay no income taxes at all will receive an additional $23 billion from the government under this bill.

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

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, for those of my colleagues who follow the debates on the House floor, they know in the past month they have heard a lot of talk about morals, about patriotism, and sound economic policy. I do not see how adding $146 billion to our Nation's debt makes any of them better. As a matter of fact, I would like the gentleman from New York (Mr. REYNOLDS) to look me in the eye because I am going to tell him that I think it is immoral that the Republican-led Congress has added $1,712,281,371,000 worth of debt to our Nation, to our children; and I would like the gentleman from Illinois (Mr. HYDE) to please look at me, because to our Nation's unborn children he has stuck them with that bill.

I will tell my colleagues that it is immoral that this Republican-led Congress since May 9, 2001, has stolen, and please listen to my words, stolen $521 billion from the Social Security trust fund. When my colleagues take money that people paid into Social Security and use it to the pay for someone else's tax break, they have stolen it. It is not there and they have no plan to pay it back.

I will say it is unpatriotic that in the 10 years that my colleagues have controlled this House that they have increased the national debt by $2,557,432,000,000; and by the way, one-third of all of the debt accumulated in this country in over 225 years, one-third of it has been accumulated in less than 10 years by a Republican House of Representatives.

Lastly, I want to hear someone tell me how it is sound economic policy for a Nation to borrow $3 for every $1 given back in tax breaks, and please check the Treasury figures. My colleagues have added $1,857,747,000,000 to the debt in order to give people $620 billion back.

So I will question my colleagues' morality for sticking my kids with their bills. I will question their patriotism because I think they are bankrupting this country; and lastly, I will question their so-called sound economic policy that has gone out and borrowed three bucks for every buck they gave back in tax breaks. This is not what is good for our country. It is not what is good for our kids, and it is not what is good for America.

I urge my colleagues to defeat this rule. I urge my colleagues, for once, let us draw the line and start thinking of the future of this country instead of seeing how many cute things they can do in the 40 days before the election that will get them a few more campaign contributions at the expense of trillions of dollars in debt.

The folks who said we are borrowing this money from the Chinese, every word of that is true. We now owe the Communist Chinese $300 billion. Tell me how that is good for our country.

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

Just as I listened carefully, I thought I understood that the Republicans since being in the control of the majority have brought about a third of the country's debt in policy decisions. I guess that would mean two-thirds of the debt would be borne by the Democratic minority party.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I find this debate to be extremely interesting. The gentleman on the opposite side of the aisle asks why are we listening to Joe Scarborough. Well, not only are we listening to him, I am listening to Pat Buchanan. Pat Buchanan said my colleagues are a bunch of fake conservatives, they have run up this deficit, and I have to remind my colleagues when Bill Clinton left office we had a reserve. We had money in the bank, and since they have been in power, the Republicans have been in power, this administration, they have been spending like drunken sailors.

My colleagues have created a $7.3 trillion tax debt. Buchanan says my colleagues are not true conservatives; and at the same time that they created this debt and it keeps growing, they had the audacity to come into the Committee on the Judiciary and pretend to attempt to pass a balanced budget amendment. We know that that was just a political act. As a matter of fact, one of my colleagues reminded my colleagues that they are in charge of the House, they have the majority in the Senate, they have the White House. They could work to balance this budget anytime they want to. They do not need to have a balanced budget amendment, but they cannot do that because they are in the political mode in an election year, and they come back with the most outrageous public policy to extend tax cuts.

It does not take a Harvard scholar to know that we cannot keep spending, spending, spending and at the same time reduce the amount of money that is coming in. My colleagues are mismanaging $4 billion a month, and they cannot win with the $4 billion. $4 billion a month, no post-war planning, we cannot even take Fallujah and Najaf. The soldiers do not have all of their equipment, and my colleagues are coming back for more money.

Well, on top of that, when we look at what is happening domestically, 44 million Americans with no health insurance, a housing crisis, veterans crying, and my colleagues are going to come in here and give a tax cut to the richest corporations and Americans in this country. It is outrageous. It does not make good sense. They ought to be ashamed of themselves.

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

It just is something, I would almost like to look at that particular time transcript before 1994, when I think of the failed liberal spending policies of the previous majority; but we are here today and we have to reflect that in the 21st century we have faced 9/11, a recession, corporate scandal, reinvestment into the types of things that we have had to do in order to get the economy moving again, create jobs, open opportunity, but also to make sure that we are moving again and moving strong on homeland security and our national defense, which was all but beaten up pretty well in the nineties.

As we move forward, we have also done it with the aspect of a President outlining in this budget, which I hope this Congress, both sides of the aisle, might hold the line on the spending and cuts so that we can achieve the deficit reduction by cutting it in half over 5 years as the President outlined, and then how the House Republican majority put forth in its budget this year as well, the plan to do that.

But I will also say that while I have enjoyed listening to comments from the sidelines about the aspect of tax cuts or how to help middle-class Americans not see a tax increase or low-income Americans not see a tax increase or expanding $23 billion of outlays to low-income Americans who would be benefited by this legislation today, I have not seen any plan that is even on the table from the other side of the aisle that will make the tough choices we have with this legislation and the underlying bill or they have a proposal of raising taxes or cutting programs, some other solution than this.

But I do know this, Mr. Speaker, if my colleagues vote ''no'' on this, they are voting to raise middle America and the low-income families of this country's taxes, and if my colleagues vote ''yes'' for this rule, and they vote ''yes'' for the underlying legislation, they are going to keep millions of Americans from having to pay more in taxes.

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

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

I am going to be asking for a ''no'' vote on the previous question. If the previous question is defeated, I will offer an amendment that directs the enrolling Clerk to add language to the conference report that pays for this bill. The previous question directs the Secretary of the Treasury to pay for the costs of the bill by rolling back part of the tax breaks of those incomes exceeding $1 million annually.

□ 1715

These millionaires will still receive a substantial portion of their tax cuts, but a modest rollback will offset the cost of this bill for middle-income American families.

Mr. Speaker, I think many Members of this body want to see the tax breaks in this bill extended. I know I do, particularly the child tax credit. However, many of us are very concerned about the legislation's substantial price tag, and I think this is a fair and reasonable way to address that cost.

I want to stress that a ''no'' vote on the previous question will not stop consideration of the conference report for the tax bill. A ''no'' vote will allow the House to amend the rule to make the changes necessary for this conference report to pay for these tax cuts, and not increase our already-bloated and record-breaking deficit. However, a ''yes'' vote on the previous question will not allow the changes to be made and will drive up our debt to the tune of $146 billion. I urge a ''no'' vote on the previous question so we can fix this conference report.

Mr. Speaker, I yield 1½ minutes to the gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I thank the gentlewoman from New York for yielding me this time. I cannot think of a more disturbing situation than we face today. I hear my colleagues on the other side of the aisle talk about this great prosperity that we are enjoying. We all know that is not true. We all know that the average family in this country, at least in the First Congressional District of Arkansas, the average family has lost $1,500 a year in income. The cost of gasoline has doubled. The cost of health care is so high they just simply cannot afford it anymore, yet we are presented with this idea.

If we do this ridiculous thing, and we continue on this path of reducing taxes on the very wealthiest people in this country, and allow working people to be taken advantage of in the way that is happening today, it is going to destroy this country. I agree with the gentleman from Mississippi (Mr. TAYLOR), this is immoral.

It is wrong to continue to add debt on top of debt on top of debt on our children and grandchildren. No right-thinking person in the world would do that, and yet the Republicans all continue to want to do that. And then my

colleagues on the other side of the aisle talk about how prosperous we are.

My goodness alive, if we are doing so good, how did we go from a $5 trillion surplus to $3 trillion in additional debt? That is impossible if we are doing well. You do not have to be all broken out with brains to figure this out. My colleagues do not want to do this to their children and grandchildren, and I do not either.

Ms. SLAUGHTER. Mr. Speaker, I ask unanimous consent that the text of the amendment I referred to earlier be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, I urge a ''no'' vote on the previous question, and I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself the balance of my time, and in my closing remarks, I just want to remind my colleagues that this rule gives us the opportunity to have the debate on the Working Families Tax Relief Act of 2004. It extends family tax provisions through 2010, it provides assistance to military families in combat zones, it provides and extends relief from the alternative minimum tax, or AMT, through 2005, it creates a uniform definition of a child for tax purposes, and it extends 23 expiring tax provisions that end this year unless they are authorized in extension.

Mr. Speaker, a ''yes'' vote today seizes on the momentum we have created towards a strong economy and sends a clear message that this Congress supports putting real dollars back where they belong, in the hands of hardworking men and women. A ''no'' vote simply prevents this needed relief from becoming a reality and denies our constituents the assistance they have earned. In other words, will provide a tax increase on them if this bill is not passed.

Mr. Speaker, I urge my colleagues to join me in supporting the rule and the underlying conference report.

Mr. REYNOLDS. Mr. Speaker, I was incorrect when I mentioned in my opening remarks that the conference report included a provision suspending tax-exempt status of designated terrorist organizations. While it was included in an earlier version of the bill, that provision has already been signed into law under the Military Family Tax Relief Act and it was therefore unnecessary to include it in the Working Families Tax Relief Act.

The text of the amendment previously referred to by Ms. SLAUGHTER is as follows:

PREVIOUS QUESTION OF H. RES. ____ RULE ON H.R. 1308—CHILD TAX CREDIT CONFERENCE REPORT

Strike all after the resolved clause and insert:

''That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

SEC. 2. (a) A concurrent resolution specified in subsection (b) is hereby adopted.

(b) The concurrent resolution referred to in subsection (a) is a concurrent resolution

(1) which has no preamble;

(2) the title of which is as follows: ''Providing for Corrections to the Enrollment of the Conference Report on the bill H.R. 1308''; and

(3) the text of which is as follows:

CONCURRENT RESOLUTION

Directing the Clerk of the House of Representatives to take certain actions in the enrollment of H.R. 1308.

*Resolved by the House of Representatives (the Senate concurring)*, That, in the enrollment of the bill, H.R. 1308, the Clerk of the House of Representatives shall add at the end of the bill the following (and conform the table of contents accordingly):

**SEC.___. BENEFITS EXTENSION NOT TO INCREASE FEDERAL BUDGET DEFICIT.**

(a) IN GENERAL.—Section 1 is amended by adding at the end the following new subsection:

''(j) ADDITIONAL TAX ON HIGH INCOME TAXPAYERS.—

''(1) IN GENERAL.—The amount determined under subsection (a), (b), (c), (d) or (e), as the case may be, shall be increased by the applicable percentage of so much of adjusted gross income as exceeds $1,000,000 in the case of individuals to whom subsection (a) applies ($500,000 in any other case).

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is the percentage determined by the Secretary to be necessary for the Working Families Tax Relief Act of 2004 to be revenue neutral over the 10-fiscal year period beginning with fiscal year 2005.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

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

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

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

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

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

The Sergeant at Arms will notify absent Members.

Without objection, and notwithstanding any intervening debate, the Chair will reduce to 5 minutes the minimum time for any electric vote on the question of adopting the resolution.

There was no objection.

The vote was taken by electronic device, and there were—yeas 212, nays 193, not voting 28, as follows:

[Roll No. 470]

YEAS—212

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nussle
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—193

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Grijalva
Gutierrez
Harman
Hastings (FL)

Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—28

Bishop (GA)
Bonner
Cannon
Collins
Deal (GA)
Delahunt
Garrett (NJ)
Gephardt
Graves
Green (TX)
Herseth
Istook
Kleczka
Lipinski
Lucas (KY)
Majette
McCarthy (MO)
Miller (FL)
Myrick
Nunes
Osborne
Quinn
Smith (WA)
Tancredo
Tauzin
Thompson (MS)
Udall (CO)
Vitter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1744

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

Mrs. MILLER of Michigan and Mr. TERRY changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Ms. McCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 470, the previous question, I was unavoidably detained. Had I been present, I would have voted "no."

(Mr. HASTERT asked and was given permission to speak out of order and to revise and extend his remarks.)

CONGRATULATING PORTER GOSS

Mr. HASTERT. Mr. Speaker, I want to take this moment to inform the House that one of our most distinguished Members is leaving us and will resign as of midnight tonight.

Yesterday, the other body did something good. They confirmed our colleague, PORTER GOSS, as the next director of Central Intelligence. I have known PORTER GOSS for a long time. He has been a person that I have relied on for a variety of issues. He has great judgment, an abundance of common sense and a real ability to bring people together to get good things done for the American people. PORTER has been chairman of the Permanent Select Committee on Intelligence for 8 years. He knows the CIA inside out, and he has good ideas on how to make sure our intelligence agencies are the best in the world.

PORTER, we are going to miss you, but we know you will be doing your best to make this Nation, America, more secure. Thank you, and God bless you.

□ 1745

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

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

RECORDED VOTE

Mr. REYNOLDS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 235, noes 167, not voting 31, as follows:

[Roll No. 471]

AYES—235

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berkley
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Carter
Case
Castle
Chabot
Chandler
Chocola
Coble
Cole
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (OK)
Maloney
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (MI)
Miller, Gary
Moore
Moran (KS)
Murphy
Musgrave
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nussle
Ortiz
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOES—167

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Clay
Clyburn
Conyers
Cooper
Costello
Cummings
Davis (AL)
Davis (FL)
Davis (IL)
DeGette
DeLauro
Deutsch
Dicks
Dingell
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lynch
Majette
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—31

Bishop (GA)
Bonner
Cannon
Capps
Collins
Deal (GA)
DeFazio
Delahunt
Doggett
Garrett (NJ)
Gephardt
Gordon
Graves
Green (TX)
Herseth
Istook
Kleczka
Lipinski
Lucas (KY)
McCarthy (MO)
Miller (FL)
Myrick
Nunes
Osborne
Paul
Quinn
Smith (WA)
Tauzin
Thompson (MS)
Udall (CO)
Vitter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1757

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. McCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 471, on agreeing to H. Res. 794, I was unavoidably detained. Had I been present, I would have voted "no."

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 794, I call up the conference report on the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.

The SPEAKER pro tempore. Pursuant to House Resolution 794, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

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

Mr. Speaker, I am pleased to present the conference report for H.R. 1308, the Working Families Tax Relief Act of 2004. It is, I think, a significant and timely agreement. It will prevent tax increases on millions of Americans and their families. We will renew the current law tax extenders like the R and E tax credit and take a major step towards simplifying the Tax Code by implementing the uniform definition of a child provision supported by the administration, the Senate and the House. This conference report builds upon the President's 2001 and 2003 tax relief initiatives.

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

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

The chairman of the committee is correct, this is timely. It is on the eve of an election. So, therefore, Republicans believe that all tax cuts should be held back, especially the child credit, until election time. And I assume that they believe that we will not notice that they are running us deeper and deeper and deeper into deficit. But since they have no awareness or do not care about it, then once again we have a political issue that is brought to us on the floor.

How long has it been since the Republicans were talking about a balanced budget amendment? How long has it been since it was supposed to be Democrats who just tax and spend, but they were the ones who were concerned about the future of our children and our children's children?

So now they have brought a very popular bill that they are not going to get much problem from the Democrats in terms as to whether or not the middle income this time should enjoy some of the benefits that in the past they just lavished on the very wealthy. And so if we are going to extend the tax credits for children, a child tax credit, if we are going to make certain that we give some relief for married couples, if we expand the 10 percent tax bracket, who would contest these types of things?

It is true that in the conference there did not appear to be that much concern about working parents that were at the poverty line. As most of the Members know, the present legislation index, the threshold at $10,000, because of inflation it is now up to $10,750. As a result of that, some 4 million working people will be denied the tax credit, which comes to over 9 million children would be denied.

□ 1800

In the conference when the question was raised, why can you not make provisions to take care of the children of those people that work every day and live in an inflationary society and not have them cut off, the prevailing view was this was a tax bill and not a welfare bill.

Then we had some controversy where we were able to get the majority to adjust to make certain that those young people that were fighting in combat and not having to pay taxes on their combat pay, that adjustments would be made that they still could be eligible for the Earned Income Tax Credit. But somehow they only thought that they could do it for 2 years.

The President says he does not even know whether we can win the war, and then the majority said that they would be glad to do it, except that the Internal Revenue Service would have difficulty because it is so complex. Then some Members said it was abuse. Having said that, I do not think you have to be a rocket genius to figure out how many poor infantrymen we have in Iraq and how many of them have children and how many of them are poor and how many of them we should say, hey, you are fighting for this country, and we got to give you the same benefits as we give anyone else.

So the reason given that we would not make this benefit permanent was because it was too complicated for the Internal Revenue Service to handle and we would like to see how this works.

Well, these are the poison pills that are put into a piece of legislation, that the majority is just hoping that they will be able to say that Democrats voted against the provisions to provide tax benefits for the middle class.

But one day someone is going to have to answer to these young people and their kids. One day history is going to ask us, where were we when this deficit was mounting? Where were we when we turned the moneys that we are borrowing over to the Chinese and the Japanese? Where were we when the interest on the debt exceeded that of discretionary spending? Where were those responsible Republicans when they decided to do the political thing, rather than the right thing?

Well, I, for one, am just as political as they are, and even though they did not pay for this bill, they are saying there were savings, there were loopholes, there were things they could have done. But because they are so anxious to get the jobs bill, this is the newly-labeled jobs bill, you know, this was the bill that it turned out that the World Trade Organization said we had about $4 billion liability, so they waited for years to get us deeper and deeper in trouble, for tariffs to be against our exporters, and then say why not do what we always wanted to do, reduce taxes for corporations?

Some of us, the gentleman from Illinois (Mr. CRANE) and I, thought that was a great idea. How little did we know on that bill they only meant corporations that were moving their jobs overseas. But that is another bill for another day, and that is a political issue.

But here we are again, and I hope no one has to say that I voted yes and I voted no on this one, because they are driving the deficit, and we do not think that the people who deserve a tax benefit should pay the penalty, when deficits mean nothing for the $1.4 trillion tax cut they gave to the very wealthy.

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

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

Mr. Speaker, the gentleman from New York once again has painted primarily a conspiracy that this was done somehow in a clandestine way. What I really want to do is make people understand that on the conference there were five Senators, three Republicans, two Democrats; and from the House there were three House Members, two Republicans, one Democrat. This provision was voted seven ayes and one no. It should not take you much time to figure out who the "no" was.

You also need to know that the Senator from Arkansas, Ms. BLANCHE LINCOLN, had she had her way, based upon the amendments she offered to the conference committee which were not accepted, would have raised the price of this bill by almost $100 billion. For those people, those families, those struggling lower income people who the gentleman from New York describes as though they are getting nothing out of this bill, it is just a total cliche to say this is another tax cut for the rich as it involves $23 billion in outlays for those very same people that the gentleman from New York says were left out of the bill.

It was a bipartisan agreement. We were able to hold down the exuberance of the Democrats in the Senate. I know I am not supposed to mention the Senate, but I want everybody to remember it was the other body that would have

had this bill $100 billion higher. It is not because of the fiscal restraint on the part of the majority in putting this package together.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would remind Members that references to Senators should be confined to their sponsorship of actual measures, avoiding characterizations.

Mr. THOMAS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. SHAW), the chairman of the Subcommittee on Social Security.

Mr. SHAW. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, I hear my friend from New York talking about deficits. There is one deficit that he did not talk about, and that is family deficits, the deficit where so many families are struggling and trying to do the right thing, go to work, come home, take care of their kids, and this bill addresses that.

I am sure that there are thousands or tens of thousands in the gentleman's district that are going to profit greatly from this bill, and maybe live a little better because of what is in this bill.

I think that we need to have a good debate over the issues and not sarcasm. When you get sarcasm involved and talking in broad terms, you are covering over what is in this bill. I would like to go down a few of the provisions in there.

It extends family tax relief provisions through 2010. What does that mean? Well, the marriage penalty relief. Everybody is for the marriage penalty relief. I would hope so.

The expanded 10 percent income tax bracket. If this does not pass, those brackets are going to go back up, and those are the lowest income tax brackets that we have.

The $1,000 tax credit for children. This is tremendously important for working young families.

It provides assistance for military families in combat. I have talked to the gentleman from New York (Mr. RANGEL) about this very issue and he is very much aware of it and very much in favor of it. Because of the technicality of combat pay not being included in income, they lose out on tax credits of this nature, and we correct that for them. No person should be penalized because they are in a combat zone, for God's sake.

I would like to talk too about extending relief on the alternative minimum tax. I know my friend from New York is very concerned about the Alternate Minimum Tax. He, as I, would like to do away with the whole thing. I think it is a huge mess. We do take care of it, and provide that people with $58,000 in income a year are exempt from the amount if they are a married couple or $40,250 for a single individual. These are tremendously important.

There are other provisions in the bill, such as, of course, the extension of the expiring provisions, which there are some 23 of them listed, and these are available right here at the desk if anybody wants to look at them. I can tell you that almost all of them have great bipartisan support.

I do not know of anything in this bill that can be described as a Republican provision. It is a good provision, it is a working provision, and, yes, it is a jobs bill, and it is for hard-working people.

There is nothing in here for high income people of any great extent other than the fact that it will help preserve capital, which is something we all should want to do.

So I would tell all the Members on both sides of the aisle, before you vote on this, take a close look at it. I would hate to go out and say that I voted to do away with the provision that was extinguishing the marriage penalty. I would hate to go out and say that I was doing away with the $1,000 child credit. These are important to all people.

So I urge all my colleagues on both sides of the aisle to vote yes on this bill.

Mr. RANGEL. Mr. Speaker, with great pleasure, I yield 2½ minutes to the distinguished gentleman from California (Mr. STARK), an outstanding member of the Committee on Ways and Means.

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

Mr. Speaker, I will not be sarcastic. I might be somewhat morally indignant. And I really think it is up to individual Members how they choose to vote on this bill. But I do think the bill clearly defines the Republican Party and it clearly defines the difference, and it defines compassion and conservatism as the Republicans understand it.

One might say there is some fascism in the bill and there is some socialism. That is okay too. But let us look at what the gentleman from New York (Mr. RANGEL) talked about earlier.

4.3 million families in this bill, because of the Republican refusal to freeze the $10,000 cap on income, 4.3 million families below $10,750 a year will have a tax increase. That means 9.2 million children living in those families will have less money while their parents' income has stayed the same or gone up slightly. To fix that would cost $4.3 billion. There is not enough compassion on the Republican side of the aisle to find $4.3 billion over 5 years to help those 9 million of the poorest children in this country.

That is your Republican compassion. That is indecent, it is un-Christian and it is immoral.

Now, this same Republican Party has countenanced a Tax Code on the other side. Eighty-two of the Fortune 500 companies, the most profitable companies in the country, paid no taxes over 3 years, and those 82 companies received $12.6 billion in refunds. So the Republicans are willing to give 82 rich, biggest corporations $12.6 billion.

That is conservatism. But they do not have the compassion to let $4.3 billion be spent on the 9 million poorest children. There you have it. The Republicans will help 82 of the richest corporations with three times as much money as it would take to have helped the 9 million poorest children in this country.

So whatever you vote on this bill, it does not make any difference, but know the difference between the Republicans and the Democrats.

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

Mr. Speaker, if we are trying to draw a line between Democrats and Republicans, then I think we really ought to understand that prior to the 2001 tax bill, the provision that my friend from California is getting exorcised over, allowed that refundability only for families with three or more children. That is how generous they were. President Bush, the Republican House and a Republican Senate extended that provision to all families.

They were in power for 40 years and thought it was appropriate and fair to provide refundability only to families with three or more children. We said that did not make sense. We said it should be provided to all families. Yet you just heard the diatribe about what we do or do not do. That is actually what we did.

In addition to that, it just seems to me that a Senator from Arkansas and a Senator from Montana would differ with the gentleman from California about their party affiliation. All of the Senators, Democrat and Republican, supported the conference report.

Mr. Speaker, I yield 3½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), the chair of the Subcommittee on Health.

□ 1815

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman for yielding me this time.

I rise in strong and enthusiastic support of H.R. 1308. We made a promise in 2001 to provide income tax relief to every working American. And indeed, extending the marriage penalty relief, extending the $1,000 tax credit per child, leaving families with more disposable income to meet the needs of their children, and extending the 10 percent bracket are important to the well-being of our families and working people in America.

But I particularly congratulate the chairman on extending crucial provisions in the Tax Code that have recently or are about to expire. Allowing the expensing of cleanup costs associated with brownfields, old, polluted, industrial sites, helps jobs to be created in our cities and is absolutely crucial to the future of economic opportunity to our city folks and to the tax base of our urban areas. Extending the work opportunities tax credit and the welfare-to-work tax credit means hard-to-employ people, people who have spent time in jail, people who have very little education, get the work opportunity that they deserve with the

training that they need. In addition, extending the R&D tax credit allows American companies to invest in risky innovations. R&D is a gamble, even for the largest companies, but it is a gamble that often results in tremendous economic reward, and it is a gamble that must be taken for any nation that hopes to have a strong economy.

Other nations have long recognized the benefits of subsidizing research and development. In a global economy where research and scientific experimentation can occur anywhere, the U.S. can ill afford to stand idle while France, Germany and other countries in Europe provide strong incentives for companies who do R&D on their soil. Indeed, other nations use tax dollars to subsidize their companies. Our European trading partners, for example, funnel billions of dollars, direct and generous loans, to their companies to develop products that compete directly with American goods. The R&D credit is about competitiveness. It is about jobs in every community across America, and it helps small and medium-sized companies as well.

According to a recent Ernst & Young report, more than 4,500 firms with assets of less than $1 million claim the credit. That is 25 percent of all firms. For the smallest firms in the study, the value of the credit, on average, was about 9.4 percent of their assets.

The R&D tax credit has a long history of bipartisan support, and while I am disappointed that the credit was not enhanced, and I will continue to press that issue to make it more accessible to start-up firms, I urge strong support for the bill.

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

Let me make it clear and try to set the direction in which this debate is going. We do not find Democrats disputing the merits of the tax cuts. We are not even challenging the fact that Republicans have decided to do this on the eve of the election. All we are saying is that you could have given our combat people a better deal by making their extension permanent, and you certainly could have given the working poor an opportunity to enjoy this even though they make $10,750.

The problem we have with this is the fact that you are running us $149 billion back into the deficit when you know, and it will go unchallenged, that in the committee, in the conference, we did have the loopholes to repair this and to bring to this floor a bill that would have been paid for, that would have passed with all Democrats and all Republican votes.

Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN), a Member whose career has been spent trying to protect all Americans, especially those who are struggling to become part of the mainstream.

Mr. CARDIN. Mr. Speaker, I always enjoy my distinguished chairman comparing the records of the Democrats and Republicans on major issues. Let me try to complete that a little bit more, if I might. It was the Democratic administration under President Clinton that brought our budget into balance, and it was the Republican administration that undid all of that good work.

Mr. Speaker, the Democrats support responsible tax legislation. The tax provisions in this legislation are well-targeted to extend important tax provisions that help most Americans and help our economy.

But there are two glaring flaws in the bill before us. The gentleman from California (Mr. STARK) and the gentleman from New York (Mr. RANGEL) have already talked about the limited impact on low-wage families, particularly on military families. We did not do what was right as it related to the child credit for those groups of people. It certainly was not treated with equity as to what we did with the other provisions on extensions.

The second major flaw is that bill adds $150 billion to our national debt, on top of the $422 billion deficit we have in this one year.

I listened to my distinguished chairman talk about what happened in conference, the efforts made by some of my democratic colleagues to increase the extent of this bill and increase the cost of this bill. But what my distinguished chairman did not say is that the Democrats also offered in conference ways to offset some of the costs, and that was rejected by our Republican friends.

We believe that this bill should be paid for. The gentleman from California (Mr. STARK) has already given us one example of how we could pay for this bill. The Wall Street Journal today reported 82 companies, all which have benefited from these tax cuts, pay no taxes at all. We could have them pay some of these taxes.

Mr. Speaker, if we could just revisit the tax changes for the wealthiest 1 percent of Americans, we could not only pay for the entire cost of this bill, we could also help reduce our national debt and deficit.

So, Mr. Speaker, our objection is that we should be fiscally responsible. We should have paid for this bill. The underlying provisions are good and should be enacted.

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

Mr. Speaker, I have to tell my friend, the gentleman from Maryland, that the statement that the minority from the Senate offered offsets for the provisions that they offered simply is not true. They did not offer offsets. There were provisions that were offered that did not cover it. There were offers for particular portions of the bill, and there were offers to simply cut the bill in the tax credit areas to cover the cost of the new items added, and on the largest amendment offered by the minority, there was not coverage for the cost.

So the gentleman's statement that they provided offsets for the entire bill, including the amendments that they offered, if that was the intent of the gentleman's statement, simply is not accurate.

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Speaker, I was under the impression that the gentleman from New York (Mr. RANGEL) offered in conference to revisit the tax breaks on the upper 1 percent, and it is my understanding that that would pay for the entire cost of the bill. That is the reason why I stated that.

Mr. THOMAS. Mr. Speaker, reclaiming my time, I understand the gentleman's statement, and that was with respect to the underlying bill, but there were amendments offered which were not offset. The gentleman indicated that yes, there were increases offered, but offsets were provided as well. That statement simply is not factual.

Certainly, the gentleman from New York, who voted against the bill, provided a method which would take money away from individuals, increase their taxes, to distribute their income taxes, to distribute money to people who do not pay income taxes, but that was not on the portions that were offered by the Senators on the amendments that they offered.

I will certainly concede the underlying bill was covered by making people pay more in income tax so money could be distributed to those who do not pay income tax, but the statement that all of the amendments that were offered that increased the cost were offset is simply not a factual statement. That is the only point.

Mr. CARDIN. Mr. Speaker, if the gentleman would just yield for further clarification, I appreciate that statement, and the point is that the amendment offered by the gentleman from New York (Mr. RANGEL) would have covered all of those costs. I appreciate the gentleman yielding.

Mr. THOMAS. Mr. Speaker, the gentleman from Maryland also knows that, under the United States Constitution, the purse strings are controlled by Congress under article I, not the President under article II. The reason we were able to balance the budget after all of those years was that, notwithstanding the fact that the Democrats captured the White House, which does not control the purse strings, the Republicans captured the Congress, House and Senate. Those who control the purse strings control the spending. The budget was balanced because of a Republican Congress, not a Democrat President.

I would also have to tell my friends, as they review with indignation the combat pay provision included in the earned income credit, it used to be that way. But President Clinton in his administration recommended that in 2001 it be dropped. We accepted the Clinton

administration recommendation, and it was dropped. We are now reinstating it. And what people need to understand is, the reason President Clinton asked us to drop it is because it was just too complex. We have figured out a way, through election, to resolve that problem. Yet, when people voted to remove it, we did not hear all of the criticism. When we decide to put it back in, in an effective way, we get criticized. It just is interesting, the process here. Even when we are trying to help people in need, we get criticized.

Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Louisiana (Mr. MCCRERY), a member of the Committee on Ways and Means.

Mr. MCCRERY. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, much of the substance of this bill has been repeated here on the Floor today, and I am not going to do that, but there are a couple of areas that I want to emphasize.

Before I do that, though, I want to underscore what the chairman just said about balancing the budget under President Clinton. Another way of putting it, without referring specifically to articles in the Constitution, is to say that the President proposes, the Congress disposes. That is to say, the President can recommend things to the Congress, but it is the Congress that actually votes and passes budgets and passes appropriations bills and entitlement programs and the like.

Prior to Republicans taking over the House and the Senate, President Clinton was saying that he could see deficits as far as the eye could see, over the horizon. It was only when Republicans took control of the purse strings, as the chairman put it, that we started enacting policies that increased revenues by cutting taxes and controlling spending and balancing the budget for the first time since the late 1960s. It was the Republican Congress that did that, not President Clinton. And as the chairman said, the Constitution provides that it is the Congress that disposes.

Now, the two areas that I want to emphasize in the bill, number one, the extension of expiring provisions in the Tax Code. In other words, there are some provisions in the Tax Code that have expired. They are no longer in effect, or they will expire this year. The gentlewoman from Connecticut (Mrs. JOHNSON) mentioned a few of those. Let me mention a few more. A deduction for computer donations, a $250 deduction for teacher classroom expenses, a tax credit for electric produced from renewable sources, such as wind energy, a very promising technology for renewable energy production. A tax credit for electric vehicles, a deduction for clean fuel vehicles; those kinds of provisions that are in the Tax Code to encourage the development of renewable sources of energy, to encourage the efficiency of energy in this country, in the use of energy in this country, would be expiring if it were not for the passage of this bill.

The second thing I want to emphasize, Mr. Speaker, is that anyone who votes no on this bill today is voting for a tax increase on the American people and on the middle class in this country, because almost all of these tax provisions go to the middle class. And if you vote no on this bill, you are saying, we are not going to renew these tax breaks for the middle class; we are going to increase taxes on the middle class. That is the bottom line on this bill.

So let us be clear: If you vote for this bill, you are voting to allow taxes on the middle class to remain low. If you vote against this bill, you are voting to increase taxes on the middle class in this country. That is it, plain as day.

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

I would just like to note, I have had this lesson in civics, and the gentleman is correct, the Congress does dispose. And in the tenure of the current chair of the Committee on Ways and Means, he has disposed of a $5.6 trillion surplus, and he now has us a $3 trillion deficit. He is throwing away $8 trillion, in his Republican leadership of the Committee on Ways and Means, and that is not so bad.

Mr. Speaker, I yield 2½ minutes to the gentleman from Washington (Mr. MCDERMOTT), a gentleman who has seen the inside of a military uniform.

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

□ 1830

Mr. MCDERMOTT. Mr. Speaker, here we are again with one of these election-year bills. I can imagine that there are people out there watching and listening to this debate and trying to make head or tail of what is going on here today, and I intend to vote ''no.'' I was asked by one of the press, why are you going to vote ''no''? And I think that is a really good thing to discuss, because it would certainly be easy to vote ''yes.'' Everybody wants to give tax breaks.

Who in the world in an election year, 40 days before election, would not want to give away all of this money and do all of these kinds of things? But I am a child psychiatrist and one of the things you learn in raising children is that sometimes you have to say, no, we cannot do that. We cannot buy that. We cannot have that. And this Republican majority in the House and Senate really does not seem to be able to ever say no. They do not believe that you cannot spend on a credit card forever.

A credit card, I have got them in my pocket like everybody else does; you have to pay it back some time. Now, the United States right now, and the reason I do not want to borrow another $149 billion is because this is borrowed money. This is not money that anybody has paid in taxes. This is money that we are borrowing from the Chinese and the Japanese and the Saudis. We go out there selling these Treasury notes. Now, when that lapses, who controls the United States? Us or those to whom we are in debt?

If they decide to pull that money out, we go down like a rock. And you think the Chinese are really on our side? Do you think they are really friendly? You think they would not do that to us economically? We are putting ourselves in danger. The Republican majority, if they were trying to destroy this economy, could not have done a better job than they have done in the last 2 years. We thought 350 or whatever it was last year was bad. Now we have got $420 billion. That is over $700 billion that we have gone in debt, we have borrowed from the Chinese, from the Saudis, from the Europeans.

We just go and say, Please, we need money. We are the richest country in the world. We have got the biggest army and all that kind of stuff, but we need money. Please give us money so we can keep our economy going. That is not the America that I want. I think we have to have some fiscal discipline in this House, and it has to start in things like this.

Mr. THOMAS. Mr. Speaker, I yield 2½ minutes to the gentleman from Arizona (Mr. HAYWORTH), a member of Committee on Ways and Means.

Mr. HAYWORTH. Mr. Speaker, I thank the chairman of the committee for yielding me time.

Mr. Speaker, I listened with interest to my friend from Washington State not really discussing the merits of the bill, but discuss atmosphere and perception, and that is fine, as if families struggling to make ends meet are spoiled children to be indulged; as if somehow at this point in time, with 2-year terms, allowing Americans to keep more of their money is somehow ill advised or worse still, a political stunt.

Mr. Speaker, our Founders, very exceptional people, gave us 2-year terms. This is overdue, to extend opportunities. Indeed, devoid from this debate until this point, Mr. Speaker, is the acknowledgement of the fact that this country was suddenly, violently and brutally attacked on September 11, 2001. Indeed, I hear laughter from the other side, Mr. Speaker. Laughter about an attack that killed 3,000 Americans. I mention this not to wave the bloody shirt, but to talk, in essence, of what we do in this legislation.

