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No. 144

## House of Representatives

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer: Lord God, You alone can trace the deepest fault lines of history and read the highest aspirations of the human heart.

We pray You, O Lord, to be with the Members of the House of Representatives today. Give them sound judgment and make them as practical and "street wise" as the American people who sent them here as their representatives.

Help them to withstand open criticism when they know what is right before You and conscience. Often they are characterized by half-truths and attributed motives that are far beneath them. Uphold them at such times, with personal integrity and compassion for those most in need. Having called them to serve others to the best of their ability, lift them even higher by Your grace and power to live and work for the greater glory of God, both now and forever. Amen.

### THE JOURNAL

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

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

### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from California (Ms. RICHARDSON) come forward and lead the House in the Pledge of Allegiance.

Ms. RICHARDSON 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.

### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to 15 requests for 1-minute speeches on each side of the aisle.

### FUNDING FOR SCHIP VERSUS FUNDING FOR IRAQ

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

Mr. CARNAHAN. Madam Speaker, yesterday this House made the historic step of reauthorizing the Children's Health Insurance Program, known as SCHIP, so we can give 10 million low-income children health care. This plan not only ensures current enrollees do not lose coverage, but it will help cover 3 million additional children in low-income families who are currently eligible for the program but not yet enrolled.

Unfortunately, President Bush has threatened to veto the bill over and over. He instead supports his own plan which would actually result in thousands of low-income kids losing their health care coverage, according to the nonpartisan Congressional Budget Office.

It is also important to mention that the plan we passed is fully paid for. This is in stark contrast to the over \$400 billion that the President has already asked the taxpayers to spend in Iraq. In fact, for the cost of just over 3 months in Iraq, we could insure these 10 million children for 5 years without adding to our Nation's debt.

Madam Speaker, it is time for the President to reconsider his ill-advised veto threat and pledge to protect health coverage for America's children in need.

### EARMARK IN SCHIP BILL

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, yesterday the House passed a SCHIP bill that makes a mockery of the earmark rules. An already seriously flawed bill got worse when it became clear that we would be voting on a bill that had been given a sham earmark certification. Quite simply, this bill contained an earmark, despite receiving the earmark-free designation by the House Rules Committee.

The House rules are clear. If a bill has earmarks, it must be identified accordingly. But, somehow, the Democrat majority shoehorned money for specific health care facilities into yesterday's SCHIP legislation and slipped it through committee.

I don't doubt there are medical facilities that need funding, but not funding that bends the rules. Are the American people supposed to take proclamations about new ethical standards seriously? If anything, we are witnessing a new atmosphere of hypocrisy, a charade of openness that veils a status quo rife with secret earmark spending.

This is not the way this House should do business. Let's get back to doing business the way the American people want, without secret earmark spending and with accountability for every dollar in every piece of legislation.

### SCHIP

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

Mr. COHEN. Mr. Speaker, yesterday this House passed a conference committee report on SCHIP that will give health care for over 4 million children, something we long should have done.

Forty Members of the Republican Party joined with us, but many Members of the Republican Party, just like the previous speaker, sensed that something was wrong with the bill because it was, quote-unquote, an earmark. That alleged earmark, not really

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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an earmark, was in my district. It says that the States of Mississippi and Arkansas can pay for the health care that their people receive at the Charity Hospital in the City of Memphis, Tennessee that is losing \$20 million a year and more treating people from Mississippi and Arkansas who are indigent.

That is not an earmark. That is allowing a State the option to pay for care received by their citizens that they otherwise wouldn't receive and that another county taxpayer group or city people are paying for. It is equity. It is long due. It wasn't an earmark. And I hope my colleagues will refrain from continuing to refer to this in such a way. It is a calumny that shouldn't be repeated on this House floor.

Mr. Speaker, I thank this House for passing that conference committee report and correcting an inequity in health care.

#### CIRCULAR FUNDRAISING

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

Mr. FLAKE. Mr. Speaker, among the many downsides of earmarking and one that we rarely talk about on the House floor is the practice of circular fundraising. Campaign donations are given to Members, Members secure earmarks benefiting their contributors, and contributors in turn are able to give Members more donations. This cycle is repeated over and over and over.

Unfortunately, this is a bipartisan practice. The media has reported on many such arrangements for Members on both sides of the aisle. Legal issues aside, circular fundraising does not pass the smell test.

Whether it is fair or not, the crimes of a few of our former colleagues have cast suspicion over us all. Continued rampant fundraising is simply not worth the trust it costs us with our constituents. I think that most of us had higher aspirations when we came here than groveling for crumbs that fall from the appropriators' table. I hope that we as Members of Congress will finally decide that enough is enough.

#### DEMOCRATIC CONGRESS

(Ms. RICHARDSON asked and was given permission to address the House for 1 minute.)

Ms. RICHARDSON. Mr. Speaker, the Democratic Congress has a strong record of delivering our promises, real meaningful change, fiscally responsible ways, and instituting a pay-as-you-go policy and doing it in a deficit reduction, disciplined way.

Our Democratic Congress, the majority that we have, has passed three significant things:

Number one, we passed legislation last month that instituted the 9/11 Commission recommendations that would improve communications with first responders and would ensure 100

percent screening of airline and sea-borne cargo.

Number two, we established historic energy independence that would reduce our Nation's dependency on foreign oil.

And, number three, this Democratic House, we have made sure to invest in over 3,000 new Border Patrol agents as well as 50,000 new police officers.

Mr. Speaker, these are just a few examples of how our Democratic Congress majority has taken America in a new direction.

#### GIVE ILLEGALS A PACKAGE

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

Mr. POE. Mr. Speaker, two delivery services, UPS and FedEx, take a package and deliver it for a customer anywhere in a world in just a handful of days. Amazingly, a customer can even track one of those 23 million packages on the Internet and know exactly where it is on any given day. Maybe the Federal Government could learn something here.

The Federal Government doesn't seem to even know where 20 million illegals are in this country, much less track their whereabouts. A good example of how private industry works and the Federal Government does not.

Anyway, it has been suggested that the way to solve the case of the missing illegals is to give every illegal that crosses into the United States a FedEx or UPS package. The package could contain items for their stay illegally in the United States. Then we could record when people enter the U.S. and know where they are at any given time.

Mr. Speaker, it is a disgrace that the Federal Government can't handle border security any better than it does. The Feds owe it to the American citizens to come up with ways to stop the flow of illegals into the United States.

And that's just the way it is.

#### HOUSE DEMOCRATS ARE MEETING AMERICA'S PRIORITIES IN A FISCALLY RESPONSIBLE MANNER

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

Mr. HARE. Mr. Speaker, the new Democratic Congress is taking our Nation in a new direction by putting the needs of the American people first and making long delayed investments in our future.

Over the summer, the House passed every single one of its appropriations bills for the upcoming year. Our appropriation priorities will better protect the Nation against terrorism by including 3,500 more firefighting grants and better protect our neighborhoods against violent crime by investing in 12,000 new police officers.

We also invest in community health centers so that they can provide essential health care services to more than 1

million additional Americans. We beefed up cancer and other lifesaving medical research so that we can continue to look for cures for these devastating diseases.

And we make the largest investment in veterans health care funding in the history of the Veterans Administration, ensuring that our veterans get the health care they are entitled to.

Mr. Speaker, we once again invest in priorities that were neglected by the old Republican Congress, and we do it in a fiscally responsible way following pay-as-you-go policies that will lead us to no new deficit spending.

□ 1015

#### GREATER FISCAL RESPONSIBILITY

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute.)

Mr. WILSON of South Carolina. Mr. Speaker, I rise today to promote the congressional duty to be good stewards of the American taxpayers' money. The American people deserve government that is transparent and open when spending money.

Republicans enjoyed a tremendous victory for American families earlier this year when we passed a smart earmark reform policy for spending bills. But we need to ensure that earmarks put in all legislation receive the same amount of scrutiny. That is why I call on Members of this Chamber to join over 160 of our colleagues in signing a discharge petition to force a vote on a resolution that will enforce an open and honest earmark policy on all legislation that comes before this body.

I hope that my colleagues on both sides of the aisle will join us in standing up for the American taxpayer.

In conclusion, God bless our troops, and we will never forget September the 11th.

#### CHILDREN'S HEALTH INSURANCE PROGRAM

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

Mr. ALTMIRE. Mr. Speaker, at long last, after months of debate, negotiation and compromise, the House and the Senate have come to agreement on a children's health reauthorization that's going to extend health care coverage to 10 million children in this country. And last night, I'm proud to be 1 of 265 Members of this House that supported that legislation and voted to send that bill to the President.

This is bipartisan legislation. We have agreement with both the House and the Senate, but unfortunately, the House does not have the votes to override the veto at this time.

I'm asking my Republican colleagues, please consider the 10 million children that are going to lose access to health care coverage if this bill is not passed, if the veto is not overridden. We must override this veto.

These are working families that play hard, that work hard and play by the rules, and we have to find a way to ensure their children.

#### COLUMBIA UNIVERSITY HYPOCRISY

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

Mr. PITTS. Mr. Speaker, Columbia University defended the Iranian President's speech by invoking the right to free speech and speaking about open exchange of ideas.

None of what he said on Monday could be construed as such. He dodged questions about his Holocaust denial. He ignored questions about his country's role in the death of American soldiers in Iraq.

This same university does not allow our military's ROTC program on campus because they believe the military's "don't ask, don't tell policy" is discriminatory toward homosexuals.

But if Columbia is that concerned about defending homosexuals, why did they let this dictator on campus? His regime doesn't discriminate against gays; it executes them. More than 400 homosexuals so far executed like this.

Columbia University provided Mr. Ahmadinejad a sense of legitimacy and a forum that he will no doubt use to his advantage at home and abroad.

It is unfortunate they don't provide the same to the fine young men and women of our armed services.

#### HOUSE RULES ON TAX RATE INCREASES

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

Mr. NEAL of Massachusetts. Mr. Speaker, I'm honored to serve as chairman of the Select Revenue Measures Subcommittee. That subcommittee reviews tax legislation that has been referred to the Ways and Means Committee. We take this responsibility most seriously. Raising or lowering the tax burden on families and businesses has a real impact, both on those individuals and on the economy.

I was concerned when I heard debate last week suggesting that the House had changed our procedural rules for considering tax increases. The gentleman from Georgia (Mr. PRICE) mistakenly stated that the House rules no longer require a supermajority for tax rate increases.

The House rules on this subject are exactly the same as they were under the last Congress. The rule was written by the Republican majority back in 1997 and has remained unchanged.

I simply wanted to ensure that the record was entirely clear on this subject.

#### TRIBUTE TO ARMY SPECIALIST CHRISTIAN M. NEFF

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

Mr. JORDAN of Ohio. Mr. Speaker, I rise today to honor the life of a brave young soldier and one of America's fallen heroes, Army Specialist Christian M. Neff.

Chris attended middle and high school in the Shawnee District before graduating from the Apollo Career Center in Lima, Ohio. He's remembered by many as a quiet man, but one with the ability to make people smile; someone who earned people's respect and led by example.

Christian Neff died on Wednesday, September 19 in Iraq while serving America in Operation Iraqi Freedom. Age 19, he is survived by a loving family and friends in Allen County and beyond.

In reading of Christian's life and speaking with his mother, I was touched by the dramatic impact he had on the lives of so many.

A young man of deep faith, Chris stood up and volunteered to serve his country. He fought to promote freedom. He gave his life in defense of his family, his community, his State and his Nation. For this, each and every American owes him and his family a great debt of gratitude.

Christian will be deeply missed. But the strength of his character and the courage he demonstrated through his service will live on.

#### WELCOMING THE STUDENTS FROM CHRIST THE KING SCHOOL IN TOLEDO, OHIO

(Ms. KAPTUR asked and was given permission to address the House for 1 minute.)

Ms. KAPTUR. Mr. Speaker, I join with my colleague, Mr. JORDAN, in extending deepest sympathy to the family of Specialist Neff, and thank him for his valorous service to our Nation.

At the same time, today I would like to welcome to our Chamber and ask my colleagues to join me in welcoming the students from Christ the King School in Toledo, Ohio, 57 strong, who are here today, the future leaders of our country. We have sitting there future teachers, future astronauts, future Members of this House, future doctors, future military leaders, future librarians, future priests, future leaders in every sector. I'm just so pleased that they were able to visit our Nation's Capitol today. To see their enthusiasm and to know that America will be placed in their hands in a very short while gives me great hope for this 21st century. I know they will lead America to years of greater progress, greater opportunity and greater waves of peace for the people of our Nation and the people of the world. I'm so happy that they could visit today.

#### DEMOCRATIC MAJORITY SAYS 'NOT GUILTY'

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

Mr. WALBERG. Mr. Speaker, with O.J. Simpson back in the news, House leadership has decided to take one of his famous lines and use it to escape responsibility for a multitude of massive, budget-busting spending bills that they are trying to pass.

Raising taxes nationwide by \$400 billion, including an on-average \$3,000 per tax increase per American citizen? The Democrat majority says, "not guilty."

Withholding the passage of veterans health care bills for political purposes? The majority again says, "not guilty."

Granting illegal immigrants health care benefits and taking Medicare Advantage benefits away from our seniors and putting them in waiting lines for wheelchairs? The House leadership pleads "not guilty."

Well, sorry majority party. The American people are tired of your wasteful spending, and they will not acquit. This Congress needs to instill fiscal discipline and balance the budget so our families can build a better, brighter future.

#### DRIVER'S LICENSES FOR ILLEGAL IMMIGRANTS

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

Mr. KUHL of New York. Mr. Speaker, on Friday of this past week, New York's Governor, Eliot Spitzer, announced his immigration policy, which allows immigrants, including those entering the country illegally, to obtain driver's licenses. This decision solidifies the need for more aggressive immigration legislation in these United States.

Why are we rewarding the people who are coming here illegally at the expense of others who are law-abiding citizens?

Inviting potential terrorists into the State and allowing them to drive whenever they wish undermines the preventive measures that protect our country from national security threats.

Let's not forget that September 11, 2001, hijackers had at least 35 licenses which helped them to rent cars and open bank accounts.

In addition, it will wreak havoc on our social services programs and create a massive flooding of illegal immigrants to New York State, straining our resources in our schools and our hospitals.

We need real immigration legislation that strengthens our borders and does not diminish our national security by granting more privileges to those who have entered this country illegally.

PROVIDING FOR CONSIDERATION OF H.R. 2693, POPCORN WORKERS LUNG DISEASE PREVENTION ACT

Ms. SUTTON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 678 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 678

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2693) to direct the Occupational Safety and Health Administration to issue a standard regulating worker exposure to diacetyl. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as 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 in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommend with or without instructions.

SEC. 2. During consideration in the House of H.R. 2693 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

The SPEAKER pro tempore (Mr. HOLDEN). The gentlewoman from Ohio (Ms. SUTTON) is recognized for 1 hour.

Ms. SUTTON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during con-

sideration of the rule is for debate only.

I yield myself such time as I may consume. I also ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 678.

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

There was no objection.

Ms. SUTTON. Mr. Speaker, House Resolution 678 provides for consideration of H.R. 2693, the Popcorn Workers Lung Disease Prevention Act, under a structured rule.

The rule provides 1 hour of general debate controlled by the Committee on Education and Labor. The rule waives all points of order against consideration of the bill except clauses 9 and 10 of rule XXI.

The rule makes in order the Committee on Education and Labor amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment.

The rule makes in order the two amendments that were submitted to the Rules Committee and are printed in the Rules report.

Mr. Speaker, I rise today in favor of the rule and in favor of H.R. 2693, the Popcorn Workers Lung Disease Prevention Act.

The central Ohio town of Marion is located about two hours from my hometown of Barberton, Ohio. Marion has the unique distinction of being known as the "Popcorn Capital of the World." Just this month, the town of Marion hosted its yearly popcorn festival, complete with a popcorn scholarship pageant, parade and 5K run.

Unfortunately, these fun-filled festivities are not the only symbols of Marion's popcorn industry. It was recently discovered that a chemical used in the production of microwave popcorn is the cause of fatal lung disease in popcorn workers across the country, including the Popcorn Capital of the World, Marion Ohio.

Diacetyl is a chemical ingredient used in microwave popcorn that gives the popcorn a distinct buttery smell.

□ 1030

Diacetyl has been linked to illnesses in hundreds of workers in popcorn and other food production facilities across the United States. Diacetyl is specifically connected to a lung disease called bronchiolitis obliterans. This condition makes it difficult for air to flow out of the lungs. This difficulty is not reversible, and it is sometimes fatal.

In November of 2000, the National Institute for Occupational Safety and Health conducted voluntary tests of workers at a popcorn plant in Missouri. The workers in that plant suffered from chronic cough and shortness of breath almost three times as often as people in the general population. Those plant workers are over three times more likely to suffer from abnormally low airflow through their lungs. The

percentage of workers in the popcorn plant with asthma or chronic bronchitis was double the national rate. Several workers from this plant in Missouri had conditions that were so severe that they had to be placed on the lung transplant list.

Remarkably, Mr. Speaker, despite these reports from the Missouri popcorn plant and other plants across the country, there are currently no enforceable OSHA standards requiring exposure to diacetyl to be controlled.

It has been 7 years since the first cases of popcorn lung were identified. It has been 5 years since the National Institute for Occupational Safety and Health published its first report stating the inhalation of diacetyl was leading to deadly results. There is simply no excuse for the lack of action taken by OSHA in the face of this evidence. OSHA has failed to uphold its primary charge to protect the safety and health of American workers.

Mr. Speaker, this legislation fills that fatal void by protecting workers from this damaging chemical. The Popcorn Workers Lung Disease Prevention Act directs the Secretary of Labor to create standards for workers' exposure to diacetyl in popcorn plants and in any location where diacetyl is used or manufactured. Our legislation requires that final rules for exposure to diacetyl be in place under the Occupational Safety and Health Act no later than 2 years after the bill is enacted.

For the popcorn workers of Marion, Ohio, things are starting to look up. The popcorn factories in their town have eliminated the use of diacetyl because of its linkage to the fatal lung conditions. They have done the right thing.

But not every production facility that uses diacetyl has recognized the danger. In fact, on Monday of this week, one of America's largest food manufacturers introduced their new toasted butter flavoring. What is one of the ingredients in this new butter flavoring? Diacetyl.

Mr. Speaker, it is clear that some food manufacturers have gotten the message, but some are going to continue to ignore the science and put their workers in harm's way. Over 500 workers in Ohio are already suffering because of uncontrolled exposure to diacetyl.

Today, we act to protect our food industry workers from these harmful chemicals and dangerous conditions. We stand up for workers and their families. This legislation is not just about the conditions in food manufacturing plants across this country. It's about changing the way we treat working men and women. It's about respecting the risks that they undertake every day to feed their family. The hard-working people who make our world turn deserve safe working conditions, a living wage, and strong support from Congress.

I ask my colleagues to join me in supporting this rule and the underlying bill.

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I would like to thank my friend, the gentlewoman from Ohio (Ms. SUTTON), for the time, and I yield myself such time as I may consume.

H.R. 2693, the underlying legislation that is being brought to the floor today, directs the Secretary of Labor to establish an interim standard regulating worker exposure to diacetyl that applies to flavor manufacturers as well as all microwave popcorn production and packaging establishments that use diacetyl.

Diacetyl is a chemical found in trace amounts in nature and can be found in such foods and beverages as beer and wine and some forms of chicken. The compound is also used in the production of the artificial butter flavoring in microwave popcorn. Since 2000, several organizations, including the NIOSH, the OSHA, have raised concerns regarding health effects of diacetyl on workers in manufacturing plants that use the chemical.

Mr. Speaker, we all want to make sure that our workers are able to work in a safe environment. We also want to make certain that the policy that we enact is best for workers. We certainly want to make sure that in the end it doesn't harm them more. That's why a significant number of Members on our side of the aisle are concerned that this legislation may be premature.

I just received a letter from the American Bakers Association, which I will submit for the RECORD. Its president, the American Bakers Association president, says, "On behalf of the American Bakers Association, I am writing to express our opposition to the Popcorn Workers Lung Disease Prevention Act, which the House of Representatives is expected to consider this week. Passage of the legislation "would significantly short circuit the appropriate regulatory process by mandating that OSHA implement a regulation, including a permissible exposure limit, PEL, applicable to all sectors of the food industry, and based on limited scientific data."

Mr. Speaker, even though OSHA has raised concerns about diacetyl, the agency itself has also said, "At this time, insufficient data exists on which to base workplace exposure standards or recommend exposure limits for butter flavorings."