I am sorry my friend, the ranking member, is not here who apparently is against the bill. We have authority to issue New York Liberty Zone Bonds, extend that to 2009 to rebuild Ground Zero to bring back the New York economy. We advance refunding the Liberty Zone Bonds. We have tax incentive for the District of Columbia.

We have already chronicled out, we reached out with the earned income credit for families of our combat soldiers in harm's way. And yet we hear bemused chuckles and poor analogies

somehow claiming that American families keeping more of their own money are spoiled children. The contrast could not be clearer.

It is sad when those for whatever reason want to launch into diatribe or to somehow compare hard-working Americans to spoiled children, but the fact is nobody has talked about what the bill does. So apart from the election-year rhetoric and the endless class warfare diatribes and the cynical chuckles about people dying in the wake of terrorists attack, there is merit to this legislation.

Mr. Speaker, I recommend a ''yes'' vote.

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

I guess that there are people in the hall who are hearing things. Maybe they have receptors in their teeth. I heard no chuckles, but there are people who do get messages that are from strange sources; and they are certainly not in this hall.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me time. As we come here to debate this, I think we should make it clear, Mr. Speaker, to everyone in this Chamber and everyone throughout America who might be watching that most of us want to see an expansion of the 10 percent tax bracket credit for all of our families because that is a tax cut that would go to all families including our lowest- or modest-income earning families. We would like to see an extension of the $1,000 family credit for those with children.

There are other tax proposals here that offer relief to American families which we support. That is not the issue. The issue is that today in America, America's families face a $7.384 trillion debt; and it grows by a billion a day in interest payments that we make. And so the difficulty here is that we are on a crash course to abomination.

We are not being fiscally prudent in what we propose, even though it sounds very good. I am going to borrow some information that our colleague, someone who is a fiscal hawk and someone who has been watching this for some time has said and that is the gentleman from Mississippi (Mr. TAYLOR). The debt is about $7.8 trillion. That debt increased $568 billion in the last 11 months of fiscal year 2004. It has increased $1.7 trillion in the 40 months since Congress passed President Bush's first budget plan on May 9, 2001. The President's own budget expects the debt to pass $8 trillion in 2005.

The debt will surpass $9 trillion in 2007. It will surpass $10 trillion in 2009. That will have to be paid by the 280 million Americans who live in this country.

Our Nation owes close to $2 trillion of that debt to foreigners including more than $680 billion owed to Japan, more than $217 billion owed to China and Hong Kong; and the government borrowed $427 billion dollars from foreign governments and investors in just the past 12 months.

All of this is actually worse than what it sounds because what I have not mentioned is every year for the last several years the Social Security system has been collecting more money than it has had to pay out to those who are beneficiaries in retirement. And that is what we consider all or know all as the Social Security trust fund surplus. Unfortunately, every single cent of the Social Security trust fund surplus has been expended, not for Social Security, not to be prepared in the future for Social Security, but for other matters.

So, Mr. Speaker, I say to my colleagues and to all Americans who might be watching, while we all wish to continue to reduce the tax burden on Americans, it should not be done at the expense of increasing the tax burden of our American families and children into the future.

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

Mr. Speaker, ''crash course to abomination?'' I mean, I understand getting carried away with rhetoric, and I agree we have to be concerned when the Federal Government spends more than it takes in. We did not do that during World War II because it was a time during which we needed to win the war. We are in the wartime situation. Prior to getting into that wartime situation, we were in surplus.

''Crash course to abomination?'' The gentleman ran off some numbers about how big the current national deficit is, or the debt. This economy earns more than $11 trillion a year. If you made an analogy to a family, the entire deficit is less than what the family makes in earnings in a year. That does not even begin to examine the assets that the family holds, usually equity in a home. Begin thinking about all the physical assets that the society owns through the government.

Do we need to worry about debt? Yes. You worry about it most often as a personal relationship to your income or productivity for countries. Today, that debt is about 3.8 percent. Back in the 1980s and 1990s when the gentleman's party was in control, it went over 6 percent. We were better than two-thirds of that percentage when the gentleman's party was in power. I didn't hear ''crash course to abomination'' then.

There is nothing wrong with pointing out the fact that you need to have a debt that is manageable. The best way to view the debt is not in the absolute numbers, but in a percentage of your ability to pay. Today that debt is about 3.8 percent. In the recent past it has been as high as 6. Do we need to be concerned about it? Yes.

Chairman Greenspan has said repeatedly in front of congressional committees, the way you control a growing debt is to reduce spending. That is the long-term procedure for getting imbalance back into balance.

The other thing that you need to remember is the gentleman from California (Mr. STARK) said that when we cut people's taxes, we just throw the money away. If you ever wanted to get a mental set of how people approach the revenues raised by government it is that when we cut taxes, we gave people back their own money. When they look at what we did, giving people back their own money, they see it as throwing money away.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCHROCK).

Mr. SCHROCK. Mr. Speaker, I thank the chairman for yielding me time.

I rise today in support of H.R. 1308, the Working Family Tax Relief Act. We must act today to preserve the relief plan that has created record-breaking economic growth and has spurred the creation of over 1.7 million jobs alone in the last year. Failure to act today will result in 93 million Americans and their families paying on average $565 more on their taxes next year.

□ 1845

As my colleagues heard the gentleman from Florida (Mr. SHAW) say, many of these families will be our military families, with a parent fighting somewhere in the global war on terror. Our military families are paying Uncle Sam enough just with their honorable service, and we should do everything we can to allow them to keep more of their hard-earned money.

This tax extension has important economic impacts for all of our military families. This bill provides an additional $199 million of assistance to military families in combat zones, and my colleagues heard the gentleman from Florida (Mr. SHAW) say this bill increases the child credit for military families by allowing them to include tax-free combat pay when calculating their refundable child credit.

He also said, and as we heard the chairman say, this bill increases the earned income credit for military families in 2004 and 2005 by giving them the option to include combat pay in calculating that tax credit.

Congress must pass this bill and help extend tax relief to our very important military families.

Mr. STARK. Mr. Speaker, could I inquire as to how much time remains.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from California (Mr. STARK) has 11 minutes remaining. The gentleman from California (Mr. THOMAS) has 5½ minutes remaining.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS) for whom the complexities of a tax credit for the military would not exceed his intellect, as it obviously does the leader at the White House and the leader of the Committee on Ways and Means.

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

Mr. ANDREWS. Mr. Speaker, I thank my friend for yielding me time.

I rise in opposition to the conference report. A few minutes ago, my friend from Arizona said we should talk about what the bill does. Here is what the bill does.

It does some very desirable and popular things for taxes for families in the country, which is good; and it pays for those tax reductions by borrowing $146 billion from the Social Security trust fund and from creditors who will collect those debts from our children in the future.

Now, there was another way to do this. The other way to do this would have been to make a modest reduction in the tax cut that the people at the very top of the income scale would have gotten. We had an amendment that would have said let us just marginally reduce, somewhat reduce, the tax cut that the people at the top 2 percent or so get and let us pay for the tax cut that way and not reduce the deficit. We were not permitted a vote on that idea.

So the choice is, deliver these popular tax benefits by borrowing the money to pay for them or not deliver them. It is a difficult choice. I come down on the side of saying we cannot deliver them by borrowing the money.

I hear my friends talk about restraint of spending. Earlier this year we had an omnibus appropriations bill that spent more than $800 billion. Only 83 Members voted ''no.'' I was one of the 83 Members. That was a bad political vote because the bill had lots of things in it that people liked; but because I did not want us to borrow the money, I voted ''no.''

Tonight, we have a choice where there are all kinds of popular tax breaks for people. It is a bad political vote to vote ''no.'' I am going to vote ''no'' because we should not borrow the money to do this. People do not trust American government anymore. This is why, because we tell people that they can have everything and not pay for it. Stand for integrity and vote ''no.''

Mr. STARK. Mr. Speaker, I yield myself 30 seconds to speak on behalf of the gentleman from New York (Ranking Member RANGEL).

I think somebody on the majority side misinterpreted the gentleman from New York's (Mr. RANGEL) position. I am aware that the gentleman from New York (Mr. RANGEL) intends to vote for this bill. He is unhappy with the fact that it is not paid for and that it mistreats our military and our very lowest income people, but he does intend to vote for it. I think to suggest that he is opposing the bill is a misstatement of his position, and he has asked me to set the record straight.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I am always interested when people comment that we are returning money to people who pay the taxes. I guarantee my colleagues that the 60,000 people in Cleveland who have lost jobs since President Bush took office and the 230,000 people in Ohio who have lost jobs since President Bush took office would love to be in a position to pay taxes. In fact, they would love to be in a position where they were not just making minimum wage in exchange for some of the jobs that they have received.

It is interesting that there is always a commentary about 1 million jobs having been created since President Bush took office. If we do the math, then we understand that he is still behind maybe 1.7 million jobs.

Be that as it may, some of the provisions of this legislation are pretty good. Some of the provisions provide for research and development, and small business in Ohio and across this country would like to have those dollars.

It has some parity about mental health, and that is wonderful because people believe that parity ought to be granted to people who have insurance costs arising in mental health.

In fact, the people in my congressional district and across the country would love to be making more than $5.25 an hour so that they could pay more taxes.

I am disappointed that in this bill there was rejected a proposal that would have ensured that low-income families, the most in need, would have been eligible for a child tax credit. The 2001 law stipulated that the $10,000 threshold would rise with inflation. The problem with indexing the credit with inflation is that wages are not keeping up with inflation; and as a result, there will be lower-income families that will not be eligible for the credit next year. It is also very interesting that as a result of that, 4.3 million families will not benefit under this proposal, and there will be 9.2 million children who will not benefit under this child tax credit.

I am disappointed that the majority was not able to extend these middle-class provisions in a revenue neutral fashion. The estimated cost is $146 billion over 10 years, adding already to the $422 billion deficit. Fiscal responsibility is gone out the window, but according to the leadership, that is okay.

I just wish that we would be as fiscally irresponsible when it came time to pay for health care, as fiscally irresponsible when it came time to help pay for education, as fiscally irresponsible when it came time to pay for seniors' prescription drug benefit, as fiscally irresponsible when we start to talk about what we might do on behalf of college students.

I rise in support of these child tax credits, but I think we ought to call it like we see it, and this is what I have done.

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

I am pleased that the gentleman from California has announced apparently on behalf of the gentleman from New York that he has Presidential aspirations. What I said was that the gentleman from New York (Mr. RANGEL) voted ''no'' on the conference report. The gentleman from California stood up and said, lest there be any misunderstanding, the gentleman from New York (Mr. RANGEL) proposes to vote ''yes'' on the measure, and so it is pretty obvious he has got Presidential ambitions.

The point is he voted ''no'' before he voted ''yes.'' Perhaps my colleague should have said the gentleman from New York (Mr. RANGEL) will do the usual.

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

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

It was the gentleman from Arizona, not the gentleman from California, who suggested that the gentleman from New York (Mr. RANGEL) opposed the bill, and that was the misunderstanding that I wanted to correct. The chairman is correct, he did not suggest that the gentleman from New York (Mr. RANGEL) was not in favor of the bill, and that was my point, to set that part of it straight.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, we are at the point where this administration has tried to finance three wars with three tax cuts, which has resulted in $450 billion in annual deficits and $3 trillion in additional debt. There is a right way to cut taxes and meet our obligations, both here at home and abroad; and then there is a wrong way.

I have strongly supported responsible tax cuts for middle-class families, but that is not what we have here. I have worked in the past on two budgets, both in 1993 and 1997 when we balanced the budget, reduced the national debt and met our obligations in the areas of education, health care, the environment, while we secured the peace in the Balkans; opposite of everything that is being done today. We can do it if we make the right choices and have a good strategy. We are not doing that here.

I find it ironic that we are handing out another $13 billion in a corporate giveaway on the very day that the New York Times and the Wall Street Journal cited studies and found that 82 of our largest and most profitable companies paid no Federal income taxes in at least one of the last three years and that corporate taxes were at their lowest sustained levels since World War II. In fact, corporate taxes have financed only 6 percent of the government expenses during the last two fiscal years at the very time that we have been sending people over to fight the war on terrorism. When we have a war going on, everybody has skin in the game. They cannot take a walk from this

country and enjoy the privileges that they have to be an American.

What set of values lead my colleagues to give corporations an additional $13 billion in new giveaways at the expense of middle-class families trying to do right by their kids?

In America today, corporate balance sheets are enjoying their strongest position ever, but middle-class families are struggling with flat wages and rising health care and education costs. Yet we are providing tax breaks to the very corporations that pay no Federal income tax. Everybody must have some skin in the game when we have a war going on.

What kind of value systems say this is a good thing for corporations to avoid paying income taxes while enjoying the fruits of this country?

Mr. Speaker, the leadership is about making choices. As President Kennedy once said, to govern is to choose. My colleagues today have reflected the choices they have made on behalf of corporate America at the expense of our middle-class families.

Mr. STARK. Mr. Speaker, is the gentleman ready to close?

Mr. THOMAS. I have several speakers, but the Speaker announced the time differential.

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) has 4½ minutes remaining. The gentleman from California (Mr. STARK) has 3 minutes remaining.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I sit on the Committee on Appropriations; and of the 13 appropriations bills, on average there is an increase of $1.5 trillion on each of those appropriations bills. We came out with a budget, and the Democrats whine it is not enough. The President limits spending to 4 percent, and the Democrats say it is not enough. It is ironic they stand up here and talk about ''the debt.''

I have got friends on the Subcommittee on Defense, Committee on Appropriations, the gentleman from Pennsylvania (Mr. MURTHA) and the gentleman from Washington (Mr. DICKS), and I have got guys like the gentleman from Missouri (Mr. SKELTON) and many others that support defense, but the other point for those that say, oh, defense is an issue here, well, I think for many of the people, I hope they have time to explain themselves before they die so the rest of us do not die laughing.

When my colleagues talk about the support for defense, look at the Presidential candidate that has voted across the board to cut defense and look at the progressive caucus and the rest of it. In 1993 my colleagues cut their COLAs and veterans COLAs and took every dime out.

□ 1900

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

Mr. Speaker, I think it is clear, or at least I might respond, that the Presidential candidate that I am going to support never ducked out of his military duty or had his daddy buy him a soft berth to avoid combat.

We are talking now about a tax bill that I suspect will pass comfortably in the next few minutes, but I think it is important again to remember that the most vulnerable of our citizens are being disadvantaged. And I am talking about those in the military.

I might add that when President Clinton did the tax credit for the military change, we had no military in Iraq.

We also are disadvantaged, hurting, raising the taxes, if you will, on 9 million of the poorest children. On the one hand, we are giving $14 billion worth of tax breaks to corporations, when it would have only taken $4 billion of that to help the 9 million poorest children.

I do not see how any Christian or anybody with any compassion can square their conscience, can go home to dinner tonight and tell their family or their children, I just voted to harm 9 million of the poorest children in this country and I gave away $14 billion to the richest corporations in this country. That does not wash with compassion. That is underhanded and immoral and obscene, and it is part of this bill, written by the Republican chairman of the Committee on Ways and Means. And that is a fact.

There is no excuse for continuing to raise the deficit, which has been done under the leadership of the current Committee on Ways and Means, so that we have gone from a $5 trillion surplus to a $3 trillion debt. That is $8 trillion thrown away by the Republican leadership of the Committee on Ways and Means and this House, and countenanced and supported by the White House.

It is a shame that our leadership in the White House is so intellectually challenged that it cannot understand a tax credit. That in itself ought to be reason enough to change that leadership. Because by lacking the intellectual capability of understanding the Tax Code, they are harming our military.

Vote as you will, but understand the difference, Mr. Speaker, between Republican compassion and conservative giveaways to the very rich.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Ohio (Mr. PORTMAN), a very valued member of the Committee on Ways and Means, for a brief period of rationality.

Mr. PORTMAN. Mr. Speaker, that is a lot of pressure.

Mr. Speaker, I thank the gentleman for yielding me this time, and I am pleased to respond to my friend, the gentleman from California (Mr. STARK), who just told us that he is predicting this will be a comfortable victory for this bill. And it will be, because it is great policy.

He talked about the fact that military families do not get help. It is just the opposite. Military families do get help under this bill. That is the whole point of the legislation, something the gentleman from New York (Mr. RANGEL) has supported forever. It provides $199 million to our military families to allow them to include combat pay so they get more of an earned income tax credit; to allow them to have more help for their children. These are the people of modest income in our military who get help from this bill.

The gentleman talked about children not getting help. Well, I can certainly say that the effect on low-income families is dramatic here. We are talking about $23 billion in this bill of outlays. What does that mean? That means it goes to families who do not pay Federal income taxes, do not pay Federal income taxes at all, but yet they get an additional $23 billion through the refundable, yes, refundable, fully refundable tax credit. That is in this legislation.

Finally, the gentleman talked about the budget and deficits, and the fact we need to watch out for our deficits. Mr. Speaker, when I was first running for Congress in 1992, the deficit was 4.7 percent of our economy, which is what all economists think is critical. What is the percentage of our economy; can we pay it back or not?

Back in the 1980s, when Democrats controlled this place, about two-thirds of the way through their 40-year reign, it was about 6.2 percent. Now it is about 3.8 percent. We just heard from CBO a few weeks ago we will actually be reducing the projection for this year by $56 billion. OMB says it is $76 billion. The point is, despite the tax cuts from last year, there are more taxes being paid right now to the Federal Government, not less. Receipts are actually up.

Why? Because the tax cuts worked and the economy is growing. We have had the fastest growth in the last year that we have had in 20 years; not since 1984. And, yes, to my friend from Ohio, we have added 1.7, not 1, 1.7 million jobs just in the last year. This means that the tax relief works. Keeping spending under control and allowing the economy to grow is the key. This bill does it, and I strongly urge that we do have a strong vote for this bill.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. OSE).

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

When I came to Congress, I came to Congress to lower taxes. I came to Congress to lower taxes because it benefits the Americans who pay taxes, and this bill goes a significant distance towards reinforcing that message.

But even if you are still inclined to vote against this bill, let me remind you that the tax rates we are setting as we deliberate on this legislation are minimums. In other words, it is a minimum rate.

Now, if you are uncomfortable with paying that minimum rate, I would encourage you to take your hard-earned cash and make a charitable contribution to the point where you are comfortable with your tax rate. And then you can turn around to your constituents as a role model and say, look what I did.

You have the opportunity, through the charitable provisions in the Tax Code, to pay as much as you wish to the United States Federal Government. We are trying to minimize it. That is what this debate is about.

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

Mr. Speaker, it is often said that talk is cheap. I do hope, as we close this debate, that people listen to what people have said, but, more importantly, watch what they do when they vote. It has been announced that the ranking member of the Committee on Ways and Means voted ''no'' in conference and plans to vote ''yes'' on the floor.

We have heard a number of people criticize this bill. I would suggest that you watch their vote. What they say does not necessarily reflect what they are going to do. One is rhetoric, the other is voting.

Please vote ''yes'' on the conference report.

Mr. BLUMENAUER. Mr. Speaker, the Republican leadership in this House continues to play games with the budget. This bill contains only short-term extensions of many important tax breaks because Congress refuses to face the long-term consequences of its actions. I support middle-income tax relief, but families will only be better off in the long-term if we act responsibly now.

The last 2 years have brought the largest budget deficits in our history and H.R. 1308 will add another $146 billion. New projections from the Congressional Budget Office show that the Bush administration's policies will lead to annual budget deficits in excess of $300 billion every year for the next 10 years. In other words, under the Bush administration, record deficits are here to stay.

We can do better for families and those in need by acting responsibly. Cutting taxes while at war is questionable at best. Tax cuts for the most privileged and comfortable while shortchanging education, healthcare, and our Nation's infrastructure is not responsible. Providing short-term extensions so the long-range cost of policies is hidden is not responsible. Continuing to put off a permanent fix of the Alternative Minimum Tax, which poses the most serious tax threat to middle-income families, is shameful. I oppose this legislation.

Mr. HOLT. Mr. Speaker, I rise today to express my concern about H.R. 1308. The bill before the House today extends many of the tax cuts and tax credits that have wide margins of bipartisan support here in Congress. This includes a 5-year extension of the existing $1,000 family tax credit, marriage penalty relief, and an increase in the size of the 10 percent bracket. This bill also would provide for a 1-year extension of the current Alternative Minimum Tax exemption for married couples. I support all of these credits and extensions for individuals.

There are other good provisions contained within this bill. For example, the bill extends the tax credit for electric vehicles, extends deductions for clean-fuel vehicles, and extends the Research and Development tax credit extension—which I strongly believe should be made. These targeted tax credits would help to make our air cleaner and help our nation's innovative industries achieve advances in both applied and basic research.

However, the total cost of all of this is $146 billion over 10 years and it is paid for with borrowed money. In other words it's money we do not have. What this means is that we are paying for this with money taken out of Social Security and Medicare Trust Fund.

It is disappointing that the Republican majority in this House is not willing to offset the cost of these broadly supported tax benefits. Failure to offset their cost now only means that we will borrow the money necessary and our children and grandchildren will pay for them later.

The Republican majority in this House seems capable only of passing tax reductions, not dealing with the consequences of its irresponsible fiscal policy. We could have paid for this conference report quite easily by taking back a portion of the recent tax reductions enjoyed by couples who earn more than $1 million per year—$500,000 for single individuals. Had we done that, we could have passed this tax cut and still given those at the top of the income ladder a tax cut.

Mr. Speaker, governing is about making choices. Our constituents all across America sent us to Congress to make the tough decisions. They did not send us here so we can pass those decisions on to our children, and they certainly did not send us here to pass the cost of our decisions on to our children.

Mr. Speaker, today the national debt is the largest in history. Americans now collectively owe more than $7 trillion. That is more than $25,000 for every man, woman, and child. Yet rather than paying down this debt and getting our fiscal house in order, this bill would add an additional $146 billion to the debt.

Americans cannot run their own household budgets like this, and Congress is letting them down by its failure to manage money responsibly.

The national debt is not just paper. That debt is owned by other countries. Due to the failed fiscal management of the majority, Americans currently owe about $4 trillion to foreign countries. We owe Japan $607 billion; China—including Hong Kong—$205 billion; the U.K. $137 billion; Taiwan, $50 billion; Germany, $45 billion; OPEC countries, $43 billion; Switzerland, $41 billion; Korea, $37 billion; Mexico, $32 billion; Luxembourg, $26 billion; Canada, $25 billion—the list goes on and on.

More tax cuts without offsets will not only jeopardize critical public services now, but they will also hurt Americans well into the future. Massive deficits crowd out investments in education, healthcare and homeland security. These deep deficits result in increased interest rates that make it expensive for all Americans to buy homes, pay back loans, and raise capital for small businesses.

I believe Chairman Greenspan's comments are appropriate: ''Our fiscal prospects are, in my judgment, a significant obstacle to long-term stability because the budget deficit is not readily subject to correction by market forces that stabilize other imbalances. The free lunch has still to be invented.'' Just this week, the Federal Reserve raised interest rates. This is proof positive that it already considers that deficit out of control.

Mr. Speaker, there has never been, and there never will be, a nation in the world that has been strong, free, and bankrupt. We need to restore fiscal sanity in our decision making process. We need to make the hard choices that our constituents sent us here to make. And most of all we need to protect the Social Security and Medicare Trust Fund, not spend them and send the check to future generations.

Ms. KILPATRICK. Mr. Speaker, I rise today in opposition to H.R. 1308. My opposition is based on principle and facts. The principle that is important to me is that the majority through this bill, will exacerbate an already enormous budget deficit by $150 billion. I am outraged and dismayed that once again, my Republican colleagues have opted to offer legislation under the guise that it will provide tax relief. In reality, this bill is really nothing more than corporate welfare.

According to recent reports, 82 of the country's largest corporations paid no Federal income taxes for at least 1 year of the Bush administration's first 3 years. In this bill, we are offering these same corporations with over $5 billion in corporate refunds.

This bill, when passed, will increase the tax burden for 4.3 million families whose combined income is less than $10,750. It will have a negative impact on 9.2 million poor children. In effect this bill either has limited positive impact or profound negative impact on low wage and military families.

At the end of the day, this bill will increase the Federal deficit by an additional $150 million on top of the current $423 billion deficit for FY 2005. H.R. 1308 will further burden my children and grandchildren with debt that they will be forced to pay for years to come.

I will vote no on this bill, and urge my colleagues to do likewise.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise in support of the Working Families Tax Relief Act. When President Bush signs it into law, we will have accomplished another round of tax cuts—this one worth $146 billion—with more than $130 billion directed to families.

Hard working American families will be able to spend or save this money based on their priorities rather than the U.S. Government spending it.

This new law will keep thousands of families from falling into the Alternative Minimum Tax system. The AMT exemption will remain at $58,000 for married couples for 1 more year. This modest AMT relief is scored at a whopping $23 billion to extend for just 1 more year.

This huge revenue effect, for just a 1-year ''hold harmless,'' is a good indication of the looming problem of the AMT. In 2008, the AMT is going to begin collecting more than the underlying income tax system. This means that in 2008 it will be cheaper for Congress to repeal the entire Tax Code than it will be to repeal the AMT.

We will either achieve fundamental tax reform during the 109th Congress or it will be done to us when AMT imposes its version of the ''flat tax reform'' at 28 percent on millions of American families. I look forward to this debate on fundamental tax reform.

I am also pleased that we are able to take care of one additional piece of legislative ''housekeeping'' by extending some very important expiring provisions. In particular, I am

glad that we are providing a seamless extension of the research and experiment tax credit and the tax rules regarding Archer Medical Saving Accounts.

It is important for American competitiveness, and particularly for my high-tech home State of Texas, that the research and experiment credit is extended. Foreign governments give generous outright subsidies to businesses for locating these high-valued-added jobs in their countries. We need to provide this modest tax break to businesses for them to remain competitive in global markets and to encourage them to keep these jobs here in America.

I urge my colleagues to support this important legislation.

Mr. GARRETT of New Jersey. Mr. Speaker, in an effort to obtain a first-hand perspective on the conditions is the newly liberated nation of Iraq, to visit with and pay tribute to our Nation's uniformed sons and daughters serving there and to share insight with officials of the newly established government, I will be leaving for Iraq tonight as part of a bipartisan congressional visit.

If I had been able to cast my vote, I would have been a proud supporter of the H.R. 1308 conference report, the All-American Tax Relief Act of 2003.

This bill will extend important tax provisions including the $1,000 per child tax credit, marriage tax relief, the expanded 10-percent income tax bracket and one year of additional relief from the alternative minimum tax (AMT).

I urge all my colleagues to support this legislation in order to prevent a tax increase on hard-working American families.

Mr. CRANE. Mr. Speaker, I rise today to give my support for H.R. 1308, the Working Families Tax Relief Act of 2004. As a member of the Ways and Means Committee, it has been my privilege to work on the development of this legislation, and I look forward to its passage today.

Mr. Speaker, if we do not pass this legislation, hard-working families will have to face tax increases over the next 10 years, totaling $109 billion. If we do not pass H.R. 1308, it will most certainly harm the economic recovery we are now enjoying in this Nation.

H.R. 1308 will further eliminate the marriage penalty for American families. Before tax relief was implemented in 2001 and 2003, the marriage penalty tax was a burden to millions of Americans being taxed more than other citizens simply because they were married.

Under our legislation, the $1,000 child tax credit rate will also be extended. If this legislation is not passed, working families will have to pay $300 more per child in taxes than they did in 2003 and 2004. Without our legislation, military families will suffer as the per-child credit for military families will be increased by allowing these families to include tax-free combat pay when calculating their refundable child credit.

President Bush's 2001 and 2003 tax relief bills also increased the Alternative Minimum Tax, AMT, exemption amounts from $45,000 to $58,000 for married couples and from $33,750 to $40,250 for single men and women. These increases ensure that the AMT does not hit middle-income families as a result of the tax relief provided in the 2001 and 2003 tax reduction laws. However, if we do not act now this relief will expire at the end of this year.

Mr. Speaker, it is important to remember that it is private citizens, not the Federal Government, that create this Nation's wealth and pay this Nation's taxes. If we do not act on this legislation, millions of America's middle-class taxpayers will suffer as a result. That is unconscionable, therefore I urge my colleagues to support this legislation.

Mr. OSBORNE. Mr. Speaker, I have supported several tax reducing measures since coming to Congress, including the Economic Growth and Tax Relief Reconciliation Act of 2001 and Jobs and Growth Tax Relief Act of 2003. These two bills, along with a number of other measures, decreased the marriage penalty, increased the child tax credit, and delivered immediate relief to all taxpayers. Without H.R. 1308, the tax burden on a family of four earning $40,000 would increase by $915 in 2005. This legislation ensures that families will continue to enjoy the tax relief passed in 2001 and 2003 for years to come.

Unfortunately, I was not able to vote on the conference report for H.R. 1308, the All-American Tax Relief Act. Along with a number of my colleagues, I had previously scheduled a congressional delegation trip to the Middle East and Iraq. If I could have voted on H.R. 1308, I would have voted "yea." However, I felt confident that my colleagues in the House share my support for extending these family-friendly provisions, preventing a tax increase of $109 billion on America's families.

Ms. HERSETH. Mr. Speaker, later today, the House will consider H.R. 1308, the Tax Relief, Simplification, and Equity Act. As you know, H.R. 1308 extends the child tax credit, provides relief from the marriage penalty and expands the 10-percent bracket for many families in South Dakota. Importantly, it also extends recent changes in the Alternative Minimum Tax. I also support provisions such as the extension of the research and development tax credit and the welfare-to-work and work opportunity tax credit.

I am leaving today with a number of my colleagues on a delegation trip to Iraq. We have attempted to schedule this trip in a way that minimizes the activity in the House that we will miss. As you know, however, getting to and from Iraq is not easy, and, unfortunately, it appears that I will miss this vote today. I want the RECORD to be clear that I support H.R. 1308, I would have voted for the bill, and I urge my colleagues to do the same.

As I prepare to meet with our Nation's soldiers serving in the region, it is important to note that H.R. 1308 also extends for 5 years the fix for military families for the Child Tax Credit, and a 2-year fix for families of soldiers earning combat pay, regarding the Earned Income Tax Credit. Our men and women in uniform are risking their lives under our country's flag. And it is fitting that we can provide this assistance to them. These fixes make passage of H.R. 1308 even more important, and again, I urge my colleagues to pass this important piece of legislation.

Mr. GREEN of Texas. Mr. Speaker, I rise in support of this bill because of the tax relief that it provides our middle class and the incentives it provides for additional research and development.

Without hesitation, I support marriage penalty relief, the expansion of the 10-percent bracket and the extension of the AMT exemption.

I also am pleased that the conference approved extensions of the work opportunity tax credit and the welfare-to-work tax credit.

If I had my druthers, those tax credits would be permanent, but I will certainly support their extension.

While I wholeheartedly support the middle-class tax relief in this particular bill, I cannot cast my vote without also speaking out against the lopsided tax cuts that this Congress has enacted.

What convenient timing for this Congress to finally consider tax cuts for the wage earners right before the people are heading to the polls.

Any other time of the year, however, this Congress seems to be focused on giving tax relief not to the middle class, but to the corporations that seem to be doing just fine at avoiding their tax liabilities.

In fact, of the 275 largest companies that were profitable in the last 3 years, 82 of them paid no income tax during at least 1 of those years.

That's no income tax on a total of $102 billion in profits.

Not only did these companies avoid their tax liability, they siphoned even more resources from the Treasury—in the form of $12.6 billion in tax rebates.

In total, these companies benefited from $175 billion in tax breaks over the past 3 years.

Make no mistake about it, I'm glad we're giving the middle class the tax relief they need.

I just wish they didn't have to wait in line while this Congress gave away the farm to the corporations.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

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

RECORDED VOTE

Mr. STARK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 339, noes 65, not voting 30, as follows:

[Roll No. 472]

AYES—339

| | | |
|---|---|---|
| Abercrombie | Bonilla | Castle |
| Ackerman | Bono | Chabot |
| Aderholt | Boozman | Chandler |
| Akin | Boswell | Chocola |
| Alexander | Boucher | Clyburn |
| Allen | Boyd | Coble |
| Baca | Bradley (NH) | Cole |
| Bachus | Brady (TX) | Costello |
| Baird | Brown (OH) | Cox |
| Baker | Brown (SC) | Cramer |
| Baldwin | Brown-Waite, Ginny | Crane |
| Ballenger | Burgess | Crenshaw |
| Barrett (SC) | Burns | Crowley |
| Bartlett (MD) | Burr | Cubin |
| Barton (TX) | Burton (IN) | Culberson |
| Bass | Butterfield | Cummings |
| Beauprez | Buyer | Cunningham |
| Bell | Calvert | Davis (AL) |
| Berkley | Camp | Davis (CA) |
| Berman | Cantor | Davis (FL) |
| Biggert | Capito | Davis (TN) |
| Bilirakis | Cardin | Davis, Jo Ann |
| Bishop (NY) | Cardoza | Davis, Tom |
| Bishop (UT) | Carson (IN) | DeFazio |
| Blackburn | Carson (OK) | DeLay |
| Blunt | Carter | DeMint |
| Boehlert | Case | Deutsch |
| Boehner | | Diaz-Balart, L. |

Diaz-Balart, M.
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (OK)
Lynch
Majette
Manzullo
Marshall
Matheson
Matsui
McCarthy (NY)
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Nadler
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nussle
Ortiz
Ose
Otter
Oxley
Pascrell
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tauscher
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Walden (OR)
Walsh
Wamp
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—65

Andrews
Becerra
Berry
Blumenauer
Brady (PA)
Brown, Corrine
Capps
Capuano
Clay
Conyers
Cooper
Davis (IL)
DeGette
DeLauro
Dicks
Doyle
Emanuel
Frank (MA)
Gutierrez
Harman
Hastings (FL)
Hill
Holt
Hoyer
Inslee
Jackson (IL)
Kanjorski
Kilpatrick
Larsen (WA)
Larson (CT)
Lee
Lewis (GA)
Markey
McCollum
McDermott
Meehan
Menendez
Millender-McDonald
Miller, George
Mollohan
Murtha
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Rush
Sabo
Schakowsky
Scott (VA)
Stark
Tanner
Taylor (MS)
Thompson (CA)
Tierney
Towns
Visclosky
Waters
Watson
Waxman
Woolsey

NOT VOTING—30

Bishop (GA)
Bonner
Cannon
Collins
Deal (GA)
Delahunt
Doggett
Fattah
Garrett (NJ)
Goss
Graves
Green (TX)
Herseth
Istook
Kleczka
Lipinski
Lucas (KY)
Maloney
McCarthy (MO)
Miller (FL)
Myrick
Nunes
Osborne
Quinn
Rodriguez
Smith (WA)
Tauzin
Thompson (MS)
Udall (CO)
Vitter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1929

Mr. TOWNS changed his vote from ''aye'' to ''no.''

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. MCCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 472, H.R. 1308, Extension of Tax Cuts Conference Report, Final Passage, I was unavoidably detained. Had I been present, I would have voted ''aye.''

Mrs. MALONEY. Mr. Speaker, on rollcall No. 472, I was unavoidably detained. Had I been present, I would have voted ''aye.''

Mr. ISTOOK. Mr. Speaker, I was unavoidably absent from voting on the Conference Report on H.R. 1308, the All-American Tax Relief Act of 2003. This bill represents important tax savings to our hard working American citizens. Had I been present, I would have voted ''aye'' on this bill.

## GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the conference report just passed.

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

There was no objection.

## LEGISLATIVE PROGRAM

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

Mr. HOYER. Mr. Speaker, I rise to inquire of the majority leader the schedule for the coming week.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, next week the House will convene on Tuesday at 12:30 p.m. for morning hour debates and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to the Members' offices by the end of this week.

□ 1930

Any votes on these measures will be rolled until 6:30 p.m.

On Wednesday and the balance of the week, we expect to consider additional legislation under suspension of the rules. Next week we also expect to consider two bills under a rule: H.R. 3193, the District of Columbia Personal Protection Act; and H.J. Res. 106, the Marriage Protection Amendment.