So we believe that it is important to give OSHA time to complete a scientific study of diacetyl exposure or to issue a recommended exposure limit for the use of that chemical. Without a complete study, Congress may push manufacturers to use different chemicals that could be even more directly responsible for diseases.

Yesterday, the minority in the Rules Committee offered an amendment to the rule to allow for an open rule so that any Member who wished to bring forth amendments, ideas for legislative

changes would have the opportunity to do so. Especially after listening to the commencement of this debate and if they have some expertise or perhaps they are in touch with some people with expertise, Members could bring forth amendments to improve this legislation. That is what we sought in the Rules Committee, and we offered an amendment to the rule to allow for an open rule.

The majority voted down an open rule on a party-line vote. We think it's unfortunate that the majority did not want to consider this bill under an open rule. Now, considering that only two amendments were submitted to the Rules Committee prior to consideration, I really do not believe that we would have faced an avalanche of amendments. But the reason that it would have been important is that any of our Members and/or their staffs, listening to the commencement of this debate, if they have expertise, they could bring that expertise forth in the form of ideas, legislative ideas, amendments, for improving this legislation. Unfortunately, that will not be possible because the majority in the Rules Committee shut down debate, did not allow that open rule.

I think an open rule would have been an easy lift on this legislation. Instead, we have this structured rule. So it is a missed opportunity, Mr. Speaker.

If the majority would have offered an open rule, as a matter of fact, they would have doubled the number of open rules for this session on nonappropriation bills, because they have only brought forth one. So they had an opportunity to double the amount of open rules. It would have been an easy lift. So an unfortunate opportunity was missed.

The material previously referred to is as follows:

AMERICAN BAKERS ASSOCIATION,  
Washington, DC, September 25, 2007.

Hon. HOWARD MCKEON,  
House of Representatives,  
Washington, DC.

DEAR MR. MCKEON: On behalf of the American Bakers Association (ABA), I am writing to express our opposition to H.R. 2693, "the Popcorn Workers Lung Disease Prevention Act," which the House of Representatives is expected to consider this week. Passage of H.R. 2693 would significantly short circuit the appropriate regulatory process by mandating that the Occupational Safety and Health Administration (OSHA) implement a regulation, including a Permissible Exposure Limit (PEL), applicable to all sectors of the food industry, and based on limited scientific data. For over 100 years, the ABA has represented the interests of the wholesale baking industry and its suppliers—companies that work together to provide over 80 percent of the wholesome and nutritious bakery products purchased by American consumers.

The American Bakers Association prides itself on our long history of assisting baking companies to stay ahead of the curve on safety and health in the workplace. Our Safety Committee provides tremendous leadership on safety and health policy issues. We are committed to keeping our workers safe and support science-based standards and regulations. The ABA is aware of recent data from the National Institute for Occupational

Safety and Health (NIOSH) regarding the use of diacetyl in popcorn manufacturing and the flavor manufacturing industry. We also understand the severity of the health effects that have been demonstrated in a limited number of cases. However, we strongly believe that the recent NIOSH data does not accurately reflect the use of diacetyl in other sectors of the food industry, such as baking. Differences exist in the food processing industry, the concentrations of diacetyl used, and the existing controls in place.

Mandating specific requirements that OSHA must include in a diacetyl standard sets a precedent that should be avoided. Congress's role as set forth in the OSH Act of 1970 is to "assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources." However, it is the role of the Department of Labor to use its expertise for implementing regulations. For Congress to specify the applicable requirements of a "final standard" would bypass inappropriately the mechanisms and tests established under the OSH Act. Expedited regulation, even if directed by Congress, would rest on very limited scientific evidence and would represent rushed and inappropriate legislative and Agency action.

Further H.R. 2693 does not address the carefully developed procedures for rulemaking that Congress and the courts have put in place under the Administrative Procedures Act (APA), including provisions designed to protect small businesses. Finally, on September 24, 2007 OSHA announced its intent to move forward with a rulemaking on diacetyl. This rulemaking process should be allowed to move forward as it includes the appropriate procedural safeguards.

ABA respectfully urges you to oppose this legislation and allow the regulatory procedures designed to protect the interests of small businesses to guide OSHA in developing a standard.

Sincerely,

ROBB MACKIE,  
President and CEO.

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

Ms. SUTTON. Mr. Speaker, at this time, I am happy to yield 4 minutes to the gentlewoman from Connecticut, the chairwoman of the Agriculture Appropriations Subcommittee (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise today in strong support of this rule to allow the House to consider the Popcorn Workers Lung Disease Prevention Act. This is important legislation. It would require the Occupational Safety and Health Administration to issue a standard to minimize worker exposure to diacetyl, which is an artificial butter flavoring chemical that has been linked to irreversible, deadly lung disease known as "popcorn lung." By passing this rule and bill, we meet our obligation to protect thousands of American workers and ensure the public health.

More than 7 years ago, a physician contacted the Missouri Department of Health and Senior Services to report eight cases of fixed obstructive lung diseases, bronchiolitis obliterans, also known as "popcorn lung," in workers from a Missouri microwave popcorn plant. Follow-up investigations by the National Institute for Occupational Safety and Health found diacetyl to

have caused the lung disease. Since that time, cases of popcorn lung have been identified in microwave popcorn workers in several States: Missouri, Iowa, Ohio, New Jersey, and Illinois. In all, NIOSH conducted six investigations at 10 microwave popcorn facilities, finding respiratory impairment among workers at a majority of the plants.

The science on this chemical's danger is clear. Beyond the NIOSH investigations, the Centers for Disease Control and Prevention called for health care providers to report additional suspected cases of respiratory disease in workers exposed to food-flavoring chemicals.

That was 5 years ago. This past April, the CDC again recommended that employers implement safety measures to minimize worker exposures to flavoring chemicals such as diacetyl.

When I asked Secretary of Labor, Elaine Chao, during an appropriations budget hearing why OSHA was dragging its feet on issuing an "emergency temporary standard," she responded, "This is a difficult evaluation because of the relative lack of specific scientific information concerning the health effects of diacetyl and other butter flavoring chemicals." Indeed, we should not be too surprised by the fact that, even after all these years, OSHA has failed to issue a standard to protect workers from exposure to diacetyl, preferring to rely instead on voluntary efforts.

The science is there. Scientists have called diacetyl's effect on workers' lungs "astonishingly grotesque." They likened it to "inhaling acid." Workers who are exposed to diacetyl today cannot afford to wait. This legislation would require engineering controls, respiratory protection, exposure monitoring, medical surveillance, and worker training. It would also apply to popcorn manufacturing and packaging as well as to the food flavorings industry.

Let me just tell you what the industry has done. ConAgra Foods and Pop Weaver, two major producers of microwave popcorn, have already announced that they will no longer use diacetyl to flavor their microwave popcorn because they understand it. They see the science and know that we have to act.

□ 1045

We have a responsibility in this body to both consumers and to workers. Yesterday, however, Kraft Foods announced a new toasted butter flavor which contains diacetyl; in fact, Kraft Company flavorist, Susan Parker, told reporters, "To some customers diacetyl is not an issue; to others, it is. We're moving forward to formulating solutions to meet customer need." But what Kraft fails to realize and fails to mention is that diacetyl is an issue for all workers. This much we know, and that is why we need this legislation.

I urge my colleagues to support this rule.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I will be asking

for a "no" vote on the previous question so that we can amend this rule and allow the House to consider a change to the rules of the House to restore accountability and enforceability to the earmark rule.

Under the current rule, so long as the chairman or sponsor of a bill, joint resolution, conference report or manager's amendment includes either a list of earmarks contained in the bill or report or a statement that there are no earmarks, no point of order lies against the bill. This is the same as the rule in the last Congress. However, under the rule, as it functioned under the Republican majority in the 109th Congress, even if the point of order was not available on the bill, it was always available on the rule as a question of consideration. But because the Democratic Rules Committee specifically exempts earmarks from the waiver of all points of order, they deprive Members of the ability to raise the question of earmarks on the rule.

This amendment will restore the accountability and enforceability of the earmark rule to where it was at the end of the 109th Congress to provide Members with an opportunity to bring the question of earmarks before the House for a vote.

Last year, the distinguished new Speaker said that if she would become Speaker, she would require all earmarks to be publicly disclosed and would "put it in writing." However, the new majority is falling quite short of the promise. Certainly this week, this is the second rule we are considering this week, and the second time the majority has disregarded earmark transparency. That's 0 for 2 this week, not a good week for transparency. Certainly it could be said it's a good week for hidden earmarks.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

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

There was no objection.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield back the balance of my time.

Ms. SUTTON. Mr. Speaker, let me begin with a point of clarification; the earmark rule was not waived. And to the question about whether this bill today is premature, I would argue that it's not premature for the 500 workers in Ohio and those across this country who are now suffering from this irreversible disease.

I have heard the workers' stories from the Ohio popcorn plants. I have heard the story of a worker who worked 12-hour shifts in the popcorn factory outside of Marion, Ohio. His job was to mix the flavors, measuring and dumping butter-flavored powders and pastes into the vats of soybean oil. Now, Mr. Speaker, he is so crippled from breathing the vapors in the plant

that he hardly has the strength to hold his granddaughter. He is racked with spasms that leave him dizzy and incapacitated.

In 2001, after an outbreak of diseases at the popcorn factory in Missouri, his employer guaranteed him that his plant was safe. Mr. Speaker, OSHA's failure to protect our workers by ignoring the reports, studies and warning signs has endangered the health of families. That is why we must act today. Our workers should never have to choose between their health and feeding their families. I urge a "yes" vote on the previous question and on the rule.

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

AMENDMENT TO H. RES. 678 OFFERED BY MR. DIAZ-BALART OF FLORIDA

At the end of the resolution, add the following:

SEC. 3. That immediately upon the adoption of this resolution the House shall, without intervention of any point of order, consider the resolution (H. Res. 479) to amend the Rules of the House of Representatives to provide for enforcement of clause 9 of rule XXI of the Rules of the House of Representatives. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Rules; and (2) one motion to recommit.

Ms. SUTTON. 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.

Mr. LINCOLN DIAZ-BALART of Florida. 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.

PROVIDING FOR CONSIDERATION OF H.J. RES. 52, CONTINUING APPROPRIATIONS, FISCAL YEAR 2008

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 677 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 677

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 52) making continuing appropriations for the fiscal year 2008, and for other purposes. All points of order against the joint resolution and against its consideration are waived except those arising under clause 9 or 10 of rule XXI. The joint resolution shall be considered

as read. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit.

SEC. 2. During consideration of House Joint Resolution 52 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the joint resolution to such time as may be designated by the Speaker.

SEC. 3. House Resolution 659 is laid upon the table.

The SPEAKER pro tempore. The gentlewoman from New York is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Washington (Mr. HASTINGS). All time yielded during consideration of the rule is for debate only.

I yield myself such time as I may consume and ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 677.

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

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, H. Res. 677 provides for consideration of H.J. Res. 52, making continuing appropriations for the fiscal year 2008, and for other purposes.

The rule provides 1 hour of general debate controlled by the Committee on Appropriations. The rule waives all points of order against the joint resolution and against its consideration except for clause 9 or 10 of rule XXI.

The rule also provides that the joint resolution shall be considered as read. The rule provides one motion to recommit with or without instructions.

Mr. Speaker, every Congress has a constitutional responsibility to be good stewards of the money sent to us by the American people. And I am proud to say that we here in the House of Representatives have fulfilled our fiscal responsibility to the American people by passing all of our appropriations bills on time.

We, in the new majority, have been absolute in our promise to construct and pass spending bills with broad bipartisan support, and I am proud to say that we have delivered on those promises.

Of the 12 fiscal year 2008 appropriations bills that passed the House this year, we have garnered an average of 50 Republican votes. In a spirit of working together, we have successfully pushed ahead our bold and new agenda and passed legislation that prioritize veterans, health care, education and energy independence.

Mr. Speaker, H. Res 677 provides for consideration of H.J. Res. 52, as I said before, for continuing appropriations for the year 2008.

Mr. Speaker, with that, I will reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I want to thank the gentlelady and chairman of the Rules Committee for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, in just 5 days, fiscal year 2007 will come to an end and a new fiscal year will begin. I am disappointed that this rule and the underlying continuing resolution are on the floor today. Not one, let me repeat that, not one spending bill has been sent to the President for his signature this year.

Congress has a responsibility to fund the priorities of the government, and here we are, just days before the start of a new fiscal year, and not one of the 12 spending bills that must be signed into law have been signed.

So, Mr. Speaker, I will support the underlying continuing resolution because I recognize the government must continue to be funded. It is my strong hope, however, that within the next 6 weeks, 12 separate conference reports will come before the House of Representatives.

I do not believe that omnibus bills are the best vehicles for spending billions and billions of taxpayer dollars, and I truly hope that that will not be what we end with on November 16.

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

Ms. SLAUGHTER. I have no requests for time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, this is a disappointing day for the American people. Here we are, nearly 9 months into this Congress controlled by the Democrat majority, and still the majority has failed to live up to their promises by denying every American taxpayer accountability when it comes to transparency of earmarks.

Just yesterday, a challenge was made to an earmark slipped into a bill 299 pages long that had not been disclosed. The Democrat majority certified the bill was "earmark free," but then denied all accountability and scrutiny of this earmark.

It is vital that the House act today to allow the House to debate openly and honestly the validity and accuracy of earmarks contained in all bills, such as the SCHIP bill yesterday, and not just on appropriation bills. Therefore, Mr. Speaker, I will be asking Members to oppose the previous question so that they may amend the rule to allow for immediate consideration of House Resolution 479, the Earmark Accountability bill.

By defeating the previous question, the House will be able to consider the continuing resolution today, but will also be able to address earmark enforceability in order to restore the credibility of this House.

By considering and approving House Resolution 479, we will send a strong message to the American taxpayers

that this House will no longer turn its head the other way when it comes to transparency of earmarks.

So, Mr. Speaker, I ask unanimous consent to have the text of the amendment and extraneous material inserted into the RECORD prior to the vote on the previous question.

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

There was no objection.

Mr. HASTINGS of Washington. With that, I urge my colleagues to oppose the previous question, and I yield back the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I feel obliged to say simply for the record that there are no earmarks in this bill and that everybody knows it.

The material previously referred to by Mr. HASTINGS of Washington is as follows:

AMENDMENT TO H. RES. 677 OFFERED BY MR. HASTINGS OF WASHINGTON

At the end of the resolution, add the following:

SEC. 4. That immediately upon the adoption of this resolution the House shall, without intervention of any point of order, consider the resolution (H. Res. 479) to amend the Rules of the House of Representatives to provide for enforcement of clause 9 of rule XXI of the Rules of the House of Representatives. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Rules; and (2) one motion to recommit.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

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

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

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

Because the vote today may look bad for the Democratic majority they will say “the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.” But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here’s how the Rules Committee described the rule using information from Congressional Quarterly’s “American Congressional Dictionary”: “If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business.”

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

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

Ms. SLAUGHTER. 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 yeas appeared to have it.

Mr. HASTINGS of Washington. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question on House Resolution 677 will be followed by 5-minute votes on adoption of House Resolution 677, if ordered; ordering the previous question on House Resolution 678, by the yeas and nays; and adoption of House Resolution 678, if ordered.

The vote was taken by electronic device, and there were—yeas 220, nays 192, not voting 20, as follows:

[Roll No. 908]

YEAS—220

Ackerman	Bishop (NY)	Castor
Allen	Blumenauer	Chandler
Altmire	Boren	Clarke
Andrews	Boswell	Clay
Arcuri	Boucher	Cleaver
Baca	Boyd (KS)	Clyburn
Baird	Brady (PA)	Cohen
Baldwin	Braley (IA)	Conyers
Bean	Butterfield	Cooper
Becerra	Capps	Costa
Berkley	Capuano	Costello
Berman	Cardoza	Courtney
Berry	Carnahan	Cramer
Bishop (GA)	Carney	Crowley

Cuellar	Kilpatrick
Cummings	Kind
Davis (AL)	Klein (FL)
Davis (CA)	Lampson
Davis (IL)	Langevin
Davis, Lincoln	Lantos
DeFazio	Larsen (WA)
DeGette	Larson (CT)
Delahunt	Lee
DeLauro	Levin
Dicks	Lewis (GA)
Dingell	Lipinski
Doggett	Lofgren, Zoe
Donnelly	Lowey
Doyle	Lynch
Edwards	Mahoney (FL)
Ellison	Maloney (NY)
Ellsworth	Markey
Emanuel	Marshall
Eshoo	Matheson
Etheridge	Matsui
Farr	McCarthy (NY)
Fattah	McCollum (MN)
Filner	McDermott
Frank (MA)	McGovern
Giffords	McIntyre
Gillibrand	McNerney
Gonzalez	McNulty
Gordon	Meek (FL)
Green, Al	Melancon
Green, Gene	Michaud
Grijalva	Miller (NC)
Gutierrez	Miller, George
Hall (NY)	Mitchell
Hare	Mollohan
Harman	Moore (KS)
Hastings (FL)	Moore (WI)
Herseth Sandlin	Moran (VA)
Higgins	Moran (CT)
Hill	Murphy, Patrick
Hinchey	Murtha
Hirono	Nadler
Hodes	Napolitano
Holden	Neal (MA)
Holt	Oberstar
Honda	Obey
Hooley	Olver
Hoyer	Ortiz
Inslee	Pallone
Israel	Pascrell
Jackson (IL)	Pastor
Jackson-Lee	Payne
(TX)	Perlmutter
Jefferson	Peterson (MN)
Johnson (GA)	Pomeroy
Jones (OH)	Price (NC)
Kagen	Rahall
Kanjorski	Rangel
Kaptur	Reyes
Kennedy	Richardson
Kildee	Rodriguez

NAYS—192

Aderholt	Carter
Akin	Castle
Alexander	Chabot
Bachmann	Coble
Bachus	Cole (OK)
Baker	Conaway
Barrett (SC)	Culberson
Barrow	Davis (KY)
Bartlett (MD)	Davis, David
Barton (TX)	Davis, Tom
Biggert	Deal (GA)
Bilbray	Dent
Bilirakis	Diaz-Balart, L.
Bishop (UT)	Diaz-Balart, M.
Blackburn	Doolittle
Blunt	Drake
Boehner	Dreier
Bonner	Duncan
Bono	Ehlers
Boozman	Emerson
Boustany	English (PA)
Brady (TX)	Everett
Brown (GA)	Fallin
Brown (SC)	Feeney
Brown-Waite,	Ferguson
Ginny	Flake
Buchanan	Forbes
Burgess	Fortenberry
Burton (IN)	Fossella
Buyer	Fox
Calvert	Franks (AZ)
Capps	Frelinghuysen
Costa	Gallely
Campbell (CA)	Cannon
Cantor	Garrett (NJ)
Capito	Gerlach
	Gilchrest

Ross	Linder
Rothman	LoBiondo
Roybal-Allard	Lucas
Ruppersberger	Lungren, Daniel
Rush	E.
Ryan (OH)	Mack
Salazar	Manzullo
Sanchez, Linda	Marchant
T.	McCarthy (CA)
Sanchez, Loretta	McCaul (TX)
Sarbanes	McCotter
Schakowsky	McCrery
Schiff	McHenry
Schwartz	McHugh
Scott (GA)	McKeon
Scott (VA)	McMorris
Serrano	Rodgers
Sestak	Mica
Shea-Porter	Miller (FL)
Sherman	Miller (MI)
Shuler	Miller, Gary
Sires	Moran (KS)
Skelton	Murphy, Tim
Slaughter	Myrick
Smith (WA)	Neugebauer
Snyder	Nunes
Solis	Paul
Space	Pearce
Spratt	Pence
Stark	Abercrombie
Stupak	Boyd (FL)
Sutton	Brown, Corrine
Tanner	Carson
Tauscher	Crenshaw
Taylor	Cubin
Thompson (CA)	Davis, Jo Ann
Thompson (MS)	
Tierney	
Towns	
Udall (CO)	
Udall (NM)	
Van Hollen	
Velázquez	
Visclosky	
Walz (MN)	
Wasserman	
Schultz	
Waters	
Watson	
Watt	
Waxman	
Weiner	
Welch (VT)	
Wexler	
Wilson (OH)	
Woolsey	
Wu	
Wynn	
Yarmuth	

Peterson (PA)	Shadegg
Petri	Shays
Pickering	Shimkus
Pitts	Shuster
Platts	Simpson
Poe	Smith (NE)
Porter	Smith (NJ)
Price (GA)	Stearns
Pryce (OH)	Sullivan
Radanovich	Tancredo
Ramstad	Terry
Regula	Thornberry
Rehberg	Tiahrt
Reichert	Tiberi
Renzi	Turner
Reynolds	Upton
Rogers (AL)	Walberg
Rogers (KY)	Walden (OR)
Rogers (MI)	Walsh (NY)
Rohrabacher	Wamp
Ros-Lehtinen	Weldon (FL)
Roskam	Weller
Royce	Westmoreland
Ryan (WI)	Wicker
Sali	Wilson (NM)
Saxton	Wilson (SC)
Schmidt	Wolf
Sensenbrenner	Young (AK)
Sessions	Young (FL)

NOT VOTING—20

Engel	Meeks (NY)
Herger	Musgrave
Hinojosa	Putnam
Hunter	Smith (TX)
Jindal	Souder
Johnson, E. B.	Whitfield
Loeb sack	

□ 1123

Ms. GINNY BROWN-WAITE of Florida and Messrs. LEWIS of Kentucky, BOOZMAN and TIM MURPHY of Pennsylvania changed their vote from “yea” to “nay.”

Mr. HILL changed his vote from “nay” to “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.

PROVIDING FOR CONSIDERATION OF H.R. 2693, POPCORN WORKERS LUNG DISEASE PREVENTION ACT

The SPEAKER pro tempore. The unfinished business is the vote on ordering the previous question on House Resolution 678, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

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

This will be a 5-minute vote. The vote was taken by electronic device, and there were—yeas 221, nays 193, not voting 18, as follows:

[Roll No. 909]

YEAS—221

Abercrombie	Berkley	Brady (PA)
Ackerman	Berman	Braley (IA)
Allen	Berry	Butterfield
Altmire	Bishop (GA)	Capps
Andrews	Bishop (NY)	Capuano
Arcuri	Blumenauer	Cardoza
Baca	Boren	Carnahan
Baird	Boswell	Carney
Baldwin	Boucher	Castor
Bean	Boyd (FL)	Chandler
Becerra	Boyd (KS)	Clarke

Clay Kagen  
 Cleaver Kanjorski  
 Clyburn Kaptur  
 Cohen Kennedy  
 Conyers Kildee  
 Cooper Kilpatrick  
 Costa Kind  
 Costello Klein (FL)  
 Courtney Kucinich  
 Cramer Lampson  
 Crowley Langevin  
 Cuellar Lantos  
 Cummings Larsen (WA)  
 Davis (AL) Larson (CT)  
 Davis (CA) Sarbanes  
 Davis (IL) Levin  
 Davis, Lincoln Lewis (GA)  
 DeFazio Lipinski  
 DeGette Loeback  
 Delahunt Lofgren, Zoe  
 DeLauro Lowey  
 Dicks Lynch  
 Dingell Mahoney (FL)  
 Doggett Maloney (NY)  
 Donnelly Markey  
 Doyle Marshall  
 Ellsworth Matheson  
 Emanuel Matsui  
 Eshoo McCarthy (NY)  
 Etheridge McCollum (MN)  
 Farr McDerrott  
 Fattah McGovern  
 Filner McIntyre  
 Frank (MA) McNeerney  
 Giffords McNulty  
 Gillibrand Meek (FL)  
 Gonzalez Melancon  
 Gordon Michaud  
 Green, Al Miller (NC)  
 Green, Gene Miller, George  
 Grijalva Mitchell  
 Gutierrez Mollohan  
 Hall (NY) Moore (KS)  
 Hare Moore (WI)  
 Harman Moran (VA)  
 Hastings (FL) Murphy (CT)  
 Herseth Sandlin Murphy, Patrick  
 Higgins Murtha  
 Hinchey Nadler  
 Hirono Napolitano  
 Hodes Neal (MA)  
 Holden Oberstar  
 Holt Obey  
 Honda Olver  
 Hooley Ortiz  
 Hoyer Pallone  
 Insole Pascrell  
 Israel Pastor  
 Jackson (IL) Payne  
 Jackson-Lee Perlmutter  
 (TX) Peterson (MN)  
 Jefferson Pomeroy  
 Johnson (GA) Price (NC)  
 Jones (OH) Rahall

NAYS—193

Aderholt Cannon  
 Akin Cantor  
 Alexander Capito  
 Bachmann Carter  
 Bachus Castle  
 Baker Chabot  
 Barrett (SC) Coble  
 Barrow Cole (OK)  
 Bartlett (MD) Conaway  
 Barton (TX) Crenshaw  
 Biggert Culberson  
 Bilbray Davis (KY)  
 Bilirakis Davis, David  
 Bishop (UT) Davis, Tom  
 Blackburn Deal (GA)  
 Blunt Dent  
 Boehner Diaz-Balart, L.  
 Bonner Diaz-Balart, M.  
 Bono Doolittle  
 Boozman Drake  
 Boustany Dreier  
 Brady (TX) Duncan  
 Broun (GA) Ehlers  
 Brown (SC) Emerson  
 Brown-Waite, English (PA)  
 Ginny Everett  
 Buchanan Fallin  
 Burgess Feeney  
 Burton (IN) Ferguson  
 Buyer Flake  
 Calvert Forbes  
 Camp (MI) Fortenberry  
 Campbell (CA) Fossella

Rangel Kirk  
 Reyes Kline (MN)  
 Richardson Knollenberg  
 Rodriguez Kuhl (NY)  
 Ross LaHood  
 Rothman Lamborn  
 Roybal-Allard Latham  
 Ruppelberger LaTourette  
 Rush Lewis (GA)  
 Ryan (OH) Lewis (KY)  
 Salazar Linder  
 Sánchez, Linda LoBiondo  
 T. Lucas  
 Sanchez, Loretta Lungren, Daniel  
 Lee E.  
 Sarbanes Mack  
 Schakowsky Manzano  
 Schiff Marchant  
 Schwartz McCarthay (CA)  
 Scott (GA) McCaul (TX)  
 Scott (VA) McCotter  
 Serrano McCrery  
 Sestak McHenry  
 Shea-Porter McHugh  
 Sherman Sherman  
 Shuler McKeon  
 Sires McMorris  
 Skelton Rodgers  
 Slaughter Mica  
 Smith (WA) Miller (FL)  
 Snyder Miller (MI)  
 Solis Miller, Gary  
 Space Moran (KS)  
 Spratt Murphy, Tim

Brown, Corrine  
 Carson  
 Cubin  
 Davis, Jo Ann  
 Edwards  
 Ellison

NOT VOTING—18

Engel  
 Herger  
 Hinojosa  
 Hunter  
 Jindal  
 Johnson, E. B.

Sensenbrenner Sessions  
 Shadegg Shays  
 Shimkus Shuster  
 Simpson Smith (NE)  
 Smith (NJ)  
 Stearns Sullivan  
 Tancredo Terry  
 Thornberry Tiahrt  
 Tiberi Turner  
 Upton Walberg  
 Walden (OR)  
 Walsh (NY)  
 Wamp Weldon (FL)  
 Weller Westmoreland  
 Wicker Wilson (NM)  
 Wilson (SC)  
 Wolf  
 Young (AK)  
 Young (FL)

the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2008, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for fiscal year 2007 and under the authority and conditions provided in such Acts, for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in this joint resolution, that were conducted in fiscal year 2007, and for which appropriations, funds, or other authority were made available in the following appropriations Acts:

- (1) The Department of Defense Appropriations Act, 2007 (division A of Public Law 109-289).
- (2) The Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295).
- (3) The Continuing Appropriations Resolution, 2007 (division B of Public Law 109-289, as amended by Public Law 110-5).

SEC. 102. (a) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for (1) the new production of items not funded for production in fiscal year 2007 or prior years; (2) the increase in production rates above those sustained with fiscal year 2007 funds; or (3) the initiation, resumption, or continuation of any project, activity, operation, or organization (defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for any investment items defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item that includes a program element and subprogram element within an appropriation account) for which appropriations, funds, or other authority were not available during fiscal year 2007.

(b) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

(c) Notwithstanding this section, the Secretary of Defense may, following notification of the congressional defense committees, initiate projects or activities required to be undertaken for force protection purposes using funds available from the Iraq Freedom Fund.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act.

SEC. 104. Except as otherwise provided in section 102, no appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2007.

SEC. 105. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act for fiscal year 2008, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this joint resolution;

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1130

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.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1665

Mr. UDALL of Colorado. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1665.

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

There was no objection.

CONTINUING APPROPRIATIONS, FISCAL YEAR 2008

Mr. OBEY. Mr. Speaker, pursuant to House Resolution 677, I call up the joint resolution (H.J. Res. 52) making continuing appropriations for the fiscal year 2008, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 52 is as follows:

H.J. RES. 52

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are hereby appropriated, out of any money in

(2) the enactment into law of the applicable appropriations Act for fiscal year 2008 without any provision for such project or activity; or (3) November 16, 2007.

SEC. 107. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. Appropriations made and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing in this joint resolution may be construed to waive any other provision of law governing the apportionment of funds.

SEC. 109. Notwithstanding any other provision of this joint resolution, except section 106, for those programs that would otherwise have high initial rates of operation or complete distribution of appropriations at the beginning of fiscal year 2008 because of distributions of funding to States, foreign countries, grantees, or others, such high initial rates of operation or complete distribution shall not be made, and no grants shall be awarded for such programs funded by this joint resolution that would impinge on final funding prerogatives.

SEC. 110. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 111. (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2007, and for activities under the Food Stamp Act of 1977, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2007, to be continued through the date specified in section 106(3).

(b) Notwithstanding section 106, obligations for mandatory payments due on or about the first day of any month that begins after October 2007 but not later than 30 days after the date specified in section 106(3) may continue to be made, and funds shall be available for such payments.

SEC. 112. Amounts made available under section 101 for civilian personnel compensation and benefits in each department and agency may be apportioned up to the rate for operations necessary to avoid furloughs within such department or agency, consistent with the applicable appropriations Act for fiscal year 2007, except that such authority provided under this section shall not be used until after the department or agency has taken all necessary actions to reduce or defer non-personnel-related administrative expenses.

SEC. 113. Funds appropriated by this joint resolution may be obligated and expended notwithstanding section 10 of Public Law 91-672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 114. Notwithstanding section 20106 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109-289, as amended by Public Law 110-5), the Secretary of Agriculture is authorized to enter into or renew contracts under section 521(a)(2) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)) for 1 year.

SEC. 115. The authority provided by section 3a of the Act of March 3, 1927 (commonly

known as the "Cotton Statistics and Estimates Act") (7 U.S.C. 473a) shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 116. The authority of the Secretary of Agriculture to carry out the adjusted gross income limitation contained in section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a) shall continue through the end of the period specified in subsection (e) of such section or the date specified in section 106(3) of this joint resolution, whichever occurs later.

SEC. 117. The provisions of title VIII of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108-447, division B) that apply during fiscal year 2007 shall continue to apply through the date specified in section 106(3) of this joint resolution.

SEC. 118. The authority provided by section 1202 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163) shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2008 or the date specified in section 106(3) of this joint resolution.

SEC. 119. The authority provided by section 1477(d) of title 10, United States Code, as amended by section 3306 of Public Law 110-28, shall continue in effect through the date of enactment of the National Defense Authorization Act for Fiscal Year 2008.

SEC. 120. The authority provided by section 1208 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375) shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2008 or the date specified in section 106(3) of this joint resolution.

SEC. 121. The authority provided by section 1022 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136), as amended by section 1022 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163), shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2008 or the date specified in section 106(3) of this joint resolution.

SEC. 122. The authority provided by section 1051a of title 10, United States Code, shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2008 or the date specified in section 106(3) of this joint resolution.

SEC. 123. (a) Notwithstanding any other provision of law or this joint resolution, and in addition to amounts otherwise made available by this joint resolution, there is appropriated \$5,200,000,000 for a "Mine Resistant Ambush Protected Vehicle Fund", to remain available until September 30, 2008.

(b) The funds provided by subsection (a) shall be available to the Secretary of Defense to continue technological research and development and upgrades, to procure Mine Resistant Ambush Protected vehicles and associated support equipment, and to sustain, transport, and field Mine Resistant Ambush Protected vehicles.

(c)(1) The Secretary of Defense shall transfer funds provided by subsection (a) to appropriations for operation and maintenance; procurement; and research, development, test and evaluation to accomplish the purposes specified in subsection (b). Such transferred funds shall be merged with and be available for the same purposes and for the same time period as the appropriation to which they are transferred.

(2) The transfer authority provided by this subsection shall be in addition to any other

transfer authority available to the Department of Defense.

(3) The Secretary of Defense shall, not less than 5 days prior to making any transfer under this subsection, notify the congressional defense committees in writing of the details of the transfer.

(d) The amount provided by this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

SEC. 124. Section 14704 of title 40, United States Code, shall be applied by substituting the date specified in section 106(3) of this joint resolution for "October 1, 2007".

SEC. 125. Section 382N of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa-13) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "October 1, 2007".

SEC. 126. Of the funds made available to the Department of Energy under this joint resolution, \$484,000 may be transferred to another agency for carrying out the provisions of division C of Public Law 108-324. Funds so transferred shall be refunded to the Department after passage of the regular appropriations Act for that agency.

SEC. 127. (a) In addition to the amounts otherwise provided under section 101, an additional amount is available under "General Services Administration—Operating Expenses Account", at a rate for operations of \$4,340,000, for the costs of agency activities transferred to the Civilian Board of Contract Appeals pursuant to section 847 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163).

(b) For purposes of section 101, the rate for operations for each of the accounts from which funds were transferred in fiscal year 2007 pursuant to section 847(b) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 41 U.S.C. 607 note) is reduced by an amount equal to the annualized level of the funds transferred.

SEC. 128. Notwithstanding any other provision of this joint resolution, except section 106, the District of Columbia may expend local funds for programs and activities under the heading "District of Columbia Funds" for such programs and activities under title IV of H.R. 2829 (110th Congress), as passed by the House of Representatives, at the rate set forth under "District of Columbia Funds—Summary of Expenses" as included in the Fiscal Year 2008 Proposed Budget and Financial Plan submitted to the Congress by the District of Columbia on June 7, 2007, as amended on June 29, 2007.

SEC. 129. Section 403(f) of the Government Management Reform Act of 1994 (Public Law 103-356; 31 U.S.C. 501 note) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "October 1, 2006".

SEC. 130. Section 204(e) of the Veterans Benefits Improvement Act of 2004 (Public Law 108-454; 38 U.S.C. 4301 note) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2007".

SEC. 131. Any funds made available pursuant to section 101 for United States Customs and Border Protection may be obligated to support hiring, training, and equipping of new border patrol agents at a rate for operations not exceeding that necessary to sustain the numbers of new border patrol agents hired, trained, and equipped in the final quarter of fiscal year 2007. The Commissioner of United States Customs and Border Protection shall notify the Committees on Appropriations of the House of Representatives and the Senate on each use of the authority provided in this section.

SEC. 132. The Secretary of Homeland Security may continue, through the date specified in section 106(3) of this joint resolution, to obligate funds at the rate the Secretary determines necessary to maintain not more than the average monthly number of detention bed spaces in use during September 2007 at detention facilities operated or contracted by the Department of Homeland Security.

SEC. 133. During the period specified in section 106 of this joint resolution, section 517(b) of Public Law 109-295 shall not be in effect.

SEC. 134. Section 105(f)(1)(B)(ix) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(B)(ix)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for “the end of fiscal year 2007”.

SEC. 135. (a) Activities authorized by chapters 2, 3, 5, and 6 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) shall continue through the date specified in section 106(3) of this joint resolution.

(b) Notwithstanding any other provision of this joint resolution, except section 106, there is appropriated to carry out chapter 6 of title II of the Trade Act of 1974 (19 U.S.C. 2401 et seq.) \$5,000,000.

SEC. 136. (a) APPROPRIATION FOR CHIP PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of this joint resolution, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated for fiscal year 2008, \$5,000,000,000 for purposes of providing allotments to States, the District of Columbia, and commonwealths and territories under section 2104 of the Social Security Act (42 U.S.C. 1397dd), and, in addition, \$40,000,000 for the purpose of providing additional allotments under subsection (c)(4)(A) of such section.

(2) AVAILABILITY.—Funds made available from any allotment under subsection (b) shall not be available for obligation for child health assistance for items and services furnished after the termination date specified in section 106(3) of this joint resolution, or, if earlier, the date of the enactment of an Act that provides funding for fiscal year 2008 and for one or more subsequent fiscal years for the Children’s Health Insurance Program under title XXI of the Social Security Act.

(b) ALLOTMENTS.—Notwithstanding any other provision of this joint resolution, the Secretary of Health and Human Services shall make allotments to States, the District of Columbia, and commonwealths and territories under section 2104 of the Social Security Act (42 U.S.C. 1397dd) from the amounts appropriated under subsection (a) for the entire fiscal year 2008.

(c) REDISTRIBUTION OF UNUSED FISCAL YEAR 2005 ALLOTMENTS TO STATES WITH ESTIMATED FUNDING SHORTFALLS FOR FISCAL YEAR 2008.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following new subsection:

“(i) REDISTRIBUTION OF UNUSED FISCAL YEAR 2005 ALLOTMENTS TO STATES WITH ESTIMATED FUNDING SHORTFALLS FOR FISCAL YEAR 2008.—

“(1) IN GENERAL.—Notwithstanding subsection (f) and subject to paragraphs (3) and (4), with respect to months beginning during fiscal year 2008, the Secretary shall provide for a redistribution under such subsection from the allotments for fiscal year 2005 under subsection (b) that are not expended by the end of fiscal year 2007, to a fiscal year 2008 shortfall State described in paragraph (2), such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for such State for the month.

“(2) FISCAL YEAR 2008 SHORTFALL STATE DESCRIBED.—A fiscal year 2008 shortfall State

described in this paragraph is a State with a State child health plan approved under this title for which the Secretary estimates, on a monthly basis using the most recent data available to the Secretary as of such month, that the projected expenditures under such plan for such State for fiscal year 2008 will exceed the sum of—

“(A) the amount of the State’s allotments for each of fiscal years 2006 and 2007 that was not expended by the end of fiscal year 2007; and

“(B) the amount of the State’s allotment for fiscal year 2008.

“(3) FUNDS REDISTRIBUTED IN THE ORDER IN WHICH STATES REALIZE FUNDING SHORTFALLS.—The Secretary shall redistribute the amounts available for redistribution under paragraph (1) to fiscal year 2008 shortfall States described in paragraph (2) in the order in which such States realize monthly funding shortfalls under this title for fiscal year 2008. The Secretary shall only make redistributions under this subsection to the extent that there are unexpended fiscal year 2005 allotments under subsection (b) available for such redistributions.

“(4) PRORATION RULE.—If the amounts available for redistribution under paragraph (1) are less than the total amounts of the estimated shortfalls determined for the month under that paragraph, the amount computed under such paragraph for each fiscal year 2008 shortfall State for the month shall be reduced proportionally.

“(5) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than November 30, 2007, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

“(6) 1-YEAR AVAILABILITY; NO FURTHER REDISTRIBUTION.—Notwithstanding subsections (e) and (f), amounts redistributed to a State pursuant to this subsection for fiscal year 2008 shall only remain available for expenditure by the State through September 30, 2008, and any amounts of such redistributions that remain unexpended as of such date, shall not be subject to redistribution under subsection (f).”

(d) EXTENDING AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.—Section 2105(g)(1)(A) of such Act (42 U.S.C. 1397ee) is amended by striking “or 2007” and inserting “2007, or 2008”.

(e) APPLICABILITY.—The amendments made by subsection (c) and (d) shall be in effect through the date specified in section 106(3) of this joint resolution or, if earlier, the date of the enactment of an Act that provides funding for fiscal year 2008 and for one or more subsequent fiscal years for the Children’s Health Insurance Program under title XXI of the Social Security Act.

SEC. 137. Notwithstanding any other provision of this joint resolution, there is appropriated for payment to Susan Thomas, widow of Craig Thomas, late a Senator from the State of Wyoming, \$165,200, and for payment to Karen L. Gillmor, widow of Paul E. Gillmor, late a Representative from the State of Ohio, \$165,200.

SEC. 138. The Secretary of Veterans Affairs shall carry out subparagraph (B) of section 1710(f)(2) of title 38, United States Code, and subparagraph (E) of section 1729(a)(2) of such title by substituting the date specified in section 106(3) of this joint resolution for the date specified in each such subparagraph.

SEC. 139. Notwithstanding section 101, amounts are provided for “Department of Defense Base Closure Account 2005” at a rate for operations of \$5,626,223,000.

SEC. 140. Notwithstanding any other provision of this joint resolution, except section

106, the Department of Veterans Affairs may expend funds for programs and activities under the heading “Information Technology Systems” for pay and associated cost for operations and maintenance associated staff.