I thank the gentleman for yielding to me. I would be glad to answer any questions he may have.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his response.

The gentleman has cited the marriage constitutional amendment. Mr. Speaker, this bill, as I understand it, has not been marked up in committee at this point in time. Is it the gentleman's expectation that this will come to the floor, the constitutional amendment, without being marked up in the committee?

I yield to the gentleman.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding to me.

The committee has held four hearings on this bill, and I do anticipate bringing it to the floor without being marked up by the committee, under a rule.

Mr. HOYER. I am sorry? He does expect it to be brought to the floor without being marked up, but under a rule?

Mr. DELAY. That is correct, Mr. Speaker.

Mr. HOYER. Mr. Speaker, I have not spoken to the gentleman from Michigan (Mr. CONYERS) about that, but obviously, because it is a constitutional amendment, I understand there have been four hearings. Presumably those four hearings were an attempt to elicit some information about the merits of the constitutional amendment and any changes that may or may not be necessary, which could obviously be perfected by an amendment in the committee.

Does he expect any amendments to be considered in the Committee on Rules?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding to me.

I do not want to prejudice the action of the Committee on Rules, and I have no idea and I am not advised as to what considerations the Committee on Rules may or may not do as far as amendments are concerned.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his answer.

Next Friday is the beginning of the new fiscal year, as the majority leader knows; and we only passed, as he knows, one fiscal year 2005 appropriation which has been signed by the President, and that, of course, is the Defense bill. Assuming we will have a CR, can the leader give us an idea for what time period that CR may be?

I further yield to the gentleman.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding to me.

There are ongoing discussions. There will be more discussions about that. Our tentative plan is to move a short-term continuing resolution that would fund government programs through October 8. This would give us an additional week to complete appropriations conference reports before we make decisions about how to best complete all the fiscal 2005 bills.

Appropriations, both in the House and the Senate, are having many discussions. Generally, both Democrats and Republicans are wishing to get the appropriations process done before we leave for the elections. How we do that is speculative; and, frankly, the date of the CR is speculative. It could be October 8. It could be October 15. It could be November 20. All of this is tied together with the understanding that we are trying to get the appropriations bills all finalized and done before we leave here for the elections.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that range of possibilities.

Does the gentleman anticipate having another supplemental appropriation before we either adjourn or recess for the election?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding to me.

Within the last 2 weeks, the White House has submitted a request for emergency supplemental funds to deal with the damage caused by Hurricane Frances. The gentleman from Florida (Chairman YOUNG) advises me that a revised request is on its way from the White House to account for Hurricane Ivan. Once we receive that request and complete assessing those needs, it is possible to move forward with a supplemental. Whether that be freestanding or included in some omnibus bill, I think, is too early to tell.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his answer.

Another piece of business that has not been completed but is in the works or at least pending is the transportation reauthorization. Can the leader tell me whether or not there is an expectation of passing that bill or a relatively short-term extension prior to our leaving on whatever date we may leave?

I yield to the gentleman.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding to me.

I will start by saying the House has not given up. We want to get this bill done. We have been working to get it done, and we hope to have a conference report for the Members before we adjourn. In the interim, we may have another short-term extension of the highway programs, and hopefully we will have a decision by the first of next week. In order to get the full 6-year highway bill done, I think a decision will have to be made by the first of next week as to how we would proceed.

Mr. HOYER. Mr. Speaker, I thank the gentleman. The gentleman had to leave early. I think he had a plane to catch. And the gentleman from Missouri (Mr. BLUNT) and I had a colloquy on this. I will inform the leader that I think I am safe in speaking for my side of the aisle with reference to the transportation reauthorization. We believe, and I am sure the gentleman shares the view, that this is a very important piece of legislation to pass. We would have hoped it would have passed by last September when the authorization expired. This is a bill, as the gentleman knows, that for every billion dollars we spend, we get 42,000 American jobs.

My observation, Mr. Speaker, is that I believe on our side of the aisle we would support the number that passed, as we overwhelmingly did. We would vote for a compromise between what the House passed and what the Senate passed, or we would support the Senate-passed number. So I tell my friend that for his planning's sake, I believe my side of the aisle will support anything at the level that we passed at a compromise between the two or at the Senate-passed level. We would hope this bill would move, and we want to be cooperative in accomplishing that objective.

Mr. DELAY. Mr. Speaker, if the gentleman would further yield, I totally agree with the gentleman. And as his side has been part of the negotiations and the other body has been in intense negotiations, I think the gentleman knows that a number has been agreed on by at least the principles, Democrat and Republican; and I do not want to cast aspersions on anyone, but the trouble with the bill is not in this House. The trouble with the bill is over in the other body, and they are going to have to come to some sort of understanding amongst themselves in order to get this bill.

Mr. HOYER. Mr. Speaker, reclaiming my time, I would partially agree with my friend, the leader, which is better than most times. I would partially agree that the problem is not in this House; but it is my observation that the problem is in another house, not the other side of the aisle.

Mr. DELAY. Mr. Speaker, is there a particular color of that house?

Mr. HOYER. White would be the color of the house. And I say that somewhat facetiously; but, frankly, as I said to the gentleman from Missouri (Mr. BLUNT), I think this independent branch of government pretty much has a consensus on what we ought to do. We ought to do it, and if the other branch of government disagrees with us, under our system, he can send it back, and we will deal with it as we will deal with it. But we have been holding it, frankly, from our observation, Mr. Speaker, for a long period of time, not based upon real subsequent disagreements between the two Houses, we could accommodate those, but between the disagreement between this branch and the other branch; and we think that is unfortunate.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I just have to slightly disagree with the gentleman in that the house that is colored white, I cannot say they have agreed to the number of the bill, but I do know that they played a significant part in holding down the spending on the bill and particularly spending that would add to the deficit. And I must say, without getting into a lot of detail, that has been set aside. The other body is just having problems coming to some agreement amongst themselves. We are ready to move on our side. I serve on the conference committee. We are ready to move in the House. Unfortunately, the other body is not ready.

Mr. HOYER. Mr. Speaker, reclaiming my time, and I appreciate the information, of course I do not have the specifics on what the house colored white agreed to in terms of a number; but I might inquire, is that number that they are keeping down the deficit more or less than the deficit we would add by the tax bill we passed just minutes ago?

Mr. DELAY. Mr. Speaker, if the gentleman would further yield, actually it would be much less because, as we all know and history has proven, as we give tax relief and tax cuts, revenues go up as a result of those tax cuts. So our tax cuts are more than covered by revenues that are gained.

Mr. HOYER. Mr. Speaker, reclaiming my time, that is what happened in 2001?

Mr. DELAY. Yes, it certainly did. If the gentleman would further yield, it happened in 1981, it happened in 1986, it happened in 2001, it happened in 1997, it happened over the last 3 years.

Mr. HOYER. It even happened after 1993, as I recall. The gentleman did not mention that. It happened in 1994 or, that is to say, after 1993.

Mr. DELAY. Mr. Speaker, if the gentleman would yield, I do not remember too many tax cuts in 1993. I remember a lot of tax increases, without Republican votes.

Mr. HOYER. But, Mr. Speaker, revenue went up after they occurred, and we balanced the budget 4 years in a row.

Mr. Speaker, reclaiming my time, on the intelligence legislation, obviously there has been a lot of discussion about that. We have been very concerned

about passing that legislation in a bipartisan fashion. The 9/11 Commission report has now been on our desks for many weeks now.

Can the leader inform us of where that legislation currently stands?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding to me. The committees have been working, and many committees have been working in a bipartisan way. I think a bill will be introduced in the next day or two, possibly tomorrow; and the committees have been instructed to mark up that bill, and I think that bill covers 12 different committees. Next week, and we hope to have the final product ready to come to the floor either by the end of next week or the following.

Mr. HOYER. Mr. Speaker, I thank the gentleman for the information.

I have not talked to the gentlewoman from California (Ms. HARMAN) or the gentleman from Missouri (Mr. SKELTON), and I see the gentleman from California (Mr. HUNTER) is on the floor, about the substance of the proposal; but I will certainly discuss it with them. I hope they have been included in these deliberations of a bill that may be introduced because if they have, I think it would make it easier for us to get it passed in a bipartisan fashion in a very efficient and speedy way.

Mr. Speaker, I have no further inquiries as to the schedule, and I appreciate the leader's engaging in somewhat the colloquy about the transportation bill, which we feel very keenly about. I hope that we can speed that bill as quickly as possible. I thank the leader for his comments.

## HOUR OF MEETING ON FRIDAY, SEPTEMBER 24, 2004, AND ADJOURNMENT FROM FRIDAY, SEPTEMBER 24, 2004, TO TUESDAY, SEPTEMBER 28, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. tomorrow; and, further, that when the House adjourns on that day, it adjourn to meet at 12:30 on Tuesday, September 28, 2004, for morning hour debates.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

## ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. DELAY. Mr. Speaker, I offer a resolution (H. Res. 795) and I ask unanimous consent for its immediate consideration in the House.

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

The Clerk read as follows:

H. RES. 785

*Resolved*, That the following Members be and are hereby elected to the following standing committees of the House of Representatives:

Committee on Financial Services: Mr. Gerlach.

Committee on Government Reform: Mr. Burgess.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1501

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1501.

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

There was no objection.

## RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore laid before the House the following resignation from the House of Representatives:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, September 23, 2004.*

Hon. J. DENNIS HASTERT,
*Speaker of the House,*
*House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: I have had the great privilege and honor of representing the people of the 14th Congressional District of Florida through eight elections. My service in the U.S. Congress has been a truly rewarding experience, and I thank my constituents for putting their trust and faith in me. The relationships I have developed over the years in the House will be ones I will treasure as I move to a new stage in my career.

Tomorrow I will be sworn in by the President of the United States as Director of Central Intelligence. It will definitely be a challenging job and I look forward to continue to working with you on the Intelligence issues facing our country.

Effective close of business today, September 23, 2004, I will resign my seat as the Representative of the 14th district of Florida in the U.S. House of Representatives. I have written to the Governor of Florida to advise him of my decision.

Kindest regards,

PORTER GOSS,
*Member of Congress.*

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, September 23, 2004.*

Hon. JEB BUSH,
*Governor, State of Florida,*
*The Capitol, Tallahassee, FL.*

DEAR GOVERNOR: I have had the great privilege and honor of representing the people of the 14th Congressional District of Florida through eight elections. My service in the U.S. Congress has been a truly rewarding experience, and I thank my constituents for putting their trust and faith in me. The relationships I have developed over the years serving Florida will be ones I will treasure as I move to a new stage in my career.

Tomorrow I will be sworn in by the President of the United States as Director of Central Intelligence. It will definitely be a challenge and I am truly honored the President has faith in me to do the job.

Please accept this letter as my resignation from the office of Representative of the 14th District of Florida to be effective close of business today, September 23, 2004. At the time of my resignation, the Clerk of the House will take over the offices of the 14th Congressional District. The Clerk will retain my staff so the constituents will continue to be served until the end of my term.

Kindest regards,

PORTER GOSS,
*Member of Congress.*

□ 1945

## APPOINT HOUSE DEFENSE CONFEREES

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

Mr. SKELTON. Mr. Speaker, I have a concern, it is a deep concern, dealing with the conference between the House and the Senate on the defense bill. You see, immediately upon passage of the bill in the Senate, the conferees were appointed. We passed our bill here in the House a good number of months ago, and, as of yet, we have had no official conferees appointed to meet with the Senate.

Despite that, we are holding informal panel discussions with the Senate trying to resolve a number of issues, but it would certainly help for us to be legal and have the conferees appointed so we can stand in the shoes of the House of Representatives properly.

I have had no explanation from anyone regarding this. It is something I do not understand, and I am not by myself. Others do not understand it.

I would like very much for the appointment of the conferees to come just as quick as possible, so we can officially act and officially make decisions on behalf of the House regarding national security.

## STICKING IT TO WORKING FAMILIES

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the columnist Tom Oliphant wrote yesterday in the Boston Globe a column entitled

''Sticking It to Working Families,'' which is exactly what the All American Tax Relief Act, which was just past in this House, has done.

Why do I say that? That is because what both the White House and the Republican House leadership refused to do was to reduce the income threshold for the child tax credit to $10,000. That level has gone up to $11,000. It means that people who are making $10,000 a year will no longer be eligible for a child tax credit. That is 4.3 million families. It is 9 million children who will be denied the child tax credit. These are working families.

The House Republican leadership has said this is a welfare program. That is the kind of disdain that they show for working families.

What is going to happen to these families is their taxes, yes, are going to increase, all under the guise of an All American Tax Relief Act. It is wrong. These families, these children, deserve better. That is what this House should be about.

## HELPING AMERICAN FAMILIES

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, the Democrats' Partnership for a New America is a lot about helping American families. There is no better way to help working American families than to support them as they struggle to balance work and family life, because workers need help addressing how to be both a good parent and a good employee, how to give their family the time they need without compromising their job or their career.

The Partnership with America will improve the lives of working families by encouraging debate on legislation like the Balancing Act. This Balancing Act will provide paid family leave for new parents, improve the quality and availability of child care, in-school nutrition programs, after school assistance, fund voluntary universal preschool and assist employers in establishing a family-friendly workplace.

I urge my colleagues to join me in addressing the needs of all families, thus having a true partnership with Americans.

## NEED TO WORK IN A BIPARTISAN MANNER

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, what a better day it would be if we could work in a bipartisan manner. We just debated a tax bill that could have been made much better for our constituents across this Nation.

I believe in giving some relief to middle-class and working Americans, and in fact, included in this tax bill was the child tax credit, but, more importantly, to extend and to help with poor children in terms of the refundability of a child credit that so many working families need.

This is an ugly bill from the perspective of increasing tax relief for those who do not need it, but I could not overlook the importance of helping our military families and particularly those men and women in combat to get the kind of relief on their earned income tax. We do it only for 2 years, unfortunately. The Democrats, we wanted more, 5 years.

But it is a start. Today we did not make tax cuts permanent. I hope we will not see another tax bill that does not treat working men and women more fair and the middle-class more fair and responds to the economic needs of this country. I do think, however, we needed more dollars for research, and this does so.

But it is ugly when we do not work together. This is an ugly tax bill, but it gives some relief to middle-class Americans.

## SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SIMPSON). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

(Mr. SCHIFF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## SMART SECURITY AND ENERGY AND WATER APPROPRIATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, in June of this year, the Committee on Appropriations Subcommittee on Energy and Water bravely stood up to the Bush White House by reducing, or flat out rejecting all of the administration's requests for nuclear weapons funding in its fiscal year 2005 appropriations bill. This subcommittee's move, under the sensible leadership of the gentleman from Ohio (Mr. HOBSON) is one of the only bipartisan instances of Members of Congress standing up to the heavy-handed Bush administration since this President took office in January of 2001.

The Subcommittee on Energy and Water wisely rejected White House requests of nearly $70 million for research and development of new nuclear weapons. Specifically, the White House requested $28 million for research on the Robust Nuclear Earth Penetrator, otherwise known as the Bunker Buster; $30 million for planning a modern pit facility to produce new plutonium triggers; and $9 million for a new nuclear weapons initiative.

Moreover, the new energy and water appropriations bill in its current form would reduce the administration's request for the Cruise Missile warhead by $40 million and limit funds for all nuclear stockpile activities. In total, the subcommittee's changes would save American taxpayers over $150 million.

The gentleman from Ohio (Chairman HOBSON) said the Bush administration's requests, quoting the chairman here, ''were technically questionable and frankly unnecessarily provocative in the international arena.'' He went on to say, ''They also cost a bunch of money.'' ''Unnecessarily provocative'' are the key words here.

Despite the unnecessarily provocative nature of these requests for new nuclear weapons, the Bush administration is trying to force the funding through anyway.

Defense Secretary Donald Rumsfeld and Energy Secretary Spencer Abraham outlined their concerns about the lack of funding for new nuclear weapons in a recent letter to the Republican House leadership in an attempt to dismiss entirely the tried and true appropriations process. Of course, they did not send this letter to the gentleman from Ohio (Chairman HOBSON) or his counterpart, Senator PETE DOMENICI, unless the letters got lost in the mail. To me, it seems like the Bush administration is up to its usual tricks.

Mr. Speaker, this White House has demonstrated nothing but callous disregard for the Congress and the congressional process. President Bush and his cohorts have given no pause when it comes to freezing out anyone who will not toe the line on their fiscally unsound, budget-busting spending plans.

When it comes to nuclear weapons in particular, President Bush just does not get it. Instead of investing in programs that will truly secure America, like nonproliferation initiatives and vigorous inspection regimes whenever possible, President Bush has spent America's money on more and bigger weapons, in an attempt, I believe, to be tough and also to avoid working with other nations.

Sometimes it seems like the Oval Office is run by a third grade bully. How many nuclear weapons can the United States possibly need? We already possess 9,000 strategic warheads. Do we really need to spend another $150 million to develop new weapons systems?

Mr. Speaker, there has to be a better way, because investing in new nuclear weapons does not prevent America from being attacked. In fact, it encourages a nuclear attack, because such investments incite our enemies and encourage other nations, like Iran, to develop nuclear weapons of their own.

That is why I have introduced H. Con. Res. 392, a Smart Security Platform For America's future. SMART

stands for Sensible Multilateral American Response to Terrorism. Instead of a renewed buildup of nuclear weapons, SMART security calls for aggressive diplomacy, a commitment to nuclear nonproliferation, strong regional security arrangements and inspection regimes. Being smart about national security requires the United States to set an example for young democracies so that they can follow.

The U.S. must renounce first use of nuclear weapons and the development of new nuclear weapons. The Bush doctrine of arrogant nuclear proliferation has been tried and it has failed. Instead of engaging in a nuclear arms race for the 21st century, the United States must engage in a SMART security strategy for the 21st century.

The SPEAKER pro tempore (Mr. MCCOTTER). Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

(Mr. MORAN of Kansas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## THE CONSTITUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, the U.S. Constitution is the most unique and best contract ever drawn up between a people and their government throughout history. Though flawed from the beginning, because all men are flawed, it nevertheless has served us well and set an example for the entire world.

Yet no matter how hard the authors tried, the inevitable corrupting influence of power was not thwarted by the Constitution. The notion of separate States and local governments championed by the followers of Jefferson was challenged by the Hamiltonians almost immediately following ratification of the Constitution.

Early on the supporters of strong centralized government promoted central banking, easy credit, protectionism, mercantilism and subsidies for corporate interests.

Although the 19th century generally was kind to the intent of the constitution, namely limiting government power, a major setback occurred with the Civil War and the severe undermining of the principle of sovereign States.

□ 2000

The Civil War will finally change the balance of power in our federalist system, paving the way for centralized big government.

Although the basic principle underlying the constitutional republic we were given was compromised in the post Civil War period, it was not until the 20th century that steady and significant erosion of the Constitution restraints placed on the central government occurred. This erosion adversely affected not only economic and civil liberties but foreign affairs as well.

We now have persistent abuse of the Constitution by the executive, legislative and the judicial branches. Our legislative leaders in Washington demonstrate little concern for the rule of law, liberty and our republican form of government.

Today, the pragmatism of the politicians, as they spend more than $2 trillion annually, create legislative chaos. The vultures consume the carcass of liberty without remorse. On the contrary, we hear politicians brag incessantly about their ability to deliver benefits to their district, thus qualifying themselves for automatic reelection.

The real purpose of the Constitution was the preservation of liberty, but our government ignores this while spending endlessly, taxing and regulating. The complacent electorate who are led to believe their interests and needs are best served by a huge bureaucratic welfare state convince themselves that enormous Federal deficits and destructive inflation can be dealt with on another day.

The answer to the dilemma of unconstitutional government and runaway spending is simple: restore a burning conviction in the hearts and minds of the people that freedom works and government largesse is a fraud. When the people once again regain their confidence in the benefits of liberty and demand it from their elected leaders, Congress will act appropriately.

The response of honorable men and women who represent us should be simply to take their oaths of office seriously, vote accordingly and return our Nation to its proper republican origins. The result would be economic prosperity, greater personal liberty, honest money, abolition of the Internal Revenue Service and a world made more peaceful when we abandon the futile policy of building and policing an American empire. No longer would we yield our sovereignty to international organizations that act outside of the restraints placed on the government by the Constitution.

The Constitution and those who have sworn to uphold it are not perfect, and it is understandable that abuse occurs, but it should not be acceptable. Without meticulous adherence to the principle of the rule of law, minor infractions become commonplace, and the Constitution loses all meaning. Unfortunately, that is where we are today.

The nonsense that the Constitution is a living, flexible document taught as gospel in most public schools must be challenged. The Founders were astute enough to recognize the Constitution was not perfect and wisely permitted amendments to the document, but they correctly made the process tedious and difficult. Without a renewed love for liberty and confidence in its results, it would be difficult, if not impossible, to restore once again the rule of law under the Constitution.

I have heard throughout my life how each upcoming election is the most important election ever and how the very future of our country is at stake. Those fears have always been grossly overstated. The real question is not who will achieve the next partisan victory; the real question is whether or not we will once again accept the clear restraints placed in the power of the national government by the Constitution. Obviously, the jury is still out on this issue. However, what we choose to do about this constitutional crisis is the most important ''election'' of our times, and the results will determine the kind of society our children will inherit. I believe it is worthwhile for all of us to tirelessly pursue the preservation of the elegant constitution with which we have been so blessed.

The SPEAKER pro tempore (Mr. MCCOTTER). Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## ORDER OF BUSINESS

Mr. MILLER of North Carolina. Mr. Speaker, I ask unanimous consent to take my special order at this time.

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

There was no objection.

## PATENTS AND NANOTECHNOLOGY

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from North Carolina (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of North Carolina. Mr. Speaker, the current political debate on the economy is usually over the most recent economic statistics, but our economic future depends upon our remaining the most innovative economy in the world. The policies of this current administration and of this Congress are cheating Americans of our economic future, of the economic future that we deserve.

I rise tonight to speak specifically about the need for adequate funding for the United States Patent and Trademark Office and about the need to help get nanotechnology from the lab to the market.

Patents and trademarks are critical to the promotion and development of the American economy. In an increasingly competitive global market, it is essential that the administration and we in Congress do everything we can to maintain America's role as the leader in the creation of innovative technologies and of new products.

Innovation and competitiveness depend upon the effectiveness and efficiency of the United States Patent and

Trademark Office, the USPTO. Our biotechnology, electronic, pharmaceutical and nanotechnology industries rely on the United States patent system. But because of record innovation and growth beginning in the 1990s, the USPTO is overburdened to the breaking point.

The Under Secretary of Commerce For Intellectual Property, Jon Dudas, testified that the USPTO may be facing the greatest workload and operational crisis in more than 200 years; in other words, in the USPTO's history. The backlog is now 475,000 patent applications. By comparison, the backlog in 1981 was 190,000 applications. By 2008, the backlog is expected to grow to more than 1 million applications. That is 1 million ideas, 1 million innovations, 1 million potential money makers and job creators that will sit on the shelf until patent examiners clear the backlog of cases in front of it and consider that application. Once an application reaches its way to the front of the line, the time a patent application takes to be approved is also increasing dramatically, from 22 months in 1981 to more than 3 years for many of our critical technologies. By 2008, the average pendency is expected to grow to 6 to 8 years.

The House has already passed a bill that would alleviate the backlog. H.R. 1561 would raise patent fees and allow the USPTO to use the revenues to reduce the backlog and patent pendency delays.

I urge my colleagues in this House, as well as the members of the Senate and the administration, to meet the needs of an innovative economy by allowing the USPTO to collect the increased patent fees, to improve their work.

Mr. Speaker, our most innovative technologies, our research intensive technologies, the very folks who will be paying the increased fees, are desperate to pay those fees and to improve the effectiveness of the USPTO in processing patent applications. The status quo is just unacceptable. We must have an efficient, cost effective patent and trademark system to remain the leader in today's global economy.

Mr. Speaker, as to the next nanotechnology industry, the administration's preference for partisan dogma over investment guarantees that most of the nanotechnology industry will develop in other countries, regardless of how much we spend here in the United States on research. The administration did support H.R. 766 which authorized funding for more nanotechnology research and development, but every amendment to that bill that would have increased the competence by our industry in nanotechnology-related manufacturing jobs was defeated in the Committee on Science along party lines. My colleague, the gentleman from California (Mr. HONDA), offered an amendment that would have authorized money specifically to enhance the advanced technology program efforts in nanotechnology. Again, that amendment was defeated on a party line vote.

The ATP, the Advanced Technology Program, is the only source of patient capital for many high-tech, small companies in areas like nanotechnology, and there is usually nowhere else to turn in the United States for a company that is 3 to 5 years from the market and 2 to 4 years from interesting venture capitalists in their ideas. To the administration, though, the ATP is just a corporate welfare program that should be abolished.

Mr. Speaker, highly-skilled, well-paid jobs are going to exist in the nanotechnology industry whether or not we support those companies, that is true, but they are not going to exist here.

Mr. Speaker, the triumph of dogma over practicality and over our economic future is unacceptable.

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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## EXCHANGE OF SPECIAL ORDER TIME

Mr. MCCOTTER. Mr. Speaker, I rise to claim the time of the gentleman from Indiana (Mr. BURTON).

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

There was no objection.

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## ACCEPTING THE TRUTH OF INTERNATIONAL ALLIANCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. MCCOTTER) is recognized for 5 minutes.

Mr. MCCOTTER. Mr. Speaker, the basis of international alliances rests not upon ephemeral, nebulous sentimentality, but upon concrete national interests. To willfully ignore this truth and instead wallow in the wistful mists of melancholy and nostalgia is injurious for a nation at peace and lethal to a nation at war. To prove the point, I cite the Democratic presidential nominee's recent New York speech in which he said, ''In the dark days of the Cuban Missile Crisis, President Kennedy sent former Secretary of State Dean Acheson to Europe to build support. Acheson explained the situation to the French President de Gaulle, and then he offered to show him highly classified satellite photos as proof. De Gaulle waved the photos away saying, the word of the President of the United States is good enough for me.

It is a fine story, but what proves the point about changes in world circumstance I think is a story from 1966 about the Johnson administration's experience.

In 1966, upon being told that President Charles de Gaulle had taken France out of NATO and that all U.S. troops must be evacuated off of French soil, President Johnson mentioned to Secretary of State Dean Rusk that he should ask de Gaulle a rather pointed question. Dean implied in his answer that de Gaulle really should not be asked that in a meeting, but LBJ, a Texan, insisted.

During his meeting with de Gaulle, the Secretary of State did ask if his order to remove all U.S. troops from French soil also included the 60,000-plus soldiers buried in France from World War I to World War II. President de Gaulle did not respond.

Mr. Speaker, September 11 was a defining moment in the life of our country and, indeed, all the world. In such perilous times we must accept the hard truth of international alliances. While we regret the state of our erstwhile alliances, we must always strive to honor and expand the valorous new alliances that we have forged that are fighting for freedom throughout the world.

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## NATION HEADED IN WRONG DIRECTION FOR JOBS AND ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, our Nation is headed in the wrong direction on jobs and our economy. And one-party control in the White House, in the Congress, in the House and in the other body, the Senate, has made for a plundering of our national wealth. We have not seen the type of actions that have been going on in this Capital since the time of the 1920s in the last century: extravagant borrowing, historic debt levels, a rising gap between the rich and the poor and a sluggish job market, real softness, even with the new term being invented, ''jobless recovery.''

Now, the President says that the reason this is happening is because we are at war. Well, Mr. Speaker, this is the first administration since the time of Roosevelt that has not been able to create jobs during war. In fact, if you look, after World War II, we have had job creation by every U.S. President, Democrat or Republican, until now. War always leads to job creation, but not under this President, because the fundamental economic policies are all out of whack.

This week, in the business pages of the New York Times, the chief of the International Monetary Fund talked about the hazards to the international economy as well as to the U.S. economy because of our budget and fiscal policies. He says that the United States is going to have to tackle its growing indebtedness to avoid a threat to the entire world economy. He says that our deficit remaining well over 4 percent of gross domestic product for years to come is a risk not just for the

United States but, indeed, for the entire world.

He talks about the rising budget deficit, which this President supports at $420 billion more this year, and references the extraordinary trade imbalance, now at a half a trillion dollars, the highest in American history, and he says, these deficits could set off a sudden fall in the dollar and reverse any chance of global recovery.

And others say that these conditions of a high-budget deficit and an extraordinary trade deficit will result in the quiet erosion of American dominance of the world economy.

Similarly, an economist with the New York Times had an article this week, the title of which is U.S. and Trade Partners Maintain Unhealthy Long-term Relationship, and the Institute of International Economics, a center of expertise in this field, says, America's constantly rising deficits, our budget deficit and trade deficit, are a disaster in the making. No one could say it more clearly.

□ 2015

He says, this substitute for Americans, the positive side of the equation is they get to consume more than they produce. And maybe that works for a short time. But the down side of the United States is that most of their imports are purchased on credit extended by trading partners. And that indebtedness is now over $4.4 trillion, nearly twice what it was just 4 years ago and an increasingly costly arrangement for Americans and a potentially risky one of the Nation's foreign creditors, which means that another institute has agreed with what the head of the international monetary funds as said.

Experts are saying that they are alarmed that this set of arrangements could unravel abruptly with the dollar falling in value and the dollar rising and with inflation rising. The dollar falling, inflation rising, that happened during the Great Depression in the last century.

The United States, this article goes on to say, is caught in a gradual, almost imperceptible deterioration brought on by the yawning deficit in trade and other international transactions and the deterioration is going to continue for a long time. No one knows how this situation will unwind, but it certainly will.

The current account deficit was equal to 5.7 percent of domestic activity in the second quarter and this was a record and unusually rapid rise from the last quarter. In fact, the trade deficit has risen to a level of $477 billion, a 10-percent rise just over last year. Again, this article says the dollar in response would have to fall in value, forcing prices to rise in the United States.

Mr. Speaker, I know my time has expired, but let me say that the U.S. is headed in the wrong direction. We need a fundamental change. That change can take place on November 2. Let us put adults in charge.

The SPEAKER pro tempore (Mr. McCOTTER). Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

(Mr. NORWOOD addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## EXCHANGE OF SPECIAL ORDER TIME

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Georgia (Mr. NORWOOD).

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

There was no objection.

## FISCAL DANGER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, the administration has America leading with its chin. You heard the last speaker talk about it, and I am going to talk about the same thing. We are going to get hurt.

This administration has America going hat in hand from country to country looking for money and they intend to just keep on doing it. They cannot make manufacturing jobs, but they have manufactured the largest trade deficit in history. They cannot engineer an economic recovery, but they have engineered the largest budget deficit in history.

They cannot extend the lifeline to unemployed workers but they can expand the number of workers who have exhausted their unemployment benefits to the highest level in 60 years.

It is just 40 days until the election, and the President needs a big win to try to make America forget about Iraq. So instead of setting policy, we are masking massive problems. A lot of Americans here talk about a trade deficit and do not see the connection to their own lives. The administration has run up the largest trade deficit in history and it exports money and it exports jobs right out of the United States economy. It is not called outsourcing. It is called out of control.

The mess this administration has made in foreign trade has claimed 670,000 U.S. jobs in manufacturing, farming and fishing, another 860,000 U.S. jobs in service industries have shifted offshore just in the last 2 years. One and a half million jobs is bad enough, but the story gets worse.

The administration refused to solve its foreign trade issues. So U.S. exports are being hit by tariffs by the European Union and these penalties will rise 13 percent in the next month. The administration knows what is wrong but it will not act to fix it. Canada, Brazil and other nations have won cases in court about our foreign trade practices. But like so much else, this administration remains in denial and U.S. products could be hammered by another $3 billion in tariffs.

These penalties can be avoided, but not by an administration that governs by press release. Instead, the administration's failure to act will make U.S. products more expensive and the U.S. economy less competitive in the world market. That is a formula for losing more U.S. jobs.

A new study shows American multinational corporations booked a record $149 billion worth of profits off shore in countries known to be tax havens. Do not blame the corporations. The U.S. Tax Code rewards U.S. companies for exporting their balance sheets, in effect. The administration knows. The Republican majority knows. They do nothing about it. We need a national policy that puts America first, but we do not have it and we will not get it under this administration. Instead, the administration gives us rhetoric, pledging allegiance to the middle class, but a reality that rewards the wealthy and ignores the consequences.

The administration holds up the middle class when talking about massive tax giveaways passed. ''Hold up'' is the right term. The Republicans gave away another $149 billion today. There is no money to pay for it, but they did it anyway. The average middle class household will get a tenth of what the wealthy are getting. It is $169 for average Americans compared to $2,000 for the wealthy; $169 will not make college more affordable for middle class Americans. It will not make a gallon of gasoline less expensive. And $169 will not provide the business with resources to expand or re-training dollars to inspire Americans to embrace a changing global economy.

This is another bait and switch tax giveaway. It will reward the rich and mortgage America's future.

The administration has America on target to be $10 trillion in debt in the next 10 years. Nations that are not democratic and never will be are buying huge chunks of America's debt. Do not doubt for a moment that nations that do not share our values cannot exert enormous pressure over America when it hold trillions of dollars of our debt. They can and they will.

The book ''After The Empire'' by Emmanuel Todd is like a crisis call for emergency action. Every modern nation has three foundation blocks, military, political and economic. Lots of countries have big and well-armed armies. We certainly do. Lots of countries have established and effected political structures, democratic or otherwise.

Only America has had an unequaled economic foundation. It is at risk from the crushing debt burden this administration has pursued with abandon. Ten trillion dollars of debt in the next 10 years. What kind of a military can you afford with a $10 trillion debt when you

have to borrow across the water to pay for your military? What kind of Social Security can we afford with a $10 trillion debt? What kind of domestic policy?

The administration is charting a course that will be the end of us if we do not have a regime change on the second of November.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. WICKER) is recognized for 5 minutes.

## PERSONAL EXPLANATION

Mr. WICKER. Mr. Speaker, on rollcall vote Nos. 457–465, I was unavoidably absent. Had I been present, I would have voted as follows:

On Nos. 457–461, "no"; on Nos. 462–463, "yea"; on No. 464, "no"; on No. 465, "yea."

## EXCHANGE OF SPECIAL ORDER TIME

Mr. BURGESS. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Mississippi (Mr. WICKER).

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

There was no objection.

## WORLDWIDE TERRORISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, just a few hours ago in this House, we were addressed by the Prime Minister of the country of Iraq, Dr. Allawi. Dr. Allawi came to this body to speak to us here. He wanted to deliver a message. He wanted to deliver a message of success that we are indeed succeeding in the country of Iraq. He came here to enumerate three principles.

He wanted to tell America thank you, thank you for giving us our country back. He wanted us to know that Iraqis knew that the world indeed is better off with the regime change that occurred in Iraq and that America did the right thing.

He also wanted us to know that they were working and would continue to work to make certain that they, the government of Iraq, got it right on the ground in Iraq. It has not been easy. It has not been without a price; and Dr. Allawi allowed that as America has mourned its losses, they have mourned their losses in Iraq as well. But this is the cost of freedom.

As Harry Truman once said, If you want peace, you better be ready to fight for it.

Mr. Speaker, Dr. Allawi also talked about elements of defeatism that creep into conversation and how pernicious that defeatism is. He pointed out that within the past year's time, within the country of Iraq a Constitution has been adopted, a Constitution that provides for majority rule but respects the rights of the minority. He pointed out how the handover occurred at the end of June as it was scheduled to. It, in fact, occurred 2 days early and sovereignty was returned to the country of Iraq.

He also pointed out that the Iraqi assembly met in that country and over 25 percent of the participants of that assembly were women, an event that was unprecedented prior. He pointed out that the elections will be held in January of next year, and with that, the completion, the turnover to sovereignty will be complete.

Mr. Speaker, he also pointed out that indeed, Iraq currently is the battlegrounds for those who are opposed to freedom. But, of course, Iraq is not the only battleground as we know all too well in this country.

Mr. Speaker, this past weekend I had the opportunity to travel to Moscow. The purpose of that visit with some other Members of Congress to visit with the children in the Federal Pediatric Hospital in Moscow. Children who had been present in the Beslan School Number One on the first day of school of this year.

This is Alan standing here with me. Alan is 11 years old and attended school that day only to find that there were people in the world who were capable of such an astonishing degree of hatred and cruelty that it left the rest of the world speechless. In fact, it is not known how many died in the gymnasium that day in Beslan, Russia, 300, perhaps more, over half of them children. And that has not been the only story in the country of Russia during this past month.

They have lost two planes and they had the bombing of a metro station in downtown Moscow. All in all, 500 deaths or more in the last 4 weeks in the country of Russia.

But, Mr. Speaker, what really moved me, what really tore at me was, again, the astonishing cruelty of these people who would direct their hatred towards an innocent individual like young Alan.

Mr. Speaker, Alan's mother called me back into his hospitals room after we took this picture and said, I want you to see what they pulled out of my son's chest. And here, Mr. Speaker, is a piece of metal that Alan had surgically removed after he came to the hospital in Moscow. It is of junk. It is a piece of metal that came from a landfill or a junkyard, but it is a small piece of metal as you can see. And these mines were packed full of metal this size so they would get maximum dispersion and cause maximum injury, inflict maximum pain on the most innocent members of society.

Mr. Speaker, let us not forget what we are up against. Let us not forget what the cost is in this global war that we are engaged in at this time. Let us not forget what we are fighting for. We are fighting for the innocents. The innocent in Iraq. The innocents in this country and, indeed, the innocents in Russia.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

(Mr. CONYERS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## MEDICARE PREMIUMS INCREASE FINANCES TO HMOS AND DRUG COMPANIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the Bush administration recently announced that America's seniors will pay 17.4 percent more for Medicare coverage next year. It is no accident that they announced this piece of information late in the afternoon on Friday of Labor Day weekend. They simply hoped nobody would notice. But the largest premium hike in Medicare's history, the largest premium hike in the 38 years of Medicare is the sort of news you just cannot suppress. One senior advocate called it a hidden tax on seniors.

That hidden tax on seniors is a multi-billion dollar tax at that. That is big news and it is bad news for President Bush. But when faced with bad news, the Republican spin machine does what it always does. It tries to shift the blame. It is the Democrats, they said, President Bush rolled out his ad plan knowing this would happen, it is the Democrats that are responsible for the premium hike, even though the Republicans control the House, the Senate and the White House. But because that did not jibe with the facts, no one bought it then and no one buys it now.

Before the Bush Medicare bill became law, the nonpartisan Medicare trustees estimated that Medicare monthly premium would increase $2 in 2005. After the Bush Medicare bill became law, the premium jumped to $11.60.

□ 2030

Hence, the 17.4 percent increase. Those are the facts. No amount of sweet talk, misdirection, or spin from the Bush team can change those facts; but rather than take responsibility, the Bush team just changed its spin again. This time they said the premium, the record-setting 17.4 percent increase, the Bush administration says was a good deal for America's seniors because it financed new preventive benefits. Again, there are a few things the Bush administration did not tell us.

They forgot to say that the preventive benefits account for less than one-fourth of 1 percent of the premium increase. In other words, virtually nothing in the premium increase really

went into prevention benefits. Here is where the money went.

They neglected to mention that the Bush Medicare law creates a $23 billion slush fund for the HMOs. These are bonus payments for an industry, the HMO industry, which already saw their profits go up 50 percent last year. They can use these bonuses to lure seniors out of Medicare's reliable, equitable, traditional program.

Interestingly, the benefits do not take effect until 2006. Seniors actually cannot get the Medicare benefit until 2006, but the payout to the insurance industry to pay back for the contributions the insurance industry frankly made to my colleagues on this side of the aisle and to the White House began in March of 2004. In other words, the insurance industry as a whole got checks from the Federal Government totaling $290 million in March, $290 million in April, $290 million in May, $290 million in June, all the way through this year, all the way through next year, $290 million a month. The benefit is not available to seniors until the following year.

They also forgot to tell us, in addition to this slush fund the insurance industry paid for out of seniors' premium increases, they forgot to tell us that the Bush Medicare law actually goes out of its way to prohibit the Federal Government from negotiating with the drug industry for fair prices to bring the cost of prescription drugs down, which go up at double-digit increases every year.

They did not tell us that the Bush Medicare law will increase drug industry profits, already the highest industry profits of any industry in America, they will increase industry profits, not gross income but industry profits, by $180 billion, that is with a B, $180 billion over the next 10 years.

So that insurance industry got huge subsidies, the drug industry got record profits, the Bush administration got huge campaign contributions, tens of millions of dollars from the drug and insurance industries, and seniors were stuck with a 17.4 percent premium increase. It is wrong. The increase was five times larger than it should have been. That is an outrage.

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The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from Texas (Mr. HINOJOSA) is recognized for 5 minutes.

(Mr. HINOJOSA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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## ORDER OF BUSINESS

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask to speak out of order and to address the House for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

## FOLLOW-UP TO REMARKS GIVEN TO CONGRESS BY IRAQI INTERIM PRIME MINISTER AYAD ALLAWI: QUESTION TO THE ADMINISTRATION—WHERE IS THE PLAN?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to acknowledge the remarks and the message of Interim Prime Minister Allawi, and in fact, as someone who opposed this war as being misdirected and procedurally and constitutionally unsound, inasmuch as the Congress did not follow the Constitution and declare war, this resolution simply authorized the President to look at the option of militaries as one option.

But even in spite of my opposition to the initial beginnings of this war, I welcomed the remarks of Prime Minister Allawi and certainly welcomed his optimism and his desire to tell the American people that there is an end, there is a future in Iraq.

The whole idea of beginning to work with this process of rebuilding Iraq is clearly a circumstance that requires telling the American people the truth, and even though I think that the Prime Minister was eager to engage us in the optimism of Iraq, the one thing that he could not answer for us is simply where is the plan. Where is the plan of this administration, and what do we say to the men and women who are now on the frontlines of Iraq who wear the American uniform?

I just mention and show this gentleman who happens to be a face that has been utilized by one of my colleagues, and I am sharing that with my colleagues tonight, but it reminds us of the Americans who are on the frontline, reminds us of the families who are longing for them to return, reminds us of those troops that I visited in Afghanistan and Iraq who are committed to their duty. But they want to know when they can return home, what is the ultimate plan and agenda for the survival of Iraq.

Prime Minister Allawi told us that things were getting better, that schools were opening, clinics were opening; but, frankly, I believe that in the backdrop of all of that, the violence is raging.

Let me cite for my colleagues words from Jessica Mathews who just returned from Iraq. She made this statement in an op-ed in the Thursday Washington Post: ''To visit Iraq today is to be forcibly reminded of the obvious: there is no military solution to politically inspired violence by locals against foreigners. What was true for the French in Algeria, the British in Northern Ireland, the Russians in Chechnya and the Israelis in the West Bank is proving true for the Coalition Provisional Authority in Iraq. Notwithstanding a huge and impressive military effort, the security situation, at least for now, is worsening.''

She said this over a year ago, and it is now true today. Since that time, some 700 Americans and probably at least 10 times as many Iraqis have died, and every single day they are dying. So although I rise to thank the Prime Minister for his carefully stated words, might I say to my colleagues that we still are languishing without direction.

So I ask the President to stand before the American people, present to us a plan of survival and existence and progress. Present to us a step-by-step methodical progress of being able to return our troops and honor the increasing utilization of Iraqi law enforcement and military and begin to answer the questions of some of those who we will hear in just a moment.

Maybe it should be Senator LUGAR, who, when asked the question over the weekend, why has a great part of Iraq not been rebuilt, he simply said without any qualms, and I guess he said it before he heard it, because the administration is incompetent. So we can see that statements are being made by a number of those on the other side of the aisle that are now coming together as Americans, pleading for some direction by the administration.

My words simply tonight as I close, Mr. Speaker, are this. We can hear from the leadership, the interim leadership, that elections may be coming, that we may be making this work; but the violence says something different. We are failing the Iraqi people, and we are failing the United States military because we do not have a plan.

We in Congress are grateful to His Excellency the Interim Prime Minister Allawi for his inspiring remarks on the floor. He very articulately laid out the important issues that are now attendant and that lie ahead for Iraq—they include ''Military Strategy,'' ''Iraqi Elections,'' ''International Help,'' and ''Freedom.''

He spoke of the positive aspects of these issues; however, we in the United States must realize that there are very pressing issues to be addressed by this administration within our own borders as well as on the battlefield for our troops. To that end, I ask the question: ''Where is the plan Mr. President?''

I was privileged to visit some of our troops when I traveled to CENTCOM in April. I learned of their experiences in Iraq and I heard the challenges that they faced. I continue to be impressed by how well those young men and women in uniform represent the United States. They perform their duties and meet the demands of their positions every day despite the tough conditions and sometimes inadequate supplies.

The troops are fulfilling their duties, now it is time that the administration fulfills its duty by creating a real plan to create and keep the peace in Iraq. The administration must also jumpstart the process of rebuilding in Iraq. Clearly, the situation cannot continue. We are losing soldiers daily and families are being left heartbroken because peace has not prevailed in Iraq, not even in Baghdad where the administration said the United States military had a stronghold.

Worse yet, our allies are backing away from their commitments to join the effort to secure

Iraq. Turkey has decided not to send troops to Iraq. Japan will not be sending personnel and it is providing less money for rebuilding than it once offered. Even South Korea has said that the lack of security in Iraq makes the idea of sending South Korean troops untenable. Where now is the joint effort that the President promised? How will the administration secure the assistance that is clearly needed in Iraq? The number of casualties is increasing at an alarming rate; when will it stop?

I believe that the administration must embrace a multilateral peace process to bring lasting peace to Iraq and to create an environment in which rebuilding can safely occur. A multilateral process is needed not only to develop and maintain peace within Iraq but also throughout the Middle East region.

Therefore, in addition to creating a plan in Iraq the President needs to create a plan to truly engage our allies. That is how the United States will be successful not just in the short term but for years to come. That is how we can responsibly follow up the inspiring words of His Excellency Prime Minister Allawi.

The SPEAKER pro tempore (Mr. MCCOTTER). Under a previous order of the House, the gentleman from Texas (Mr. EDWARDS) is recognized for 5 minutes.

(Mr. EDWARDS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

(Mr. STRICKLAND addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

(Mr. RYAN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. ETHERIDGE) is recognized for 5 minutes.

(Mr. ETHERIDGE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## NATIONAL AFFORDABLE HOUSING CONSTRUCTION PROGRAM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentlewoman from California (Ms. LEE) is recognized for 60 minutes as the designee of the minority leader.

Ms. LEE. Mr. Speaker, I would like to talk tonight about the Lee-Capuano-Sanders discharge petition which is H.J. Res. 748. This resolution requests immediate consideration of H.R. 1102, which is the National Affordable Housing Construction Program, a trust fund, which targets funding and resources to States and localities to assist people in the most desperate need for affordable housing.

Mr. Speaker, today, many of us recognize that we do live in two Americas, one for the wealthy and one for those who are struggling to just make ends meet. We have families living in dilapidated rental units, clutching to potentially meaningless section 8 vouchers, facing the harsh realities of high-cost housing or homelessness; but we have an opportunity here to make a real difference in the lives of people who need just a bit of our help, people, families, children, men and women.

We have an opportunity to help support families in their desire to build intergenerational wealth for the future. At a time of State budget crunches and shortfalls, we have an opportunity here to support our States who want to build safer, more affordable quality communities for our most vulnerable constituents.

Discharging H.R. 1102 under an open rule to the House floor would at least allow us to debate the need for more affordable housing and show where our national priorities really are. I know that our constituents want us to authorize a national affordable housing trust fund because it would construct 1.5 million affordable housing units over the next decades.

The Center For Community Change estimates that a national affordable housing trust fund would create 1.8 million, that is 1.8 million, new jobs. That is nearly $50 billion in wages, good-paying jobs; and with our economy the way it is right now, with people on the brink, with so many layoffs, you cannot tell me that 1.8 million new jobs will not make a difference in the lives of millions of people.

Mr. Speaker, just think of it, if this Congress invested a mere 5, $5.1 billion, that is $5 billion, that is peanuts really, $5 billion into affordable housing, of course instead of this never-ending war in Iraq, if we did this, I mean, the war in Iraq now is upwards of $200 billion. If we just invested $5 billion into this trust fund, we could commit at least $37 to $40 million to each State for housing, $200 billion again, Mr. Speaker, for Iraq. We should not even worry about $5 billion. We should be supporting this bill. We should move it forward in this House. $5 billion, again as compared to $200 billion, that is very minimal in terms of resources.

So this does not make any sense to me, why this bill has not come to the floor for a debate, why we do not have a national housing trust fund. Signing this discharge petition will help this tripartisan bill. We have over 215 Members with the gentleman from Vermont (Mr. SANDERS), myself, the gentlewoman from California (Ms. WATERS), the gentleman from Massachusetts (Mr. FRANK), the gentleman from New York (Mr. CAPUANO), and many, many cosponsors on both sides of the aisle, and the gentleman from Vermont (Mr. SANDERS), tripartisan.

If, in fact, we discharge this petition, we would really overcome whatever political obstacles there are that have prevented this realistic, sensible and targeted, affordable housing legislation from coming before this Chamber.

It is my understanding that former Secretary Mel Martinez just said he did not want it to come to this body, and that is what has happened. 214 cosponsors, I do not think it makes sense for us to allow a former Secretary of HUD to dictate the legislation that comes to the body of this House. This program can and will make a considerable difference in the lives of our constituents.

Let me just tell my colleagues, over 5,000 organizations, unions, working men and women, nonprofits, faith-based organizations, individuals have endorsed this bill and are organizing grass-roots support to really call their Members and ask them for their support and why they are not supporting it, if they are not.

We recognize the cost and the hesitation that many Members had in regard to using the FHA surplus, which was the way the bill was initially written. So that is why, in order to garner additional bipartisan support, we have revised the funding mechanism and asked that the capable appropriators find the necessary $5 billion wherever they deem appropriate. We have negotiated in good faith on this bill, and it makes no sense for us now to be here pushing this discharge petition as we are because of the fact that it has gone through committee and that it should be debated on this floor.

□ 2045

It should be authorized because it will provide housing to all, which many of us feel, I know some may not believe this, but I believe that housing should be a basic human right, and because of that, it outweighs all of its cost.

So I encourage all Members to sign their names to the Lee-Sanders-Capuano discharge petition, because together, we can build affordable futures for families and thousands of children across this country. If we work together for passage of this bill, we can prevent thousands of our elderly and low-income families from choosing between food and shelter. And in many instances, that is what is going on. If we work together for passage of this bill, we can build safe havens through affordable supportive housing instead of homeless shelters for women fleeing domestic violence. If we work together for passage of this bill, we can build more opportunities for home ownership and mixed-income communities in rural and urban America.

Investing in H.J. Res. 748 means investing in a national affordable housing trust fund and providing a greater

chance to realize the American Dream for all Americans. Together, we can bridge those two Americas into one prosperous land for all.

So I ask my colleagues, I plead with my colleagues, because we only have about a week left here, to come to the House floor and sign this petition. I am asking all of them to make a decision that reflects the need for more affordable housing opportunities, for more jobs, and for more State and local choices for housing and community development.

Mr. Speaker, I now wish to yield to the gentlewoman from Texas (Ms. JACKSON-LEE), who is a consistent fighter for children and families and who also believes basic housing should be a human right for all.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentlewoman for yielding to me and for her work and the work of her colleagues on this important initiative. I am delighted to be an early cosponsor of this legislation because it follows the needs of my constituents in the Eighteenth Congressional District in Houston. We have confronted in that district a number of housing dilemmas and housing concerns.

The first one that comes to mind, of course, is the year-long work that we had to participate in in order to overcome some obstacles in restoring what we call the senior home repair program. There is not much, probably, that sometimes Members have not seen because of their travel to war zones and dealing with some of the conditions of their constituents. We see tragedies of great moment because we are expected as elected officials to be able to respond to those needs. But going into inner-city areas and even to rural areas and sometimes seeing the conditions that senior citizens live in, people who have worked their whole lives but maybe as they have worked their income has not met their ability to survive, with their health needs, their food needs and their housing needs.

I spoke earlier today of constituents who live in burned-out homes; half the home literally burned down because there were no public resources to either repair the home or replace the home. The same with homes that were in such bad condition that bucketloads of water would come in when it rained. The wiring was in poor condition. There was no ability to have air-conditioning. These are homes that people live in.

And, Mr. Speaker, what about the thousands of persons that are living with family members or others? They call those individuals transients, those who are living from place to place. These are individuals with families. In fact, in our school district, we had a name for those children that wound up either in different schools in the same school year because their family had to move from place to place, or maybe were living in a car and the car then fell upon disrepair and so they had no place to go.

It is interesting that even in the richest country in the world that we have this dilemma in housing. So the national housing trust fund legislation is really long overdue, with 214 cosponsors. This is a bill that we wanted to do in regular order, the Committee on Financial Services, the members of that committee, the leaders of that committee, the names we have called out. I believe the gentlewoman mentioned the gentleman from Vermont (Mr. SANDERS), the gentlewoman from California (Ms. LEE), leading this special order this evening, the gentlewoman from California (Ms. WATERS), and I saw the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Massachusetts (Mr. CAPUANO). Those of us who joined eagerly to be cosponsors really realize this is an opportunity that has been lost.

Even today, those that I know to be long-standing supporters across party lines, such as Jack Kemp, who was with me in Houston a few months ago, where we went to a complex of Habitat for Humanity and we were able to build in Houston hundreds of homes. Homeowners contributed to it. And we are very grateful for Habitat for Humanity and projects like that, but that is not the total answer. We participated in that project. It was related to the Super Bowl. And we are glad that we did some constructive things that the NFL does, and we continue to work with Habitat for Humanity and a number of other self-help programs, but we cannot self-help ourselves across America in the enormous deterioration of public housing in America.

There is an eagerness of those living in public housing to own their own homes. And the HOME program, where we were giving equity and giving down payments, is really on the ropes. The home repair program for senior citizens is on the ropes. Why is it on the ropes? Because we are not able to fund it the way we need to fund it. So today Jack Kemp, and I might add Henry Cisneros, stood up to support the concept of a national housing trust fund.

I believe that this really plays into the whole desire of every American to have a better quality of life. We always go back to the opening words of the Declaration of Independence because it was the framework by which the Founding Fathers drafted our Constitution. It is words we use very often. I do not know how they managed to capture such brilliant language that fits all centuries, all years; that we all are created equal. I always do a caveat that as they wrote it, they obviously left out a large portion of those in America, claiming that slaves were less than one person.

But the words were beautiful, they were meaningful, and they can be carried and applicable to all. We are all created equal with certain inalienable rights of life and liberty and the pursuit of happiness.

Mr. Speaker, in this Nation, the pursuit of happiness, I believe, encompasses education, health care, and housing. A national housing trust fund would construct, rehabilitate and preserve rental housing for people with the very lowest incomes, as well as provide rental housing and homeownership opportunities for those with incomes of up to 80 percent of area median income. This is important.

But besides the homeless, Mr. Speaker, there are some 25,000 people on the waiting list in Houston for Section 8 housing. It is atrocious, that list. They just stay on and on and on and on. The list does not move. Throughout everyone's districts many people ask how they get on the list, or why are they on the list so long; or how can they get housing. The trust fund would use a dedicated source of revenue to produce and rehabilitate and preserve 1.5 million homes over the next 10 years.

Mr. Speaker, these would not be Republican homes, independent homes, Democratic homes, or only urban homes, big city homes, or only central city homes. These would be homes across the Nation. And when you travel to districts that are rural, you can be assured that people need places to live.

The trust fund will provide much-needed stimulus to our economy, creating jobs and adding to the revenues of States and localities. An investment of $5 billion in a national housing trust fund will result in 1.8 million new jobs and $50 billion in wages.

One of the things I think we never think about when we think about housing, like when we got Federal funds to help rehabilitate my public housing, housing developments as the residents there like to call it, I added an amendment that year for Houston and other public housing projects to use the residents of public housing to work on the rehabilitation project; to use them to be carpenters and plumbers and electricians, those who lived inside those housing developments. Because they would be getting skills and getting income.

This is a clear win-win situation. New jobs and $50 billion in wages. Who knows, those people working on this housing could then elevate themselves to the middle class and then buy their housing. This is a positive, positive, positive stroke of genius.

The lack of adequate housing hurts children now and in the future. Poor housing circumstances have been linked to poor educational performance and poor health. Children with unstable housing situations have unstable schooling. A review of the research on high-classroom turnover shows the highly detrimental effects of changing schools on educational outcomes. Other research shows that children living in substandard housing have increased chances of lead poisoning and asthma, while high-housing costs leads to child malnutrition as families choose between food and rent.

When I worked with Fannie Mae and Freddie Mac in my district, but particularly Fannie Mae, where we have an office, to see the looks on the faces of those who were getting homes, and when we had the ribbon-cutting ceremonies and the children went into their own bedrooms, what a difference their own bedroom made. That is why the national housing trust fund is so very important. It helps people with the lowest income face the greatest difficulty, which is finding housing that is available and affordable. For people across the income spectrum who are experiencing housing affordability deficits, this is what this is all about.

Mr. Speaker, I cannot imagine that we would want to keep 4.8 million low- to moderate-income working families earning between the full-time minimum wage and 120 percent of area median income without housing. There is a critical housing shortage for them.

The lack of affordable housing hurts elderly people and people with disabilities. The national vacancy rate does not capture the market failure in affordable housing. Because we do not have the affordable housing units, we lose out on the people who are able to buy those houses.

It is ridiculous, Mr. Speaker. A $150,000 or $200,000 home may seem affordable to those who are working for dollars way above that of individuals needing to get the kind of housing that is affordable. In light of the Nation's housing crisis, the national housing trust fund is a moral imperative and national resources should be used to combat this.

Let me just say that I spoke earlier today on the floor asking for a plan in order to help us move swiftly in rebuilding Iraq and returning our soldiers home with valor and ceasing the violence. We are spending $5 billion a month in Iraq, a billion dollars a month and more in Afghanistan, and already we have spent $200 billion. I want the gentlewoman to know that I cannot imagine that this Congress, with all of the cosponsors that she has, would not give us the opportunity before we shut down to go home and be able to pass this legislation, and, frankly, to save lives in America. There are homeless people, with ruined lives, and we need to be able to protect them and provide them opportunities.

Mr. Speaker, I thank the gentlewoman for giving me this opportunity not only to speak about the needs across the Nation, but to speak about the needs in Houston. We have lived this and we have seen it. I have gone out to homes. While I speak there are people living in conditions that are shameful. We need more money in Houston, but I know we need more money across the Nation for housing.

So I hope we will see the passage of this bill. Let us do everything we can. I cannot thank the gentlewoman enough for the leadership that she has provided, and she has my commitment that we will work together on this very important issue.

The House version of the National Housing Trust Fund legislation now has an impressive 214 cosponsors. But the leadership of the Financial Services Committee, which has jurisdiction over the bill, has not taken up the bill.

So in late July, my colleagues Representatives BARBARA LEE, MICHAEL CAPUANO and BERNIE SANDERS filed a discharge petition in an effort to move the National Housing Trust Fund forward. The petition would "discharge" the committee of its responsibility in considering the bill. If a majority of the Members, 218, sign the petition, the bill could come directly to the House floor for debate and a vote.

A National Housing Trust Fund would construct, rehabilitate, and preserve rental housing for people with the very lowest incomes, as well as provide rental housing and homeownership opportunities for some people with incomes up to 80 percent of the area median income. The Trust Fund would use a dedicated source of revenue to produce, rehabilitate and preserve 1.5 million homes over the next 10 years.

The Trust Fund will provide much needed stimulus to our economy, creating jobs and adding to the revenues of states and localities. An investment of $5 billion in a National Housing Trust Fund will result in 1.8 million new jobs and $50 billion in wages.

The lack of adequate housing hurts children now and into the future. Poor housing circumstances have been linked to poor educational performance and poor health.

Children with unstable housing situation have unstable schooling. A review of the research on high classroom turnover shows the highly detrimental effects of changing schools on educational outcomes. Other research shows that children living in substandard housing have increased chances of lead poisoning and asthma, while high housing costs lead to child malnutrition, as families choose between food and rent.

While people with the lowest incomes face the greatest difficulty in finding housing that is available and affordable, people across the income spectrum are experiencing housing affordability problems. There is nearly a two million unit gap in the housing available and affordable for the lowest income people and the number of people needing housing.

There is no jurisdiction, urban, suburban or rural, where wages from a full-time minimum wage job can pay the rent on a modest two-bedroom home and in many places, the equivalent of at least two or three full-time minimum wage salaries are needed. In addition, a recent study found that 4.8 million low- to moderate-income working families—families earning between the full-time minimum wage and 120 percent of the area median income—had critical housing needs in 2001, spending more than half of their income on rent or living in substandard housing.

The lack of affordable housing hurts elderly people and people with disabilities. On average, people with disabilities who receive SSI would need to use their entire SSI check each month to pay the rent on a modest one-bedroom apartment. Six times as many seniors needed housing assistance than were receiving assistance and 324,000 existing subsidized and affordable housing units are at risk of being lost to the private market.

The national vacancy rate does not capture the market failure in affordable housing. The 2001 national vacancy rate of 8.4 percent does not mean that those vacant units are uniformly available around the country, nor that those vacant units are affordable to people with low incomes. Recent housing development has been focused on luxury rentals, out of reach of people earning low wages. In contrast, over the 1990s, 14 percent of the rental housing affordable to the poorest people has disappeared from the housing stock. Indeed, in many places, affordable housing has been demolished to make room for luxury housing.

In light of the nation's housing crisis, the National Housing Trust Fund is a moral imperative and national resources should be used to combat this. To date, nearly 4,000 organizations, religious leaders, businesses, newspaper editorials and others have said that our country needs a National Housing Trust Fund by becoming Trust Fund endorsers. New endorsers of the Trust Fund are added every day. In the 107th Congress, the endorsers were joined by 200 members of the House of Representatives and 29 members of the Senate who cosponsored Trust Fund legislation. Given the extent of housing needs, the federal government should make it a priority to provide sufficient resources for the construction, preservation and rehabilitation of housing for the poorest people.

Ms. LEE. Mr. Speaker, let me thank the gentlewoman from Texas for that very powerful, eloquent, and comprehensive statement, and also for reminding us of the types of cuts and what is on the chopping block this year as we try to push forward a bill to create 1.5 million affordable housing units.

The gentlewoman reminds us of what we are faced with and what we are fighting just to protect. Let me give some numbers here, Mr. Speaker.

First of all, by HUD's own admission, this year's budget cuts $1.63 billion out of Section 8. That is outrageous. Public housing funding is being cut by $180 million. The gentlewoman talked about public housing in her district. What are people going to do? What are people going to do? We zeroed out $149 million for last year's HOPE VI. Outrageous. Outrageous.

For Community Development Block Grants, the funding is what we call flat, which means really that it has fallen by about 9 percent. The budget actually eliminates brownfields, it eliminates rural housing and economic development, it eliminates empowerment zones and Community Development Block Grants. It rescinds about $675 million of contract amendments for our section 236 projects, which provide prepayments for assisted housing projects.

□ 2100

The request of $139 million represents a cut of $35 million for lead paint grants. I could go on and on. Serving as a member of the Subcommittee on Housing and Community Opportunity, we have fought these battles this year and will continue to fight against these cuts.

As we attempt to get a debate on the National Housing Trust Fund, what we

see are efforts to cut what is left. We need to not only restore these cuts that are in the existing budget, but we need to fight for more funding for section 8, more funding for community block grants and more funding to get rid of lead in our children's homes. We need more money, not cuts. This affordable housing trust fund at least puts us stepping in the right direction.

Mr. Speaker, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE) to comment on these cuts as they relate to her district. I know the gentlewoman's district is similar to my district in terms of the struggles that people mount every day. This is an important issue that needs to be made a national priority.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding to me.

First of all, these are shocking numbers to know that our appropriations that are moving to the floor are going to literally put a dagger in the needs of Americans all over.

One thing I would say is housing is not political. It is not partisan. It should not be. I want to just read a column from David Broder, Washington Post, ''Help At Home.'' He mentions Henry Cisneros and Jack Kemp. He mentions that they were right in contending that housing is every bit as important a measure of American values as any of those other concerns. The quote is, ''We are a Nation that understands and asserts the promise of individual opportunity, and we recognize that decent housing is a precursor to its realization.'' Then they say their agenda includes programs to end chronic homelessness.

When we take away section 8 and the equity program and the public housing program, we increase homelessness. It is chronic homelessness for people who cannot just pull themselves up. They want to revive and expand public housing, increase the use of housing vouchers, encourage employee-assisted housing, eliminate regulatory barriers to affordable housing and crack down on predatory lending and overt discrimination.

Obviously, that is an expanded concept, but then they endorse the establishment of a national housing trust fund. This is an idea which is gathering increasing support in Congress to provide the capital needed to produce affordable housing.

One other comment, I say housing is not partisan; Secretary Jackson was in Texas, but even his review of the situation when he was in the home of a senior citizen, Mrs. Waddle, Secretary Alphonso Jackson examined the crumbling wallboard, cracked ceiling and sagging foundation in Earnestine Waddle's northwest Houston home. She is 73 years old. She brought the whole group of us to an emotional standstill. We are waiting to have her home repaired. She is an example of what the gentlewoman is talking about.

I would simply say the national housing trust is long overdue. Here we have bipartisan affirmation that we need to do more for housing, and here we have Earnestine Waddles's home as a symbol of homes across the Nation. We want to be in the business of helping people across the Nation.

Mr. Speaker, I include for the RECORD the article about Secretary Jackson's visit to Earnestine Waddle's home.

[From the Houston Chronicle, June 30, 2004]

WAIT FOR HOUSE REPAIRS ENDING

(By Mike Snyder)

A member of President Bush's Cabinet draped his arm around a 73-year-old Houston widow Wednesday and promised that her long wait for badly needed home repairs would soon end.

Alphonso Jackson, the U.S. secretary of Housing and Urban Development, examined the crumbling wallboard, cracked ceiling and sagging foundation in Earnestine Waddle's northwest Houston home. Waddle will be the first homeowner to get help under a revamped city program to repair the homes of low-income elderly and disabled people, Jackson said.

''I'm somewhat emotional, because I think this is wrong, that Mrs. Waddle has to live like this,'' Jackson said.

HUD suspended Houston's home-repair program in November after finding evidence that some contractors had been overpaid or performed shoddy work. The city resumed the service on a limited basis in April, but the guidelines were so restrictive that fewer than a dozen households qualified for assistance.

Jackson said Wednesday that work should begin this month on an expanded program that will include major rehabilitation and reconstruction of houses as well as the short-term emergency repairs being made now. His announcement prompted applause and a chorus of ''amen'' from a crowd gathered to hear him at the Acres Homes Multi-Service Center.

Mayor Bill White, who joined Jackson and U.S. Rep. Sheila Jackson Lee for the announcement, said new guidelines worked out by the city and HUD will ensure problems that led the federal agency to shut down the program would not recur.

''We are going to do what it takes to get qualified people to do these home repairs,'' White said. ''We will be accountable for what we do.''

If the City Council approves, the city will budget $2 million for the program, and HUD will reimburse the city after approving the completed work.

In the past, the city has delegated the selection of contractors and oversight of their work to nonprofit agencies such as the Houston Area Urban League. Under the revised guidelines, city employees will perform these functions, said Kevin Davis, spokesman for the city's Housing and Community Development Department.

A limit of $5,000 per house is being eliminated, Davis said, because officials determined this was not enough to address the needs of many eligible households. Officials haven't decided whether to apply a new cap, he said.

The home reconstruction component is new to the program and reflects a recognition that many houses are in such poor condition that repairs are not feasible.

Jackson said he came to Houston at the urging of Jackson Lee, a Democrat whose 18th Congressional District includes many poor Houston neighborhoods where repairs are badly needed. Jackson Lee has spent months working with local and federal officials to get the program started again.

''In her tenacious style, she brought (the problem) to my attention and kept insisting that I come and look at what was happening,'' Jackson said. ''She emphasized why the program was so important.''

Waddle, who said she has lived in the house in Acres Homes for almost 40 years, said she was grateful for Jackson's help.

Ms. LEE. Mr. Speaker, I am glad the gentlewoman brought to our attention the visit of the Secretary of HUD. I was quite disappointed when he came to our subcommittee when we were talking about housing. He indicated that poverty was a state of mind and had nothing much to do with the economics or discrimination or the environment or the state of condition in terms of one's circumstances. Perhaps he was sensitized by this visit. Let us hope so.

Mr. Speaker, I yield to the gentlewoman from Florida (Ms. CORRINE BROWN), a great leader, who is fighting on many fronts.

Ms. CORRINE BROWN of Florida. Mr. Speaker, first of all, let me commend the gentlewoman from California (Ms. LEE) and the gentlewoman from Texas (Ms. JACKSON-LEE). I have visited both of your districts, and I know we have similar problems as far as HUD is concerned and housing and homeownership.

I personally had one of the largest town hall meeting workshops on homeownership where we brought in all of our partners, and we are working together to try to improve housing for all Americans.

The Congressional Black Caucus's goal is to have a million new homeowners. I am proud to be a part of that.

But I have to say that this administration, the Bush administration, has almost wiped out the housing program. In the memo that was uncovered that, if George W. Bush is reelected, they are going to cut every single domestic program, and there are not a lot of advocates, unfortunately, for housing in this Congress.

On the vote tonight is another demonstration of ''we do not really care about the people who need the hands up.'' This administration practices what I call reverse Robin Hood. When I was coming up, my favorite program was Robin Hood. These people practice robbing from the poor and working people to give tax breaks to the rich. Of course, it happened again today.

I certainly agree that we need middle class tax cuts, but we also need breaks for the working poor, people who work every day but cannot make it because they do not have health insurance, they do not have decent housing for their children.

I was listening to the report on 9/11 where they were talking about what was not available for the young people in Iraq, decent housing, training, education. I said to myself, we need a little of that in my district, and I am sure in the gentlewoman's.

The homeless have been mentioned. I have been on the Committee on Veterans Affairs for over 12 years. One-third of the homeless people are veterans, one-third. It is criminal that we

do not provide the support system that they need. They are out there because they do not have the proper medication, the proper assistance. When one walks around and sees the homeless, most people try to have a blind eye. One-third of them have lost a lot defending us.

Ms. LEE. Mr. Speaker, with regard to the homeless, I failed to mention the budget numbers with regard to programs for the homeless, a $50 million cut.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I want to mention $50 million, but the Hope Six program is slated to be completely eliminated. That is the only program that goes into the community and not only replaces housing but has other kinds of programs that will assist the people that live in public housing to help them with job training, education, after-school programs; and of course, the Drug Elimination Program is completely wiped out.

I have to say Under Secretary Mel Martinez and George W. Bush, they have destroyed the housing program. It is just not a priority for the administration.

Hope Six in Florida received three grants, but it may be the last round of assistance that people in public housing will receive if this administration is reelected.

The Drug Elimination Program, Members can see that this program and programs which assist, help with after-school programs and tutoring programs; it was the program that actually brought in the cops into the community, working with the young people so they would not get involved in the world of crime; completely eliminated under this administration. The list goes on.

Certainly housing has not been a priority. But what was interesting to me was I have received visits from the realtors and the home builders because they are concerned about the new homeownership programs that have worked so well with the public-private partnerships. Those programs have been on the chopping block in Florida and throughout the country.

I know the gentlewoman has received some of the same complaints. Why would programs be cut which actually help people become homeowners?

Mr. Speaker, let me say to the gentlewoman, I am very excited about her program, and I am very pleased to be a cosponsor, but can the gentlewoman explain where we are going to get the funds from?

Ms. LEE. Mr. Speaker, I thank the gentlewoman for laying it out there and telling it like it is.

Initially, when we introduced this legislation a couple of years ago, the funding would come from the FHA reserves. There is enough money in the FHA reserve account to fund this $5 billion and keep our reserve account solvent.