SEC. 141. Notwithstanding any other provision of this joint resolution, except section 106, in addition to the amount made available for fiscal year 2008 to carry out section 3674 of title 38, United States Code, there is appropriated to carry out that section an additional amount equal to \$6,000,000 multiplied by the ratio of the number of days covered by this joint resolution to 366.

SEC. 142. Notwithstanding section 235(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(2)), the authority of subsections (a) through (c) of section 234 of such Act shall remain in effect through the date specified in section 106(3) of this joint resolution.

SEC. 143. Notwithstanding section 101, amounts are provided for “Department of State—Administration of Foreign Affairs—Diplomatic and Consular Programs” at a rate for operations of \$4,435,013,000, of which not less than \$778,449,000 shall be for worldwide security upgrades.

SEC. 144. The provisions of title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) shall continue in effect, notwithstanding section 209 of such Act, through the earlier of (1) the date specified in section 106(3) of this joint resolution; or (2) the date of enactment of an authorization Act relating to the McKinney-Vento Homeless Assistance Act.

SEC. 145. Funds made available under section 101 for the National Transportation Safety Board shall include amounts necessary to make lease payments due in fiscal year 2008 only, on an obligation incurred in 2001 under a capital lease.

SEC. 146. Notwithstanding the limitation in the first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)), the Secretary of Housing and Urban Development may, until the date specified in section 106(3) of this joint resolution, insure and may enter into commitments to insure mortgages under section 255 of the National Housing Act (12 U.S.C. 1715z-20(g)).

SEC. 147. Section 24(o) of the United States Housing Act of 1937 (42 U.S.C. 1437v(o)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for “September 30, 2007”.

SEC. 148. (a) Section 48103(4) of title 49, United States Code, shall be applied (1) by substituting the amount specified in such section with an amount that equals \$3,675,000,000 multiplied by the ratio of the number of days covered by this joint resolution to 366; and (2) by substituting the fiscal year specified in such section with the period beginning October 1, 2007, through the date specified in section 106(3) of this joint resolution.

(b) Section 47104(c) of title 49, United States Code, shall be applied by substituting “2008” for “2007”.

(c) Nothing in this section shall affect the availability of any balances of contract authority provided under section 48103 of title 49, United States Code, for fiscal year 2007 and any prior fiscal year.

SEC. 149. (a) Sections 4081(d)(2)(B), 4261(j)(1)(A)(ii), 4271(d)(1)(A)(ii), 9502(d)(1), and 9502(f)(2) of the Internal Revenue Code of 1986 shall each be applied by substituting the date specified in section 106(3) of this joint resolution for “September 30, 2007” or “October 1, 2007”, as the case may be.

(b) Subparagraph (A) of section 9502(d)(1) of the Internal Revenue Code of 1986 is amended by inserting “or any joint resolution making continuing appropriations for the fiscal year 2008” before the semicolon at the end.

The SPEAKER pro tempore. Pursuant to House Resolution 677, the gentleman from Wisconsin (Mr. OBEY) and the gentleman from California (Mr. LEWIS) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin.

GENERAL LEAVE

Mr. OBEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 52.

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

There was no objection.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this resolution keeps government functioning until Congress and the President can make final decisions on appropriation issues for fiscal year 2008. It is a clean CR. It funds all departments at last year's level. The only exception is a \$5.2 billion appropriation for MRAPs, which are essential to protect our troops. It expires November 16. I ask Members to do the responsible thing and vote "aye."

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

Mr. LEWIS of California. Mr. Speaker, the chairman of the committee often talks about thoughts and wisdom of Archie the cockroach, but today I am reminded of the words of Yogi Berra, "It's *deja vu* all over again."

It was 1 year ago that the House passed the first of several continuing resolutions to ensure the continuation of government-funded programs in the new fiscal year.

My friend, DAVID OBEY, came to the floor as the ranking member during the debate to criticize Republicans in the House and the Senate for their failure to pass the annual spending bills by the end of the fiscal year. He spoke of the breakdown of the budget process and vowed that things would be different under a Democrat majority.

We are now 4 days away from the end of the fiscal year, and once again the ranking member of the Appropriations Committee is on the floor decrying the breakdown of regular order. The only difference is that DAVID OBEY is now Chairman OBEY and I am a mere struggling committee ranking member.

At this time last year, we had sent President Bush two appropriations conference reports. This year, not one appropriations conference meeting has taken place between the two bodies, even though there are bills available.

When we passed the first CR last year, my hope was it would provide strong motivation for Congress to complete its work in regular order. I was hopeful that our colleagues in the Senate would complete their work so we could send to the White House the remaining individual conference reports before the end of our legislative session.

I come to the floor today with the same hopeful expectation that the Sen-

ate will soon complete its work. But, based on recent history, I'm not holding my breath.

My appropriations colleague, Senator COCHRAN of Mississippi, could not have been a better partner as we attempted to bring regular order to the appropriations process. Unfortunately, Chairman COCHRAN was poorly served by his own leadership.

The breakdown of regular order in the last Congress, indeed the failure to get our bills done, was placed squarely at the feet of the former Senate majority leader who failed to schedule floor time for the consideration of appropriations bills. One year later, the failure of the appropriations process can be laid squarely at the feet of the present Senate majority leader.

The House has passed each of its spending bills; and, while I believe these bills spend too much, the House Appropriations Committee has kept its word by completing its work.

During my tenure as chairman, the Appropriations Committee was strongly committed to bringing to the floor individual conference reports for each and every bill. I did not then support, and do not now support, an omnibus spending bill in any form. But that is exactly the direction in which the Democrat majority is now moving.

I am convinced that moving bills individually is the only way for us to control government spending. Lacking regular order, there is a tendency for spending on the remaining bills to grow out of control. That challenge is particularly acute this year with the Democrat majority writing and passing spending bills that exceed the President's budget request by about \$23 billion.

We are today passing a CR that continues for the next 6 weeks Federal programs under the terms and conditions established in the 2007 fiscal year resolution.

In 6 weeks, I am afraid we will be here once again to pass yet another continuing resolution, and that will lead us well into the free-spending holiday season.

My colleagues, we are moving ever closer to a massive year-end omnibus spending bill. That course of action would be an admission of failure on the part of this Congress.

At this moment, there is still time for Democrats and Republicans to find common ground on spending. There is still time for the House and the Senate to complete its work in regular order. There is still time to pass and send to the White House individual conference reports. But we must act now.

I would like to close by quoting my friend, Mr. OBEY, from a past continuing resolution debate: "This continuing resolution is a monument to institutional failure. This Congress is failing to meet even the most basic and minimal expectations that the country has for it by way of doing our routine business. This is governing in a pitiful way," Mr. OBEY said, "and I wish that

I could say something more positive about it, but, indeed, I cannot."

Mr. Speaker, and I would say, "Madam Speaker," if I could find the gentlelady on the floor, "Madam Speaker, this is *deja vu* all over again."

I reserve the balance of my time.

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

Mr. Speaker, let me recite a slightly different version of recent history with respect to appropriation bills.

After 12 years of rule by the Republican Party, the American people gave the Democratic Party the privilege of moving into the majority in the last election. We were sworn in on January 4. At that point, not a single domestic appropriation bill had been passed by the previous Congress.

So before we could move to our own business for this year, we had to first clean up the unfinished business left by the previous Republican-controlled Congress. That took us 6 weeks. And in 6 weeks we passed the entire domestic budget; and, at the time we did that, we eliminated all earmarks.

Then we also set about to implement the earmark reform process which was spoken for by both political parties in this House. That took us an extra 3 weeks. During that time, we ramped up the number of hearings and the intensity of congressional oversight; and by the end of the hearing process we had doubled the number of hearings held by the previous Congress and restored a much more tenacious set of oversight habits.

We also were forced to confront the President on Iraq because of the unraveling situation in that misbegotten war. And we also, as we tried to pass our appropriation bills, had to endure filibuster by amendment on the part of the minority. They took more than 60 hours above the amount taken by the minority in the previous year on appropriation bills.

Republicans offered 339 amendments to the appropriation bills that we passed in the House, compared to 172 amendments that were offered by Democrats when we were in the minority. Despite all of that, we still managed to pass every single appropriation bill before the August recess. That is only the second time during the Bush administration that this House has passed all of its appropriation bills before the August recess.

Then those bills went to the Senate; and, as the gentleman indicated, they ran into considerable trouble. The Senate has passed four bills. I have asked them to proceed to pass as many additional bills as they can, and I hope that they do. And, incidentally, when they do bring up bills, I was told yesterday that you have between two and three hundred amendments filed to several of the bills, so you face a filibuster by amendment on the part of the minority in the Senate. As you know, under Senate rules, debate cannot be shut down unless you have 60 votes, rather than 50.

So that's the record as I see it. The gentleman from California has recited the record as he sees it. But I would suggest that what is important is what we do now. Where do we go from here?

Even as the Senate makes an effort to complete action on its bills, I would hope that we could shorten the process by sitting down now with the administration to work out compromises on those bills so that we don't have to spend the next 6 weeks continuing to define our differences.

□ 1145

I'm an old-fashioned legislator, and I believe that the way the parties ought to proceed is that we first ought to define our differences and then we ought to resolve them. We've already defined our differences with the passage of the 12 bills in the House. I doubt that the Senate bills are going to get any better from our standpoint, and so it seems to me that time's awasting. It seems to me that we would best serve the needs of the country if the administration would be willing to sit down with us now and begin discussions about how we might reach compromises on these bills so that we can move forward.

Now, let me make one additional point. The President is asking us to spend about \$200 billion, every dollar of that borrowed, in order to finance the supplemental for the war in Iraq, and yet he is objecting to the fact that in the House-passed bills we tried to take about 1/10th that amount and use it for crucial investments in our country's future.

The job of this Congress, the job certainly of this committee, is to make investments that will benefit the country over the long haul, make us a stronger country, and make us a stronger society over the next 10 years. We don't believe on this side of the aisle, and I think in fact we had significant bipartisan agreement if you take a look at the votes, we don't believe that you accomplish that strengthening of the country by cutting vocational education by 50 percent, as the President does in his budget; by eliminating all student aid programs except work study and Pell Grant, as the President does in his budget; by gutting education technology grants, as the President does in his budget; by actually reducing the number of medical research grants at NIH, as the President does in his budget. I've never had anybody come up to me in my life and say, "OBEY, why don't you guys in Congress get your act together and cut cancer research." And yet, that's what the Congress has done the last 2 years. We don't think that ought to happen. So that's why we depart from the President on that score.

We also don't think we strengthen the country when we cut special education by \$300 million, and there are a good many Republicans who agree with that. In fact, Mr. WALSH, the ranking Republican on the Labor, Health, Education and Social Services Sub-

committee, Mr. WALSH, led the effort to increase the funds that our committee provided for special education, and I commend him for it.

We also don't think it's good to cut mental health and drug abuse funding by \$160 million. We don't think that we strengthen the society or this country when we cut minority health professions training by 66 percent. We don't think that we improve health care for children by cutting the training of medical personnel in children's hospitals by 63 percent, and we don't think we strengthen rural America by cutting rural health programs by 54 percent.

We don't think we help make our communities better and cleaner by cutting the clean water revolving fund by 37 percent, as the President does. We don't believe that we meet the needs of our logging industry and the recreational needs of the American people when we cut the forest service budget by 15 percent, as the President's budget does. And we don't believe that we ought to cut housing for disabled Americans by 47 percent or senior housing by 20 percent. In an age of high gas prices and high energy prices, we don't believe that we ought to cut the low-income heating assistance program by 18 percent.

And let me say that Democrats are not the only ones who believe that. If you take a look and analyze the votes on the various appropriations bills that went through the House, you will see that on average we had 65 Republicans who voted with us in support of the appropriations bills that we sent over to the Senate. In fact, if you average out each of the rollcalls for each of the bills that passed, you will see that exactly two-thirds of this body voted for those bills.

So I think we have established a bipartisan foundation in the House for moving forward, and I hope this continuing resolution gives us the necessary time to do that.

I would hope that the Senate can move forward and complete its work on a bill-by-bill basis, but frankly, it is immaterial to me whether the bills are produced one by one or if they are produced in bunches. What counts is not the form. What counts is the substance. What counts is whether we make the right investments to make this country stronger over the long haul. That's our obligation, no matter how we package it.

So I would once again simply urge the administration to sit down with us and begin to talk about how, as adults, we can reach a compromise on these issues.

The President would have the country believe that we are blowing the lid outrageously on budgets and pouring money into the domestic budget. I would suggest that restoring \$16 billion in Presidential cuts is mighty small potatoes in comparison to the \$200 billion that he wants us to spend in Iraq and the \$50 billion that he still wants

us to provide for tax cuts for people making a million bucks a year.

Let me remind the House, Mr. Speaker, that in 1980 the appropriations for domestic budgets equaled 4.8 percent of our total national income. Today, they have been reduced to 2.9 percent of our total national income, and the President's budget would take us, by the year 2012, down to 2.4 percent of the Nation's income. That means that we would have cut in half our investments relative to our national wealth. We would have cut in half those domestic investments since 1980. I don't believe, and I think there are many in both parties who don't believe, that that is the way that we build a stronger future for this country.

So I would simply point out what we have here is an effort on our part to add about 2 percent to what the President is doing in the area of education, health care, science, law enforcement and all of that, and I'd simply suggest that, instead of continuing to talk about it, we sit down and have some more productive actions; we sit down and try to work out these differences between us so that we can leave town at a reasonable time, having completed our action on these bills and having met our responsibilities to make the investments that will, over the long haul, make this a stronger country.

With that, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Speaker, I just wanted to know if Mr. OBEY wanted to continue speaking or I can yield back my time. I'm ready to yield back the balance of my time. I just wondered if you were ready to yield more time.

Mr. OBEY. I'm ready to yield back.

Mr. BLUMENAUER. Mr. Speaker, As a result of Republican obstructionism and the President's threats to veto our Democratic Congress' new investments in health, the environment and infrastructure, Congress is being forced to pass a resolution to keep the government operating beyond next week's end of the fiscal year. Unfortunately, this bill included money to continue funding the war in Iraq. I have pledged: "not another dime for the war," and voted "no." I will continue to vote against any appropriations bill that continues military operations in Iraq.

At the same time, the motion to condemn Moveon.org was both irrelevant and hypocritical. It was irrelevant in that it had nothing to do with the underlying bill and hypocritical because the Republicans have tolerated, and in some cases encouraged, some of the most savage Swift-boating of candidates and individuals without ever raising a voice in protest.

People have deep concerns about this administration and they have the right to question the testimony General Petraeus gave before Congress. The twisted factual basis for some of his statements, which charitably can only be deemed convoluted, has been made clear in numerous independent press accounts. I voted "no," choosing not to be a part of the irrelevance and hypocrisy.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H.J. Res. 52, making continuing appropriations for fiscal year 2008, and for other

purposes. H.J. Res. 52 provides continuing appropriations for Federal programs, including the aviation investment programs.

H.J. Res. 52 includes a provision extending the Federal Aviation Administration's Airport Improvement Program, AIP. Specifically, section 148 of H.J. Res. 52 provided mandatory AIP contract authority only for the term covered by the Continuing Resolution at a level that, when annualized, equals the amount of mandatory AIP contract authority included in the fiscal year 2008 budget baseline.

The Congressional Budget Office, the House Budget Committee, the House and Senate Appropriations Committees, the Senate Commerce Committee, and the Office of Management and Budget all concur that section 148 provides mandatory contract authority. Moreover, section 148 is a change to a mandatory program and therefore, the amount of contract authority provided by the Continuing Resolution will ultimately be rebased in the baseline and put on the mandatory side of the budget. The baseline for the AIP program will remain mandatory.

Based on my shared understanding that section 148 will not in any way change the nature of the AIP program, I urge my colleagues to join me in supporting H.J. Res. 52.

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

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

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 677, the joint resolution is considered read, and the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

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

MOTION TO RECOMMIT OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the resolution?

Mr. LEWIS of California. Mr. Speaker, I am certainly in its present form.

Mr. OBEY. Mr. Speaker, I reserve a point of order.

The SPEAKER pro tempore. A point of order is reserved.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Lewis moves to recommit House Joint Resolution 52 to the Committee on Appropriations with instructions to report the same back to the House forthwith with the following amendment:

At the end of the joint resolution, insert the following section:

SEC. 150. (a) Congress makes the following findings:

(1) General David H. Petraeus was confirmed by a unanimous vote of 81-0 in the Senate on January 26, 2007, to be the Commander of the Multi-National Forces—Iraq;

(2) General David H. Petraeus assumed command of the Multi-National Forces—Iraq on February 10, 2007;

(3) General David H. Petraeus previously served in Operation Iraqi Freedom as the Commander of the Multi-National Security Transition Command—Iraq, as the Commander of the NATO Training Mission—Iraq,

and as Commander of the 101st Airborne Division (Air—Assault) during the first year of combat operations in Iraq;

(4) General David H. Petraeus has received numerous awards and distinctions during his career, including the Defense Distinguished Service Medal, two awards of the Distinguished Service Medal, two awards of the Defense Superior Service Medal, four awards of the Legion of Merit, the Bronze Star Medal for valor, the State Department Superior Honor Award, the NATO Meritorious Service Medal, and the Gold Award of the Iraqi Order of the Date Palm; and

(5) The leadership of the majority party in both the House of Representatives and the Senate implored the American people and Members of Congress early in January 2007 to listen to the generals on the ground.

(b) It is the Sense of the Congress that the House of Representatives—

(1) recognizes the service of General David H. Petraeus, as well as all other members of the Armed Forces serving in good standing, in the defense of the United States and the personal sacrifices made by General Petraeus and his family, and other members of the Armed Forces and their families, to serve with distinction and honor;

(2) commits to judge the merits of the sworn testimony of General David H. Petraeus without prejudice or personal bias, including refraining from unwarranted personal attacks;

(3) condemns in the strongest possible terms the personal attacks made by the advocacy group MoveOn.org impugning the integrity and professionalism of General David H. Petraeus;

(4) honors all members of the Armed Forces and civilian personnel serving in harm's way, as well as their families; and

(5) pledges to debate any supplemental funding request or any policy decisions regarding the war in Iraq with the solemn respect and the commitment to intellectual integrity that the sacrifices of these members of the Armed Forces and civilian personnel deserve.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. LEWIS) is recognized for 5 minutes in support of his motion.

Mr. LEWIS of California. Mr. Speaker, this simple motion is to recommend or recommit. It is a sense of the Congress resolution that recognizes the service of General David Petraeus as well as all other members of our Armed Forces. It expresses our appreciation for his personal sacrifices and those of his family as well as the sacrifices of those who served in the Armed Forces and their families.

□ 1200

Further, this sense of the Congress resolution condemns, in the strongest possible terms, the unfair personal attacks made by the advocacy group, MoveOn.org, on the character, integrity and professionalism of General David Petraeus. Such unwarranted attacks should be strongly condemned by Republicans and Democrats alike in the House.

I strongly urge a "yea" vote on the motion to recommit.

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

Mr. OBEY. Mr. Speaker, I ask unanimous consent to claim the time in opposition.

The SPEAKER pro tempore. Does the gentleman withdraw his reservation?

Mr. OBEY. Yes, I do.

The SPEAKER pro tempore. Without objection, the gentleman from Wisconsin is recognized for 5 minutes.

There was no objection.

Mr. OBEY. Mr. Speaker, I want to urge support for this motion. As those in this House who know me well understand, I come from the State of Joe McCarthy. And one of the reasons that I changed political parties, because I grew up in a Republican family, is because I saw what the local McCarthy supporters did to the best teacher I ever had when they impugned his patriotism by calling him a Bolshevik back during the McCarthy heyday. And to this day there is nothing that gets my dander up more than to have someone's patriotism questioned on this House floor or anywhere else in the political realm. And if I'm going to get upset when that kind of juvenile activity occurs on the part of the political right, then I've got an obligation to be equally upset when that kind of juvenile debate emanates from the left.

It seems to me that we all ought to recognize that we can have honest and profound differences with the policy that the general was selling 2 weeks ago without getting personal about it. I think what we ought to do is accept this motion, vote for it, send the continuing resolution to the Senate and get on with the business of negotiating out the content of these appropriation bills so that we can do our duty to the country.

I yield back the balance of my time and ask for an "aye" vote.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

Mr. LEWIS of California. 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.

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 passage.

The vote was taken by electronic device, and there were—yeas 341, nays 79, not voting 12, as follows:

[Roll No. 910]  
YEAS—341

Aderholt	Baker	Bilbray
Akin	Barrett (SC)	Bilirakis
Alexander	Barrow	Bishop (GA)
Altmire	Bartlett (MD)	Bishop (NY)
Andrews	Barton (TX)	Bishop (UT)
Arcuri	Bean	Blackburn
Baca	Berkley	Blunt
Bachmann	Berry	Boehner
Baird	Biggart	Bonner

Bono  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd (FL)  
Boyd (KS)  
Brady (PA)  
Brady (TX)  
Braley (IA)  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp (MI)  
Campbell (CA)  
Cannon  
Cantor  
Capito  
Cardoza  
Carnahan  
Carney  
Carter  
Castle  
Chabot  
Chandler  
Clever  
Clyburn  
Coble  
Cole (OK)  
Conaway  
Cooper  
Costa  
Costello  
Courtney  
Cramer  
Crenshaw  
Cuellar  
Culberson  
Davis (AL)  
Davis (CA)  
Davis (KY)  
Davis, David  
Davis, Lincoln  
Davis, Tom  
Deal (GA)  
DeFazio  
Delahunt  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly  
Doolittle  
Doyle  
Drake  
Dreier  
Duncan  
Edwards  
Ehlers  
Ellsworth  
Emanuel  
Emerson  
Engel  
English (PA)  
Eshoo  
Etheridge  
Everett  
Fallin  
Farr  
Fattah  
Feeney  
Ferguson  
Flake  
Forbes  
Fortenberry  
Fossella  
Foxx  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gerlach  
Giffords  
Gilchrest  
Gillibrand  
Gingrey  
Gohmert  
Gonzalez

Goode  
Goodlatte  
Granger  
Graves  
Green, Gene  
Hall (NY)  
Hall (TX)  
Hare  
Harman  
Hastert  
Hastings (WA)  
Hayes  
Heller  
Hensarling  
Henseth Sandlin  
Higgins  
Hill  
Hobson  
Hodes  
Hoekstra  
Holden  
Hoolley  
Hoyer  
Hulshof  
Hunter  
Inglis (SC)  
Israel  
Issa  
Jackson (IL)  
Johnson (IL)  
Johnson, Sam  
Jones (NC)  
Jordan  
Kagen  
Kanjorski  
Kaptur  
Keller  
Kennedy  
Kildee  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Klein (FL)  
Kline (MN)  
Knollenberg  
Kuhl (NY)  
LaHood  
Lamborn  
Lampson  
Langevin  
Lantos  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Levin  
Lewis (CA)  
Lewis (KY)  
Linder  
Lipinski  
LoBiondo  
Loebsock  
Lowey  
Lucas  
Lungren, Daniel  
E.  
Lynch  
Mack  
Mahoney (FL)  
Maloney (NY)  
Manzullo  
Marchant  
Marshall  
Matheson  
McCarthy (CA)  
McCarthy (NY)  
McCaul (TX)  
McCollum (MN)  
McCotter  
McCrery  
McHenry  
McHugh  
McIntyre  
McKeon  
McMorris  
Rodgers  
McNerney  
McNulty  
Meeks (NY)  
Melancon  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Mitchell  
Mollohan  
Moore (KS)

Moran (KS)  
Murphy (CT)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Murggrave  
Myrick  
Napolitano  
Neugebauer  
Nunes  
Oberstar  
Obey  
Ortiz  
Pascarell  
Pastor  
Paul  
Pearce  
Pence  
Perlmutter  
Peterson (MN)  
Peterson (PA)  
Petri  
Pickering  
Pitts  
Platts  
Poe  
Pomeroy  
Porter  
Price (GA)  
Pryce (OH)  
Putnam  
Radanovich  
Rahall  
Ramstad  
Rangel  
Regula  
Rehberg  
Reichert  
Renzi  
Reyes  
Reynolds  
Richardson  
Rodriguez  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Ros-Lehtinen  
Roskam  
Ross  
Rothman  
Roybal-Allard  
Royce  
Ruppersberger  
Ryan (WI)  
Salazar  
Sali  
Sanchez, Loretta  
Sarbanes  
Saxton  
Schiff  
Schmidt  
Schwartz  
Scott (GA)  
Sensenbrenner  
Sessions  
Sestak  
Shadegg  
Shays  
Shea-Porter  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Space  
Spratt  
Stearns  
Stupak  
Sullivan  
Tancred  
Tanner  
Tauscher  
Taylor  
Terry  
Thompson (CA)  
Thompson (MS)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Udall (CO)  
Udall (NM)

Upton  
Visclosky  
Walberg  
Walden (OR)  
Walsh (NY)  
Walz (MN)  
Wamp  
Abercrombie  
Ackerman  
Allen  
Baldwin  
Becerra  
Berman  
Blumenauer  
Brown, Corrine  
Capps  
Capuano  
Castor  
Clarke  
Clay  
Cohen  
Conyers  
Crowley  
Davis (IL)  
DeGette  
Ellison  
Filner  
Frank (MA)  
Green, Al  
Grijalva  
Gutierrez  
Hastings (FL)  
Hirono  
Holt  
Bachus  
Carson  
Cubin  
Cummings  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Ros-Lehtinen  
Roskam  
Ross  
Rothman  
Roybal-Allard  
Royce  
Ruppersberger  
Ryan (WI)  
Salazar  
Sali  
Sanchez, Loretta  
Sarbanes  
Saxton  
Schiff  
Schmidt  
Schwartz  
Scott (GA)  
Sensenbrenner  
Sessions  
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Terry  
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Thompson (MS)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Udall (CO)  
Udall (NM)

Welch (VT)  
Weldon (FL)  
Weller  
Westmoreland  
Whitfield  
Wicker  
Wilson (NM)  
NAYS—79  
Honda  
Inslee  
Jackson-Lee  
(TX)  
Jefferson  
Johnson (GA)  
Jones (OH)  
Kilpatrick  
Kucinich  
Lee  
Lewis (GA)  
Lofgren, Zoe  
Markey  
Matsui  
McDermott  
McGovern  
Meek (FL)  
Michaud  
Miller (NC)  
Miller, George  
Moore (WI)  
Moran (VA)  
Nadler  
Neal (MA)  
Oliver  
Pallone  
Payne  
Price (NC)  
Davis, Jo Ann  
Gordon  
Herger  
Hinojosa  
Jindal  
Johnson, E. B.  
Souder  
Sutton

Wilson (OH)  
Wilson (SC)  
Wolf  
Wu  
Young (AK)  
Young (FL)  
Rush  
Ryan (OH)  
Sánchez, Linda  
T.  
Schakowsky  
Scott (VA)  
Serrano  
Sherman  
Slaughter  
Solis  
Stark  
Tierney  
Townes  
Van Hollen  
Velázquez  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Wexler  
Woolsey  
Wynn  
Yarmuth

NOT VOTING—12

□ 1232

Mr. BECERRA, Mr. CROWLEY, Ms. SOLIS, Mr. STARK, Ms. BALDWIN, Mr. McDERMOTT, Ms. DeGETTE, Messrs. TIERNEY, SCOTT of Virginia, MILLER of North Carolina, ALLEN, RUSH, Ms. CORRINE BROWN of Florida, Messrs. AL GREEN of Texas, VAN HOLLEN, BERMAN, INSLEE, NEAL of Massachusetts and SHERMAN changed their vote from “yea to “nay.”

Mr. LINDER, Mrs. TAUSCHER, Mr. PORTER, Mr. BRALEY of Iowa, Mr. THOMPSON of California, Ms. MCCOLLUM of Minnesota and Messrs. PETERSON of Minnesota, OBERSTAR, BACA, DOGGETT, BUTTERFIELD and LARSON of Connecticut changed their vote from “nay” to “yea.”

Mr. COHEN changed his vote from “present” to “nay.”

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

Mr. OBEY, Mr. Speaker, pursuant to the instructions of the House on the motion to recommit, I report H.J. Res. 52 back to the House with an amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment:  
At the end of the joint resolution, insert the following new section:

SEC. 150 (a) Congress makes the following findings:

(1) General David H. Petraeus was confirmed by a unanimous vote of 81-0 in the Senate on January 26, 2007, to be the Commander of the Multi-National Forces-Iraq;

(2) General David H. Petraeus assumed command of the Multi-National Forces-Iraq on February 10, 2007;

(3) General David H. Petraeus previously served in Operation Iraqi Freedom as the Commander of the Multi-National Security Transition Command-Iraq, as the Commander of the NATO Training Mission-Iraq, and as Commander of the 101st Airborne Division (Air Assault) during the first year of combat operations in Iraq;

(4) General David H. Petraeus has received numerous awards and distinctions during his career, including the Defense Distinguished Service Medal, two awards of the Distinguished Service Medal, two awards of the Defense Superior Service Medal, four awards of the Legion of Merit, the Bronze Star Medal for valor, the State Department Superior Honor Award, the NATO Meritorious Service Medal, and the Gold Award of the Iraqi Order of the Date Palm; and

(5) The leadership of the majority party in both the House of Representatives and the Senate implored the American people and Members of Congress early in January 2007 to listen to the generals on the ground.

(b) It is the Sense of the Congress that the House of Representatives—

(1) recognizes the service of General David H. Petraeus, as well as all other members of the Armed Forces serving in good standing, in the defense of the United States and the personal sacrifices made by General Petraeus and his family, and other members of the Armed Forces and their families, to serve with distinction and honor;

(2) commits to judge the merits of the sworn testimony of General David H. Petraeus without prejudice or personal bias, including refraining from unwarranted personal attacks;

(3) condemns in the strongest possible terms the personal attacks made by the advocacy group MoveOn.org impugning the integrity and professionalism of General David H. Petraeus;

(4) honors all members of the Armed Forces and civilian personnel serving in harm's way, as well as their families; and

(5) pledges to debate any supplemental funding request or any policy decisions regarding the war in Iraq with the solemn respect and the commitment to intellectual integrity that the sacrifices of these members of the Armed Forces and civilian personnel deserve.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

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

The joint resolution 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 joint resolution.

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

RECORDED VOTE

Mr. LEWIS of California. 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 404, noes 14, not voting 14, as follows:

[Roll No. 911]

AYES—404

Abercrombie	Akin	Altmire
Ackerman	Alexander	Andrews
Aderholt	Allen	Arcuri

Baca  
Bachmann  
Baird  
Baker  
Baldwin  
Barrett (SC)  
Barrow  
Bartlett (MD)  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Biggert  
Billray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blunt  
Boehner  
Bonner  
Bono  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd (FL)  
Boyd (KS)  
Brady (PA)  
Brady (TX)  
Braley (IA)  
Broun (GA)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
    Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp (MI)  
Campbell (CA)  
Cannon  
Cantor  
Capito  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carter  
Castle  
Castor  
Chabot  
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Thompson (CA)  
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## NOES—14

Hinche y  
Kucinich  
Lee  
McDermott  
Paul

## NOT VOTING—14

Heger  
Hinojosa  
Jindal  
Johnson, E. B.  
LaTourette

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1244

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. LATOURETTE on rollcall No. 911, I was unavoidably detained. Had I been present, I would have voted "aye."

## GENERAL LEAVE

Mr. GEORGE MILLER of California. Mr. Speaker, I request 5 legislative days for Members to revise and extend their remarks and insert materials on H.R. 2693 into the RECORD.

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

There was no objection.

## POPCORN WORKERS LUNG DISEASE PREVENTION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 678 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. 2693.

□ 1245

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. 2693) to direct the Occupational Safety and Health Administration to issue a standard regulating worker exposure to diacetyl, with Mr. CARDOZA in the chair.

The Clerk read the title of the bill.

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

The gentleman from California (Mr. GEORGE MILLER) and the gentleman from California (Mr. MCKEON) each will control 30 minutes.

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

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

Mr. Chairman and Members of the House, today we have an opportunity to protect thousands of American workers from a serious, irreversible and deadly lung disease known as "popcorn lung," a disease caused by a simple artificial butter flavoring chemical called diacetyl.

The alarm bells began ringing on this health crisis over 7 years ago when a Missouri doctor diagnosed several workers from the same popcorn production plant with this debilitating lung disease. In 2002, the National Institute for Occupational Safety and Health linked the lung disease to exposure to diacetyl used in the plant.

Scientists have called the effect of diacetyl on workers' lungs "astoundingly grotesque" and likened it to "inhaling acid." Hundreds of workers in popcorn and flavor production have become ill, several have died of popcorn lung, and many of the workers are so sick they needed lung transplants. Dozens of workers have sued flavoring manufacturers, winning millions in lawsuits and settlements.

NIOSH first connected popcorn lung to this chemical in 2002. In 2003, NIOSH issued guidance recommending that workers' exposure be minimized. In 2004, the Food Extract Manufacturers Association, the trade association of the flavoring industry, issued similar guidelines. Yet 5 years later, the Occupational Safety and Health Administration has failed to issue a standard to protect workers from exposure to diacetyl, preferring to rely on voluntary efforts.

Voluntary efforts, however, have not worked. Last year, California researchers found that despite the issuance of government and industry guidance for years before, many of those recommendations still have not been implemented in the flavor manufacturing facilities, and new cases of this debilitating lung disease have been identified.

How does this bill address the problem? H.R. 2693 would require OSHA to issue an interim final standard to minimize worker exposure to diacetyl. The

standard would contain provisions of engineering controls, respiratory protection, exposure monitoring, medical surveillance and worker training. The interim standard applies to popcorn manufacturing and packaging, as well as the food flavoring industry.

OSHA would then be required to issue a final standard within 2 years. This final standard would apply to all locations where workers are exposed to diacetyl and would include permissible exposure limit.

This bill should not be controversial. It is not another battle between workers and business about safety issues and alleged burdens of regulations. Over the past several months, we have built a wide coalition around this legislation from all sides, including industry, labor and scientists. The Flavor and Extract Manufacturers Association, the association representing the companies that make these flavorings, has joined with the unions that represent the affected workers to strongly support this legislation.

In fact, the only outside dissenters from this coalition are the usual anti-OSHA ideologues spouting the same old "sky is falling" rhetoric about regulations. Such rhetoric may be music to the ears of the OSHA-hating ideologues in search of a talking point, but in the real world, this ideology leaves workers and their families to suffer from the preventable scourges of toxic chemicals.

There are many reasons why industry, labor and scientists agree on this legislation. They all agree that we don't need to wait any longer to act; indeed, we can't afford to wait. I have a list of almost 30 major studies and reports showing that diacetyl destroys workers' lungs. They agree that we know how to protect workers. The National Institute for Occupational Safety and Health issued guidelines in 2003 laying out the basic measures that industry can take to prevent worker exposure to diacetyl. In 2004, the Flavor and Extract Manufacturers Association outlined in even greater detail the measures that members can take to prevent the employees from getting sick.

This legislation is straightforward and merely requires that OSHA do what it could have done and should have already done, issue an emergency standard. There is precedent for this bill and for Congress stepping in when OSHA falters in its mission to protect American workers. In 1986, 1990, 1991, 1992 and 2000, Congress moved to require OSHA to issue health and safety standards.

Earlier this month, in response to a report that a consumer of microwave popcorn has contracted popcorn lung, a few popcorn manufacturers have announced that they intend to stop using diacetyl. This is welcome news. It highlights how serious this issue is, but it is not enough. Workers are still at risk because diacetyl will continue to be used in a variety of other food prod-

ucts. We can't wait for consumers to get sick and hit the companies in their pocketbooks before the industry changes. Workers are getting sick now, and have for many years, and will continue to get sick unless we act. Workers cannot wait any longer for our help.

In the past several years, we've seen hundreds of workers become sick from exposure to diacetyl, and we've heard about young workers who need lung transplants, who are not expected to live to see their small children grow up.

It is time for us to act. OSHA has failed over 5 years. They've been on notice to do this, they have failed to do this. The only time they have shown any movement is when we've called a hearing or had some congressional action, they have responded to it.

The time has come for Congress to act and pass this legislation and stop ignoring the needs of these workers' health and safety. And it's time to get OSHA to do the job that they were constituted to do, and that is, to protect these workers and their families from this preventable exposure to diacetyl as the toxic substance that it has become.

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

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

Mr. Chairman, earlier this year, the Subcommittee on Workforce Protections held a hearing that explored, among other things, the question of whether and how the flavoring compound diacetyl should be regulated by OSHA. We heard from an individual suffering from lung impairment that could well have been developed as a result of his manufacturing popcorn, during which he was exposed to high concentrations of diacetyl and numerous other chemicals.

There are many questions about this particular chemical. In fact, a number of large popcorn manufacturers recently announced voluntary steps to curb the use of diacetyl while its effects on worker health are studied.

The bill before us calls for a much more drastic response to the concerns about this chemical. It would require OSHA to set an interim final standard relating to diacetyl exposure within 90 days of passage, to be followed by a final rule within 2 years. This directive is, without a doubt, a well-intended effort to prevent illness that may be caused by this particular substance. Unfortunately, despite its good intentions, this bill has the potential to cause great harm.

I recognize that my colleagues on the other side of the aisle wish to do something to respond to the questions about this chemical. I also understand their frustration about a lack of action by the administration. Candidly, I share some of that frustration. It is my understanding that just this week the administration announced plans to implement rule-making for diacetyl expo-

sure; this, despite the fact that Congress has been looking into these concerns for months and until this week had not received clear, unambiguous direction from the administration other than a letter written by the OSHA administrator expressing serious concerns about the implications of the bill.

From the outset of this process, I have been concerned about the lack of scientific data available to guide our actions. Without the necessary scientific understanding of this chemical, we cannot possibly develop the appropriate guidelines to protect workers. At this point, we still do not even know whether diacetyl alone, or in conjunction with other chemicals, is responsible for the condition known as popcorn lung.

Because of my concerns about a lack of scientific data, and because I'm uneasy about short-circuiting the proven regulatory process, I raised concerns about this bill when it was considered in committee. It's my position that the administration should be allowed adequate time to complete necessary scientific investigation before developing new standards.

I was, at the outset, and I remain, concerned that such a rushed response to questions about this substance make for better politics than policy. That is why I was so surprised, and frankly, disappointed, to learn that only now has the administration suddenly chosen to take action. They announced on Monday their intent to initiate rule-making, issue a Safety and Health Information Bulletin, and provide Hazard Communication Guidance.

The administration's actions in this case, and their lack of communication with Congress, have done nothing to shed light on this issue of concern to us all. Instead, it has resulted in confusion about what is being done to address this issue and when they and we can expect to have answers. In fact, if the administration had simply been forthright with Congress about its plans, we might not be here considering this questionable legislation at all.

During committee consideration, Republicans offered an alternative. Our plan, which we will offer as an amendment today, strikes a balance between acting quickly to protect workers while relying upon sound science to establish a comprehensive regulation.

The Republican plan would maintain the 90-day deadline for establishing an interim final rule. Under this rule, guidance would be provided so that manufacturers could take immediate steps to limit exposure through the use of engineering improvements, ventilation and other strategies to protect workers. Our plan would also maintain the requirement that a final rule be developed, including a permissible exposure limit.

Under our alternative, this would be required within 2 years after the National Institute for Occupational Safety and Health concludes that the

standard can be supported by solid scientific evidence.

In short, the amendment maintains the same time frame for immediate protection, while eliminating the arbitrary nature of the final rule in favor of a timeline based on the availability of scientific evidence.

I want to reiterate my deep concern for the workers who have become ill. It is my goal, and surely the goal of everyone here, to determine as soon as possible what caused their illness and what can be done to prevent future occurrences.

Mr. Chairman, I opposed this bill in committee because I felt it did not allow for adequate scientific study. I also believed it undermined the long-standing regulatory process. However, I strongly support the effort to protect workers, and I can understand why Members on both sides of the aisle would wish to vote in favor of this measure.

As for me, until we can clear up the confusion surrounding this bill, I will reluctantly oppose it. I continue to believe this legislation undermines sound scientific and regulatory processes, but I will keep an open mind as this bill progresses through the legislative process. If further scientific evidence is uncovered as this bill moves to the Senate and to the President, my position could change. I only wish the administration had acted sooner and we could have been spared this debate entirely.

With that, I reserve the balance of my time and I yield the balance of my time to the gentleman from South Carolina, the ranking member on the subcommittee, and ask unanimous consent that he be allowed to control that time (Mr. WILSON).

The CHAIRMAN. Without objection, the gentleman from South Carolina will be recognized.

There was no objection.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself 1 minute.

I certainly appreciate the situation my ranking member, Mr. MCKEON, from California finds himself in, and I appreciate his remarks about the actions of OSHA in this situation.

The fact is that, again, earlier this month, in a commentary of the Dutch study on diacetyl workers which found it is unlikely that any other chemical is responsible for these cases, NIOSH scientist, Dr. Catherine Kreiss, wrote "the collective evidence for diacetyl causing respiratory hazards supports actions to minimize exposure of diacetyl even if contributions by other flavoring chemicals exist."