However, in the spirit of bipartisanship, tripartisanship with the gentleman from Vermont (Mr. SANDERS), we agreed that we would amend out the specific designation of the FHA reserve fund as the $5 billion contributor to the trust fund and indicated we would provide the opportunity for our very capable appropriators to determine where this $5 billion could come from.

Mr. Speaker, there are many accounts which this $5 billion could come from where it would not even be missed. Here, we could create 1.6 million new jobs, $50 billion in wages. Our economy could get going again. We would have good-paying jobs in the construction industry, and we would provide affordable housing for millions of people.

Ms. CORRINE BROWN of Florida. Mr. Speaker, what a wonderful program.

Just one other point I want to make. Recently, the present Secretary of HUD was on Mr. O'Reilly's program, and I want to get a copy of the transcript and submit it for the record because it was horrifying that someone, an African-American, could talk about the fact that you are in an awful condition because this is what you want to be in. He would not have been in the position of Secretary if it were not for affirmative action, a program that this administration; President George W. Bush, on Martin Luther King's birthday announced we should not have any affirmative action.

Ms. LEE. Mr. Speaker, I mentioned earlier when the gentlewoman from Texas indicated that the Secretary had visited her district and visited an individual who was living in a dilapidated house, and I said I hoped he had become a little more sensitive to what we were talking about because in the subcommittee hearing, he talked about poverty in terms of it being a state of mind, not a state of condition, not a function of circumstances or unemployment or living in substandard housing in communities which had very little resources. I am not sure if he became more sensitized about the issues of poverty. I am shocked that he continued with that argument on television.

Ms. CORRINE BROWN of Florida. Mr. Speaker, all we need to do is look at the substandard conditions in many of our public housing complexes.

□ 2115

That is not a state of mind. That is a state of circumstances, and no one wants to be in those circumstances. But if we look at the dismal record of this administration as far as job creation, African Americans are at almost 10 percent unemployment. So if we look at where we are as far as employment opportunities, training, it is interesting to talk about what they are going to do in the future, but I would like the people to look at their present record. Judge people on the work I have done. I love that spiritual: ''Let the work I have done speak for me.'' We look at the record of this administration when it comes to housing, and it is dismal. When it comes to training, dismal. When it comes to education, dismal. And all of this goes together to change that state of mind, to give people that opportunity to get a heads up, and that is what we are supposed to be about.

It is a real honor to serve in the House of Representatives. It is really an honor because we have an opportunity to help people that need a little helping hand. It is not a state of mind. We visit people who try all they can, and they have run out of their employment, and the training program is not there. And they have trained people to go into other jobs, and then they have sent those jobs overseas, and they have no job.

Ms. LEE. Mr. Speaker, reclaiming my time, let me just say I am glad the gentlewoman from Florida (Ms. CORRINE BROWN) highlighted what the real issues are right now in this country. Talking about jobs and unemployment, for example, in my district the average cost of a house, a two-bedroom house, it is about $450,000, and the unemployment rate in the African American community and the Latino community is double digit. Also, the average income is 45, 35, $50,000. How in the world can a family of four afford a two-bedroom $450,000 house on an income of 45 to $50,000, if that? The American Dream is a nightmare. It is a nightmare for many Americans.

This affordable housing trust fund would help bring us back home. It would help allow for the American Dream to be realized even by those who have not had those opportunities that some of us have had, and that is what this is about.

Ms. CORRINE BROWN of Florida. Mr. Speaker, will the gentlewoman yield?

Ms. LEE. I yield to the gentlewoman from Florida.

Ms. CORRINE BROWN of Florida. That is, Mr. Speaker, I think the most important thing, to have a trust fund. So once we have a trust fund, then we have a dedicated source of revenue, and that is certainly what housing needs because it is not a priority. A lot of people that are in housing, they do not vote. They do not have any rich lobbyists up here. So, therefore, they are not included. They are not on the agenda. No one cares about them. So that is part of the problem.

So I really want to commend the gentlewoman for coming up with a mechanism that we can have a dedicated source of revenue. And then, of course, we will have to continue to fight because, just like in transportation, the reason why we cannot pass a transportation bill, and the money is also there in the trust fund, is this administration for some reason does not want to invest in the infrastructure in this country. In Iraq, yes. But not in this country. Because for transportation every billion dollars creates 44,000 jobs, and that is what the people need.

Once they have a job, then they can have housing. But until that time, they have to have affordable housing because people just cannot afford it. And the gentlewoman said $44,000 or $45,000 or $50,000. What happens when people have nothing, they have no source of income? They have lost their job, they paid into the fund, but yet this administration will not even entertain extending it so that people can get some assistance.

Ms. LEE. Mr. Speaker, reclaiming my time, let me say I am glad the gentlewoman called to the public's attention the special interest political nature of housing. And she is right. The homeless do not have lots of money to put a lobbyist here in Washington, D.C. to pound the pavement all the time. But we are really very fortunate that 5,000 organizations have come on board for the National Housing Trust Fund Campaign led by the National Low-Income Housing Coalition. So I am just very proud of them that they have stepped up to the plate and have filled that void, and that is why it is unbelievable that after we passed the bill out of committee, we cannot even get it to the floor to debate.

Ms. CORRINE BROWN of Florida. Mr. Speaker, if the gentlewoman will continue to yield, it is not not believable because it is not a priority of this administration. I have served for 23 years, 10 years in the Florida House, and I have been here for over 12 years. I have never seen an administration that dictates what comes before the House of Representatives, the people's House. I mean, if they do not want the bill to pass, it does not pass. Just like with the gun bill, they do not want the bill to come up, regardless of what they have said, because it did not come up. So people do not understand what has happened in this country and in the people's House.

I love being here because it was 129 years before the first African American got elected to Congress; so I feel that it is very important that we speak up for the people who do not have lobbyists here in Washington, who do not have people that are going to fight to make sure that we have decent, safe, and affordable housing. And we have a Secretary who does not understand that, a Secretary of Housing, who just happens to be an African American.

Ms. LEE. Mr. Speaker, reclaiming my time, I think this is a good example of how the democratic process over and over and over has been thwarted in this House. Here we have 5,000 organizations, we have sponsored a bill that is tripartisan, the bill passed out of the committee, so regular order has prevailed. And where is the bill? We cannot even have a debate, and that is all this discharge petition requires is a debate. We have 214 cosponsors. That is a lot of people. That represents millions of Americans, those 214. How in the world their voices are allowed to be stifled in a debate as important as this one is beyond me. I thought democracy was real in America, but this is another example, and in this instance it is my understanding the former Secretary of HUD just called to say, We do not want it to come to the floor. I do not know what his reasons are. He is now running for the senate out in the gentlewoman's State, Mel Martinez, but he did not want it to come; so it is not here.

Ms. CORRINE BROWN of Florida. Mr. Speaker, if the gentlewoman will continue to yield, I know him very well. He is a nice person. But I can tell the gentlewoman he was the worst Secretary we ever had. Because for this administration, it is just not a priority, and they do not want to spend the dollars. It is mind boggling how if a person is not one of the rich, companies, I mean, the gentlewoman talks about people that really need a helping hand. That is not a priority of this administration. It is not a priority of the former Secretary. It is just not when they cut the programs that they cut. It does not matter what one says. I say that all the time. Actions speak louder than words. I can say ''I love you'' all I want to. I can say ''I support you'' all I want to. But if I cut the programs that make people whole, then I do not care anything about them.

They can show them better than they can tell them. And this administration consistently has cut not only housing but veterans housing programs, consistently cut them. And, therefore, if we do not have affordable housing, then people end up homeless in the streets. And that is a sad state of affairs when we have veterans in the streets that today they are our soldiers, they are our heroes; tomorrow there is no safety net for them.

Ms. LEE. Mr. Speaker, reclaiming my time, during the Congressional Black Caucus weekend, we provide breakfast for the homeless. And I have the privilege, it is a real honor, to be able to just be there with the homeless and serve breakfast 1 day in Washington, D.C. Each and every year in the last 3 years, that line has grown and grown and grown. And I am appalled at the number of homeless veterans who come out for a meal on that morning.

So when I come back here to Congress on the subcommittee and fight for the $50 million, to restore those cuts, fight for additional funding for the homeless and for Hope VI, I cannot help but wonder who is out of touch with reality in this administration and in this Congress and why in the world that would just cost $5 billion would not be allowed to get to the floor to be discussed. Is there a problem there?

Ms. CORRINE BROWN of Florida. Mr. Speaker, the problem, in my opinion, is that if this administration does not support it, then it cannot come to the floor. We cannot have a debate over it. In fact, if we look at the Medicare bill, which is just so important to so many people, they would not even allow a Democrat in the House of Representatives to be on conference. They have the votes, but they do not even want to discuss ideas that are not their ideas. Even though they can just vote it down, they do not even want a discussion. And that is the same thing with the gentlewoman's bill. They do not even want the bill on the floor for discussion.

Ms. LEE. Mr. Speaker, reclaiming my time, it does not, again, make any sense from a financial institution standpoint to not allow this bill to come forward for discussion because financial institutions will benefit from this economic stimulus initiative. Some of the organizations that have supported the trust fund, let me just share this with the gentlewoman: the National Cooperative Bank Community Development Corporation, the Congress for Community and Economic Development, National Neighborhood Coalition, the National Credit Union Foundation, the National Community Building Network. I could go on and on about the financial institutions that have supported this.

Ms. CORRINE BROWN of Florida. If the gentlewoman will continue to yield, Mr. Speaker, how will they partner? For example, I heard the gentlewoman say the credit union, and I have spent time discussing with them and talking with them about their being more involved with housing and helping in homeownership.

Ms. LEE. Mr. Speaker, the financing that the financial institutions, which private lenders would do, would be matched by the trust fund two to one.

Ms. CORRINE BROWN of Florida. So that would expand the dollars, and so they would be able to serve more people?

Ms. LEE. That is right, Mr. Speaker. And we are talking, again, about a public/private partnership. We are not talking about a handout. We are not talking about a subsidy that is going to rip off the Federal Treasury.

Ms. CORRINE BROWN of Florida. So that $5 billion could be leveraged?

Ms. LEE. It could be leveraged up to 20, $30 billion. And that is the problem. I would just say it is a drop in the bucket in terms of what is possible under this type of arrangement with regard to a trust fund. Several States have trust funds that have funds that have been established. This would put 35 to 40 million in each State into a trust fund. That would actually help trust funds that have been established or start new trust funds, and the Federal Government would be a major player in that and should be proud of what it would do for its people.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I want to once again commend the gentlewoman on working on this initiative, on her AIDS initiative. She has certainly been a bright star in Congress since she has been here and her leadership in the area of housing and the work that she has done as far as HIV and getting funding.

This administration went to Africa and committed $15 billion. I do not

think we have $1 billion yet. Photo-ops are one thing. But that is, once again, how we talk the talk, but we do not walk the walk. And the world community had expected some assistance and some leadership from the United States in this area, and none has come so far.

I just need to know what kind of dollars have been put up for the AIDS that the gentlewoman worked so hard on.

Ms. LEE. Mr. Speaker, I thank the gentlewoman for bringing that to our attention.

□ 2130

Ms. LEE. That was a $15 billion, 5-year initiative. It should have been $3 billion for each year. We still have not gotten to the $3 billion for the first year yet. We are fighting very hard to increase the appropriations. The trust fund was supposed to be up to $1 billion a year. So far the administration has put up maybe $200 million a year. We bumped it up a little bit on this side and are hoping the Senate will bump it up, but we still have not gotten to $1 billion a year for the trust fund.

I share that because the trust fund again has the ability to leverage $8 billion to $9 billion worldwide for people living with HIV and AIDS, for prevention, for care and treatment, for orphans, for young men and women, for families, and we still cannot get the type of funding that is required for the whole HIV-AIDS initiative. It is shameful.

Ms. CORRINE BROWN of Florida. Mr. Speaker, if the gentlewoman will yield further, I guess, once again, it is not a priority. It is back to Robin Hood. They do not have the big-time lobbyists up here, although the world community is looking to the United States for leadership in this area, and it is just has not been a priority.

I really want to commend the gentlewoman. I am going to let her close. I want to thank her so much for her leadership in the housing area, in what she has done as far as HIV, just stressing the importance of having a dedicated source of revenue for housing, because, as I said, the memo went around where this administration indicated if reelected, every single domestic, domestic, program, would be cut.

Ms. LEE. I want to thank the gentlewoman.

Ms. CORRINE BROWN of Florida. Elections have consequences.

Ms. LEE. I thank the gentlewoman for joining us this evening and for her steady hard work and leadership on housing and so many issues, especially with regard to our veterans, our children, senior citizens and all of those that she so forcefully and eloquently speak on behalf of. Hopefully, after tonight, maybe the bell will alarm, maybe the drum has been beat a bit louder because of her very powerful statement tonight.

Mr. Speaker, let me just close by saying how important this discussion is and how many of us feel that housing is a basic human right, and until we realize that and establish policies that indicate that, the American dream will continue to be a nightmare for millions of Americans.

Our country does not have a housing policy. We need a national housing policy. We need a national housing agenda that speaks to the housing needs of the low income, the poor, the working poor, the middle income, the upper income, all of those who care about housing and the homeless.

Until we provide those basics, such as food and shelter, for the least of these, I do not believe we are living up to our commitment in terms of our faith, in terms of those who we care about, in terms of making sure that liberty and justice for all is the order of the day.

I just urge all Members of this House to please help us move our housing initiative forward by signing the Lee-Sanders-Capuano discharge commitment. Please sign it next week before we leave, because the people of America need to know that housing and the economic security of families and children is not a partisan issue; that Democrats, Republicans, independents, all care about it, and we want this American dream to be real for each and every American.

Mr. SANDERS. Mr. Speaker, from Vermont to California, there is an affordable housing crisis in this country and it is only getting worse. Millions of Americans who are working 40 hours a week, senior citizens, and persons with disabilities are paying over 50 percent of their limited incomes on housing. For families living paycheck to paycheck, one unforeseen circumstance—a sick child, a lost job, a medical emergency—can send them into homelessness. These life-shattering events happen every day in America and it is a national disgrace.

Mr. Speaker, if you don't believe us, just ask the half-million veterans who put their lives on the line defending this country or the more than one million children who will experience homelessness this year if they believe there is an affordable housing crisis. Ask moms and dads who are working 40 hours a week that have to sleep in their cars or out on the street because they can't pay the rent, if there's an affordable housing crisis in this country.

Mr. Speaker, the sad reality is that there is not a single place in America today where a full-time minimum wage worker can afford an average 2 bedroom apartment. Not a single place in America.

Legislation that I have introduced to establish a National Affordable Housing Trust Fund (H.R. 1102) will begin to put an end to this crisis once and for all. It will give states and localities the resources they need to build at least one and a half million affordable housing rental units in this country leading to the creation of 1.8 million new jobs and nearly $50 billion in wages. In other words, the National Affordable Housing Trust Fund is a win-win that will put people back to work and into affordable housing.

Unfortunately, despite over 200 tri-partisan co-sponsors; despite the support of over 5,000 organizations representing organized labor, big business, environmentalists, banks, religious leaders, and affordable housing advocates, a vote has not been scheduled for this bill. For over 3 years, the Administration has opposed this legislation, while its policies have made the affordable housing crisis even worse. While Congress has provided hundreds of billions of dollars in tax breaks to the wealthiest one percent over the past 3 years, we are forcing our nation's low-income senior citizens, veterans, and families with children to pay the price.

Well, in less than 48 hours, over 100 Members of Congress have signed a discharge petition to force a vote on the National Affordable Housing Trust Fund Act immediately.

Mr. Speaker, while 218 signatures are required in order to succeed, I hope you don't make us wait that long. I hope that we can convince you that this bill is needed now more than ever.

Mr. Speaker, I know that is a tough decision for you to make. But, quite frankly, people all over this country are making much tougher choices.

This evening a mom and dad will be at the kitchen table staring at their bills. They will have to make a choice. Do we pay the rent; or do we feed our children.

Tomorrow morning a senior citizen who worked hard and played by the rules all of her adult life will have to make a choice. Will she pay the rent; or will she pay for her life saving prescription drugs.

Mr. Speaker, it doesn't have to be this way. In the richest country on earth, families should not have to make these unacceptable choices. That's what the National Affordable Housing Trust Fund campaign is all about.

And, just today, Jack Kemp and Henry Cisneros, former HUD Secretaries under President George H.W. Bush and Bill Clinton, respectively have endorsed the National Affordable Housing Trust Fund.

David Broder, wrote in the Washington Post this morning that the Kemp-Cisneros "Recommendations strike me as practical and specific—not tilted to the left or the right. . . . They endorse the establishment of a National Housing Trust Fund, an idea that has gathered increasing support in Congress, to provide the capital needed to produce, preserve or rehabilitate at least 1.5 million affordable housing units over the next 10 years."

And, according to the bipartisan National Millennial Housing Commission, created by Congress, and co-chaired by our former colleague Susan Molinari, "The addition of 150,000 [affordable housing rental] units annually would make substantial progress toward meeting the housing needs of extremely low income households, but it would take annual production of more than 250,000 units for more than 20 years to close the gap."

Mr. Speaker, the National Affordable Housing Trust Fund Act will close this serious affordable housing gap. In fact, if H.R. 1102 was signed into law, we could more than triple affordable housing construction next year and provide accommodations to more than 100,000 families. In short, the establishment of a National Affordable Housing Trust Fund is needed now more than ever. I urge my colleagues to sign the Discharge Petition. By doing this today, we can mark the beginning of the end of the affordable housing crisis.

Ms. LEE. Mr. Speaker, I yield back the remainder of my time.

## GENERAL LEAVE

Ms. LEE. Mr. Speaker, I ask unanimous consent that all Members may

have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my special order.

The SPEAKER pro tempore (Mr. McCOTTER). Is there objection to the request of the gentlewoman from California?

There was no objection.

## THE FAIR TAX

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Georgia (Mr. LINDER) is recognized for 60 minutes as the designee of the majority leader.

Mr. LINDER. Mr. Speaker, in the last 5 or 6 weeks, a bill that I introduced, H.R. 25, the FAIR Tax, has been getting a great deal of interest in the national press, part of it because the Speaker mentioned it in the book he recently published, and part because the President took a look at it just prior to the Republican convention.

A lot of it is because the last 2 days the Democrats have taken a keen interest in it and have found unusual forums in which to trash it, including a 27-page critique that the House Minority leader put out today. I will say some of those criticisms are interesting, and some are even true.

But, in any case, what they failed to do in the 27 pages was to discuss the problems we are facing precisely because of our current system. They can spend all the rest of the next year or two defending the current IRS system, saying it is a good system, and ignoring the problems, but we cannot ignore them much longer.

Americans spend between 6 and 7 billion man-hours each year just filling out IRS forms. We spend that much time calculating the tax implications of a business decision. We lose 18 percent of our economy to making tax decisions instead of economic decisions.

The current director of the Congressional Budget Office informally in a conversation told me he believes we spend upwards of $400 to $500 billion a year to comply with the Code and remit $2 trillion. This is hardly an efficient way to raise taxes.

Studies show that it costs the average small business $724 to collect, comply with the Code and remit $100 to the Federal Government. And who pays all those compliance costs? Who pays all those payroll taxes that get embedded into the costs of goods at retail? Who pays the income taxes?

It is not the business. There simply is not a mechanism for a business to pay a bill other than through price, and our customers pay them all. In fact, the only taxpayer in the world is a consumer, who finally consumes the product and all the embedded costs, we have it.

The study we had commissioned out of at Harvard 5 or 6 years ago argues that 22 percent of what we spend at retail represents the imbedded cost to the IRS. Anybody who is working and spending 100 percent of the income to live is losing 22 percent of their purchasing power to the current system.

But it also causes us to ship goods and services into a global economy with a 22 percent tax component in the price system, making us less and less competitive in a world economy and causing jobs to move overseas, where the embedded tax component in the price system is considerably less, particularly in those nations that have a value-added tax that is rebated at the borders.

We also drive offshore, because of our Tax Code, capital. There is today 5 to $6 trillion in overseas accounts because it is cheaper to borrow at 6 percent interest than to repatriate dollars at 35 percent tax. So they are protected overseas, and in some cases, able to be spent over there. Not to mention wealthy individuals who keep money offshore to protect it from a confiscatory tax system.

We drive underground elicit activity because of our Tax Code. It is estimated that pornography, illicit drugs and illegal labor constitute a $1 trillion economy that is untaxed. Under a consumption economy, if they wanted to buy something, they would at least pay their fair share to the government.

The Alternative Minimum Tax was passed in 1969 to ensure that wealthy people who have no tax liability due to their legal use of deductions and credits would still have to pay some taxes. In 6 years, 35 million Americans will be subject to the Alternative Minimum Tax.

We spend over $30 billion a year on Earned Income Tax Credit designed to rebate to low-income workers the cost of the payroll tax burden, the tax that pays for Social Security and Medicare. It is estimated that 25 to 30 percent of that is fraud.

Then the big issue, the big issue is Social Security and Medicare. The current dollar 75-year unfunded liability in Social Security and Medicare is $51 trillion. Trillion. To put that in perspective, if you started a business on the day Jesus Christ was born and lost $1 million a day through yesterday, it would take you another 720 years to lose $1 trillion. We are looking at 75 years of costing us $51 trillion.

How do we solve this? We abolish the income tax and repeal all taxes on income and get rid of the IRS; get rid of personal and corporate income taxes, self-employment taxes, capital gains taxes, the gift tax, the death tax. All would be replaced by a single tax on personal consumption.

Yes, we would get rid of the payroll tax. It was said on the floor yesterday that our bill did not deal with the payroll tax. I would be willing to have these debates, but I want to have them with people who have read the bill, because the bill is the only one that has ever been introduced that totally abolishes the payroll tax, and the payroll tax is the highest tax that 75 percent of America pays.

If you would get rid of the IRS and get rid of all tax on income and let competition drive the tax component out of the tax system and replace it with a one-time, single consumption tax, out of every dollar you spend on personal use, 23 cents goes to the government, the rest stays with the merchant, we would fund the government at the current level, but everybody would keep, get to keep their whole check and become a voluntary taxpayer.

Now, that number has been criticized as being rather high. I will repeat you are currently paying 22 cents, but just do not know it. But today, if you earn $1, 36 cents goes to the government and 64 cents is left to spend. Would you not rather pay 23 cents out of every dollar you spend, rather than 36 cents out of every dollar you earn?

But, more importantly, the FAIR Tax is fair because it contains a rebate for every household in America which would totally rebate the tax consequences of spending up to the poverty line.

Currently people who spend all of their income lose 22 percent of the purchasing power to the embedded cost. Under our system, that rebate would totally untax them up to the poverty line. Poverty level spending, by definition, is that necessary for a given size household to buy their essentials. For my mother, it is $9,500 year. For a family of four, it is about $25,000. For a family of six, it is $30,000. Their spending in a year up to that amount would be totally untaxed, plus they would not pay the embedded costs. It would be gone.

The FAIR Tax is a volunteer system. Every citizen becomes a voluntary taxpayer, paying as much as they choose, when they choose, on how they choose to spend. And I mentioned before that it would drive that 22 cents out of the system.

The FAIR Tax is border neutral. Under the FAIR Tax, imports to our shores when bought at retail for personal use would be taxed at exactly the same level as our domestic competition, something that has never happened before.

Lastly, it would solve our Social Security and Medicare problem. In the Democrat's report, 27 pages today, they have a study that said Medicare would run out of money in 8 or 9 years instead of 10 or 15 years under my system. I do not know how they could come up with that, because today Medicare is funded by the workers, 138.5 million people working to pay for Medicare for all the retirees.

We are going to increase the number of retirees in the next 30 years by 100 percent. We are going to increase the number of workers by 15 percent. I do not know how you can sustain that system.

Our system, the tax on consumption, would increase the number of payers from 138.5 million workers to about 300 million citizens every time something

was purchased and 40 million visitors to our shores. We would nearly triple the number of people paying in, and, indeed, we would double the revenues to Social Security and Medicare in just 15 years by doubling the size of the economy. That is an estimate of many economists who have looked at this. And the FAIR Tax would raise somewhere around $200 billion a year from the underground economy.

Beyond these arguments, what will this new paradigm do for our economy? First of all, we have $400 or $500 billion dollars saved every year from compliance costs. That would be less moneys we would have to pay at consumption.

The money saved on compliance costs would be put to an efficient and profitable use and create jobs. Our gross domestic product would increase by $180 billion per year because we no longer would have to make tax decisions.

Eliminating the income tax would bring down long-term tax rates by 30 percent, and with no tax on capital or labor, and this is key, with no tax on capital or labor, nobody could compete with us in a world economy. We would be selling goods and services in a global economy with a zero tax component in our price system, and to compete with us, every foreign-owned corporation would have to build its next plant in America.

An informal study quoted several times by the former chairman of the Ways and Means, Bill Archer, said that a study done of about 400 or 500 European and Japanese firms, they were asked what would you do in terms of your long-term planning if the United States abolished all taxes on capital and labor and taxed only personal consumption? Eighty percent said they would build their next plant in the United States. In fact, we do know that Daimler-Chrysler wanted to be Chrysler-Daimler and wanted to be in New York City.

□ 2145

They are in Stuttgart, because of the tax system. Deficits spooked the markets; our markets are down because of deficits. Instead of a 20 percent decline in revenues over the last 3 years or last 4 years, had we been on our system, we would have increased revenues in 14 of the last 15 quarters. Add this to a huge increase in capital investment, making workers more productive and giving them larger take-home pay.

We are going to hear a lot on this bill over the next several years, and I believe it will pass because of the economic forces that are coming to bear. I urge my colleagues to read the bill. It is 132 pages, replacing 55,000 pages of statute and regulation. It is not all that complicated. Sooner or later, those who are criticizing might even pick it up and take a look at it. I will enjoy the debate.

Mr. Speaker, I yield to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Speaker, I want to thank the gentleman from Georgia for having this Special Order, and I want to thank him for his leadership on this issue.

I wonder if he would step back to podium, because I am not sure if my colleagues who have been listening in their offices really understand what we are talking about tonight. The gentleman is talking about getting rid of the income tax system as we have it in America today.

Mr. LINDER. Mr. Speaker, I want a system where nobody in the government knows how much you make or how you make it or how you spend it. I want a system that funds us at the current level, consistently, but does not keep track of us and will give you the privilege of anonymity in a free society.

Mr. GUTKNECHT. So the gentleman thinks that the Federal Government should not know at least as much as my spouse how much I give to charity. That is none of the government's business.

Mr. LINDER. That is correct.

Mr. GUTKNECHT. And the gentleman thinks that what I do for a living and how I make my money is none of the government's business.

Mr. LINDER. That is correct.

Mr. GUTKNECHT. The gentleman thinks that I ought to be taxed based on how I spend my money rather than whether I want to save it, invest it or spend it on different things.

Mr. LINDER. Whatever you choose to do, it is your money. You made it, and you spend it, and you can spend it anonymously without having to go to the government.

Mr. GUTKNECHT. This is really remarkable. In fact, I think that if the Founders knew that we had this tax system here in America today, Mr. Speaker, I think the Founders would be rolling in their graves. The idea that we have a Federal agency who keeps track of how we spend our money, who wants to know more; every year, they want to know more about how we spend our money, where the money comes from, where it goes. In some respects, it is almost un-American, the system we have today.

I want to talk just a few minutes tonight about all of the regulations, about all of the rules. I understand there are 90,000 pages of the IRS regulations that every American one way or another has to comply with. That is just outrageous. And, more importantly, I think the other issue we want to talk about tonight is how every American knows somehow, down in their bones, that there is something almost immoral about a system where we have this enormous amount of regulation, this enormous amount of bureaucracy, all of these rules and regulations just to pay our taxes. And I wonder if the gentleman would talk a little bit about how long it takes the average American just to fill out their tax forms and then, more importantly, what it means to business in terms of all of the regulations, the accountants, the lawyers, the rules and all that goes with it, just so that the average small businessperson can just simply pay their Federal taxes.

Those are issues that we need to talk about, and ultimately, those are issues that affect how we live in America and ultimately whether or not we can compete in a world marketplace.

I wonder if the gentleman would just talk a little bit about all of those pages of rules and regulations in the IRS codes.

Mr. LINDER. Mr. Speaker, there have been a variety of numbers, I know it is huge. I got all of the regulations at one time in my office and stacked them on the floor up to here, and it was huge. However, it is so complicated that no one understands it. It is correct that, under the law, you have to abide by it, but it is also correct that nobody knows what it is.

Money Magazine sent 49 different professional tax preparers the same economic data from a family and asked them to do the tax return and got back 49 different tax returns, none of which was correct. If you call the IRS help line today and ask for help in filling out your own tax return, over half the answers you get will be incorrect.

Now, the gentleman mentioned our Founding Fathers rolling over. Just imagine a system where, in 1912 or 1911, they are discussing the income tax, and somebody says, I have an idea, let us punish people for working and saving. Let us tax everybody. Let us make sure that nobody escapes. Let us make sure it is about 36 percent of what they earn. They would never have made it this far. They would never have gotten this far and they would have been laughed out of town.

Mr. GUTKNECHT. Mr. Speaker, if I could just say, the Senate has just informed the House that we have reformed the IRS code. Now, is that not wonderful? Now, we have reformed or amended the IRS code 6,000 times.

Mr. LINDER. Since 1986.

Mr. GUTKNECHT. Since 1986, and now we are going to do it again. And every time we talk about reforming the Tax Code, what, in effect, we do is we make it more complicated.

Now, in some respects, I do have a vested interest, because my daughter and my son-in-law are both CPAs. So, in some respects, if I want full employment for my daughter and son-in-law, we want to make this Tax Code even more complicated. But the interesting thing is when I talk to them, they say, make the Tax Code simpler. And the truth of the matter is, the best thing we could do is eliminate the income tax system all together and make it a consumption tax.

Mr. Speaker, there is an old adage that if you want more of something, you should subsidize it. If you want less of something, you should tax it. And what do we do in America? We tax income. We tax investment. We tax savings. We tax productivity. We tax all the things we want more of, and yet

we subsidize consumption, indirectly. What we are really talking about is something very revolutionary. It is about a whole new concept. It is about changing the whole paradigm in the way the Federal Government raises revenue, and saying, wait a second, why do we want to tax the things we want more of? We ought to tax the things that may, in fact, drag down our economy.

So this is so important. I want to compliment the gentleman on one very important thing he said earlier. When the gentleman talks about manufacturing, and we have all heard, we have heard from our friends on the left, and we have heard from the media, and we have heard from all kinds of people that America is not doing as well as it should do relative to creating more manufacturing jobs here in the United States. Well, one of the things we have to do is change the Tax Code.

I think the gentleman made the point, and we need to talk about that a lot, in terms of changing the Tax Code to make it more productive or more profitable for people to create manufacturing jobs in the United States. The gentleman talked about, one of the things he mentioned, and I think a lot of people may have missed this point, and that is that in every product that we produce here in the United States there is embedded in that product anywhere from 22 to 30 percent taxes. And one of the things the gentleman wants to change is to say, that ought to be taken out. And all of a sudden, everything we produce here in the United States would be anywhere from 22 to 30 percent less expensive on the world market. If we did that, it seems to me, if everything we made in the United States was 22 to 30 percent less expensive on the world market, it would seem to me we would be very competitive and all of a sudden, a lot of companies would want to produce those products right here in the United States.

I wonder if the gentleman could talk about that just for a minute.

Mr. LINDER. Companies are leaving our shores not because they hate America, not because they are mean-spirited; they are leaving our shores because they are being driven off. They are being driven off by the tax system that embeds so much into the price that they cannot compete in the world market.

So some years ago we had a big debate here about people leaving, wanting to leave their citizenship here and move to another nation that had lower tax on the death tax, and half this House thought, well, it is shameful if they do that, let us get their money before they leave, and the people said, fix the Tax Code and they will be here. If we eliminate tax on capital and labor, we will be the world's most attractive tax haven, and the $6 trillion would quickly rush to our shores to be invested in our stocks, our bonds, lower interest rates, create jobs that cost about $100,000 to create one job in this country.

But in addition to the $6 trillion in the dollar market that would come, how many tens of trillions would come from foreign countries in our markets because we have the best markets in the world. We have the most productive workers in the world. They would rather build in Michigan to service the car industry in Michigan than to build offshore and have to ship it in. If you get the tax component out of that system, they would be there in a second, and they have said that.

Mr. GUTKNECHT. Mr. Speaker, let me just come back to that number. The gentleman said $6 trillion. Now, around this place, we throw around big numbers, but $6 trillion is a huge number.

Can the gentleman put that in some kind of perspective?

Mr. LINDER. Well, I do not know where the numbers come from. The IRS admits it is $5 trillion. The people who are in the offshore financial centers say it is $6 trillion. But we just did some minor research. We know that the high-tech industry itself in California has about $150 billion offshore. It is too expensive to repatriate. We know that Pfizer has $59 billion offshore. They sell in the French market for francs and in the Japanese market for yen and the German market for marks, and then they convert that into euro dollars and they hold it offshore. All of that money would be back in our markets creating jobs and bidding companies. We do not know how much Japanese money is floating around that would come here, but just imagine what would happen to our stock markets if all the world's investors could invest in our stocks with no tax consequences. We have had two money managers, whose names would be familiar to you, who would say, I do not know what the market would be at as days pass, but in 2 years, it will have doubled.

There is no question that we will be the attraction, we will be the attractors of capital, and when you bring capital in, you create jobs. And this country needs job creation.

Mr. GUTKNECHT. Mr. Speaker, if I could just say, we have talked about capital, and we have talked about big business, and we have talked about investors and manufacturing, but I am told that when we talk about small business, it is where we really see the benefits. Because I am told that a small business can pay over $700, if we look at all of their costs of complying with the current Tax Code, to pay $100 in taxes.

Mr. LINDER. That is right. So the consumer of that small business not only pays the $100 plus the payroll tax, it also pays the $724.

Mr. GUTKNECHT. So that cost is over $800 for the Federal Government to raise $100.

Mr. LINDER. That is correct. This is hardly an efficient way to raise taxes.

Mr. GUTKNECHT. It is almost unbelievable. If we could get Americans to just think about this, because we all pay the taxes. I mean Paul Harvey often says that businesses do not pay taxes; people do. If you could get people to just think about this, that the system we have today is so incredibly inefficient that we all pay a lot more just to collect the revenues that the Federal Government needs.

Now, we all agree that the Federal Government, whether it is for national security or domestic security or for roads or for prisons and all of the other things we need, we need some revenue, right?

Mr. LINDER. That is correct.

Mr. GUTKNECHT. And we are not talking about cutting the amount of revenue to the Federal Government; we are talking about creating that revenue in a new and more efficient way.

Mr. LINDER. Mr. Speaker, we precisely made the decision in the drafting of this bill not to fight the battle over increasing or decreasing revenues; we would lose votes on that issue alone, not to eliminate all the excise taxes, we would lose 150 votes in this House just on tobacco; not to reform any programs; we wanted to just change one paradigm, collecting revenues on income, to another, collecting revenues on consumption, so that it would be neutral. Let us just admit that the United States consumers would save tons of money if they just were voluntary taxpayers and paid taxes when they chose to pay taxes, and then, later, we will worry about the size of the government.

But I want to tell my colleague one thing about the size of government if we pass this. Nobody knows how much we spend here. But if my mother saw every time she bought a loaf of bread how much went to Federal taxes, she would start showing the interest. We right now have a huge bias in favor of more government and more taxes because most of us do not pay the income taxes, but we pay the consumption tax currently embedded in the goods and services that we buy, and that is what we have to convince America of. You are already paying this tax. It is the same tax.

□ 2200

But how would you like to pay the same taxes and have the same standard of living, but if you are making $60,000 a year, instead of taking home $3,800 for your house payment and your groceries, you are taking home $5,000? You get everything you earned, nothing taken out. Your net pay and your gross pay are the same.

Mr. GUTKNECHT. This is an idea we think we know about, but we do not really understand. That is, every time we buy a product, embedded in the cost of that product are the cost of taxes. We do not think about that, but it is there nonetheless. If we buy a refrigerator, there is a certain amount of tax that is included in that. And there have been some people who have attempted to quantify how much that tax is. And so if I buy a refrigerator for

$500, embedded in the cost of that refrigerator may be 22 percent or more in taxes. More important than that, it is not just the taxes. It is how much that that company had to pay the auditors, the accountants, the lawyers and so forth to keep all of those records. So the cost may well be 30 percent of just taxes.