□ 1300

That is the situation we find ourselves in. This isn't a desire to rush to legislation. The fact is, as Mr. MCKEON pointed out, on this side of the aisle also we are all terribly disappointed by the failure of OSHA to engage this problem and to engage the people who are coming forth now supporting this legislation to construct a solution.

I yield 5 minutes to the gentlewoman from California (Ms. WOOLSEY), who is the Workforce Protections Subcommittee Chair and who has handled this legislation.

Ms. WOOLSEY. Thank you, Chairman MILLER, for this bill and for the work you do for all working Americans.

Mr. Chairman, I am truly sorry that Mr. MCKEON can't support it. But I am proud to be the sponsor of H.R. 2693, the Popcorn Workers Lung Disease Protection Act, which requires OSHA to issue an emergency temporary standard to regulate workers' exposure to diacetyl, a chemical used in butter flavoring for microwave popcorn and other food products. It is a travesty that OSHA has done nothing to regulate this chemical while workers have fallen seriously ill and have actually died.

In 1977, Congress passed OSHA to provide every working man and woman in the Nation a safe and healthful workplace. We gave the new agency charged with the administration the full name of the Occupational Safety and Health Act.

We also gave them important tools to enforce the provisions of the law. One of the most important functions that OSHA is charged with is to develop health and safety standards. When it was exercised, this function actually saved the lives and health of many, many workers.

For example, in 1978, when OSHA's cotton dust standard was adopted, there were 40,000 cases of brown lung disease annually, affecting 12 percent of all textile workers. Because of OSHA, brown lung was virtually eliminated. OSHA's 1978 standard on lead dramatically reduced lead poisoning.

Sadly, Mr. Chairman, there are still millions of workers who suffer from injuries and illnesses while working. One of the most grievous examples of this are workers who are contracting popcorn lung disease from exposure to a chemical called diacetyl used in the manufacture of microwave popcorn and other foods.

The Workforce Protections Subcommittee held a hearing on OSHA standards in April. We heard from Eric Peoples, a former microwave popcorn worker, who has popcorn lung. Eric is in his thirties. He has a young family. He worked in a microwave popcorn facility in Missouri for less than 2 years. After that, he had to stop work because he had contracted popcorn lung disease. Popcorn lung is an irreversible and life-threatening respiratory disease. Eric has lost 80 percent of his lung capacity, is awaiting a double lung transplant, and faces an early death, all because he was exposed to diacetyl.

A standard regulating exposure of diacetyl is currently needed. While OSHA has known about the dangers of the chemical for years, it has failed. It has failed day after day, year after year to act to make this standard an actual re-

ality. In fact, OSHA has done virtually nothing to protect workers against diacetyl.

Now there has been at least one or two other reported cases of popcorn lung in consumers. Wayne Watson, a 53-year-old man from Colorado, has been diagnosed with popcorn lung due to his daily consumption of microwave popcorn over a 10-year period.

In addition, the Seattle Post-Intelligencer reported that a 6-year-old child, the son of a popcorn plant employee who has popcorn lung, was showing signs of the disease himself. In that case, when the popcorn plant closed, the company told the employees they could help themselves to any of the company's products. The father took home some butter-flavored oil containing diacetyl and used it for frying food. As a result, this 6-year-old child was exposed to the chemical, and it made him sick.

These are unintended and unfortunate consequences when OSHA refuses to act to protect workers.

This is true, Mr. Chairman, even though the Flavor and Extract Manufacturers' Association, the industry that represents the food flavoring manufacturers, issued a report warning of the dangers to workers from exposure of diacetyl and recommended measures controlling that chemical.

OSHA does not seem moved to meaningful action, even though four of the Nation's biggest popcorn makers have recently announced that they are working to remove diacetyl from their products. In my own State of California, CalOSHA is currently working on a standard to regulate diacetyl.

There is a whole list of agencies that I will enter into the RECORD that are supporting the regulation of diacetyl.

So, Mr. Chairman, now is the time for this Congress to stand up for the Nation's workers and vote to pass H.R. 2693.

The American Industrial Hygiene Association, the American College of Environmental and Occupational Medicine, the AFL-CIO, the United Food and Commercial Workers, the Teamsters, the Bakery and Confectionary Workers, the American Public Health Association and the American Society of Safety Engineers also support H.R. 2693.

Mr. WILSON of South Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when I looked at the issue of diacetyl in manufacturing during the debate in committee, the answer seemed very clear to me at the time: proper ventilation. Even though it is unclear what is affecting manufacturing workers, all the experts agree that engineering controls, such as ventilation, reduce worker exposure.

I take very seriously lung illness. For nearly 10 years, I served on the State board of the South Carolina Lung Association. In the South Carolina State Senate, I introduced innovative legislation promoting clean air.

Fundamentally, the science does not exist to state a link between diacetyl

and impaired lung function. Indeed, last year, the National Institute for Occupational Safety and Health, NIOSH, noted, "At this time, insufficient data exists on which to base workplace exposure standards or recommended exposure limits for butter flavorings."

Unfortunately, this bill goes beyond the issue of what is known. The underlying bill requires the Occupational Safety and Health Administration, OSHA, to set a standard based on documents that OSHA informs us cannot guide rulemaking. These documents provide guidelines of how to solve the problem at issue but are not the foundation for a rule.

More research is currently under way to determine a connection between diacetyl and this respiratory condition. I fully support that research moving forward. In fact, the underlying measure contains an amendment I offered during the committee consideration of the bill to require NIOSH to study similar flavorings to determine possible exposure hazards with flavorings similar to diacetyl. Until there is conclusive evidence, it remains to be seen if diacetyl alone is to blame or whether the chemical, in combination with the other flavorings, places workers at risk.

On June 18, Assistant Secretary of Labor for Occupational Safety and Health, Edwin Foulke, a distinguished attorney from Greenville, South Carolina, of the highest integrity, reiterated this in a letter to Congress, in which he stated, "Focusing on diacetyl ignores the possibility that other flavoring components, many of which are irritants and airway-reactive substances, are playing a role in the development of disease. Given the wide variety of ways and forms in which diacetyl and other flavoring components are used in the food manufacturing industry, a narrow focus on diacetyl would likely result in the selection of risk-management strategies that may not adequately protect employees."

This is a critical point. Until we know the true cause of this lung impairment, I do not see how we can effectively legislate on it. Further, major manufacturers, using this flavoring have already announced they will no longer be using diacetyl.

The lack of scientific foundation is, unfortunately, not the only problem with the bill before us. There are numerous flaws outlined by the OSHA administrator's letter. Further, the President has announced strong opposition to the bill, largely because it is flawed. Undermining the rulemaking process, as this bill does, would almost certainly exclude input from key stakeholders that often proves imperative for a balanced rulemaking process.

Because this bill fails to allow time for appropriate scientific research and because it undermines the proven regulatory framework, I fear it will not do enough to protect workers.

Mr. Chairman, my amendment that was made in order would resolve much of this problem.

DEPARTMENT OF LABOR,  
Washington, DC, June 19, 2007.

Hon. GEORGE MILLER,  
Chairman, Committee on Education and Labor,  
House of Representatives, Washington, DC.

DEAR CHAIRMAN MILLER: I am writing to express my strong concerns with legislation (H.R. 2693) that would require the promulgation of an interim final standard (IFR) regulating employee exposure to diacetyl in the popcorn and flavor manufacturing industries and mandate that the Occupational Safety and Health Administration (OSHA) issue a final rule covering all workplaces that use diacetyl.

I share your goal of protecting workers from the risk of obstructive lung disease. As outlined below OSHA is in the process of taking important steps to strengthen worker protections in this area. However, after careful review of this legislation, we have concluded that the regulatory approach mandated by H.R. 2693 will not afford the best level of protection for workers. Equally important, the process the bill would require may result in missed opportunities to provide needed worker safety. Instead, I urge you to allow OSHA to thoroughly evaluate all available science concerning the effects of exposures to food flavorings, feasible abatements and related issues.

Several considerations lead us to the conclusion that the approach mandated by H.R. 2693 would not best protect workers:

1. The expanded scope of the final rule and the lack of knowledge about the industries that use diacetyl will lead to superficial analysis that may fail to provide needed worker protection.

H.R. 2693 would require OSHA to expand the scope of the final rule to include all establishments where there is potential for exposure to diacetyl. Unfortunately, little is known about industries—other than the microwave popcorn manufacturing and food flavoring manufacturing industries—that use diacetyl and diacetyl-containing flavorings. OSHA would need to identify those companies that use diacetyl then conduct site visits to gather needed data to (1) identify processes where exposures occur, (2) develop control strategies for each process, and (3) identify employers who have implemented control strategies to determine if those control strategies are effective. Although OSHA has been obtaining this information for microwave popcorn and food flavoring manufacturing establishments, to date little information is available on the many other industry sectors that would potentially be covered by the final rule required by the bill. OSHA believes that two years is too short a period of time to develop the information base and analysis necessary to adequately support the proposed and final rule, and to afford the public adequate time to comment on OSHA's proposal. The Agency believes that robust public input is essential to achieving a final rule that provides protection for employees while addressing potential impacts on all affected industries.

2. Focusing solely on a Permissible Exposure Limit (PEL) for diacetyl may ignore other components that are playing an important role in the development of disease.

H.R. 2693 requires OSHA to develop a PEL for diacetyl that would apply to all facilities where diacetyl is processed or used. Research is ongoing by groups such as the National Institute for Occupational Safety and Health (NIOSH), the National Jewish Medical Center, the National Institute for Environmental Health Studies and California Department of Industrial Relations, Division of Occupational Safety and Health (Cal OSHA) to better determine the role that exposures to diacetyl and other chemicals may play in the development of bronchiolitis obliterans.

By focusing solely on diacetyl, H.R. 2693 raises two major concerns:

a. Focusing on diacetyl ignores the possibility that other flavoring components—many of which are irritants and airway-reactive substances—are playing a role in the development of disease. Given the wide variety of ways and forms (e.g., liquids or powders) in which diacetyl and other flavoring components are used in the food manufacturing industry, a narrow focus on diacetyl would likely result in the selection of risk management strategies that may not adequately protect employees. These might include substitution of diacetyl with other chemicals that may be as dangerous under similar circumstances as diacetyl.

b. NIOSH has stated that "at this time, insufficient data exist on which to base workplace exposure standards or recommended exposure limits for butter flavorings." Given the state of the data currently available, OSHA would only be able to develop an imprecise PEL for diacetyl which would have a considerable amount of uncertainty associated with respect to the degree of protection afforded.

3. As drafted the bill would require the interim final rule to impose engineering requirements based on NIOSH recommendations that lack the clarity and specificity necessary to form the basis of a new health standard.

H.R. 2693 would direct OSHA to issue an interim rule at least as stringent as the 2004 NIOSH Hazard Alert. The NIOSH recommendations serve as good general recommendations, but do not provide specific performance criteria that would be necessary to develop an unambiguous and enforceable interim rule. The NIOSH Alert refers to the 2001 ACGIH Ventilation Manual, which provides some general objective design criteria, but mixing and blending processes in flavoring establishments vary greatly. For example, they can range from a 10-gallon batch operation up to several hundred pounds of batch mixing. Each of these operations may use similar control strategies but would require different engineering design parameters to achieve the same level of effectiveness. Therefore, the NIOSH Hazard Alert is not helpful to specify required minimum operating parameters for engineering controls because these minimum parameters will not provide equal protection to all employees in affected establishments. Furthermore, there is simply not enough information available at this point on flavoring processes and current exposure control practices to develop a specification-oriented standard.

OSHA traditionally has used PELs instead of specification-oriented standards to protect workers in this type of situation, because a PEL will set a precise, measurable standard to protect workers. However, as previously mentioned, currently available data do not support setting a PEL for diacetyl. Thus, OSHA would be forced by H.R. 2693 to issue a PEL based on imprecise information and an IFR based on a NIOSH Hazard Alert that does not provide specific performance criteria.

Additionally, the Department of Labor is very concerned that the IFR that is mandated by this legislation will not be open for comment by stakeholders, or reviewed in accordance with the requirements of the Small Business Regulatory Enforcement Fairness Act (SBREFA), the Administrative Procedures Act, and the rulemaking requirements of the Occupational Safety and Health Act. These statutes ensure thorough consideration and transparency in rulemaking. We do not believe these regulatory requirements

should be waived except in the most exceptional situations. Thorough vetting is particularly critical when the medical and scientific studies do not provide unequivocal conclusions.

The Department of Labor is committed to protecting employees from obstructive lung diseases. The Department recently announced that OSHA will focus on health hazards of microwave popcorn butter flavorings containing diacetyl through a new National Emphasis Program (NEP). The NEP will direct inspections to the facilities where workers may be at the greatest risk of exposure to this hazard. Implementation of this NEP would allow OSHA to inspect every such facility under Federal jurisdiction by the end of this year. This will be followed by a second NEP that focuses on establishments manufacturing food flavorings containing diacetyl.

In addition to the NEP, OSHA is also preparing a Safety and Health Information Bulletin (SHIB) to better inform and instruct employers on how to protect employees from obstructive lung disease caused or exacerbated by food flavorings used in the microwave popcorn manufacturing industry. The SHIB will provide guidance to alert employers and workers to the potential hazards associated with butter flavorings containing diacetyl and will provide recommendations on how to control these hazards. OSHA is also developing a hazard communication guidance document to ensure that material safety data sheets and labels properly convey hazard information on diacetyl and diacetyl-containing food flavorings. Given that NIOSH has stated that insufficient data exist on which to base workplace exposure standards or recommended exposure limits for butter flavorings the approach we are taking is the quickest and most effective means of providing protection to workers in the popcorn and flavor manufacturing industries.

Because of the concerns I have outlined, the Department of Labor is opposed to H.R. 2693. We have concluded that the approach proposed by H.R. 2693 will not afford the best level of protection for workers. By not providing sufficient time to do a proper rulemaking OSHA may unintentionally overlook opportunities to provide needed worker safety and, at the same time, require expensive process isolation, and ventilation and other control strategies that may be ineffective. Instead, I urge you to allow OSHA to thoroughly evaluate all available science concerning the effects of exposures to food flavorings, feasible abatements, and related issues.

Sincerely,

EDWIN G. FOULKE, JR.,  
*Assistant Secretary for  
Occupational Safety and Health.*

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

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey (Mr. ANDREWS).

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

Mr. ANDREWS. Mr. Chairman, I thank the chairman for yielding.

I rise in support of this legislation. In 2002, 5 years ago, NIOSH, the National Institute for Occupational Safety and Health, discovered a link between a dreadful disease called popcorn lung that literally eats away at the tissue of a man or a woman's lung and diacetyl. A lot has happened in the 5 years since then. Hundreds of people have been se-

verely sickened. A significant number of people have died.

In 2003, NIOSH recommended that manufacturers using diacetyl adopt certain standards to protect workers against popcorn lung disease.

In 2004, the Flavor and Extract Manufacturers Association, the trade association of the affected industry, voluntarily adopted certain recommendations that employers and manufacturers do what they could to protect workers against popcorn lung. Very recently, under the leadership of Subcommittee Chairwoman WOOLSEY, who called attention to the issue, the Subcommittee on Workforce Protections drafted a piece of legislation.

Some good things happened. The Flavor and Extract Manufacturers Association said, "We agree with the legislation. We want OSHA to act to protect these workers as a matter of law, not a matter of courtesy."

The Flavor and Extract Manufacturers Association was joined by the industrial hygienists, the experts in this matter, by the physicians, the American College of Environmental and Occupational Medicine, by the public health experts, the American Public Health Association, by the voice of organized labor, the AFL-CIO, the United Food and Commercial Workers Union, the Teamsters, the Bakery, Confectionary, Tobacco Workers and Grain Millers Union and the American Society of Safety Engineers.

So, the manufacturers agree that OSHA ought to act, the physicians agree that OSHA ought to act, the industrial hygienists agree that OSHA ought to act, the labor unions agree that OSHA ought to act, and the American Association of Safety Engineers agrees that OSHA ought to act. All these things have happened in the last 5 years. But one thing has not happened. OSHA has not acted. So, today, we will act.

This is a case of administrative malpractice. This is a case of an administrative agency that is given the responsibility under the law to protect working Americans. After 5 years of evidence, after the unanimous judgment of doctors, hygienists, the trade association, organized labor, after 5 years of unanimous judgment that it is time for OSHA to act, OSHA still has not acted.

Now, the normal course, Mr. Chairman, is to wait for the administrative agency to make up its mind. We have already followed that course. We have waited for 5 years as hundreds of people have been sickened and a significant number of people have passed on. The time to wait is over. The time to act is now.

I urge our Republican and Democratic colleagues to join with doctors, industrial hygienists, the manufacturers association, organized labor, and the Public Health Association and say to OSHA, stop this administrative malpractice. Enact a standard and protect these workers against this dreadful disease.

I would like to congratulate Chairman WOOLSEY, Chairman MILLER and the other leaders in this effort and urge a "yes" vote.

□ 1315

Mr. WILSON of South Carolina. Mr. Chairman, I include for the RECORD letters in opposition from the American Bakers Association, dated September 25, 2007; the OSHA Fairness Coalition, September 25, 2007; and the Office of Management and Budget, dated September 25, 2007.

AMERICAN BAKERS ASSOCIATION,  
*Washington, DC, September 25, 2007.*

Hon. HOWARD MCKEON,  
*House of Representatives,  
Washington, DC.*

DEAR MR. MCKEON: On behalf of the American Bakers Association (ABA), I am writing to express our opposition to H.R. 2693, "the Popcorn Workers Lung Disease Prevention Act," which the House of Representatives is expected to consider this week. Passage of H.R. 2693 would significantly short circuit the appropriate regulatory process by mandating that the Occupational Safety and Health Administration (OSHA) implement a regulation, including a Permissible Exposure Limit (PEL), applicable to all sectors of the food industry, and based on limited scientific data. For over 100 years, the ABA has represented the interests of the wholesale baking industry and its suppliers—companies that work together to provide over 80 percent of the wholesome and nutritious bakery products purchased by American consumers.

The American Bakers Association prides itself on our long history of assisting baking companies to stay ahead of the curve on safety and health in the workplace. Our Safety Committee provides tremendous leadership on safety and health policy issues. We are committed to keeping our workers safe and support science-based standards and regulations. The ABA is aware of recent data from the National Institute for Occupational Safety and Health (NIOSH) regarding the use of diacetyl in popcorn manufacturing and the flavor manufacturing industry. We also understand the severity of the health effects that have been demonstrated in a limited number of cases. However, we strongly believe that the recent NIOSH data does not accurately reflect the use of diacetyl in other sectors of the food industry, such as baking. Differences exist in the food processing industry, the concentrations of diacetyl used, and the existing controls in place.

Mandating specific requirements that OSHA must include in a diacetyl standard sets a precedent that should be avoided. Congress's role as set forth in the OSH Act of 1970 is to "assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources." However, it is the role of the Department of Labor to use its expertise for implementing regulations. For Congress to specify the applicable requirements of a "final standard" would bypass inappropriately the mechanisms and tests established under the OSH Act. Expedited regulation, even if directed by Congress, would rest on very limited scientific evidence and would represent rushed and inappropriate legislative and Agency action.

Further H.R. 2693 does not address the carefully developed procedures for rulemaking that Congress and the courts have put in place under the Administrative Procedures Act (APA), including provisions designed to protect small businesses. Finally, on September 24, 2007 OSHA announced its intent to move forward with a rulemaking

on diacetyl. This rulemaking process should be allowed to move forward as it includes the appropriate procedural safeguards.

ABA respectfully urges you to oppose this legislation and allow the regulatory procedures designed to protect the interests of small businesses to guide OSHA in developing a standard.

Sincerely,

ROBB MACKIE,  
President and CEO.

OSHA FAIRNESS COALITION

TO THE MEMBERS OF THE HOUSE OF REPRESENTATIVES: We write to inform you of our strong opposition to H.R. 2693, "the Popcorn Workers Lung Disease Prevention Act," which the House of Representatives is expected to consider this week. The bill directs the Occupational Safety and Health Administration (OSHA) to issue a standard regulating exposure to diacetyl (a substance used to impart butter flavor to various foods, most notably microwave popcorn) even though the science and data available are insufficient to allow OSHA to establish an exposure limit. Such a mandate would be completely at odds with all other laws, judicial decisions, executive orders and sound policy considerations under which OSHA promulgates standards and regulations.

This bill mandates that OSHA issue an interim final regulation within 90 days of enactment, and then a final regulation which would include a short term exposure limit and a permissible exposure limit, within two years of enactment. Unfortunately, data does not currently exist as to where these lines could be drawn. The very NIOSH document cited in the bill for support also states with respect to diacetyl and other flavorings: "Little is currently known about which chemicals used in flavorings have the potential to cause lung disease and other health effects, and what workplace exposure concentrations are safe. . . . Most chemicals used in flavorings have not been tested for respiratory toxicity via the inhalation route, and occupational exposure limits have been established for only a relatively small number of these chemicals." (NIOSH Publication 2004-110, pp. 5-6).

Most importantly, this bill mandates that OSHA completely ignore the carefully developed, balanced, and necessary requirements for rulemaking that Congress and the courts have put in place to make sure OSHA standards reflect the best science available, are responsive to a specific hazard, and are both technologically and economically feasible for the affected employers. Both Congress and the Supreme Court have made clear that OSHA can regulate only after it has satisfied specific requirements for data and analysis as contained in Section 6 of the Occupational Safety and Health Act, and the Administrative Procedure Act including specific provisions designed to protect small businesses. Because regulations have a much different and more significant impact on small businesses, adhering to the strict rulemaking guidelines of the APA are that much more important to small businesses. The normal OSHA rulemaking process allows for regulatory impacts on small businesses (which according to the Small Business Administration are 50 percent higher than they are for large firms) to be assessed, and for important changes to be made to proposed regulations mitigating those impacts. Shortchanging that process could be potentially devastating to those small businesses which provide 60 percent of all new jobs in the United States.

The interim final regulation specified by this bill, which would have the legal effect of an OSHA standard, would not be produced under any rulemaking procedures. Indeed,

this bill attempts to write the interim final standard directly, bypassing OSHA's expertise and ability to tailor such a regulation to those circumstances where it is truly warranted. Under the bill the interim final standard would be issued without any analysis of its impact, or opportunity for those subject to it to provide comments or input, nor would it be subject to comments once issued as is customary for interim final rules. Because there is no data around which to formulate the short term exposure limit and permissible exposure limit, the two year timeframe specified for OSHA to issue the final regulation is too accelerated to permit the agency to conduct the necessary impact analyses and other small business-focused analyses that would normally accompany an OSHA rulemaking.

Finally, any need for this bill has been eliminated as a result of the world's largest producer of microwave popcorn, ConAgra Foods Inc., and another large manufacturer of microwave popcorn recently indicating their plans to eliminate diacetyl from their brands, and OSHA's announcement on September 24 that the agency will move forward with various measures to address the hazard of workplace diacetyl exposure including a rulemaking consistent with the full procedural safeguards.

H.R. 2693, while well intentioned, is ill conceived and would establish a devastating precedent of Congress mandating a regulation when there is no data available to use in setting the exposure limit, and trampling on regulatory procedure designed to protect the interests of small businesses. The Coalition urges the House not to pass H.R. 2693.

Sincerely,

American Bakers Association; Associated Builders and Contractors; International Food Distributors Association; National Association of Home Builders; National Oilseed Processors Association; NFIB; U.S. Chamber of Commerce; Plumbing-Heating-Cooling Contractors—National Association; American Foundry Society; Associated General Contractors; National Association of Convenience Stores; National Association of Manufacturers; Mason Contractors Association of America; and Printing Industries of America.

STATEMENT OF ADMINISTRATION POLICY, H.R. 2693—THE POPCORN WORKERS LUNG DISEASE PREVENTION ACT

(Rep. Woolsey (D) CA and 17 cosponsors)

The Administration strongly opposes House passage of H.R. 2693, "Popcorn Workers Lung Disease Prevention Act," in its current form. H.R. 2693 would require the Department of Labor's Occupational Safety and Health Administration (OSHA) to publish a premature interim standard within 90 days of enactment regulating worker exposure to diacetyl and publish a final regulation that includes a permissible exposure limit (PEL) within two years. The bill also directs the National Institute for Occupational Safety and Health (NIOSH) to conduct a study to determine the potential exposure hazards of diacetyl and associated chemicals used in the production of microwave popcorn.

The Administration shares the goal of protecting workers from the risk of obstructive lung disease, and OSHA is already taking steps to strengthen worker protections in this area. These measures include: (1) Announcement of a regular rulemaking process under the Occupational Safety and Health Act to address occupational exposure to flavorings containing diacetyl; (2) inspections at every microwave popcorn manufacturing plant in the nation within the calendar year to ensure that acceptable ventila-

tion and other engineering controls are in place and that appropriate personal protective equipment is in use; (3) issuance of a Safety and Health Information Bulletin that advises employers about diacetyl, recommends specific engineering and work practice controls to regulate exposures, and requires appropriate personal protective equipment and respiratory protection when handling diacetyl; and (4) issuance of a guidance document about health hazard information that must be included on diacetyl material safety data sheets under the Hazard Communication standard.

The Administration does not believe that H.R. 2693 in its present form is the best regulatory approach for protecting workers. Before a PEL can be promulgated, more time is needed to gather sufficient evidence concerning (1) the causes of bronchiolitis obliterans ("popcorn lung disease") in workers exposed to diacetyl and other chemicals used in butter flavorings; (2) the range of exposure levels that may be hazardous; and (3) the kinds of control measures that are most effective. Additional time is also needed to obtain sufficient information about the many other industries besides microwave popcorn manufacturing that use diacetyl and diacetyl-containing flavorings. The expedited rulemaking required by H.R. 2693 would not allow OSHA sufficient time to gather and analyze the kind of evidence and information needed to ensure the promulgation of a standard that adequately protects workers.

The Administration is also very concerned that the interim standard that is mandated by this legislation will not be open for comment by stakeholders, particularly small business, in accordance with the Administrative Procedure Act, Small Business Regulatory Enforcement Fairness Act, and the rulemaking requirements of the Occupational Safety and Health Act. These statutes ensure thorough consideration and transparency in rulemaking, as well as stakeholder input. The Administration believes these requirements should be waived only in the most exceptional situations. Thorough vetting is particularly critical when the medical and scientific studies do not provide unequivocal conclusions.

Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. PRICE), an experienced physician.

Mr. PRICE of Georgia. Mr. Chairman, I thank my friend from South Carolina for his leadership on this, as well as so many other issues.

Mr. Chairman, I represent the Sixth District of Georgia, one that is interested actively in the input of Members of Congress and the actions of government. But they have some suspicion about the actions of government.

When I came to Congress, I was told a story by a former Member who told an amusing story about his sense that when Members of Congress get on the airplane and they head toward Washington to come to work, they think they are pretty smart folks. As they get closer to Washington, they think that their intelligence increases. As they begin to descend and come into Reagan National Airport, they really think they are getting mighty smart. And then once they step off the plane, they think they are the brightest people on the Earth.

I tell that because folks listening to this might be surprised that there actually is a process in place for rulemaking within OSHA. There is a process in place that maximizes workplace safety while it sets standards based upon the strongest and the most complete scientific information.

Now, today, the House of Representatives is considering a bill which bypasses this process, bypasses the process and sets a permissible exposure limit for diacetyl, making Members of Congress the ones who are the experts on scientific evidence.

As my friend mentioned, before I came to Congress, I was a physician. One of the things that concerned me greatly was that Members of Congress, many Members of Congress think that they know best about so many issues. One of them was how to practice medicine. In this instance, it's what the level of appropriate exposure for a worker in this Nation ought be for diacetyl.

Diacetyl is an artificial flavoring commonly used for popcorn. It has been determined to be safe for general consumption, but the inhalation, the breathing in of large quantities may be harmful, although there is not any evidence that demonstrates that it can be solely harmful to an individual, which is what this bill actually assumes or presumes.

You have heard talk about the National Institute of Occupational Safety and Health, NIOSH. NIOSH is the group that studies these kinds of things. In fact, they produced a study that concluded, "There is insufficient data that exists on which to base workplace exposure standards or recommended exposure limits for butter flavorings."

Those are the folks that are the scientists that are involved in setting standards. We ought to listen to their recommendation. I commend the author and I commend the individuals who want to push the process forward more rapidly. I think that's an appropriate thing to do. But by adopting this bill, Congress is effectively saying to OSHA that your rulemaking process doesn't make any difference, that we don't need to hear the folks who have the greatest amount of knowledge about an issue, and that Congress is about to set standards based upon incomplete scientific evidence.

Now that may not be of great concern to some, but it ought to be. It ought to be. Regulations of this nature should only be based on the most sound and thorough scientific data. Otherwise, Congress is coming back every 6 months, every year, every 2 years and revising what they have put in place because they haven't based their decisionmaking on appropriate scientific information.

If this legislation is to go forward, then I would encourage my colleagues to allow it to do so with the adoption of the Wilson amendment. This amendment would ensure that a final safety standard for diacetyl is in fact based on

adequate scientific and complete review by NIOSH. The Wilson amendment will guarantee that the most effective worker protections are put in place with the backing of science rather than identifying one compound without complete information.

If the goal here is workplace safety, if the goal is workplace safety, then we ought to make certain that that safety, those guidelines, those regulations are put in place and done correctly. Members of Congress should have a critical eye on the OSHA rulemaking process, without a doubt. But it's important that we not implement mandates based upon incomplete scientific evidence and without all of the facts.

So, for those reasons, Mr. Chairman, I once again thank my colleague for his assistance and leadership in this area. I would urge adoption of the Wilson amendment, and if that does not occur, then I would urge defeat of the underlying bill.

Mr. WILSON of South Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 4 minutes to the gentlewoman from New Hampshire (Ms. SHEA-PORTER).

Ms. SHEA-PORTER. Mr. Chairman, I thank my friend for yielding me time to speak on this important issue. As a cosponsor of H.R. 2693, I rise to express my very strong support of the legislation and to highlight the dangerous philosophy under which the current administration and, consequently, OSHA has been operating.

Beside me you see in print the philosophy of "Guidance" over standards and regulations. Just to be clear here, guidance is great, but it's terribly dangerous when it comes at the expense of enforceable standards. It is this issue that brings us to the floor today.

This Hazard Communications Guidance, which was released just on Monday, starts with a sort of disclaimer paragraph that begins by explaining, "This guidance is not a standard or regulation and it creates no new legal obligations."

It concludes with, "Failure to implement any specific recommendations in this guidance is not in itself a violation of the General Duty Clause. Citations can only be based on standards, regulations, and the General Duty Clause."

In fact, under this administration, OSHA has issued only one significant new standard, which was on the cancer-causing chemical hexavalent chromium, and this was done under court order.

This is an incredibly dangerous philosophy for workers nationwide who rely on the health and safety precautions that OSHA is charged with ensuring. OSHA's obligation to protect these workers is certainly not met by simply enforcing current standards while ignoring emerging dangers. OSHA has responsibility to promulgate new standards and protections as soon as we learn of the hazardous nature of such chemicals as diacetyl.

To my colleagues who would say that Congress should step back and let OSHA do its job, I say gladly. We will step back when OSHA steps up and fulfills its obligation to provide meaningful health and safety protections for our Nation's workers.

I urge my colleagues to support this legislation that will provide this meaningful protection. It does this by requiring OSHA to issue an interim standard and within 2 years to promulgate a final standard with respect to diacetyl. Our workers deserve this added safety. So do our families that use this product. This bill deserves our support.

Mr. WILSON of South Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. BISHOP), a member of the committee.

Mr. BISHOP of New York. Mr. Chairman, I thank the chairman for yielding.

Mr. Chairman, I rise today in strong support of H.R. 2693, the Popcorn Workers Lung Disease Prevention Act. Millions of Americans enjoy the convenience of microwave popcorn. However, few are aware that those bags of popcorn may contain diacetyl, an artificial butter flavoring and a deadly chemical when inhaled in high levels.

You earlier heard about Eric Peoples from Chairman WOOLSEY who worked at the Jasper Popcorn Company. Mr. Peoples has the debilitating disease of popcorn lung and as a result has only 24 percent of his lung capacity. Everyday activities are no longer possible for him.

Another worker at the Jasper Popcorn Plant, Linda Redman, started working at the plant in 1995. Within 2 years, her breathing was so impaired that she had to quit. I believe that Eric and Linda's pain may have been prevented if OSHA had acted to issue a standard to limit workers' exposure to diacetyl. OSHA has still failed to issue a standard, even though it was some 7 years ago that it was determined that worker illnesses were related to the chemical diacetyl.

H.R. 2693 is a simple bill. It requires OSHA to issue an emergency interim standard within 90 days to protect workers at popcorn and flavoring manufacturing plants to minimize diacetyl, and it requires OSHA to then issue a final standard within 2 years. An emergency standard will help protect the thousands of workers who come into contact with diacetyl every day. The Flavor and Extract Manufacturers Association, the leading industry association for the flavoring industry, recommended similar actions as far back as 2004.

The simple and sad truth is that OSHA has failed to do its job, and thus in this case Congress must act to protect workers. These workers deserve a safe workplace.

As Eric Peoples said, "I played by the rules. I worked to support my family.

This unregulated industry virtually destroyed my life. Please don't let it destroy the lives of others."

So I ask Members to join me in promising that we won't stand by and let this industry destroy the lives of others. Let's pass H.R. 2693.

Mr. WILSON of South Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are considering this bill under unfortunate circumstances. A number of workers have become ill, and it is not entirely clear why. We suspect this particular food flavoring diacetyl may be involved, so we all support a thorough investigation into this substance and how exposure to it may impact workers.

Like my friends on the other side of the aisle, I wish there was an easy answer. If only we knew what had made these workers ill, we could immediately eliminate the risks. If only we knew for sure that diacetyl and manufacturing alone caused lung obstruction, then Federal agencies could go through the appropriate regulatory process to establish exposure limitations and take the necessary steps to protect workers.

Unfortunately, we do not have enough information at this point in time to take such action. Research is underway, and it is my hope that the research continues quickly so we can get to the bottom of these questions about how diacetyl impacts manufacturing workers.

Until that research is available and until we have a scientific basis for regulation, in my mind we simply cannot move forward. There is a very real danger that by acting too quickly, we could inadvertently push manufacturers to begin using substitute flavorings. There is a possibility that these substitute flavorings could also put workers at risk; thus, a hurried regulation may provide a false sense of security while manufacturing workers remain vulnerable.

Again, I understand the frustration about a lack of clarity on the administration's intent in this area. Until the recent announcement by the Department of Labor that it intends to undertake a rulemaking process for this flavoring, we had not received any clear indication from the administration that it intended to take action. As such, I believe some on the other side of the aisle believed they had no choice but to act themselves.

Mr. Chairman, I recognize the difficulty we face. We have workers who have fallen ill and we do not know why. We have questions about a flavoring that workers are exposed to during manufacturing, but we do not know whether it is the sole cause of their ailments. We have a Federal regulatory agency that is responsible for ensuring workplace safety, but until this week we did not know whether the agency would act.

□ 1330

Republicans proposed a sensible alternative when this bill was considered

in the committee, and we plan to do the same today. We want to balance our pressing desire to act quickly to protect workers with our equally important need to adhere to sound science.

Because I believe it undermines the basic regulatory framework and neglects the necessary scientific foundation, I regret I cannot support the bill in its current form. I hope my alternative will be adopted so that we can quickly increase evidence to guide the final rules to provide the strongest protections possible.

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

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman and Members of the House, this isn't about confusion. This isn't about uncertainty. This is about the absolute failure of a Federal agency that has been established and designed to protect the health and the safety of American workers, the Occupational Health and Safety Administration, and the absolutely failure of that agency to take action, the absolute failure of this administration, the Bush administration, to insist they take action in light of mounting and compelling evidence that workers in popcorn manufacturing facilities and workers maybe now in other food industries have been stricken with a horrible disease that has been directly related to diacetyl.

I appreciate they want to throw up all of the other reasons. Maybe it wasn't O.J., but the fact of the matter is, here it is diacetyl, and we have got to understand that because people are going in for lung transplants, people are losing their ability to earn a living, and people have died from the results of this, and manufacturers and others are paying out millions of dollars.

The other side wants to offer an amendment that is based upon very old information, 3 years old. In those 3 years, NIOSH has recommended that actions be taken. The actions were not taken. NIOSH based that on the information at that time.

Then the industry recommended that actions be taken to protect the lives and the health and the safety of these workers, and actions were not taken in many parts of that industry. And, lo and behold, on the day that we are arguing this bill on the floor, we find out that OSHA has finally taken action.

And what action has OSHA taken? It didn't take action in the absence of information. It specifically states that they are updating the material safety data sheets because they have to include newer health effects information, information they need to understand the hazards associated. The hazards associated.

This is OSHA as of today. OSHA couldn't figure it out yesterday, they couldn't figure it out last year or the year before or the year before. But because Congress is moving, they are now

going to give people a data sheet that says diacetyl, in the data sheet from OSHA today, can cause damage to respiratory tract and lungs if inhaled, and it is highly flammable.

This isn't because we don't have information. This is because they refused to act earlier.

The gentleman from the other side wants to talk about the fact that they have put together a rulemaking process. No, what they announced was a one-day meeting, a one-day meeting of stakeholders, and then that was the end of it. We don't know whether they are going to go to the rest of the process or not. There is no indication in their past that they have.

They have forfeited their right to suggest that they will set the time and the tempo and the urgency of the protection of these workers and their families. They have forfeited that. We are stepping in here; and in the first interim standard we are asking NIOSH to do what they have already recommended that they do, based upon the evidence they have today. We are asking them to join with the manufacturers who have made these same recommendations based upon the evidence that they have today.

And what are they asking them to do? These are the first precautionary things that you do: Isolate the mixing room from the rest of the plant using walls, doors or other barriers; provide the mixing room with a separate ventilation system and ensure that negative air pressure relative to the rest of the plant is maintained in the mixing room. Yes, they are doing this because they have information that this can cause damage to your respiratory tracts and your lungs.

The other side wants to suggest in their amendment that if we just knew more, we could do better. It goes on and on.

They suggest reducing the operating temperature and holding the mixing tanks to the minimum temperature necessary, equipping the head space of the mixing and holding tanks with flavor added to oil and held in a pure form, automating the mixing process using closed processes to transfer flavorings. These are all designed to protect these workers, and they would not have happened but for this committee action, but for this floor time and this debate, and but for us voting this bill out of here.

This is the least we can do, to ask these agencies to do what was already recommended they should do in 2003, to do at least what the manufacturers have already recommended they do in 2004. And then we ask them to proceed with a permanent standard using their scientific evidence, their data, their knowledge, not ours. And that is the process by which these workers are going to get protection.

They are not going to get protection from the gentleman's amendment on the other side of the aisle, and they are not going to get it from stalling the Congress from going forward.

This is our opportunity to respond to an urgent medical crises in this industry by these workers and their families. I ask my colleagues to support this legislation when it comes time for final passage and to defeat the Wilson amendment.

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

Mr. HARE. Mr. Chairman, I rise in strong support of the Popcorn Workers Lung Disease Prevention Act. As a Member of the Education and Labor Committee I had the privilege of participating in a hearing at which Eric Peoples, a former microwave popcorn worker, testified. Mr. Peoples had contracted a respiratory disease from exposure to the butter flavoring chemical, diacetyl, during his work at the factory. I was appalled to find out that despite the mountain of evidence showing the links between diacetyl and respiratory damage comparable to inhaling acid, the workers were told this product was safe. Now, Mr. Peoples struggles with only 24 percent lung capacity and is waiting for a lung transplant.

OSHA is failing to protect workers from chemical hazards. According to the National Institute for Occupational Safety and Health, occupational diseases caused by exposure to chemical hazards are responsible for an estimated 50,000 deaths each year.

This bill does the job OSHA has failed to do. H.R. 2693 would require OSHA to issue an interim final standard to minimize worker exposure to diacetyl at popcorn manufacturing and packaging plants. OSHA would then be required to issue a final standard within 2 years that would apply to all locations where workers are exposed to diacetyl.

It is necessary for Congress to take this step to protect our workers. I urge my colleagues to stand with me in passing the Popcorn Workers Lung Disease Prevention Act.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the 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. 2693

*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 "Popcorn Workers Lung Disease Prevention Act".*

**SEC. 2. FINDINGS.**

*Congress finds the following:*

(1) An emergency exists concerning worker exposure to diacetyl, a substance used in many flavorings, including artificial butter flavorings.

(2) There is compelling evidence that diacetyl presents a grave danger and significant risk of life-threatening illness to exposed employees. Workers exposed to diacetyl have developed, among other conditions, a debilitating lung disease known as bronchiolitis obliterans.