Now, if you take that many out and you put a 22 percent sales tax on that item, the net cost of that refrigerator, instead of being $500 might be $490 or something like that number. Will the gentleman talk a little bit about what the real net cost would be to the average consumer.

Mr. LINDER. I want to make it clear that the consumption tax about which we are speaking is not to be treated the same as the State sales tax which is an exclusive tax on top of what you spend. This is included in what you spend.

The reason we did it that way, an inclusive tax, is because the tax we are seeking to replace is inclusive of what you earn. If you were going to treat this as a State sales tax on top of what you spent it would be 30 percent. But to compare that with the income tax on top of what you have left to spend, the current income tax is effectively a 56 percent tax rate. Either one, the sales tax is better.

If you go to the store and buy that $500 refrigerator, that may include the tax within it, but the price of the refrigerator will have fallen because the embedded cost would no longer be there.

It is easier for me to do this on something I looked a lot at because the real estate people talk a lot about this. The real estate people say, how can I sell homes if I do not get to deduct the mortgage interest deduction on a home. I say, if you really think that sells your home, double your interest rate and you will sell twice as many homes.

The current embedded cost in the home of the current system is 28 percent. Under our system, it would be 23 percent. The home will be less expensive, the same house. If a person is making $60,000 a year, he is currently bringing home $3,800 a month to make that house payment. He will bring home $5,000 a month under this system. But more importantly because of all the tax complications that come out of the interest rate system, interest rates will decline by 30 percent. So the house is less. The take-home pay is more. The payment is less. We think we will sell lots more houses.

Mr. GUTKNECHT. So on April 15, the average American would say what?

Mr. LINDER. Another nice spring day.

Mr. GUTKNECHT. Another nice spring day in Minnesota or Georgia or Iowa. That is an amazing thing because many Americans dread the idea of April 15 coming around. They dread it for a lot of reasons. Not only the amount of money they have to spend, but they worry they might make a mistake in filling out all these forms and they may have not added correctly and they did not do this right or whatever and they did not go back three spaces and they ignored line 1–A or 15–A or 15–B. All of this would go away. The average American would not have to worry about April 15.

Mr. LINDER. They would not have to keep a receipt.

Mr. GUTKNECHT. Would not have to keep a receipt, would not have to worry how much they paid the dentist, how much they paid the doctor, how much they gave to their church. All of those things would simply go away. I know a lot of people, and the gentleman mentioned the Realtors and they are worried about this because at the end of the day this would affect whether or not Americans would buy homes and particularly new homes. But the bottom line is, that new home would, probably on a net-net basis be less expensive than it is today.

Mr. LINDER. That is correct.

Mr. GUTKNECHT. And we have got to get people to think beyond the first thing that they see and they say, oh, my gosh, you mean I would have to pay a 23 percent sales tax on everything I buy?

Well, stop and think about it. What would happen is at every payday you would get to keep everything you earn.

Mr. LINDER. I can tell the gentleman how much that would be.

Mr. GUTKNECHT. And it would be a real number.

Mr. LINDER. The average income earner pays a 28 percent withholding tax and 7.65 percent, their share of the payroll tax. Their increase in take-home pay would be about 55 percent the next day.

Mr. GUTKNECHT. So that average family when they go out to buy a home would be able to buy more home. And when you take away the cost of all the accountants and everything that goes with the IRS system today, that home would actually be less expensive.

Mr. LINDER. That is correct.

Mr. GUTKNECHT. Now, the other argument that we hear sometimes is from people who buy expensive machinery and, frankly, we have a lot of those people in my district. They are called farmers. Every so often they go out and buy a new tractor, and that new tractor today may be $150,000. They say, oh, my gosh. You mean I am going to have to pay a 22 or 23 percent sales tax on a $150,000 tractor? I cannot afford that.

Mr. LINDER. Let us remind them that no business inputs are taxed. No tractor will be taxed. No barn will be taxed. Anything used in the business is tax free. No seeds will be taxed.

I tell the farmers if you buy a tractor to work your land, there is no tax on it. If you buy a hat to wear on your head, there is. Personal consumption. No business inputs are taxed whatsoever, so farmers are universally in favor of this because it also gets rid of the death tax for them which is a huge issue.

We said on the floor yesterday that agriculture would go to bills. The important thing is for us to continue to repeat to farmers and other people who buy equipment that, number one, there is no tax on it, but, number two, the cost of the equipment will go down 20 to 25 percent. So you will buy the same tractor for far less money, and there will be no tax on it whatsoever.

Now, one farmer did raise an interesting question for me. If the value of my equipment declines, how can I borrow as much on it? I said, well, things change all the time in the farm business, but you can buy the new one a whole lot less expensive.

Mr. GUTKNECHT. So in other words, a farmer that goes down to buy another tractor that today is $150,000, embedded in the cost of the tractor is maybe 22 percent tax or 25 percent tax. So in other words, if you take that out of the price of that tractor, they are actually going to buy that tractor for $110,000 and they will pay no tax on it.

Mr. LINDER. That is correct.

Mr. GUTKNECHT. I agree with you. If we can get people to just think in those terms, all of sudden they are going to be say, well, let us have this right now. Why have we waited. Why do we have this unbelievable system that I have to go down to my accountant and I have to worry about this and I have to worry about that.

All of the sudden we have a very simple system that is only about how much I really consume. Not how much I spend to produce a product, how much I spend to produce a crop, how much I invest to produce a new job or a new business or a new product or whatever. This is consumption. And if we can get people to talk about consumption taxes, all of the sudden this whole debate becomes very, very simple. And people say, well, this makes perfect sense.

We have been joined by my friend from the State of Iowa, and I hope that the gentleman will jump into this debate and talk a little bit about what it means to him and more importantly how it affected his last election and how he became a proponent of this thing.

Mr. KING of Iowa. I appreciate the gentleman yielding to me.

A couple of subject matters do pop to mind on that. One of them is the politics of this and people say, what are the prospects of getting this passed? Far greater than they were even 2 or 3 months ago. But the politics of it back in a district where you have to raise the subject matter, you have to educate the public, you have to be willing to stand up for what you believe in and face down the criticism. Some of them not solid criticism; some of it simply politically motivated.

I ran against a certified public accountant two years ago who should have had a maximum amount of credibility on finances and economics, and he came out in favor of the IRS. I came out in favor of eliminating the IRS. I

am here. He is not. Sixty-three percent was the margin, and we did not spend a lot of money to get that done.

The public understood quickly, they learned quickly if you can get the money you earned in your paycheck every Friday, when you punch that time clock Monday morning at 8 a.m. or whatever the time is and if the government no longer is standing there with their hand out, the first lien on everybody's labor in America, the freedom that comes back from getting the IRS off their back and the burden, that was I think the most influential piece of this entire race that went on.

If I could, I would like to address another subject matter, and I do not know if it has been raised here, as I missed the first 10 minutes or so of the conversation. It was very interesting to me, I did not even get up for that reason because I am fascinated to watch both of you add to this knowledge base that we have on this subject, but my memory goes back to 1992 when Bill Clinton took office as President of the United States.

He came to this Congress and he was elected on a failed economy, a recession, so to speak; and he came to this Congress and he requested a $30 billion economic incentive plan. Now that $30 billion was to be borrowed because we were in deficit; and it was going to be spent on make-work projects, projects where you would hire people to go out into the streets and do things, pay them a wage, and they would spend that money. And that would stimulate the economy, $30 billion worth of borrowed money.

About that same time, 1992, Daniel Pilla published his book, ''Fire The IRS.'' And in that book I believe the economist he quotes is a Harvard economist, Dale Jorgenson.

Mr. LINDER. Who, by the way, did a lot of the studies for our bill

Mr. KING of Iowa. On the same analysis. When those numbers were added up at the cost of the IRS, the cost of funding the IRS, the cost of enforcing IRS tax law, the cost of paying the people to prepare the taxes, paying the people to collect the data that you hand to your tax person, paying yourself $10 an hour to sit up all night on April 14, which hopefully we will not have very many of those nights again, but added to that disincentive when people decide that I am not going to punch that time clock for any more overtime or pick up that phone for that extra sales call or extend that production line in my plant or my factory because the tax burden is too high, it is not worth the risk, it is not worth the work.

You add all those up and that number in Daniel Pilla's book was $700 billion a year, with a B.

Now, $30 billion in Bill Clinton's economic incentive plan of borrowed money, $700 billion, same year published, Daniel Pilla's book, when you add in of those disincentives. That does not include what happens to our economy when we take these several hundreds thousand people that are working in the regulatory sector of this economy for the IRS, enforcing the IRS, filling out paperwork and tax forms for the IRS, those are all bright people that are very productive people but they are working in the nonproductive sector of the economy. We take them out, put them into the productive sector of the economy, we add that to that $700 billion and then we adjust it to for inflation for the last 12 years, you are over a trillion dollars a year is the size of the anchor that the IRS, which is the anchor, and our economy is dragging that trillion dollar anchor across the bottom, and think how it sails free if we just cut the chain on that anchor, get rid of that almost 10 percent of our $11.4 trillion gross domestic product.

But it is not just an anchor. We are dragging it but when we cut the chain, we get to put that trillion dollars in the productive sector of economy. And it adds to this economy and no one can calculate what that does.

We all believe this economy doubles in 10 to 15 years, but I do not think we have calculated when those nonproductive people go to work in the productive sector of the economy. So that is the piece that really moves me, when we have that kind of waste in government, to be able to release that waste. Get rid of it. Cut the chain on the anchor and put that trillion dollars' worth of capital in the productive sector of the economy, and those people that are not producing today, that are regulators into the productive sector of the economy.

And then on top of that, there are those folks out there that are not participating in helping to fund this government. And I am talking about the drug dealers, the prostitutes, the pornographers, the tourists.

Mr. LINDER. The illegal labor.

Mr. KING of Iowa. Black market labor. Add those things up; I do not know the numbers on some of those.

Mr. LINDER. I do.

Mr. KING of Iowa. I would be glad to know that.

Mr. LINDER. It is over a trillion dollars right there in the underground economy. Just three portions of it in a recent book published by an economy, pornography, illicit drugs and illegal labor constitute a trillion dollar economy.

When I speak to groups, I always ask if there is a banker in the room. If a banker raises his or her hand, I say everybody follow her to her bank on Friday afternoon at 4 o'clock in the afternoon you will see it. And they always just smile and grin because the contractor is coming out paying off subs in cash. It happens outside of every bank in America that does retail banking. It is huge.

We do not want to find new places to tax. We think everybody ought to be paying fairly.

□ 2215

Government's principal role ought to be neutral, not pick winners and losers. That is why we tax services, as well as goods. We tax Internet sales, as well as catalog sales, as well as local sales. We do not believe that the guy down the street who builds a building, hires their kids, goes to a church, votes at our elections should be put at a 7 percent disadvantage same as a dot-com. So we say this bill is drafted with the first principle, that government's role is neutral, not picking winners and losers.

Mr. GUTKNECHT. Mr. Speaker, if the gentleman would yield, I want to thank both of my colleagues, and particularly the gentleman from Iowa (Mr. KING) because he has really been an educator for me.

I want to come back to an issue that we have not talked about yet because I think it deserves to be talked about, and we hear about it from our friends on the left. That is called the alternative minimum tax, and frankly, it is interesting because it was created back in 1969 to make certain that everybody paid some taxes, right, and we created all these loopholes for the ''wealthy.'' All of the sudden they discovered that some of these people were actually taking advantage of these programs so that they paid very little or no taxes.

They created this whole second tax system, the alternative minimum tax, that says even if you qualify under all the rules, you play by the rules as some people say, you wind up paying no tax, but you have to recalculate your taxes. Now, all of the sudden, we are talking about millions of Americans who are finding out, well, listen, I did the right thing, I followed the forms, I played by the rules, I did everything right, but now the IRS says, oh, oh, oh, wait a minute, you have to recalculate your taxes; and under the AMT, you owe another $3,000 or $5,000 or $10,000 or in some cases literally hundreds of thousands of dollars in taxes.

Let me give you an example. One of my constituents is a wonderful person, and he had made some incredibly lucky or smart investments, depending on your perspective and had become relatively, well, some people would say a very wealthy, man. He wanted to give his alma mater $1 million. He could afford to do that. So what he did is he sold some stock, and he gave his college a $1 million donation. That is a wonderful thing to do, right? Well, the IRS came back the next year and said you have got to recalculate your taxes; and for being a generous benefactor of his college, under AMT, the IRS said you owe us another $340,000 in taxes.

Now that was bad tax planning, and he did not spend enough time with his auditors and his CPAs and lawyers and so forth, but that is one example, but it happens every day.

Mr. LINDER. My daughter at 35, she is now 37, called me and she said what in the world is AMT. She has got four little boys and the deductions and a fairly decent income gets them into the AMT. When it was set in 1969, it

captured 90,000 taxpayers. In 6 years, it will capture 35 million.

Mr. GUTKNECHT. Mr. Speaker, 35 million Americans, and this is the point I want to make. Anybody who has ever been bit by the AMT will never forget this.

One of the most beautiful things about what you are talking about, and I want to thank both of you, is that under your plan they never have to worry again about having to recalculate their taxes after they have already paid what they think is their fair share.

Mr. KING of Iowa. Mr. Speaker, if the gentleman will yield, I will just say that this tax policy, H.R. 25, the fair tax is about freedom. There is so much freedom that we do not realize we have lost over the last 91 or 92 years that we have had this Tax Code because we get used to the IRS coming into our homes and into our offices, auditing us. I was shut down once for 4 days while the IRS was going through all my paperwork, and the frustration of having them dig through my paperwork, pass Monday morning quarterback decisions upon the ethical decisions that I made day by day by day, and to know that my business decisions were contingent upon the tax implications, I had kind of gotten immune to that a little bit. You get conditioned to it, and you forget that your mind can be freed of that, and it can be focused on productivity, how do you build a product or provide a service for the most competitive price and the highest quality to turn the best profit that you can. That is why you go to work every day. It has turned us into a Nation of tax preparers and tax avoiders.

So about a year and a half ago, my 28 years in the construction business, I got myself in a position here in this Congress where it behooved me to sell that business, and the most likely person was my oldest son. We did get that transaction done, but it took a long time and it was very complicated. The tax implications were so great that I almost lined everything up and just sold it, paid the taxes, washed my hands because it was too hard to avoid all of the liabilities that accrued with capital gains and the other taxes that came along.

To think, to eliminate inheritance tax, interest income, pension income, capital gains, of course income personal and corporate, add all of that up. Think about what happens when you have a whole different structure here and you cease to punish productivity and you let people amass all the capital they choose to amass. And on the good side of this, this capital that you talked about, the cheaper industry, the more available capital, the $6 trillion coming back from overseas, the new capital that will be attracted ends up here in the best place it can in our economy because that capital will go for research and development, higher education, technological investments, capital investments. All of these things improve the productivity of the most productive workers of the world.

While we are doing that, we are able to take out an average 22 percent or maybe more out of the cost of everything we sell in this country and abroad, and so our balance of trade today, which is about a minus $503 billion with a B, goes to a plus number. That plus number helps us a lot because every year foreign investors are owning another half a trillion dollars' worth of U.S. assets at the rate we are going with this negative balance of trade. It fixes the balance of trade.

As soon as somebody south of the border or in China or Africa or wherever can get the capital together to buy a punch press or a lathe or a brake, then they train their workers to run that; and we will never get that job back again. But if we can discount the product we are selling an average of 22 percent, that is the same as the neon sign that says gas $1.80 out here on the street here today. We get to sell ours for $1.40. We are going to come here to our shores till we cannot produce at that price anymore. That means we hang on to the low-skilled jobs here in this country. Some of them come back to this country, but certainly we keep many of them far longer because we are more competitive; and while we are doing that, we are enhancing the high-tech jobs, the higher paid jobs where the future of America is.

We always have to be the fastest people on the economic treadmill, the ones at the head of the curve. This tax plan puts the capital in place, the incentives in place so that we can do that for a long, long time to come.

Mr. LINDER. Mr. Speaker, the folks on the other side of the aisle will worry about people getting too rich and who is going to benefit from this and how you are going to hurt the poor. Let us just deal with that for a second.

We are going to totally untax the poor. Today, people who are living at or below the poverty level are losing 22 percent of the purchasing power for the current system, and we are going to tax accumulated wealth. For that couple that paid taxes all the money they earned over the years, paid capital gains and then sold the business, paying taxes on the interest they are earning today, we are going to tax them one more time and they spend it. To those people I say, you are already paying this, but what do you think about the freedom that the gentleman from Iowa just talked about, to do what you want with that money and not have to deal with that?

We are going to make people pay taxes when they choose to pay it by how they choose to live, and everybody's free to do that.

The gentleman had another point on trade that I would like him to expand what the rest of the world would do, because we talked about this a couple of years ago.

Mr. KING of Iowa. Yes. By the way, I remember the first time we met and that I approached and introduced myself. I asked a question of the gentleman and that was, what does it do to psychology, to the politics of America if every time Johnny or Sally, when they go to buy their baseball cards or their Barbie doll clothes, they would have to reach in their pocket, pull out a couple of dimes for Uncle Sam and put them up on the counter? After that happens millions and millions and millions of times across this country, for a generation or so, my belief is that this that new generation of Americans steps up and accepts personal responsibility, makes fewer demands on government, which means then it slows the growth of government and makes us all more responsible but also more free.

Now, a more free Nation of the United States of America, one with this capital that is amassed that is being invested in higher ed and in technology and in research and development makes this robust economy here in the United States so strong, so robust that, for example, the European Union is a good example. Their tax rates run up to 70 percent in some of those countries. Ireland leveled it down, and there are 560 companies right now domiciled in Ireland because they lowered their corporate taxes. But the continent of Europe would have to adopt some form of our tax policy to even hope to compete with us in the world market, or their capital will escape that continent and come here where the jobs will come and the productivity will come and our industrial base will come back again, as well as our technological base.

So when that happens, if the tax policy in this country promotes a more personal responsibility, less demands on government, moves us away from this socialist trend that we are moving towards, that will happen in this country. It will also happen wherever our tax policy is put into place, implemented; and that means when Europe begins to some place down the road adopt a fair tax in the same way, they will also see more freedom, more personal responsibility, less demand on government. That means the entire planet eventually becomes more free because we take the lead here in this country.

Mr. GUTKNECHT. There is a connecting point there that I want to expand upon, and that is, once we do this, they will have no choice because all of the sudden the rest of the world will turn to America and say, look, if we can invest there and not be taxed, we are going to invest even more of our resources in the United States. All of the sudden, Europe, the former Soviet Union, Iraq, anywhere else in the world, they are going to have to adopt tax policies similar to ours, where we say to people, you can earn as much as you want, you can invest as much as you want, you can risk as much as you want. We are only going to tax you on your consumption.

Now I want to come back, though, to a question that sometimes our liberal friends say, and the gentleman from Georgia (Mr. LINDER) sort of touched on this a few minutes ago, and that is, wait a second, poor people spend more of their disposable income on things that they need, and therefore, they will have to pay a lot more taxes than somebody who makes $1 million a year and only has to spend 100,000 of it on the things that they want or need just to live and so forth. How do you respond to that?

Mr. LINDER. I respond to it that people do not put money under the mattress anymore. Wealthy people spend more than poor people. They will pay a higher share of the total cost of government; but to the extent that they do not spend that money, they are going to put into banks or into businesses and create jobs.

If they accumulate a great deal of wealth, I can tell you what they are going to do with that, too. They are going to do what every great wealthy family has done in the history of this country. They are going to give it away. Another question raises charitable contributions. People do not give money away because they can deduct it. They give money away when they have more to give away. The more they have to give away, they more they give away. The great fortunes that have been given away in the history of this country were given away before the Tax Code was ever in place. So they accumulate fortunes. They will invest it. They will create jobs, grow companies, and then give it away.

Mr. GUTKNECHT. So there are only four things that people can do with their money if you think about it. They can either spend it, they can save it, they can pay taxes, or they can give it away. Those are the only four things they can do.

Mr. LINDER. I would say they can create jobs with it because people borrow it.

Mr. GUTKNECHT. Exactly, and when they save it and invest it, it creates more jobs, more economic opportunity for the people at the lower end of the spectrum. Right?

Mr. LINDER. Which creates more revenues to the Federal Government.

Mr. GUTKNECHT. Bingo.

Mr. LINDER. It has always been the case.

Mr. GUTKNECHT. But some of our friends think that we have to have these people pay lots of taxes because that is a good thing. What we are sort of saying is, well, we have to pay a certain amount of taxes, but at the end of the day if they pay more in taxes, it means they have less to invest or give away.

Mr. LINDER. And grow the economy with that investment.

Mr. GUTKNECHT. Bingo.

Mr. LINDER. It is really simple.

Mr. GUTKNECHT. Mr. Speaker, of all the things that people can do with their money, the least efficient thing in terms of growing the economy is to give it to the Federal Government because we know that the Federal Government will spend it less efficiently than they will, and that is a philosophical debate; and I understand that.

At the end of the day, we can create a system that is just as fair or fairer than the system we have today because when people think about it, you think about the average poor person. Everything that they buy has embedded in it anywhere from 22 to 30 percent taxes.

□ 2230

So they are paying the taxes. Businesses do not pay them. And in some respects even wealthy people do not pay the taxes. It is the poor people who pay them.

Mr. LINDER. Wealthy people pay taxes on personal consumption, and wealth has no meaning unless it is spent on personal consumption.

If I had $100 million and lived in a $20,000 home and drove a used car, that $100 million would mean nothing to me. So somebody would be borrowing it, building their business with it, and creating jobs with it. Wealth has value only when spent personally, and that is when it will be taxed.

Mr. GUTKNECHT. So if I buy a $100,000 automobile, I pay a lot more taxes than if I buy a $20,000 automobile. That is the way the whole system works.

Mr. Speaker, we have to do a better job of explaining this to everybody. Because I think, in the end, and I want to thank both my colleagues, particularly the gentleman from Iowa (Mr. KING), because he has been helpful to me in beginning to understand.

Let me close for my part of this with two very important points made by one of my favorite people from the United Kingdom, Winston Churchill observed this about the American people: First of all, he said Americans always do the right thing, once we have exhausted every other possibility.

And I think we have really reached a point, when you look at the Tax Code, that we have exhausted every other possibility. And it really is time for us to do the right thing.

The other thing that he said is that the difference between someone who is convinced of something—no, I am going to forget the story. Have you got the story?

Mr. LINDER. You told it to me once. It is the difference between someone who is a big believer and a fanatic.

Mr. GUTKNECHT. A fan. Yes, that is it.

The difference between a fan and a fanatic is that a fanatic cannot change their mind and will not change the subject.

I have almost become a fanatic on this issue because this is something that, if you think it through, begins to change the entire paradigm. As the gentleman from Iowa said, it not only changes the way we see government but it changes the way we react to government. In the end, it says to Suzie and Johnny when they go in to buy something at the store, wait a second, every time I buy something, it is 22 cents or 23 cents, or whatever the number is. And all of a sudden they begin to see government as a real cost to them.

Mr. LINDER. That is correct.

Mr. GUTKNECHT. And they demand less of the government. So this is an issue whose time has come.

It seems to me that we have a responsibility as Members of Congress to go out and tell this story. And if we do our job of telling the story, as Jefferson said, give the people the truth and the republic will be saved. If we give the people the truth on this subject, then it seems to me that ultimately they will demand that Congress do something like this.

Mr. LINDER. Mr. Speaker, I will yield to the gentleman from Iowa for any closing remarks he might have.

Mr. KING of Iowa. I thank the gentleman, Mr. Speaker, for yielding to me once again, because there are a couple of things I would like to say too at the end of this discussion.

When we talk about how many people are not paying taxes today, everybody is paying taxes in the embedded cost of everything they buy, and they do not realize that. But about 44 percent of the public does not pay income tax in an income tax form. Forty-four percent. When they get to the point where they are at 51 percent, they can simply come to the government and make demands on the government to extract the rest of the sweat from the brow of the people who are making a living and earning.

So we are very close to that tipping point where we could lose the center of this country. If it ever tipped over from 44 percent to 51, then I think you would see the real slide towards the socialistic state. We have been stalling it off here, but it has been incrementally going in that direction. So I think it is important that everybody buy in. And going to the fair tax does that. Everybody consumes. Everybody buys into that policy.

For me, I started working on this in 1980. I was audited for 1979 and it was in 1980 that they did so, and it was the second time. Too close together. And with the frustration of that, I started with the principle of let us eliminate the IRS. Now, what do we do to replace the revenue?

I would sit at work every day and think my way through this. And it did not take long for me to reject the other proposals on how we might be able to replace the revenue. This is the only way to eliminate the IRS and replace the revenue, and it is revenue neutral.

I kept turning this Rubik's cube around over and over again. What are the unintended consequences? What happens to black market? What happens if people reduce their consumption? And every time I turned that cube around and looked at it another

way, there was an answer to it. The answer is actually better than you anticipate in the beginning, and the picture got better and better and better.

I do not think it is an overstatement to say that if you have a tax policy that can solve problems, this tax policy solves virtually every one that a tax policy can solve.

Mr. LINDER. Mr. Speaker, I thank both my colleagues for their help. This has been an illuminating discussion and we need to do it again.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1308) entitled ''An Act to amend the Internal Revenue Code of 1986 to provide tax relief for working families, and for other purposes''.

## ELECTIONS: THE U.S. AND IRAQ

The SPEAKER pro tempore (Mr. MCCOTTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. MEEK) is recognized for half the time until midnight, which is approximately 42½ minutes.

Mr. MEEK of Florida. Mr. Speaker, once again it is an honor to come before the U.S. House of Representatives to be able to share a few things with the American people.

Mr. Speaker, I think it is important that we reflect on this period as we stand as a country. A lot has happened today and a lot will happen in the future, and I think it is important that we reflect on what happened today and the direction our country needs to go in and should go in.

We all know that there are 40 days and some hours, just about to be 39 days before the national election on November 2. I think it is also important for us to reflect on the responsibility that every American has to participate in that process. I would like to share with the American people that for a couple of weeks, we have not had an opportunity to have a 30-something hour, but I think it is important for us to address some of those issues that are affecting young people in this country.

I want to commend those organizations that are out there supplying information to voters between the ages of 18 and 30 to make sure that they participate in this election. What has been happening for the last 4 years, and what is going to happen in the next 4 years is very, very important for the future of our country and also for the future of our families.

I want to thank Rock the Vote and also the WWE Association, and many other individuals that are out there, like Mr. Russell Simmons, what the NAACP is doing, what the people for the American Way are doing, and also thank what Puff Daddy and other folks out there are doing in making sure that people have good information. Voter suppression is very real, Mr. Speaker, and I think it is important for parents or grandparents or even Members of Congress listening tonight that we share with them that their loved ones who might be in school do have the opportunity to register to vote.

In the beginning of October, that clock is going to run out throughout the country, so we need to make sure they know they can register. We did have some supervisors of elections or those election officials in those local communities that were telling them they could not. Now we are getting that information out. I believe there is a 1975 Supreme Court decision that said that if one is in school and registered in school, they can be from another State, but they can register to vote there, because nine times out of ten during the early voting periods and the election period in early November, they will be there at that location.

Mr. Speaker, I have my friend and colleague, the gentlewoman from Cleveland, Ohio (Mrs. JONES), joining me here tonight, but I first just want to take a moment, since we are talking about democracy, to reflect on a country that we are saying that we want to institute democracy in. I think we should be very careful in being the promoters and also the hood ornament for democracy in the world. We are promoting elections in Iraq at a time when we know that it is very unsafe, not only for U.N. workers but for our U.S. troops and the very limited coalition that we have in Iraq right now.

On the floor here today, Mr. Speaker, we had the interim prime minister of Iraq addressing the U.S. Congress. He also went over to the White House and was with the President in a Rose Garden ceremony. It is one thing to be able to say that we have to be there for the long haul. As a member of the Committee on Armed Services, I support the effort of making sure that we achieve our goals in Iraq. I may not support how we got there, which I do not, that being the preemptive strike, which is something this country has never engaged in before. There is no ''may'' about it, I do not. But I think it is important we reflect on where we are right now.

We have had the arguments, hours of arguments on this floor, of how we got there. I think the American people are fully aware of who made the decision and who decided that we should take a preemptive strike in Iraq, without a real plan that provided for a good measured outcome. The people who made the decision to go with the willing I think is something that we are going to remember in the future as it relates to the art of war and in taking a move like we did several months ago.

I could not help but reflect on the prime minister's comments today, and I also could not help but reflect on what was said at the Rose Garden about the fact that we are ready for elections in January. Now, this is not the Kendrick Meek report, this is the report of many news articles I am holding here in my hand from the events of today. This is not only the reports of these news organizations but also of anyone turning on the television and looking at cable or at network television. Guess what, things in Iraq are not going as well as we are being told here around the beltway and in Washington, D.C.

Mr. Speaker, I think it goes beyond my obligation and the obligation of all the Members here in the House, be they Republican or Democrat, to level with the American people about the realities of Iraq, the realities of taking on an effort in the Middle East where we have had terrorism for years and years and years.

Fact: Saddam Hussein. Yes, he was a bad guy and he needed to go. But at what cost? Fact: Al-Qaeda and other terrorist groups were not running the streets of Iraq prior to the preemptive strike. That is a fact. That is not fiction. That is not the Kendrick Meek report, that is reality.

The President today said, well, we have to continue to fight the war in Iraq, because if we leave, then the terrorists will have a hub to be able to carry out terror on other democracies on the face of the earth. Well, Mr. Speaker, I cannot help but to reflect and to comment on that remark. Who set that stage for that mecca or hub of terrorism?

Now, I am not here to point fingers, I am just here to say that the world community knows the reason why we have all the terror in Iraq right now, that could and would be and is a part of global terrorism at this particular time. And I think it is important if we are going to build a broader coalition now, and I want to make sure, because Secretary Rumsfeld today, I must add, was over in the Senate and he said, well, what is wrong with the elections? We can have elections in January, but what is wrong with having elections in some places and in other places where we cannot have them, it is not a perfect world, so let us just move on with the elections.

Mr. Speaker, I am sorry, but I beg to differ with the Secretary, in all due respect. That is not the way a democracy operates. Next thing you know, here in the United States, and thank God for the U.S. Constitution and some people of goodwill who would stand up against such an action, if it were said that, well, we can have an election in Georgia, Alabama, or Mississippi, but in other places we cannot have it, so whatever the results are from those States, then so be it. Those are the elected officials that will represent that legislative body or those cities in those areas or this country.

Mr. Speaker, we need to watch what we say. Just because we can say it, does not mean that it is right. It is very, very unfortunate that the Secretary of Defense feels that he can

make those comments. And I wanted to make sure that I came to this floor tonight to share not only with Members of Congress but also with the American people that we should disabuse ourselves of such statements made off the cuff when we are trying to create a democracy.

The coalition in Iraq is not expanding with individuals or countries that are there to be able to help us in our mission and our goals. The coalition is getting smaller. I think it is important if we are going to build a true coalition, then we have to make sure that we have strong leadership. Mr. Speaker, 1,041 American lives have been taken. We honor and respect them. As a Member of this Congress and as an American, I respect their contributions to our country.

I think it is important that Americans not only reflect on their contributions and their sacrifices, but we need to also make sure that when we hear something here in Washington, D.C. by individuals that are being driven around in cars with tinted windows, who have prepared comments to be able to draw an audience and who believe what they say should be law, we beg to differ. It is our responsibility and our resolve and our commitment to this country and to the lives of those troops and their families goes beyond that.

So whether it be an independent, a Republican, or a Democrat, we have the responsibility to stand up and say that is not so, Mr. President, the administration, or whoever it may be; these individuals who would sit here and give the American people the Potomac two-step that everything is okay. It is not okay. We have 7,032 troops injured, and we are at 96 percent of the cost in Iraq. We do not have a coalition, as the administration will share with you that they are running the costs and they are taking on the casualties.

Yes, Mr. Speaker, we are trying to train the Iraqi army, but this argument goes beyond partisan politics. This goes to the very fiber of every veteran that has served this country, every veteran that allowed us to be able to breathe and celebrate the very democracy that we live in today. Their memory, their honor, their sacrifice is on the line right now in the world community.

□ 2245

The boldness of some folks here in Washington, D.C., to be able to say that something is going on in Iraq that the American people cannot see. I want to share a few facts here. Security failures in Iraq, we need to get down to what it is worth. I mentioned the casualties, and I mentioned the injured. Our forces are coming under attack 90 times a day. That is a twofold increase since winter.

Also, when we look at the new al Qaeda terrorism generated throughout the world, we are at a cost of $145 billion, and 41 percent of our debt is handled by foreign countries right now. That is 96 percent of the bill.

I think it is unacceptable for people to talk about things are going so well. We need to tell the truth. The truth is no weapons of mass destruction, no link between Saddam Hussein and al Qaeda. This is not the report of the gentleman from Florida (Mr. MEEK); this is what the President said in the Roosevelt Room when questioned about it. The facts show there was no link. The mission is not accomplished. The transition is not a peaceful and stable one that is happening right now. The attacks on the troops are increasing, not decreasing. Terrorist opportunities are growing in that region. The fact that the failures of this administration to come to grips with the reality with what is happening in Iraq right now is detrimental to our mission.

Mr. Speaker, I yield to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time. It is a privilege and a pleasure to be a Member of the House of Representatives. I represent the great State of Ohio, 11th Congressional District, city of Cleveland.

The first constituent whose family I stood with after his death was Brandon Sloan. Brandon was 19 years old. When I had an opportunity to talk with his dad, Reverend Tandy Sloan, he was miffed by the fact that his young son, 19 years old, over in Iraq as a part of the 507th Maintenance Group was there without equipment at the end of a long line of some 600 vehicles, without an artillery group around him and was required to try and hold onto a truck that he was driving. Young Brandon was killed at 19, at the height of his life, having graduated from Bedford High School. The list goes on.

There was a Sergeant Robert Toudy, part of the 507th Maintenance Group over there, trying to speak on behalf of the people of America, fighting for his country, over there trying to work for the freedom of the Iraqi people. The reality is, here we stand in September 2004 with so many young men and women. Disproportionately represented among this group are minorities and low-income folks who went into the National Guard, who went into the service hoping to get a college education, being required to give full-time service to our country in an Army, in a war that really they cannot figure out why they are over there.

As we stand here this evening as Members of Congress saying to the American people, why are we there? What is it that put all of us in harm's way? What is it that put 1,000 young American men and women in a war that we still cannot figure out; no weapons of mass destruction, no real reason to be over there. The whole couching of the terms of a war on terrorism is not what should have been said, but that we are there. What do we do now? How do we protect the young men and women in the Armed Services?

They are fighting, and they will say, we are fighting for America. We are there fighting for freedom, but behind all of that, and we know they are standing up and I am so proud of the young men and women I have met over there doing what they believe our country wants, but the reality is, it is time for a wake-up call. It is time for the people of America to say, is this the best thing we can do? Do we have an exit strategy?

Even more interesting is the people who are working over there for private companies who are being kidnapped, beheaded. Why does this President not have a way for us to get out and for us to get out without feeling like we have deserted the people of Iraq? The people of America need to ask the right questions, make this administration tell us what is the resolve for us to get out of Iraq.

Earlier today, on another note, we voted on another tax cut. I admit I voted for the tax cut, but I was concerned about the people of Ohio, some 60,000 who have lost their jobs since President Bush took office in the city of Cleveland alone. In East Cleveland, there is a 14.3 percent unemployment rate while the national rate is 5.7 percent. Jobs are going overseas. What are we doing in the tax relief bill to help the working poor making less than $10,000 who are working for a minimum wage of $5.25 that keeps them in the poverty range?

What are Members of Congress doing? What is Congress doing to help those who work every day with no health care and with children in poverty? My own city was recently named as the number one city of poverty in the United States of America. It is time for a wake-up call for the people of America to say, in this election, what are we going to do?

I know people are saying, I cannot make the connection. My vote does not count. There are many who want to suppress our votes and say, like our Secretary of State, Kenneth Blackwell, who issued a ruling this past week saying to the people of Ohio, I am going to have a more restrictive ruling on how voters can use a provisional ballot than I had in the primary. It is voter suppression.

I am pleased to join my colleague, the gentleman from Florida (Mr. MEEK) to say to the people of America, join the family plan. What family plan? Not a health care plan. Not a dental benefit plan. But a plan to get all of your family out to vote on election day. Make sure everyone is registered. Make sure everyone has an absentee ballot who cannot be in town. Make sure everyone gets out on election day. This is the most important election of our lifetime.

This election is going to impact what happens with children in Head Start, in public schools and private schools. It is

going to impact Pell Grants, a diminishing number of dollars available to college students. What is going to happen to the children who decide not to go to college? Are there training opportunities for people who decide not to go to college? What about mothers on welfare who want to go to work but do not have the income and the type of job that allows them to be in a position to pay taxes?

I am asking all those who are listening to say this is the most important election and our vote is our voice. It is time to step up and speak up and say to the people of America and the people of the world that we are going to be heard. Our voices are not going to be silenced. Our voices are not going to be suppressed. We are going to voice our concern about what is happening in the world.

We have 435 elected Members. Americans have an opportunity to be heard in November. Do not sit back and say, I am not going to be heard. My voice is going to be heard. I am going to let the people of America and the people of the world understand that I wanted to be a part of this. I am America. My face is America. I am part of this whole effort that is going on in this Nation, and I want to be heard.

Mr. MEEK of Florida. Mr. Speaker, I want to let the gentlewoman know how excited I am, not about the prospect but about the reality of the number of individuals who will vote this election. The stakes are high. This election is beyond personalities. It is personal. It is about families and their future.

I once said on the floor that the goal of every grandparent and parent is to make sure that their children and grandchildren have better opportunities than they had. That fits everyone, Democrats, Republicans and Independents. The American people are going to have an opportunity to have a new direction. There are 45 million Americans without health care. These are working Americans without health care. We have the highest deficit in the history of the Republic. We are knocking on the bank door of China saying, please help us with our debt because we cannot manage our own money. At the same time, we are in a war with no real end.

I will repeat again, I support making sure that we reach our objectives in Iraq, but what I do not support is for us to continue to carry 96 percent of the costs and 96-plus percent of the casualties without being able to go to the world community to build a real coalition in Iraq. It is not good thinking to be able to say we are going to hang in there and go from a shooting-from-the-hip way of doing things; we cannot do that. We have the moral authority in the world so we cannot behave like others. We cannot afford to behave like others.

The rest of the world is looking at this election to see what the American people do about the future of the world. People talk about a global war on terror, yes, a number of countries are involved in the global war on terror, but the real issue is who is involved in Iraq.

Just for a moment, what happened to Osama bin Laden? We had efforts on Osama bin Laden and also in North Korea and making sure that we kept the pressure on Iraq as relates to their nuclear programs; maybe we will be securing the world more. Maybe, just maybe, we will not have the kind of terror incubator that we have in Iraq now. This is not the Meek report. The CIA report said either civil war or a lack of not being able to accomplish our goals that we set out to do in Iraq, one of the two.

When you follow Secretary Rumsfeld saying we can only have elections in three-quarters of the country, the rest of the country, we will get around them, it is not a perfect world; you want to talk about a prescription for civil war, that is one. That is why it is important that the American people understand their responsibility in this upcoming election season.

I am encouraged by the 18- to 30-year-olds who are registering to vote. I am encouraged by the grandparents and the veterans who are saying, young person, make sure you carry out your vote. To those individuals and seniors who are cutting pills in half because they do not have a prescription drug benefit, they have an opportunity to voice their opinion.

Mrs. JONES of Ohio. Mr. Speaker, the Louis Stoke's Veteran Facility is right around the corner from my house in my congressional district. I was over there the other day talking with the administrator about the new programs that are going to go into this veterans' facility.

□ 2300

But the reality is we have not treated our veterans like they ought to be treated. We have not given them the benefits that they deserve. We have not given them the health care that they deserve. We have not given them the opportunity to engage in a new business when they come out. We have not given their families the kind of support that they deserve.

And I am thinking back, my dad, Andrew Tubbs, 84 years old, served back in World War II. And my son Mervyn had an opportunity to interview my father about his service. And my dad told him things that he had never even discussed with me. And I said, Dad, why did you not tell me about this? He said, Because it hurt. Every time I talked about it, it hurt me. I did not want to talk about it. I did not want to tell you about it, but there came a time in life when I was much more comfortable.

Today, my dad has got dementia, is suffering from Parkinson's, and I think about what are we going to do for veterans who have come after him. Are we going to give the benefit to the Vietnam veterans who have posttraumatic stress syndrome, who suffer from Agent Orange? And we are talking about young people across this country about how we want them to join up with the service. What I am worried about is what is going to happen to the young people right now. Are we going to have a draft that is not an official draft? Are they going to be forced to go into war in Iraq, as the President, as has said, that after the November elections, should he be successful, he is going to call them up? He is going to call more troops to go into Iraq and to possibly lose their lives.

The people of America need to understand that. They need to know the possibility of that fact. They need to know that the National Guard, who are overtaxed, overworked, are working very hard, doing double duty on behalf of America, when they really never anticipated that they would be any more than a part-time armed services.

And what about the people that are in full-time service? I have a cousin who told me, Stephanie, we are working 48 hours, not 24 hours in a day; 48 hours.

So I am just saying to the American people it is time to wake up. Remember that old song, ''Wake up, everybody, no more sleepin' in bed, no time for backward thinkin', time for thinkin' ahead''? The world has changed so very much from what it used to be. There is much more hate and war and poverty. So we need to understand the dynamics that are coming to play in these next 40 days and be ready to step up to the plate and voice our opinion about what is happening.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, this election is going to be about who votes and who does not vote. This election is going to be about the future of every American family. We know that every election is supposed to be about that, but this one is for real.

The President of the United States said today to the interim prime minister of Iraq, do not worry, the American people will be with him all the way to help him accomplish the goals that the Iraqi people want to accomplish. Well, I am not one to hang my hat on polls, but I will tell the gentlewoman this: the Iraqi people see us as occupiers instead of liberators. And that is not a reflection on the job that the troops are doing on the ground.

I want to make sure that Members of Congress understand that there are a lot of proud men and women who are laying it down right now. I pray for them every day. I make sure that their families understand that we appreciate their service to our country. But at the same time, it is our obligation as leaders here in Washington, D.C. We are citizens elected to this Congress to make sure that we run this country in a way that it should be operated and that we make sure that our troops have what they need and when they need it and we make sure that we make sound decisions based on what the situation is today and what the situation will be

in the future; and that is the reason why I am sharing tonight with all of the people that can hear my voice that it is important that they look at it for what it is.

There is a term out there that a lot of young people use: it is what it is. And right now, if I were, hypothetically speaking, the President of the United States and I am looking at what is going on and I am getting the CIA reports and I am hearing things that the American people are not hearing right now and I am turning on the news and I see what is going on and I am picking up the paper and I am reading the articles and I am getting all this good information but, better yet, I am still going to hold on to the fact that we are going to have elections in January, that lets the world's community know that we are putting, I believe, politics over principle and over sound thinking.

And the great thing about our democracy is we have the opportunity to come here and voice our opinion and to be able to share it with the people who live in our democracy for them to act appropriately, and acting appropriately would be to think about the facts. A commercial over here and a commercial over there. That is fine. Some of it is true, and some of it is fiction. But the bottom line is when we speak from the White House and when we speak here on this floor, we have to speak the truth. There is not a lot of time for us to play around and start talking about, well, I am going to just sway over here and I am going to embellish a little bit.

The American people deserve better. Congresses before our Congress, the 108th Congress, knew and hoped that this democracy would move as it relates to truth, honesty, and dignity. And it is important that we do not even reflect that. With all due respect, we do not even want to brush up against that. I am not saying that that is not the case now. But I am saying we do not brush against that honor that has been laid out. When I talk about veterans that have served this country, those that are in Arlington Cemetery right now, resting in peace, we appreciate their contributions. Every time I go to the airport, I see Arlington; and I swell up about their contribution. We would not be in Congress if it were not for them. So when we look at that, it goes deeper than the politics that we are hearing right now.

So the American people have an opportunity, Mr. Speaker, those who are voting for the first time and those who have voted 100 times, to be able to make the right decision based on the facts. If their voter registration card says Green Party, Reform Party, Republican, Democrat, Libertarian, Independent, whatever their party may be, they have an obligation on behalf of their family. Family, that is personal. So we have to make sure we reflect on that.

I am excited. I am just going to let the gentlewoman know I am in no way feeling that woe is this country because I have faith in the American people. I know they will make the right decision. We have got to give them the facts about what is happening, what is really going on, and let them make their decision.

Mrs. JONES of Ohio. Mr. Speaker, if the gentleman will continue to yield, the interesting thing is this whole discussion about security right here in the United States and what has this administration done to secure us. I would ask the people of the United States of America to contemplate this: the COPS program, we were supposed to give money to cities to increase the number of police officers available in cities, first responders. That amount of money has been reduced. I think about the first responders, the law enforcement, the firefighters, the EMS. The money that was supposed to go to cities across this country is locked up in State capitals across this country, not going into the neighborhoods where they deserve it.

We are still trying to figure out about what do we do about the tankers or the freighters coming over into our country that are not being perused. We are still thinking about the number of things that are on the planes. The other day I was flying from Cleveland into D.C. I mean, the woman frisked me, totally frisked me. The TSA person. They were trying to be in place because of what happened with the Russians. But what about all the things we are not doing? And this President talks about securing America, and people are talking about how this President has done all these things to make sure we are safer.

I bring to the American people the reality that those things are not happening right here in the United States of America. There are so many things that have not been funded by this administration that would make us more secure. So we should not get fooled by believing that this President has done enough to see that we are secure at home.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, I will just say, since our time is drawing near to the end, that the American people have an opportunity to vote and they will. There are record numbers of new registrants out there in this country, and they are registering to do something. And they have an opportunity once again to vote for a new direction as it relates to health care; education; environment; energy; security for our country, making sure that we have more containers that are being checked, coming into this country, which has been found to be one of our greatest terrorist threats.

□ 2310

They have an opportunity to make sure that there are sound decisions, and a real opportunity for the world community to feel that they can come to the United States and we can build a real coalition in Iraq; to be able to make sure that we put on a real hunt for bin Laden; to make sure that individuals that were responsible for 9/11, that they are not only brought to justice, but shut down.

So they have that opportunity, and I believe very strongly they are going to take that opportunity and they are going to swell that vote, and they are going to vote early, and they are going to make sure that every member of their family votes, because this election, I believe, this election, I say it again, is the greatest opportunity that Americans have had who are able to cast their vote in a very, very, very long time.

So, I am glad that the gentlewoman from California (Ms. PELOSI) has led us in the direction of the New Partnership with the American people, and that we are going to do the things that are going to be able to help not only working Americans, but those Americans that have contributed to our country.

If you are on Social Security, you have a place in our partnership. If you are looking for a job, you have a place in our partnership. If you are a mother that is trying to make ends meet, you have a place in our partnership. If you are a veteran that wants to go to the VA and get assistance within 6 months, you are in our partnership beyond 6 months. That is the situation right now, if you want to see the eye doctor or whatever the case may be.

If you want to make sure that we build a sound America with sound education funding and policy and making sure that students that are crushed by student loans right now, that they get the opportunity to attain a graduate education so they can compete with the rest of the world, you are in our partnership.

If you do not want to have to train someone to perform your job overseas, you are in our Partnership with America to bring about change.

So I am excited about our leadership here under the gentlewoman from California (Ms. PELOSI) and the gentleman from Maryland (Mr. HOYER) and so many others that are out there, along with our Democratic Caucus, but I think it is important that we make sure that American people understand the opportunity they have.

Mrs. JONES of Ohio. Mr. Speaker, if the gentleman will yield further, I want to say this, that I am so excited and privileged to serve in the House of Representatives with this fine young man, the gentleman from Florida (Mr. MEEK). He comes from great stock, my former colleague, Carrie Meek, serving on the Committee on Armed Services, serving on the Committee on Homeland Security, and he is talking about what he knows. He is not just speculating. He has the opportunity to be on the committees that know about all of these issues about Iraq, about all these issues about National Guard, the Armed Services.

I am just so pleased and proud to be able to stand with the 30-Something

Group here on the floor of the House, having celebrated my double nickel birthday just last Friday of 55. I am pleased and privileged to stand here, to be a part of the House, to have an opportunity to be heard.

I just want to salute the gentleman from Florida (Mr. MEEK) for all the great work that you are doing. I am just pleased to be in your aura.

Mr. MEEK of Florida. Mr. Speaker, I will try to live up to that as we move on. It is a great pleasure to serve with the gentlewoman from Ohio, with all of the trials and tribulations that her constituents and the people of Ohio with the loss of jobs.

As we know, in Florida when we talk about health care, 240,000 people in Florida lost their health care that are working under this administration. We have an opportunity to turn that around. I am very proud of the opportunity that we have.

Once again, it is an honor to serve in this House. It is also a greater honor to be here, to be about the solution.

I will tell you, it is not just Democrats. There are people of good will in this House that want to do the right thing. It all comes down to the leadership. It is like our troops in the field. Who does not support the troops? That is what I want to know. We all support the troops. We speak in our vote, we speak in our support on the floor, we speak in our prayers for the troops.

But it is important that we are not blinded by bipartisanship and about the fact that, oh, well, I have to do this because the leader of my party or the leader in the White House says that I have to do it, and we have to stand in solidarity with him or her or whoever it may be.

We stand in solidarity with the American people, and the American people have an opportunity through the partnership that we have built here in this House with our leader, the gentlewoman from California (Ms. PELOSI), about what we should do and what we have to do, given the opportunity.

I must say, it has been 10 years since this House has been controlled by Democrats, and I think it is important with Democrats and some goodwill Republicans that we put this country on the right track.

With that, I want to thank the gentlewoman for joining us here tonight.

## SUPPORT OUR COMMANDER IN CHIEF AND TROOPS

The SPEAKER pro tempore (Mr. MCCOTTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Iowa (Mr. KING) is recognized for the remaining time until midnight.

Mr. KING of Iowa. Mr. Speaker, I appreciate the opportunity to come to the floor of the United States House of Representatives and have the opportunity to speak my peace to the American people.

I think as I have listened to this discussion over the last 2 or 3 hours here, and particularly over the last 40 minutes or so, I would start backwards and work my way through there.

The question was posed just before the gentleman from Florida yielded the floor, who does not support the troops? I recall a resolution on the floor of this Congress within a week or two of the time the liberation troops entered Iraq. The resolution was to honor our troops. It included, of course, honoring our commander-in-chief.

There was a long, contentious debate on the floor of this House that lasted until 2:15 in the morning, and Member after Member went down to the well and spoke, and spoke against honoring our President because he was in the resolution to honor the troops. This went on until 2:15 in the morning.

Some of them said, ''Bring them home, Mr. President. This is a failed mission.'' We were only 2 weeks into this operation. By the way, this operation is likely and it certainly will go down in history among the most successful military operations in all of history.

Our troops entered Iraq and crossed the desert with armor faster than any column had ever done so before; they invaded and occupied the largest city ever in the history of the world to be invaded and occupied, invaded and liberated subsequently. That all happened in about 22 days. The population of Baghdad is twice as large as now the second largest city ever to be invaded, which was Berlin. It was a tremendous, magnificent military performance. And that mission to liberate Iraq was accomplished, and it was celebrated. And, by the way, it was not at the President's request that that banner was hung on the Abraham Lincoln, that was the people on the Abraham Lincoln that made that selection.

Who does not support the troops? The people that voted against the resolution, 14 of them, and many others who spoke against it. Some of those people that said ''bring them home, Mr. President,'' that went out and did press conferences and talked about it and declared it to be a quagmire, another Vietnam, a failed mission, ran down the efforts of our United States military, some of those same people that spoke against the resolution honoring our troops and supporting our troops, those people spoke against the mission.

They went down and stood in front of the television cameras when we honored our troops in Statuary Hall here in the United States Capitol building, and they stood there holding an American flag right in front of the podium and cameras demonstrating their patriotism after they voted against the resolution honoring our troops.

I think if you pray for the troops, you also pray for our Commander-in-Chief. If you honor our troops, you also honor our Commander-in-Chief. We are all in this together, from the Commander-in-Chief down to every soldier and the people that support them and their families and neighbors and friends and employers and the people that pray for them to come back home, those that keep their jobs open. Those are the support group and the support team. That is how you honor our troops.

You go over there and visit them. If you do that and look those soldiers in the eye and talk to them and if you listen, you will find out that they will not accept the idea that you can support the troops and oppose the war, or you can honor the troops and oppose the mission.

As a Marine major told me on one of my trips to Iraq, he said a soldier is trained to do that which is unnatural, and that is to kill. You send them in on a mission to do that, to kill or be killed. You cannot tell them that their cause is unjust. They must believe that they are fighting for a just cause. When their lives are on the line and when it is kill or be killed, it has got to be for a just cause.

The debate in this country can go on and rage, but when our troops go into harm's way, we need to come together. When we have a presidential election in a Nation at war, those disagreements need to stop at the water's edge.

I believe this is the first time in history we have had this kind of contentious presidential election that carried this argument overseas and where the debate and the discourse has encouraged our enemies.

□ 2320

I made these statements months ago, and they are true again today. When the people who are viewed as quasi foreign policy leaders, those voices from the other body, those voices from this body that speak out publicly and claim that it is a failed mission, it cannot be won, those people are undermining our mission.

So, when there is an insurgent sitting in their concrete hut over in Baghdad or Fallujah or wherever it might be, and they are building improvised explosive devices or planning their next attack on coalition forces, and they are watching their new satellite dish TV, of which at least two-thirds of the people over there now have access to satellite TV; it was illegal just a year-and-a-half ago, now I counted them from the air, two-thirds of them at least in the city of Mosul, last fall. When they are watching their satellite TV and they are making bombs to blow up coalition forces, and most time American forces, and they see the face of the presidential candidate declaring it to be a failed mission, declaring that he wants to bring the troops home, and when that is going on and they see the Arabic subtitle and they hear the English voice of that person whom they view to be quasi foreign policy, and in fact they are, you tell me, America, do they build more bombs or less? Are they encouraged by that discussion? Does it give them hope? Is it the same impact on the people fighting us that it was with the antiwar protesters in the Vietnam era that finally

talked us out of a war that we never lost a single tactical engagement in? And, by the way, we have won every single tactical engagement in Iraq from the platoon level on up, and it is very likely to say that way. We are at no tactical risk.

The casualties, every one, even one is too many. By the same token, there is a comparison that can be made to a number of other important military operations.

But the part that is forgotten is the one that nobody talks about, and it is forgotten the most, and that was, what was the price to be ready? Do we ever lose soldiers in training maneuvers, military operations, on-base accidents, training accidents, other kinds of incidents where it costs lives? And that answer is yes. Yes, we do. And I began to wonder about this when I heard the noise here on the Floor for the first casualties, sad as it is, and they are in my prayers too, and their families are in my prayers, as is the commander in chief, I began to look at this from a different perspective, and I asked myself, what is the price to be ready? How many lost their lives in those training accidents, on-duty accidents, on-duty fatalities, because we have to have a military that is ready to go at a moment's notice, that has to be highly trained, needs to be highly skilled, needs to have the best equipment available, nothing too good for them; when you have men and women and machines and logistics and all of that is moving around, things happen. People get hurt and they get killed, just like people get killed in car accidents for the same reasons.

So I had them put together some numbers for me and the question was, how many then died in the line of duty, nonhostile, from the period of time of the end of Desert Storm to the beginning of Operation Iraqi Freedom. And that number came back to be an average of 505 per year, 505 per year.

Now, we have been in Iraq about a year-and-a-half, and in that period of time, we have lost a little more than 1,000 soldiers. But in peacetime, on the average, for the previous decade, in that period of time, we would have lost statistically about 750 just as a price to be ready. Planes crash, choppers crash, Humvees roll over, people get run over and crushed, those kinds of things just happen and cannot be avoided, Mr. Speaker. We reduce it as much as we can, but it cannot be avoided entirely. So that price to be ready is about 505 a year. About 5,000 Americans gave their lives so that our military will be ready to step up and defend the United States, defend freedom, and defend liberty.

If these casualties, now that do run about 5 killed a week, and it is a pretty steady number, and the steadiness of it does disturb me, because it is not the only indicator, but that as an indicator does not show the trend that I am hoping for. But regardless, 5 a week killed in Iraq, and the point was made yesterday that 248 were murdered here in Washington, D.C. in the last year alone. This is a population of about 500,000 in this region, Iraq is a population of about 27 million. So if you do the math and you divide the 500,000 into the 27 million and you multiply it times 248, that same proportion would be about 12,500 Iraqis, or 12,500 killed in Iraq in a year. So in a year-and-a-half, it is about 18,000, and we are looking at, of American soldiers, about 1,000.

So for wartime, as tragic as it is, these are not a great number of casualties. This is a very noble endeavor, to provide an opportunity for freedom for the Iraqi people. And we heard Prime Minister Alawi speak today on this very floor of this Congress. I took some notes on some of what he had to say and his notes would have rebutted the previous speakers here on the Floor. I think it is important to repeat those to the American people.

He said, we intend to shoulder all of the security for our country eventually. Mr. Speaker, 250,000 security will be in uniform and trained and up and ready to go in operation by the end of the year of 2005, should be by the end of next year. Elections will occur on time in Iraq. That is a bold statement. They will stand by it. He said, we will prove them wrong again. They said we could not establish a civilian government, they said we could not write a Constitution. He named a list of milestones that had been declared not possible to meet, but he said we met them all and we will prove them wrong again. He said, there could be no greater blow to the terrorists than elections, and elections will take place.

He said, Iraq has many partners, over 30 nations in Iraq helping militarily, logistically, economically. But he said, I understand why faced with the headlines you are seeing over here why you might have some doubt. The United States news media is discouraging 282 million people while 27 million people struggle for freedom and liberty.

His strongest message was, thank you, America. Thank you, America. I got that message from the Iraqi people when I was there. He said, the overwhelming majority of Iraqis are grateful for our liberation. He used the term ''liberation'' several times in his speech. The Iraqi people have been liberated by American soldiers. And he pointed out that at least 300,000 are in mass graves because of Saddam. Millions have gone into exile. He did not mention how many Iraqis are alive today because of the intervention of the coalition forces. But if you take that 300,000, and some of those numbers go to 400,000 or even 500,000, and you divide it by the period of time that Saddam had to kill his own people, because that is certainly what put them in the mass grave, you get a number somewhere between 182 a day and 300 people a day that were being killed by Saddam's regime.

So if you take the 182 a day and multiply it times the days the liberation troops have been in Iraq and stopped that wanton murder by Saddam Hussein, that means about 88,000 people are alive in Iraq today that would not be alive if Saddam had remained in power, and maybe that number runs to 60,000 or 70,000 or 80,000 people even that could be alive today in Iraq because of this noble venture on the part of the United States and the coalition forces.

He also said, we are determined to honor your sacrifice by putting in place a democracy. Determined to honor your sacrifice. And he also at the end of his speech pledged to stand with the United States because we have stood with them in many, many different areas.

Mr. Speaker, I did not come to the Floor to talk about this tonight, but as I sat on the Floor and listened to the rhetoric that flowed out here prior to my time before this microphone, I felt compelled to address the subject matter because it is important that we do speak the truth, as the gentleman from Florida said.

There was another statement made that those casualties in Iraq disproportionately represented minorities and low-income groups. That statement has been a statement that we have heard since the Vietnam war. No statistics uphold that statement. They have not in my lifetime. It has been essentially proportional to the minorities in the population, those casualties. So our troops have been representative of the American people, and this is a volunteer armed forces. So when people volunteer, they do put their lives on the line for their patriotism, and when things happen, they happen in proportion to their membership within the military.

So I am proud of these soldiers. I look them in the eye. And over and over again they said to me, why do we have to fight the United States news media too. We will fight for you over here in Iraq while you go back to the States and fight for us. That message was a consistent message that came.

But really, Mr. Speaker, I came to the Floor here to speak about another subject matter, a subject matter that is maybe deeper and broader than the one in Iraq. This issue came up last week as we had a debate on the Floor about the matricula consular card.

□ 2330

The issue was, will the United States Federal bank honor matricula consular cards. Now, for the benefit of those who do not have that term in their vernacular, a matricula consular card is a card that is issued by the Mexican consul to an expatriate citizen of Mexico, I assume someone who is not likely to have paperwork to be legally here in the United States. It is a card they claim requires a birth certificate in order to get the card, but we had people picked up that had 30 different cards in their possession.

The people who believe that we should honor those cards in our national banks are the ones that opened

the subject and said that, just by the virtue of carrying a matricula consular card, it was likely you were an illegal alien because you would have no reason for a card like that. If you were legal, you would have a green card or other documents that would demonstrate the legalities of your presence here or the ability for you to work in this country.

So the matricula consular cards go often to illegal immigrants. There are at least a million of them out there. They are not verifiable or reliable.

The other side will argue that there are any number of banks that honor them, any number of States that honor them. And I will say yes, and that is the problem. But there are not many banks in Mexico that honor them. It is not a very reliable document south of the border, and we should not be making it a legitimate document here on this side of the border, because the matricula consular card being in one's possession gives one a false identity that can be used in some States to get a driver's license. That may be all you need then to open up credit, to register to vote. Yes, I know you are supposed to say you are a citizen. Nobody verifies that. And so this matricula consular card becomes the entry into the mainstream of the United States for illegals.

So I raise the issue that those who were defending the utilization of the matricula consular card and certifying it to be recognized by the national banks, there are two different arguments here. On one side, over on this side of the aisle to my left, Mr. Speaker, were the people who believe in an open border under almost all circumstances. The people that say, let us bring that flow in. Let us take that 8 million, 10 million, 11 million, 14 million. Let them flow in here. Let them vote and give them all of the benefits we can, give them fast track to citizenship.

They have a motive for that. And the motive is, and it is clear, they believe that a significant majority of those who come into their country will vote for the liberals, and I believe they are right. I think maybe they are right on two out of three, as the statistics that I see. So their motivation is political power. On the other side of the aisle, we had people that argued that it was all right that we ought to honor the matricula consular card and we should do that because, that way, we would be able to keep track of these people that are here.

I could not ever quite follow that. You would let somebody have an unreliable document, call it identification, let them use it to access the financial world and maybe the drivers license world and flow through the society here. I do not know how that helps us identify them. And I do not know what they would propose we could do if we could identify them because they are the people that are heading up the multinational corporations, the people who want a steady supply of cheap labor, the people who figured out they can transfer capital around the world with a click of the mouse and are frustrated they cannot transfer cheap labor around the world with a click of the mouse.

I am in favor of immigration. I am in favor of a logical immigration policy. I am in favor of one that is designed to enhance the economic, cultural, society well-being of the United States of America. It is simple. Every nation's immigration policy should be a selfish policy that looks out and says, we can use certain people in this economy, certain people with certain skills, certain people that maybe even come with capital, language skills, technological skills, maybe doctors, probably not lawyers, but people who have skills that can enhance this economy. We can use all kind of people in this economy.

But we do not have an immigration policy that reflects any selfish interest in the United States, not even a logical humanitarian interest in the United States. We have an immigration policy that is fraught with selfish interests of political gain, economic gain. And the point that I made was there is a vast majority of us in the middle here between the liberal left open-border, fast track to citizenship, and over here, another libertarian open border, cheap labor right, this vast majority of us believe in something I call cultural continuity and the rule of law.

Cultural continuity is the issue that brings me to the floor here tonight, Mr. Speaker, because an issue was raised that night, the following day and all throughout the weekend up until just the day before yesterday. The press has been pounding on my door, wanting me to explain cultural continuity. They have already defined it. It was defined by a caucus on the other side of the aisle, and they held their press conference, put out their press releases. And a couple of those sent the press over with their television cameras to ask me some questions. They had declared it to be a racist statement and that the use of the term cultural continuity took them back to 1932 and Nuremberg.

Those are some pretty heavy charges to level against anyone on the assumption that you understand what it was that I said. And I will say this, anybody who believes that the use of the term ''cultural continuity'' is racist or anyone who believes that it brings back memories of I will say historical memory because none of them are old enough to remember Nuremberg in 1932, if that reflects back to them, they need someone to help interpret this English language for them, someone to interpret this American culture for them.

But the problem is not that there is anything wrong with cultural continuity. It is our understanding of who we are as a people. Well, so the answer to everything is all on a Google search. So I went back and typed in ''cultural continuity.'' Where are they getting their interpretation for the English language? Where are they getting their interpretation for the culture that is here? So, Mr. Speaker, I found this.

''Destroying Cultural Continuity, The Leftist War on Social Cohesion.'' Well, I began to read through this document, just the headline pretty well filled me in, and I began to understand the motive. There was another time in my life or two when I inadvertently made a statement that was sound, and it was logical, and it was ridiculed because it had thrown a dart into the heart of the argument on the other side of the aisle.

I believe in cultural continuity. I believe that there exists a greater American culture, a greater American experience. I believe it is all based and founded in the Declaration of Independence and in the Constitution. I believe, like the President does, and I believe like our founding fathers did, that our rights come from God, and they are identified and ratified by the Declaration of Independence, put into our Constitution, and they flow to us. And I believe that the Bible was written with divine inspiration. And I believe that the Declaration of Independence was written with divine guidance, as was our Constitution, including our Bill of Rights. And I believe these rights that come from God are established in this Constitution as a sacred covenant with Him, a gift from Him through our Founding Fathers.

It is our obligation to stand and defend the Constitution, defend the concept and the Declaration of Independence and recognize that this greater American culture, this cultural continuity that we have, this great American civilization that we have is a civilization that flows from those foundational documents, but the spirit that established them needs to remain. So America is a greater culture.

As I first went into the Iowa Senate, I was reading through the Iowa law, and I came through the section on education. Now, this is about the time that I began to give up on the idea that diversity and multiculturalism were going to be the answer to anything unless you were trying to establish division and chaos in a country. I did believe when multiculturalism flowed out into our discussion, that it was a good thing, that it gave us an opportunity to identify and honor different people from different civilizations and allow us to respect the differences between us but still be able to bind ourselves together in this giant melting pot.

Over time, I began to see it differently, that diversity's root word is divide. That is what it has been doing is dividing us. Multiculturalism has been, rather than celebrating the good things about individual cultures, it has been driving wedges between us all. Multiculturalism and diversity deny the existence of a greater American culture. It denies the existence of the American culture altogether.

They claim, no, we are this beautiful multicultural mosaic. No one culture is

better than the other. Some are different but none the more superior than the other. No matter what people come with whatever values, they have as much value as any other people come with any other values.

□ 2340

I will tell you, if that is the case, then why did not every other country in the world grow into the strongest economy in the world, the strongest military in the world and the most powerful culture and civilization the world has ever seen? I will tell you it is because we have been rooted in these values, these values that are in the Constitution.

So as I read through that chapter in the code of Iowa, the education chapter, and no one should really ever tackle something like reading a law book because it is dry and you do not often find substance, but something called me to that page. As I read into the education chapter, it said each child in Iowa shall receive a multicultural, nonsexist, global education. Well, those are code words for we are going to teach politically correct and we are going to teach multiculturalism, diversity; we are going to each these children that the United States is not as great as they would like to think it is, that we are simply this hodgepodge of multicultural mosaic.

So I recognized those code words were there, and I knew what they were teaching because I looked at the curriculum and my wife has taught school all her life. I got out a document to draft a bill draft. I thought, I am going to strike that stuff all out of there. I drafted up the bill to eliminate each child in Iowa shall receive a multicultural, nonsexist, global education, struck that out and I sat there, and I realized but if I just strike that out I will be accused of being negative. I need to be for something. I need to be for something that is positive.

So I looked at the ceiling with the pencil and I began to write: each child in Iowa shall be taught that the United States of America, of which Iowa is a vital constituent part, is the unchallenged greatest Nation in the world and we derive our strength from free enterprise capitalism, biblical values, and Western Civilization.

Simple, unarguable, filed the bill. Next day, things erupted on the floor, like they do here some nights, Mr. Speaker; and after about an hour and 20 minutes of being called every kind of name, I had my chance to rebut, but nobody spoke to the substance. I have been there before. Nobody spoke to the substance.

Nobody could explain why it was that the term ''cultural continuity'' was offensive to anyone until I did the Google search and I find out that there are people that are opposed to cultural continuity because they want to divide. There are people that are opposed because they do not want to buy into the value system that has made this country great, so they want to tear the value system down, tear the value system down and replace it with nothing or something. They are not in agreement on what that might be.

When you begin to ask why is this, how does it unfold this way, what motivates these people to do this, why do they not think like I do, while I say that I think that our Constitution is a sacred covenant with God, they tell me the Founding Fathers were a bunch of deists and they just got dumb lucky and they did a lot of bad things, too. Certainly they were mortal, but they were mortals with an insight that has held true for over 2 centuries.

The value system is different. One is, if you believe you are a created human being, if you believe that you are created in God's image and that there is a life after this life and that it is our job to do everything we can to leave this world a better place and have confidence that there is a better world for our children and a better place for us in the next life, if you believe that, you have an entirely different world view than if you are someone who does not.

So I began to read some of the works of Antonio Gramsci, Herbert Marcuse. Gramsci was an early 20th century Italian Marxist philosopher; and he is the one, along with Marcuse, who established this philosophy of multiculturalism. The idea was that the people in power at that time are the ones that believed in moral values, the strong families, essence of hard work. These are all American values, by the way; and they are all things that have made this Nation strong and made this Nation great.

But they came to the conclusion that they did not want to really play on that field by those rules. They did not want to live that moral life. They did not want to tie together that father and a mother and a home and holy matrimony, raising children, teaching their religious values, moral values, work ethic. They did not want to play on that field. Maybe they could not compete on that field.

So they argued that all of these values that I believe go together to make this a great Nation, they argued that moral values were no more moral than the antithesis of moral values. Immoral values had as much value as moral values to them because they said that all of our moral values were simply a social construct; that it is all put together by the people in power to keep themselves in power and expand their power. That is why we go to church; that is why we believe there is a difference between right and wrong; and that there is a bright line between virtue and sin; and that we treat our neighbor as ourselves, the 10 Commandments, the foundation for our laws in this country, all were argued to be simply a moral construct.

So Gramsci argued and Marcuse argued that they wanted to tear down all of this moral fabric, not just in America but around the world. Every time they could find an institution that was part of our civilization, a part of our culture, they began to attack it, tear it to shreds, rip the curtains of our institutions apart piece by piece by piece, and in doing so, maybe replace them with the antithesis of moral values, set up multicultural groups, establish group rights as opposed to individual rights.

I went to Iowa State to speak and debate on campus there some time back. Before I went on campus there in Ames, I went to their Web page, and I typed into the search engine ''multiculturalism,'' and hit search. It came up with 59 different multicultural groups registered on Iowa State's campus, this conservative, engineering, land grant college, middle America, 59 different multicultural groups, every one a victims' group. It starts with Asians and ends with Zeitgeist, and it is everybody in between.

So you can arrive on that campus or any campus in America a freshman, with not having any idea that you are really born a victim, and there figuratively at least in Iowa State there will be 59 card tables set up with 50 recruiters for 59 multicultural organizations, all of them victims' groups, all of them set up so you can find a victim's group or two or three or four or five for you. There you can demonstrate and you can have special rights, and you can have more access to the benefits of government because there is virtue in being a victim.

That is the message that is been taught across this country. That is the message that has penetrated into the minds of our little ones, and they are growing into adulthood, not believing in individual responsibility, not believing in individual rights but believing in group rights and believing in the virtue of victimhood.

If there is anything that is self-defeating, it is the idea that you are a victim and the reason that you do not succeed is because someone else has kept you down, because of your skin color, your race, your ethnicity, whatever it might be.

I will tell you I know the people in this country. I have a district that is Middle America, and we have got significant diversity from an ethnic standpoint. I know what the people in my district think. I will tell you what I believe and they believe the same, and that is, we are all created in God's image. When He created us in His image, He did not draw distinctions between us, man to woman, one color to another, one ethnicity to another. God does not draw distinctions between His creatures, His creation. So if He draws no distinction, who in the world are we? Who are we to discriminate against anyone? Who in the world are we to give special rights to anyone?

That is the question this Nation needs to ask. It needs to ask consistently and needs to ask continually.

When we establish affirmative action policies, those are distinctions between

people, special rights. We do not need that. We need to get over that. We have to make sure everybody has an equal opportunity, and there are some things we need to do for equal opportunity, especially at the lower level of education, and as the President said, the soft bigotry of low expectations, we have got to get rid of that. We have got to challenge people to do their best.

You have got to look people in the eye, get to understand them as individuals, respect and appreciate them for the people that they are; but we need to be tied together with this cultural continuity, tied together with this language, tied together with this culture, tied together with a common sense in our history, our patriotism, the sacrifice that has been made.

Three times in the last week I have had people from the Middle West come out here to Washington, D.C., and after they have gone through the trip to the National Archives to view the Declaration of Independence and the Constitution; out to Arlington where there are 275,000 graves of brave, patriotic Americans; watched the changing of the guard of the Tomb of the Unknown Soldier; and gone through the monument tour from FDR's to Lincoln's to the Vietnam wall to the Korean and the World War II memorials, all the way across this great city and the Washington Monument, the Capitol building, the White House, three different people in the last week have told me they underwent a life-changing experience in this city.

□ 2350

At some point they got this feeling that there was a reason why everybody fought so hard and so long and sacrificed so much. You cannot avoid that feeling standing at Arlington, at the changing of the guard, at the tomb of the unknown soldier, or standing with your back or face to the eternal flame at Kennedy's grave.

When I face Kennedy's eternal flame, I then turn, with my back to that and look down across the Potomac River, and there you can see the back of the Lincoln Memorial, you know where the Vietnam Wall is, you can see the reflecting pool, the Washington monument, the Capitol building; and in the wintertime, if you know where to look, you can see the top of the White House. There, in your view, is framed the symbols of the greatness of this Nation. It is a moving experience to live and work here. It is more moving to come for the first time and visit and absorb the symbols of this Nation.

Those three different people told me that now they understand. Now they understand why so much has been sacrificed; what has been built based upon the Declaration of Independence, the freedoms that we have, and that they are worth fighting for.

One man came from New Zealand. He did not know our history or the history of Washington, Lincoln, the Civil War, and the Revolutionary War. That was all not taught in the history books in New Zealand. So for the first time, when he walked up the steps of the Lincoln Memorial, he stepped up to Lincoln's statue, turned to the left and read the Gettysburg Address on the wall inside the monument. And he sat down on that floor to contemplate the profound nature of those profound words. They meant that much to a stranger from New Zealand, who, thankfully, today, is a citizen of the United States. And they mean that much to us.

I would say also we have, Mr. Speaker, one other challenge in front of us, and that other challenge is how do we maintain the continuity of our civilization, the cornerstone of our civilization?

We have an activist court today, an activist court that is shaping this country against the will of the people, without the people having a voice. It is up to us in this Congress to draw a bright line of separation between the Judiciary and the legislative branch of government. The Constitution, of which I have a copy here, and is seldom very far from me, gives the Congress a tremendous amount of power and authority over the courts. In fact, aside from the Supreme Court, all Federal courts are entirely creatures of Congress.

The Congress has established all inferior courts. And inferior is a term that is used in this Constitution. Congress establishes those inferior courts, all of the circuit courts, and the appellate courts. All are created by this Congress. And the jurisdiction of those courts is also granted by this Congress. Whatever Congress gives, we can take away. We can remove the jurisdiction incrementally or totally from individual circuits. We can eliminate entire circuits if we chose. We could eliminate all inferior courts if we chose. The only Federal court required by this Constitution is the Supreme Court.

And the Constitution does not require there be nine judges or seven or five or three. It just requires there be a Supreme Court. That would require one, a chief justice. So if we decided that we wanted to shrink the size of the Supreme Court, we could do that. And if we decided that we wanted to eliminate all appellate jurisdictions for the Supreme Court, we could do that. And we would leave the Supreme Court maybe with only a chief justice ruling on disputes between the States, ambassadorships and treaties. That is pretty much as prescribed here in the Constitution.

I do not propose we do that. I want to stop a little short of that and do some logical things. I think we need to do some things like, for example, remove the jurisdiction so that the courts are not interfering with ''under God'' in our Pledge, which we did here on the floor in this Congress today. And I am grateful we did. That is a strong message to the courts.

We have a bigger issue in front of us, and this bigger issue is this cornerstone of civilization.

This is a little prepared piece, Mr. Speaker, and it goes like this:

I want to say this about families, there is only one institution that is as old as Adam and Eve. There is only one human relationship that is sanctified by God. There is only one institution that we know is right for having children. There is one institution that is best to teach our children our values of faith. Only one institution has proven best to teach fundamental moral values. Only one proven institution to transfer our work ethic to the next generation. There is only one institution that transfers all that we are as a people to our children and grandchildren. Only one relationship between people that ensures the survival and prosperity of the human race. All of human experience points to one relationship as the core building block for a wholesome, successful civilization. All of human history, all that we were, all that we are, and all that we are ever going to be is built upon and based upon one institution, the cornerstone of civilization, and that institution, Mr. Speaker, is marriage.

My colleagues, we owe too much to our Creator, too much to posterity, and too much to our children to throw away marriage or redefine marriage for no more reason than to demonstrate tolerance. The active effort on the part of four unelected Massachusetts judges to impose gay marriage on all of America without the consent of the people is judicial tyranny.

If we believe in ourselves, and we do, if we believe in God's word, and we do, if we believe that the Constitution is our sacred covenant with God that provides the best hope for all of humanity, then we have no other alternative but to amend the Constitution to protect our posterity from those who would forever alter or abolish our way of life.

Without thought given to the price that will be paid by future generations. Without thought given to the consequences and without thought for the fact that, once same-sex marriage is institutionalized, there is no turning back. You cannot put the Genie or the Gina or the Jimmy or the Joey back in the bottle. If gay marriage were something that was an experiment that, if it did not pan out, we could simply change it back to the way it was, I would not be so emphatic, Mr. Speaker.

But, my colleagues, we will not get a ''do over.'' We will not get a second chance to get it right again. Not in this country. Not in this civilization. Not in this generation of man. Our legacy would be that we failed the clearest lessons from the Bible and from all of human experience.

For these reasons that I have said, for many more reasons that we all know, I am in strong support of the constitutional amendment to preserve and protect marriage.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GREEN of Texas (at the request of Ms. PELOSI) for today after 5:30 p.m. on account of official business in the district.

Ms. HERSETH (at the request of Ms. PELOSI) for today after 3:00 p.m. and the balance of the week on account of official business.

Mr. THOMPSON of Mississippi (at the request of Ms. PELOSI) for today after 2:00 p.m. and the balance of the week on account of personal business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. SCHIFF, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Mr. MILLER of North Carolina, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. EDWARDS, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. ETHERIDGE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. BURGESS) to revise and extend their remarks and include extraneous material:)

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. PAUL, for 5 minutes, today.

Mr. NORWOOD, for 5 minutes, today.

Mr. WICKER, for 5 minutes, today.

Mr. MCCOTTER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BURGESS, for 5 minutes, today.

## ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 58 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, September 24, 2004, at 2 p.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9689. A letter from the Architect of the Capitol, transmitting a report of expenditures of appropriations during the period October 1, 2003 through March 31, 2004, pursuant to 40 U.S.C. 162b; to the Committee on Appropriations.

9690. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting a report on the consolidation of the storage of the National Defense Stockpile (NDS) mercury in accordance with Section 113 of Division H of the Consolidated Appropriations Act, 2004, Pub. L. 108-199; to the Committee on Armed Services.

9691. A letter from the Secretary, Department of Agriculture, transmitting a draft bill ''To allow the guarantee fee to be included in the single family housing guaranteed loan''; to the Committee on Financial Services.

9692. A letter from the Director, Child Nutrition Division, Department of Agriculture, transmitting the Department's final rule — Child and Adult Care Food Program Improving Management and Program Integrity (RIN: 0584-AC24) received September 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9693. A letter from the Under Secretary for International Trade, Department of Commerce, transmitting the sixth and final annual report mandated by the International Anti- Bribery and Fair Competition Act of 1998 (IAFCA); to the Committee on Energy and Commerce.

9694. A letter from the Chairman, National Committee on Vital and Health Statistics, transmitting the Sixth Annual Report to Congress on the Implementation of the Administrative Simplification Provisions of the Health Insurance Portability and Accountability Act (HIPAA), pursuant to Public Law 104–191, section 263 (110 Stat. 2033); to the Committee on Energy and Commerce.

9695. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9696. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9697. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9698. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9699. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9700. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9701. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9702. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9703. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9704. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9705. A letter from the CFO & Plan Administrator, First South Retirement Committee, First South Farm Credit, transmitting the annual pension plan report for the plan for the year ending December 31, 2003, for the First South Farm Credit Retirement Plan, as well as a copy of the audited financial statements; to the Committee on Government Reform.

9706. A letter from the Managing Director, Strategic Issues, General Accounting Office, transmitting a copy of the report entitled ''No Fear Act: Methods the Justice Department Says It Could Use to Account for Its Costs Per Case under the Act,'' as required by Section 206(b)(1) of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR); to the Committee on Government Reform.

9707. A letter from the Chairman, Vice-Chair, and Commissioners, Election Assistance Commission, transmitting a copy of the report entitled ''Best Practices in Administration, Management and Security in Voting Systems and Provisional Voting: A Tool Kit for Election Administrators and Stakeholders''; to the Committee on House Administration.

9708. A letter from the Librarian, Library of Congress, transmitting the Annual Report of the Library of Congress for the fiscal year 2003, pursuant to 2 U.S.C. 139; to the Committee on House Administration.

9709. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2004-05 Early Season (RIN: 1018-AT53) received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9710. A letter from the Acting Assistant for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Migratory Bird Hunting; Early Seasons and Bag and Posession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands (RIN: 1018-AT53) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9711. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — 2004-2005 Refuge-Specific Hunting and Sport Fishing Regulations (RIN: 1018-AT40) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9712. A letter from the Assistant Attorney General for Legislative Affairs, Department

of Justice, transmitting a report on the activities of the Community Relations Service for Fiscal Year 2003, pursuant to 42 U.S.C. 2000g–3; to the Committee on the Judiciary.

9713. A letter from the Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting a report of the Chief of Engineers dated July 26, 2000, describing the construction of a hurricane and storm damage reduction project for the area from Barnegat Inlet to Little Egg Inlet, on Long Beach Island, New Jersey, as authorized in Section 101(a)(1) of the Water Resources Development Act of 2000; to the Committee on Transportation and Infrastructure.

9714. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model EC155B and B1 Helicopters [Docket No. 2003-SW-40-AD; Amendment 39-13745; AD 2004-15-11] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9715. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF34-3A1 and -3B1 Series Turbofan Engines [Docket No. FAA-2004-18648; Directorate Identifier 2004-NE-26-AD; Amendment 39-13737; AD 2004-15-03] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9716. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Fuel Tank Safety Compliance Extension (Final Rule) and Aging Airplane Program Update (Request for Comments) [Docket No. FAA-2004-17681; Amendment No. 91-283, 121-305, 125-46, 129-39] (RIN: 2120-AI20) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9717. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330, A340-200, and A340-300 Series Airplanes [Docket No. FAA-2004-18669; Directorate Identifier 2004-NM-83-AD; Amendment 39-13757; AD 2004-16-01] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9718. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airwothiness Directives; Sikorsky Aircraft Corporation Model S-61L, S-61N, S-61-NM, and S-61R Heliocopters [Docket No. 2003-SW-35-AD; Amendment 39-13756; AD 2004-15-22] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9719. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ Series Airplanes [Docket No. 2003-NM-172-AD; Amendment 39-13739; AD 2004-15-05] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9720. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-93), and DC-9-87 (MD-87) Airplanes; Model MD-88 Airplanes; and Model MD-90-30 Airplanes [Docket No. 2003-NM-122-AD; Amendment 39-13497; AD 2004-05-03] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9721. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB211 Series Turbofan Engines; Correction [Docket No. 2003-NE-12-AD; Amendment 39-13434; AD 2004-01-20] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9722. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319-131, -132, and -133; A320-231, -232, and -232; and A321-131 and -231 Series Airplanes [Docket NO. FAA-2004-18681; Directorate Identifier 2004-NM-56-AD; Amendment 39-13748; AD 2004-15-14] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9723. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Certification of Airports; Correction [Docket No. FAA-2000-7479; Amendment Nos. 121-304, 139-26] (RIN: 2120-AG96) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9724. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Certification of Airports [Docket No. FAA-2000-7479; Amendment Nos. 121-304, 135-94] (RIN: 2120-AG96) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9725. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Noise Certification Regulations for Helicopters [Docket No. FAA-2000-7958; Amendment No. 36-25] (RIN: 2120-AH10) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9726. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Design Standards for Fuselage Doors on Transport Category Airplanes [Docket No. FAA-2003-14193; Amdt. No. 25-114] (RIN: 2120-AH34) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9727. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Aircraft Assembly Placard Requirements [Docket No. FAA-2004-18477] (RIN: 2120-AI24) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9728. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Prohibition Against Certain Flights By Syrian Air Carriers to the United States [Docket No. FAA-2004-17763; Special Federal Aviation Regulation (SFAR) No. 104] (RIN: 2120-AI34) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9729. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Miscellaneous Flight Requirements; Powerplant Installation Requirements; Public Address System; Trim Systems and Protective Breathing Equipment; and, Powerplant Controls [Docket Nos. FAA-2002-13859, FAA-2002-11272, FAA-2002-11271, FAA-2002-13438, FAA-2002-12244; Amendment No. 25-115] (RIN: 2120-AI35) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9730. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Prohibition Against Certain Flights Within the Territory and Airspace of Iraq; Approval Process for Requests for Authorization to Operate in Iraqi Airspace [Docket No. FAA-2003-14766; SFAR 77] received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9731. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — IFR Altitudes; Miscellaneous Amendment [Docket No. 30422; Amdt. No. 450] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9732. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30421; Amdt. No. 3103] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9733. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification fo Class E Airspace; Fairbury, NE. [Docket No. FAA-2004-18014; Airspace Docket No. 04-ACE-43] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9734. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Columbus, NE [Docket No. FAA-2004-18013; Airspace Docket No. 04-ACE-42] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9735. A letter from the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, transmitting the FY 2003 annual report on the Federal Government's participation in the development and use of voluntary consensus standards, pursuant to Public Law 104–113, section 12(d)(3) (110 Stat. 783); to the Committee on Science.

9736. A letter from the Commissioner, U.S. Customs and Border Protection, Department of Homeland Security, transmitting a report entitled ''Import Trade Trends: FY 2004 Mid-Year Report (October-March)''; to the Committee on Ways and Means.

9737. A letter from the Chair, IRS Oversight Board, transmitting a copy of the Board's 2004 annual report that discusses the IRS's performance over the past year; to the Committee on Ways and Means.

9738. A letter from the Chairman, United States International Trade Commission, transmitting the Commission's report entitled, ''The Year in Trade 2003: Operation of the Trade Agreements Program,'' prepared in conformity with Section 163(c) of the Trade Act of 1974; to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4341. A bill to reform the

postal laws of the United States; with an amendment (Rept. 108–672 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee of Conference. Conference report on H.R. 1308. A bill to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes (Rept. 108–696). Ordered to be printed.

Mr. BARTON: Committee on Energy and Commerce. H. Res. 745. A resolution of inquiry requesting the President of the United States to provide certain information to the House of Representatives respecting the National Energy Policy Development Group; adversely (Rept. 108–697). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4661. A bill to amend title 18, United States Code, to discourage spyware, and for other purposes; with an amendment (Rept. 108–698). Referred to the Committee of the Whole House on the State of the Union.

Mr. REYNOLDS: Committee on Rules. House Resolution 794. Resolution waiving points of order against the conference report to accompany the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes (Rept. 108–699). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TURNER of Texas (for himself, Mr. REYES, Ms. SLAUGHTER, Mr. LAMPSON, Mr. SANDLIN, Mrs. DAVIS of California, Mr. RODRIGUEZ, Mr. ORTIZ, Mr. BELL, Mr. GONZALEZ, Mr. HINOJOSA, Mr. DICKS, Ms. MCCARTHY of Missouri, Ms. NORTON, Ms. JACKSON-LEE of Texas, Mr. PASCRELL, Mrs. CHRISTENSEN, Mr. LANGEVIN, Mr. FROST, and Mr. GREEN of Texas):

H.R. 5130. A bill to secure the borders of the United States, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Transportation and Infrastructure, Ways and Means, and Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLUNT (for himself, Mr. HOYER, Mr. CANTOR, Ms. DELAURO, Mr. LATHAM, Mr. KENNEDY of Rhode Island, Mrs. MCCARTHY of New York, Mr. GEORGE MILLER of California, Mr. REGULA, Mr. SERRANO, Mr. SMITH of New Jersey, Mr. WELDON of Florida, and Mr. EHLERS):

H.R. 5131. A bill to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on International Relations, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MENENDEZ (for himself, Mr. PASCRELL, Mr. HOLT, Mr. PAYNE, Mr. ANDREWS, Mr. PALLONE, and Mr. ROTHMAN):

H.R. 5132. A bill to provide increased rail and public transportation security; to the Committee on Transportation and Infrastructure.

By Mr. MORAN of Virginia (for himself, Mr. TOM DAVIS of Virginia, Mr. CANTOR, Mrs. JO ANN DAVIS of Virginia, Mr. FORBES, Mr. GOODE, Mr. WOLF, Mr. BOUCHER, Mr. HOYER, Mr. SCOTT of Virginia, Mr. GOODLATTE, and Mr. SCHROCK):

H.R. 5133. A bill to designate the facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, as the ''Martha Pennino Post Office Building''; to the Committee on Government Reform.

By Mr. POMBO:

H.R. 5134. A bill to require the prompt review by the Secretary of the Interior of the long-standing petitions for Federal recognition of certain Indian tribes, and for other purposes; to the Committee on Resources.

By Mr. POMBO (for himself, Mr. RAHALL, Mr. FLAKE, Mr. YOUNG of Alaska, Mr. BURTON of Indiana, Mr. WALDEN of Oregon, Mr. COLE, Ms. BORDALLO, Mr. REHBERG, and Mr. ABERCROMBIE):

H.R. 5135. A bill to provide for a nonvoting delegate to the House of Representatives to represent the Commonwealth of the Northern Mariana Islands, and for other purposes; to the Committee on Resources.

By Mr. BERMAN (for himself, Ms. LOFGREN, and Mr. SMITH of Texas):

H.R. 5136. A bill to amend section 108 of title 17, United States Code, relating to reproduction of works by libraries and archives; to the Committee on the Judiciary.

By Mr. ABERCROMBIE (for himself, Mr. EVANS, and Mr. FILNER):

H.R. 5137. A bill to amend title 38, United States Code, to revise the eligibility criteria for presumption of service-connection of certain diseases and disabilities for veterans exposed to ionizing radiation during military service; to the Committee on Veterans' Affairs.

By Mr. BELL:

H.R. 5138. A bill to amend the Truth in Lending Act to establish an equitable ceiling on credit card interest rates, and for other purposes; to the Committee on Financial Services.

By Ms. HERSETH:

H.R. 5139. A bill to enhance and provide to the Oglala Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program; to the Committee on Resources.

By Mr. HINCHEY:

H.R. 5140. A bill to prohibit the importation, manufacture, distribution, or storage of detonable nitrate fertilizers without a license, and for other purposes; to the Committee on the Judiciary.

By Ms. LOFGREN:

H.R. 5141. A bill to amend the Internal Revenue Code of 1986 to repeal the alternative minimum tax treatment of incentive stock options, thereby changing the taxable event from the exercise of the stock option to the sale of stock; to the Committee on Ways and Means.

By Mr. MCINNIS:

H.R. 5142. A bill to authorize and direct the exchange of certain lands in the State of Colorado, and for other purposes; to the Committee on Resources.

By Ms. MILLENDER-MCDONALD:

H.R. 5143. A bill to amend title 46, United States Code, to direct the Secretary of Homeland Security to carry out an empty shipping container sealing pilot program to encourage shipping container handlers to seal empty shipping containers after they have unpacked them, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. NORWOOD (for himself, Mrs. CAPPS, Mr. BURNS, Mr. BURTON of Indiana, Mr. FRANK of Massachusetts, Mr. FROST, Mr. HALL, Mr. HOEFFEL, Mr. OWENS, Mr. SANDLIN, Mr. TERRY, Mr. WALSH, and Mr. WELDON of Florida):

H.R. 5144. A bill to amend title XVIII of the Social Security Act to preserve access to cancer care under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself, Mr. GILCHREST, Mr. PICKERING, Mr. SHAW, Mr. GREENWOOD, Mr. TOWNS, Mr. EHLERS, Ms. BORDALLO, Mr. MCDERMOTT, Mr. BLUMENAUER, Ms. MILLENDER-MCDONALD, Mr. GRIJALVA, Mr. KUCINICH, Mr. ENGLISH, Mr. UDALL of Colorado, Mr. FARR, Mr. BELL, Ms. MCCARTHY of Missouri, Mr. SANDLIN, Mr. FORD, Mr. RODRIGUEZ, Mr. KIND, and Mrs. CHRISTENSEN):

H.R. 5145. A bill to provide fellowships for graduate and postgraduate level students engaged in advanced degree programs concerning freshwater and anadromous fish, wildlife, or conservation biology, or related natural resource management, to provide expertise and to gain policy experience in Federal executive agencies or the Congress; to the Committee on Resources.

By Mr. RUPPERSBERGER (for himself and Mr. GILCHREST):

H.R. 5146. A bill to amend the Internal Revenue Code of 1986 to provide incentives for alternative fuels and alternative fuel vehicles; to the Committee on Ways and Means.

By Mrs. MUSGRAVE:

H.J. Res. 106. A joint resolution proposing an amendment to the Constitution of the United States relating to marriage; to the Committee on the Judiciary.

By Mr. PRICE of North Carolina:

H. Con. Res. 497. Concurrent resolution supporting the designation, during spring 2005, of National Horticultural Therapy Week in order to improve the quality of life for all and increase opportunities for each individual to positively connect with the natural world; to the Committee on Government Reform.

By Mr. RYAN of Ohio:

H. Con. Res. 498. Concurrent resolution urging the President to take immediate steps to establish a plan to adopt the recommendations of the United States-China Economic and Security Review Commission in its 2004 Report to the Congress in order to correct the current imbalance in the bilateral trade and economic relationship between the United States and the People's Republic of China; to the Committee on Ways and Means.

By Mr. UDALL of Colorado (for himself, Ms. DEGETTE, Mr. GRIJALVA, Mr. SERRANO, Mr. HINOJOSA, and Mr. RODRIGUEZ):

H. Con. Res. 499. Concurrent resolution recognizing the 40th anniversary of the Latin American Research and Service Agency and commending the directors and staff of that organization for addressing the needs and concerns of Latino and Hispanic Americans; to the Committee on Government Reform.

By Mr. DELAY:

H. Res. 795. A resolution electing Members to certain standing committees of the House of Representatives; considered and agreed to.

By Mr. HALL (for himself, Mr. ROSS, Mr. CRENSHAW, Mr. GUTIERREZ, Mr. SHAYS, Ms. KILPATRICK, and Mr. COOPER):

H. Res. 796. A resolution recognizing and supporting all efforts to promote greater civic awareness among the people of the United States; to the Committee on House Administration.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Ms. LEE, Mr. CUMMINGS, Ms. CORRINE BROWN of Florida, Mr. OWENS, and Mr. LANTOS):

H. Res. 797. A resolution recognizing the importance of implementing any and all measures necessary to ensure a democratic, transparent, and fair election process for the 2004 Presidential election; to the Committee on House Administration.

By Mr. LEWIS of Georgia (for himself, Mr. BISHOP of Georgia, Mr. SCOTT of Georgia, Ms. MAJETTE, and Mr. MARSHALL):

H. Res. 798. A resolution honoring former President James Earl (Jimmy) Carter on the occasion of his 80th birthday; to the Committee on Government Reform.

By Mr. MEEHAN (for himself and Mr. WELDON of Pennsylvania):

H. Res. 799. A resolution urging the interim Government of Iraq to ensure that the charges brought against Saddam Hussein include charges for the crimes his government committed against the people of Iran during the Iran-Iraq war from 1980 to 1988; to the Committee on International Relations.

By Mr. MILLER of North Carolina:

H. Res. 800. A resolution providing for consideration of the bill (H.R. 2802) to reauthorize the Small Business Act and the Small Business Investment Act of 1958, and for other purposes; to the Committee on Rules.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 466: Mrs. CHRISTENSEN.

H.R. 918: Mr. BISHOP of Utah, Mr. SHAYS, Mr. VITTER, Mr. CARSON of Oklahoma, Mr. WYNN, and Ms. HERSETH.

H.R. 962: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. MILLER of North Carolina.

H.R. 1336: Mr. KING of Iowa and Mr. EHLERS.

H.R. 1477: Mr. WOLF.

H.R. 1523: Mr. ISTOOK, Mr. SANDLIN, Ms. MCCARTHY of Missouri, Mr. FORD, Mr. BOOZMAN, Mrs. EMERSON, Ms. LINDA T. SANCHEZ of California, Mr. DOOLITTLE, Mr. REGULA, Mr. BURNS, Mr. LUCAS of Oklahoma, and Mr. HASTINGS of Florida.

H.R. 1563: Mr. GUTIERREZ, Mrs. NAPOLITANO, Mr. LANGEVIN, and Mr. LARSEN of Washington.

H.R. 1631: Mr. ISSA.

H.R. 1684: Mr. BUTTERFIELD and Mr. LYNCH.

H.R. 1796: Mr. CLYBURN.

H.R. 1824: Mr. RYAN of Ohio.

H.R. 1873: Mr. STENHOLM.

H.R. 2034: Mr. LARSEN of Washington.

H.R. 2173: Mr. OLVER and Mr. GORDON.

H.R. 2174: Mr. REYES.

H.R. 2237: Mrs. MALONEY.

H.R. 2440: Mr. OLVER, Mr. ISSA, Mr. CASE, and Mr. REYES.

H.R. 2490: Mr. KENNEDY of Rhode Island.

H.R. 2510: Mr. RADANOVICH.

H.R. 2519: Mr. PAYNE.

H.R. 2527: Mr. SMITH of Washington.

H.R. 2540: Mr. GRAVES.

H.R. 2699: Mr. DUNCAN, Mr. GOODLATTE, Mrs. BIGGERT, Mr. PENCE, and Mr. DAVIS of Illinois.

H.R. 2727: Mr. SMITH of Washington.

H.R. 2782: Mr. CAPUANO.

H.R. 2823: Ms. BALDWIN.

H.R. 2839: Mr. SHAYS.

H.R. 2852: Mrs. CHRISTENSEN.

H.R. 2950: Mr. BONILLA and Mr. KENNEDY of Minnesota.

H.R. 2967: Mr. FROST.

H.R. 2980: Mr. OLVER.

H.R. 3069: Mr. KLINE.

H.R. 3111: Ms. CARSON of Indiana, Mrs. MYRICK, and Mr. ORTIZ.

H.R. 3142: Mr. CROWLEY.

H.R. 3194: Mr. PAUL.

H.R. 3242: Mr. PETERSON of Pennsylvania and Mr. DOOLITTLE.

H.R. 3360: Ms. SCHAKOWSKY.

H.R. 3361: Mr. LEVIN.

H.R. 3455: Mr. DELAHUNT, Ms. ROS-LEHTINEN, Mrs. JONES of Ohio, and Mr. OWENS.

H.R. 3634: Mr. WAXMAN and Mr. FROST.

H.R. 3763: Mr. GUTKNECHT.

H.R. 3799: Mr. MCINTYRE and Mr. HAYWORTH.

H.R. 3834: Mrs. NAPOLITANO.

H.R. 3859: Mr. LARSON of Connecticut, Mr. DINGELL, Mr. KIND, Ms. WOOLSEY, Mr. CARDIN, Ms. ROYBAL-ALLARD, Mr. PASTOR, Mr. CASE, and Mrs. TAUSCHER.

H.R. 3965: Mr. EMANUEL.

H.R. 4026: Mr. BOEHLERT.

H.R. 4033: Mr. BUTTERFIELD.

H.R. 4057: Mr. PETERSON of Minnesota.

H.R. 4067: Mr. TOWNS.

H.R. 4113: Mr. WELLER and Mr. RYAN of Wisconsin.

H.R. 4169: Mr. GRIJALVA, Ms. WOOLSEY, Mrs. CAPITO, and Ms. WATSON.

H.R. 4243: Mrs. JONES of Ohio.

H.R. 4249: Mr. FILNER, Ms. WATERS, Mr. CARDOZA, Mr. FARR, Mr. BECERRA. and Mr. RYAN of Ohio.

H.R. 4264: Mr. SCOTT of Virginia.

H.R. 4366: Mr. SIMMONS.

H.R. 4367: Mrs. WILSON of New Mexico, Mr. RAHALL, and Mr. OWENS.

H.R. 4383: Mr. WHITFIELD.

H.R. 4420: Mr. FLAKE, Mr. DEAL of Georgia, Mr. GREEN of Wisconsin, Mr. BROWN of South Carolina, Mr. SHUSTER, Mr. FEENEY, Mr. PETERSON of Pennsylvania, Mr. KLINE, Mr. LATHAM, Mr. OXLEY, Mr. PEARCE, Mr. PUTNAM, Mr. LINDER, and Mr. RYAN of Wisconsin.

H.R. 4433: Mr. MCINNIS, Mr. MCDERMOTT, Mrs. CAPPS, Mrs. CHRISTENSEN, Mr. FOLEY, Mr. WYNN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. BEAUPREZ, Mr. SHERMAN, Ms. LORETTA SANCHEZ of California, Mr. SHAW, Mrs. JONES of Ohio, and Mr. QUINN.

H.R. 4463: Mr. HINCHEY.

H.R. 4468: Mr. GONZALEZ.

H.R. 4491: Mr. NEY, Mr. HOEFFEL, Mr. LARSON of Connecticut, Mr. SIMMONS, Mr. NEUGEBAUER, Mr. LANGEVIN, Mr. BOEHNER, Mr. ALLEN, Ms. DELAURO, Mrs. JO ANN DAVIS of Virginia, Mr. STENHOLM, and Mr. HALL.

H.R. 4616: Ms. MILLENDER-MCDONALD.

H.R. 4620: Mr. DOOLITTLE and Mr. CARDOZA.

H.R. 4628: Mr. MILLER of North Carolina and Mr. OLVER.

H.R. 4634: Mr. BILIRAKIS, Mrs. BIGGERT, Mr. FOSSELLA, and Mr. CANNON.

H.R. 4685: Mr. BASS, Mr. RYAN of Ohio, Mr. GORDON, Mr. ENGLISH, Mr. KENNEDY of Minnesota, Mr. HALL, Mr. WALSH, and Mr. GREEN of Wisconsin.

H.R. 4730: Mr. HAYES.

H.R. 4776: Mr. GRIJALVA.

H.R. 4796: Mrs. JO ANN DAVIS of Virginia and Mr. MANZULLO.

H.R. 4824: Mr. FRANK of Massachusetts and Ms. SCHAKOWSKY.

H.R. 4826: Mr. SPRATT.

H.R. 4866: Mr. KLINE, Mr. PETERSON of Minnesota, and Mr. WOLF.

H.R. 4875: Mr. JONES of North Carolina.

H.R. 4889: Mr. JEFFERSON.

H.R. 4910: Mr. ABERCROMBIE, Mr. PALLONE, Ms. DELAURO, and Mr. TIERNEY.

H.R. 4936: Mr. MARKEY, Mr. CUMMINGS, Ms. CARSON of Indiana, Mr. BOEHLERT, Mr. GOODE, and Mr. FATTAH.

H.R. 4945: Mr. BURR, Mr. JONES of North Carolina, and Mrs. MYRICK.

H.R. 5022: Mr. FROST.

H.R. 5040: Mr. OWENS, Mr. SCHIFF, Ms. MILLENDER-MCDONALD, and Mr. OLVER.

H.R. 5043: Mr. OWENS.

H.R. 5055: Mr. STENHOLM, Ms. MCCARTHY of Missouri, Mr. KUCINICH, Ms. DELAURO, Mr. BORDALLO, Mrs. MALONEY, Ms. MAJETTE, Mr. RODRIGUEZ, Mr. OXLEY, Mr. MICHAUD, Mr. MATHESON, Mr. PETERSON of Minnesota, Mr. WU, Mr. VAN HOLLEN, Mr. CHANDLER, Ms. VELAZQUEZ, Mr. TERRY, Mr. HYDE, Mr. CLYBURN, Mr. POMEROY, Ms. HARMAN, Mr. BOYD, Mr. TURNER of Texas, Mr. ROGERS of Alabama, Mr. RAHALL, Mr. GUTIERREZ, Mr. SHERMAN, Mr. BILIRAKIS, Mr. PALLONE, Mr. RUSH, Mr. OLVER, Mr. FRANKS of Arizona, Mr. SHIMKUS, and Mr. MCDERMOTT.

H.R. 5057: Mr. TAYLOR of Mississippi, Mr. OWENS, Mr. FRANK of Massachusetts, Mr. OSBORNE, Mr. VAN HOLLEN, Mrs. WILSON of New Mexico, Mr. SIMMONS, Ms. KILPATRICK, Mr. BISHOP of Utah, Mr. LYNCH, Mr. BAIRD, Ms. MILLENDER-MCDONALD, and Mrs. CHRISTENSEN.

H.R. 5061: Mr. OWENS, Mr. LEWIS of Georgia, Mr. FROST, Mr. JEFFERSON, Ms. NORTON, Ms. WATERS, Ms. CORRINE BROWN of Florida, Mr. CLYBURN, Mr. HASTINGS of Florida, Mr. RUSH, Mr. SCOTT of Virginia, Mr. WATT, Mr. WYNN, Mr. THOMPSON of Mississippi, Ms. JACKSON-LEE of Texas, Mrs. CHRISTENSEN, Ms. KILPATRICK, Mr. CLAY, Ms. WATSON, Ms. MAJETTE, Mr. SCOTT of Georgia, Mr. BUTTERFIELD, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 5068: Mr. FROST and Mr. ANDREWS.

H.R. 5069: Mr. FROST and Ms. BERKLEY.

H.R. 5079: Mr. OSBORNE.

H.R. 5090: Mr. CARSON of Oklahoma.

H.R. 5115: Mr. TOM DAVIS of Virginia.

H.J. Res. 102: Mr. HOUGHTON.

H. Con. Res. 111: Mr. CLAY.

H. Con. Res. 306: Mr. FALEOMAVAEGA.

H. Con. Res. 366: Mr. ORTIZ.

H. Con. Res. 492: Mr. TOM DAVIS of Virginia and Mr. MCNULTY.

H. Con. Res. 496: Ms. CARSON of Indiana, Mrs. JONES of Ohio, Mr. CONYERS, Mr. RUSH, Mr. TOWNS, Mr. OWENS, Mr. ENGEL, Mr. FRANK of Massachusetts, Mr. MCNULTY, and Ms. MILLENDER-MCDONALD.

H. Res. 632: Mr. VAN HOLLEN.

H. Res. 747: Mr. CLAY.

H. Res. 751: Mr. MCCOTTER, Mr. BLUMENAUER, and Mr. PENCE.

H. Res. 752: Mr. COX and Mr. DOGGETT.

H. Res. 758: Mr. ABERCROMBIE, Ms. SLAUGHTER, Mr. DEFAZIO, Ms. BALDWIN, Mr. ALLEN, Mr. GREEN of Texas, Mr. BERRY, Mr. NADLER, Mr. FROST, and Mrs. EMERSON.

H. Res. 774: Mr. FROST and Mr. CAPUANO.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1501: Mr. HUNTER.