(3) From 2000–2002 NIOSH identified cases of bronchiolitis obliterans in workers employed in microwave popcorn plants, and linked these illnesses to exposure to diacetyl used in butter flavoring. In December 2003, NIOSH issued an alert "Preventing Lung Disease in Workers Who Use or Make Flavorings," recommending that employers implement measures to minimize worker exposure to diacetyl.

(4) In August 2004 the Flavor and Extract Manufacturers Association of the United States issued a report, "Respiratory Health and Safety in the Flavor Manufacturing Workplace," warning about potential serious respiratory illness in workers exposed to flavorings and recommending comprehensive control measures for diacetyl and other "high priority" substances used in flavoring manufacturing.

(5) From 2004–2007 additional cases of bronchiolitis obliterans were identified among workers in the flavoring manufacturing industry by the California Department of Health Services and Division of Occupational Safety and Health (Cal/OSHA), which through enforcement actions and an intervention program called for the flavoring manufacturing industry in California to reduce exposure to diacetyl.

(6) In a report issued in April 2007, NIOSH reported that flavor manufacturers and flavored-food producers are widely distributed in the United States and that bronchiolitis obliterans had been identified among microwave popcorn and flavoring-manufacturing workers in a number of States.

(7) Despite NIOSH's findings of the hazards of diacetyl and recommendations that exposures be controlled, and a formal petition by labor organizations and leading scientists for issuance of an emergency temporary standard, the Occupational Safety and Health Administration (OSHA) has not acted to promulgate an occupational safety and health standard to protect workers from harmful exposure to diacetyl.

(8) An OSHA standard is urgently needed to protect workers exposed to diacetyl from bronchiolitis obliterans and other debilitating conditions.

**SEC. 3. ISSUANCE OF STANDARD ON DIACETYL.**

(a) INTERIM STANDARD.—

(1) RULEMAKING.—Notwithstanding any other provision of law, not later than 90 days after the date of enactment of this Act, the Secretary of Labor shall promulgate an interim final standard regulating worker exposure to diacetyl. The interim final standard shall apply—

(A) to all locations in the flavoring manufacturing industry that manufacture, use, handle, or process diacetyl; and

(B) to all microwave popcorn production and packaging establishments that use diacetyl-containing flavors in the manufacture of microwave popcorn.

(2) REQUIREMENTS.—The interim final standard required under subsection (a) shall provide no less protection than the recommendations contained in the NIOSH Alert "Preventing Lung Disease in Workers Who Use or Make Flavorings" (NIOSH Publication 2004–110) and include the following:

(A) Requirements for engineering, work practice controls, and respiratory protection to minimize exposure to diacetyl. Such engineering and work practice controls include closed processes, isolation, local exhaust ventilation, proper pouring techniques, and safe cleaning procedures.

(B) Requirements for a written exposure control plan that will indicate specific measures the employer will take to minimize employee exposure; and requirements for evaluation of the exposure control plan to determine the effectiveness of control measures at least on a biannual basis and whenever medical surveillance indicates abnormal pulmonary function in employees exposed to diacetyl, or whenever necessary to reflect new or modified processes.

(C) Requirements for airborne exposure assessments to determine levels of exposure and ensure adequacy of controls.

(D) Requirements for medical surveillance for workers and referral for prompt medical evaluation.

(E) Requirements for protective equipment and clothing for workers exposed to diacetyl.

(F) Requirements to provide written safety and health information and training to employees, including hazard communication information, labeling, and training.

(3) EFFECTIVE DATE OF INTERIM STANDARD.—The interim final standard shall take effect upon issuance. The interim final standard shall have the legal effect of an occupational safety and health standard, and shall apply until a final standard becomes effective under section 6 of the Occupational Safety and Health Act (29 U.S.C. 655).

(b) FINAL STANDARD.—Not later than 2 years after the date of enactment of this Act, the Secretary of Labor shall, pursuant to section 6 of the Occupational Safety and Health Act (29 U.S.C. 655), promulgate a final standard regulating worker exposure to diacetyl. The final standard shall contain, at a minimum, the worker protection provisions in the interim final standard, a short term exposure limit, and a permissible exposure limit that does not exceed the lowest feasible level, and shall apply at a minimum to all facilities where diacetyl is processed or used.

**SEC. 4. STUDY AND RECOMMENDED EXPOSURE LIMITS ON OTHER FLAVORINGS.**

(a) STUDY.—The National Institute of Occupational Safety and Health shall conduct a study on food flavorings used in the production of microwave popcorn. The study shall prioritize the chemicals that are most closely chemically associated with diacetyl to determine possible exposure hazards. NIOSH shall transmit a report of the findings of the study to the Occupational Safety and Health Administration.

(b) RECOMMENDED EXPOSURE LIMITS.—Upon completion of the study conducted pursuant to subsection (a), NIOSH shall establish recommended exposure limits for flavorings determined by such study to pose exposure hazards to workers involved in the production of microwave popcorn.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except those printed in House Report 110–349. Each amendment can 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 of the amendment, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 110–349.

Mr. GEORGE MILLER of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. GEORGE MILLER of California:

Page 6, line 21, insert " , if at such time, diacetyl is still being processed or utilized in facilities subject to such Act" after "diacetyl".

Page 7, line 5, strike "of" and insert "for".  
Page 7, line 7, strike "used in the production" and all that follows through "NIOSH" and insert "that may be used as substitutes for diacetyl and".

Page 7, strike lines 13 through 18 and insert the following:

(b) CONSTRUCTION.—Nothing in this section shall be construed as affecting the timing of the rulemaking outlined in section 2.

The CHAIRMAN. Pursuant to House Resolution 678, the gentleman from California (Mr. GEORGE MILLER) and

the gentleman from South Carolina (Mr. WILSON) each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. GEORGE MILLER of California. Mr. Chairman and members of the committee, this is an amendment technical in nature, and it clarifies that if no one is using diacetyl, it is not necessary for OSHA to issue a standard. The second portion clarifies that the purpose of the required NIOSH study is to study the health effects of substitutes of diacetyl. I urge passage of the amendment.

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

Mr. WILSON of South Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. KINGSTON), my next-door neighbor of historic Savannah.

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

I am opposed to the amendment because I am opposed to the bill.

One of the great things about Congress, I say to people, is it is the ultimate place for those of us with attention deficit disorder, because we have the privilege on a day-to-day basis to go from health care, to war, to weapons systems. Which airplane is better, the C-5 or the C-17? To go to farm issues. How about the cotton program? Is it good? Well, should we model it after the peanut program?

Then education: college, primary, private school. Should there be prayer? Should we lower the student-teacher ratio? Indeed, the President of the United States, President Clinton, stood in this Chamber once and called for school uniforms. We were experts on that for the day.

Tax policy: Who should get tax breaks and who should not? Trade policies: Which countries are going to be the best to trade with us? Immigration.

The list goes on and on and on. But, unfortunately, our expertise does not continue with the demand and the issues.

And here we are talking about popcorn. I would say to my friend from California that 99.9 percent of the Members here have never been in a popcorn factory. I listened to my friend, Mr. MILLER. He knows a lot about this. I am impressed that he knows mixing rooms and building walls and so forth, but I would say most of us do not.

That is why we have agencies and commissions like OSHA set up, because they fill in the blanks where we cannot be experts. They have scientists who go in and make rulemaking policies in a balanced way, nonpolitical and non-emotional. It is scientific. They go in there and say, before we go out and set a bunch of standards on the private sector, let's make sure that we have the experts doing the decisionmaking.

And yet here we are, the nanny-state of Congress. Nurse Ratched once more

knows best, completely oblivious to the fact that one of the largest manufacturers of microwave popcorn just recently said they would eliminate this product from their bands, and another manufacturer did the same thing. And even OSHA on September 24 said they will move forward with various measures to address the hazards of the workplace.

I think it is interesting that we have set up OSHA to help us, and yet we have decided now that we know popcorn and we know best.

But I would say to my friend from California, your expertise is not matched by 99 percent of us. I would say Ms. WOOLSEY, being a great Member who does her homework, and Mr. WILSON and the staffers who are here, you all are popcorn experts in Congress, and that's it. There are no other popcorn experts in Congress.

I think we do have some experts on trade and on taxes and on military things, but even they have to rely on agencies and organizations to give them better information. Yet we are leapfrogging over this information. I don't know if it is political or what, but we seem to be in a big rush to forget the standards that should be set by the proper agency.

Later, we will have the opportunity to vote on the Wilson alternative that would give OSHA time to set a standard that would be, after a NIOSH study, based on solid scientific evidence. It seems to me that is a more reasonable and balanced approach to solving this problem. And we are not even convinced. The data doesn't even say this problem is as big and as urgent as those who are advocating this bill are.

So I recommend a "no" vote on this amendment, even though I know it is technical in nature. But I think we should ultimately vote on the Wilson amendment in support of it, and then I think we should pass the bill. But if the Wilson amendment does not pass, we should vote this bill down. Because Congress is not an expert on this and we should know our limitations and we should let the proper agencies with the scientists and the experts make the rulemaking on something so micro-technical as micro-popcorn.

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

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself the balance of my time.

I find it rather incredible that the gentleman from Georgia would come down and ridicule the idea that Congress would act in this matter when there has been such malfeasance by OSHA, by the Bush administration, and by the oversight of this Congress. I guess you can try to make light of it if you don't want to take responsibility for your actions.

What we are recommending today in this legislation is what NIOSH recommended for the protection of these

workers in 2003, and it didn't happen, and nobody on the other side of the aisle asked the question: Why? So now we have workers who have worked in popcorn factories and maybe now in other manufacturing facilities that are losing their lung capacity, that are seeking lung transplants, that have died and have a disease that is called "grotesque" by the medical profession and who suggest, when you get this, it is the equivalent of the damage to your lungs if you inhaled acid.

There may be something trite in that, there may be something cavalier in that, but I don't see it. I don't see it. These families, these workers, are asking for our help. These workers are dying.

□ 1345

The industry has tried and is asking for our help. The labor unions are asking for our help. The scientists are asking for our help.

The gentleman would make light of this. He ought to talk to the families who have had members who have died or who have been severely impaired or are hoping that they can get a lung transplant before they die so they might have a chance to see their children and their grandchildren grow up and enjoy their family. It's not to be made light of.

There's a great deal of malfeasance here by this administration, by OSHA, by the Department of Labor and by failure to have oversight on this in this committee. They ought not to come to this floor and make light of this measure. This is about people's lives and about their health and about their well-being, and we should pass this amendment. We should reject the next amendment and we should pass this legislation.

Mr. Chairman, I yield back my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GEORGE MILLER).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. WILSON OF SOUTH CAROLINA

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 110-349.

Mr. WILSON of South Carolina. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. WILSON of South Carolina:

Page 6, line 18, strike "the date of enactment of this Act," and insert "the National Institute for Occupational Safety and Health concludes there is sufficient data to support a recommended exposure limit and establishes such recommended exposure limit,".

The CHAIRMAN. Pursuant to House Resolution 678, the gentleman from South Carolina (Mr. WILSON) and the gentleman from California (Mr. GEORGE MILLER) each will control 5 minutes.

The Chair recognizes the gentleman from South Carolina.

Mr. WILSON of South Carolina. Mr. Chairman, my amendment is very straightforward. This would ensure that the Occupational Safety and Health Administration, OSHA, sets a permissible exposure limit as directed by the underlying bill, which can be relied in science.

I offered this amendment in the Education and Labor Committee, and we agreed to work together to see if we could reach an agreement. Between committee action and today, we were unable to reach an agreement on the timeframe addressed by my amendment. So I'm offering it for floor consideration.

I understand my colleagues' goal is to set a standard for a substance that appears to be harming manufacturing workers in and around microwave popcorn manufacturing facilities. I know the well-meaning intention of their efforts. Unfortunately, I do not share their belief that this legislation will accomplish that goal.

First, there is widespread concern that while diacetyl is unquestionably a marker, it is not the sole cause of lung impairment in these workers. In addition to this, however, this bill would regulate diacetyl and require a standard to be set based on little or no available science. In other words, if a food manufacturing facility substitutes diacetyl with another flavoring chemical, there is no guarantee that that chemical is not the one making manufacturing workers sick.

Technically, the bill before us requires OSHA to set an interim final rule for diacetyl manufacturers and microwave popcorn plants to implement engineering controls for diacetyl exposure. It then directs OSHA to set a standard that will apply to all food manufacturing facilities. The expansion of coverage from the interim rule to the final rule and the time frame of 2 years in which OSHA is given to set the standard will impact OSHA's ability to follow the appropriate legal guidelines that would apply to a normal rulemaking.

All my amendment does is ensure that OSHA promulgates a regulation with appropriate stakeholder input and the science to establish a technically feasible permissible exposure limit. Also, I would note that OSHA announced Monday that it would undertake a rulemaking on this substance.

I should note that there is a great deal of ongoing research and data gathering concerning the health effects of diacetyl. For example, the National Institute for Occupational Safety and Health is working to improve measuring diacetyl, while the National Jewish Medical Center is working to gather data from workers about lung function. California OSHA also is working with the industry to gather the much-needed information to set a standard. Without any conclusive evidence, which has yet to be generated by any

source at this point in time, we are putting the cart before the horse, and because of this, I respectfully urge my colleagues to support this amendment.

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

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

Ms. WOOLSEY. Mr. Chairman, this amendment ensures that OSHA can continue to slow-walk a final rulemaking on diacetyl exposure for all workers. Hundreds of workers are exposed to diacetyl, and they've fallen ill with this debilitating lung disease that, as the chairman told you, was equivalent to inhaling acid. Can you imagine what their lungs look like and why at the age of 30 a young father has to have a double lung transplant, and maybe that won't even save his life?

The amendment removes the requirement that OSHA complete final rulemaking within 2 years of enactment of this legislation.

Under this amendment, the final rule would not be required to be completed until 2 years after NIOSH makes a finding that there's sufficient data to support a recommended exposure limit. NIOSH has already told us that they know this is something that they support and diacetyl should be and must be controlled. If NIOSH is delayed, more workers, including the workers we're talking about today, will be unprotected.

While workers in popcorn and flavoring facilities would be protected under the emergency standard, workers in other parts of the food industry where diacetyl is being used would be left unprotected for an indeterminate number of years. Not days, not months, but years. One food manufacturer, for example, recently announced a new line of artificial butter containing diacetyl despite its hazards to workers. Those workers would lose protections because of the Wilson amendment.

This interim rule, Mr. Chairman, covers a narrow band of workers, popcorn workers and flavoring facilities. By slow-walking this final rulemaking, as Mr. WILSON's amendment would allow, other workers exposed to diacetyl will continue to get sick. They will continue to die.

Vote "no" on any further delay to workplace safety rules.

Mr. WILSON of South Carolina. Mr. Chairman, may I inquire as to the time remaining?

The CHAIRMAN. The gentleman from South Carolina (Mr. WILSON) has 2 minutes remaining. The gentleman from California (Mr. GEORGE MILLER) has 2½ minutes remaining.

Mr. WILSON of South Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. MCKEON), the distinguished ranking committee member.

Mr. MCKEON. Mr. Chairman, I thank the gentleman for yielding and for his work on this amendment.

We're kind of facing a dilemma. I think both of us, both sides, want to protect workers. However, we want to make sure that they're protected by sound science.

This amendment immediately starts the 90-day rule which would protect people from diacetyl, those working on popcorn or other products, and then it requires that within the 2 years they have the final rule based on sound science. I think that this amendment would solve the dilemma to make sure that if diacetyl isn't the only cause, we have the time to find the science to make sure that the workers really are protected. We may find that diacetyl and diacetyl alone is the cause, but if not and we have moved forward just on diacetyl, these workers will think they're protected, and in the long run they will not be. And this is why we're really concerned. We move quickly to provide the 90-day rule, but then allow the time within the 2 years to base the final ruling on sound science.

For that reason, I ask that we support the gentleman's amendment that would fix this bill.

Mr. GEORGE MILLER of California. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from California has 2½ minutes remaining.

Mr. GEORGE MILLER of California. And the gentleman has the right to close on his amendment; is that correct?

The CHAIRMAN. The gentleman from South Carolina has 30 seconds remaining. The gentleman from California has the right to close.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself 2 minutes.

This amendment was offered in committee, and we rejected the amendment, and we offered to work with the gentleman. We've had a series of discussions, and he's been involved and staff have been involved in the discussions, but at the end of the day the simple fact was that they would not agree to any deadlines for NIOSH or OSHA to act in this amendment.

We think the timetables that are in the legislation are very important. If we take off these timetables, all of the past evidence suggests that OSHA and NIOSH will sort of turn to norm and, once again, we will have an open-ended process here where there isn't an urgency about the impacts of diacetyl.

We know what diacetyl does. That's become very clear. We don't know about everything else in the workplace. We don't know about everything else in the workplace, but we know what this very bad chemical can do to people and what it's causing for them to do it.

And so we lay out NIOSH to do it. They've already recommended the manufacturers are laid out. Then OSHA will do the final rulemaking. If they come back and say they can't do it, that's their scientific evidence.

We're not putting a legislative prescription on them, but what we are insisting is they address it and they address it now and they address it on the evidence that is here and emerging and that they make a decision and they protect these workers.

That's what this legislation is about, and that's what this amendment would negate.

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

Mr. WILSON of South Carolina. Mr. Chairman, again, I urge adoption of the amendment. I want to commend my colleagues again for their good intentions.

I would like to restate that as a former member of the State board of the American Lung Association for a number of years, I've had a long-time concern about lung illnesses. I sincerely believe that the amendment that I have, which provides that action would be taken upon scientific evidence, is in the interest of the manufacturing workers in the United States.

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

Mr. GEORGE MILLER of California. Mr. Chairman, I urge Members of the House to vote against the Wilson amendment and then to support the legislation. If we adopt the Wilson amendment, we're going right back to the status quo, and the status quo is killing these workers in these facilities. And we have the ability to stop it with this legislation.

We should stop it now. We should not any longer empower OSHA to continue to drag their feet and ignore the health and the safety of these workers and their families.

I urge a "no" vote on the Wilson amendment and an "aye" vote on the legislation.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. WILSON).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WILSON of South Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 233, not voting 15, as follows:

[Roll No. 912]

AYES—189

Aderholt Blunt Burton (IN)  
 Akin Boehner Buyer  
 Alexander Bonner Calvert  
 Altmire Bono Camp (MI)  
 Bachmann Boozman Campbell (CA)  
 Baker Boren Cannon  
 Barrett (SC) Boustany Cantor  
 Bartlett (MD) Boyd (FL) Capito  
 Barton (TX) Brady (TX) Carney  
 Bean Broun (GA) Carter  
 Biggert Brown (SC) Castle  
 Bilbray Brown-Waite, Chabot  
 Bilirakis Ginny Coble  
 Bishop (UT) Buchanan Cole (OK)  
 Blackburn Burgess Conaway

Costa Inglis (SC)  
 Cramer Issa  
 Crenshaw Johnson, Sam  
 Cuellar Jordan  
 Culberson Kellam  
 Davis (KY) King (IA)  
 Davis, David Kingston  
 Davis, Tom Kline (MN)  
 Deal (GA) Knollenberg  
 Dent LaHood  
 Diaz-Balart, L. Lamborn  
 Diaz-Balart, M. Latham  
 Donnelly Lewis (CA)  
 Doolittle Lewis (KY)  
 Drake Linder  
 Dreier Lucas  
 Duncan Lungren, Daniel  
 Ehlers E.  
 Ellsworth Mack  
 Emerson Mahoney (FL)  
 Everett Manzullo  
 Fallin Marchant  
 Feeney McCarthy (CA)  
 Flake McCaul (TX)  
 Forbes McCotter  
 Fortenberry McCrery  
 Fortuño McHenry  
 Fossella McKeon  
 Franks (AZ) McMorris  
 Gallegly Rodgers  
 Garrett (NJ) Mica  
 Gerlach Miller (FL)  
 Gingrey Miller (MI)  
 Gohmert Miller, Gary  
 Goode Moran (KS)  
 Goodlatte Murphy, Tim  
 Granger Myrick  
 Graves Neugebauer  
 Hall (TX) Nunes  
 Hastert Paul  
 Hastings (WA) Pearce  
 Hayes Perlmutter  
 Heller Peterson (PA)  
 Hensarling Petri  
 Hobson Pickering  
 Hoekstra Pitts  
 Hulshof Platts  
 Hunter Poe

NOES—233

Abercrombie DeLauro Johnson (GA)  
 Allen Dicks Johnson (IL)  
 Andrews Dingell Jones (NC)  
 Arcuri Doggett Jones (OH)  
 Baca Doyle Kagen  
 Baird Edwards Kanjorski  
 Baldwin Ellison Kaptur  
 Barrow Emanuel Kennedy  
 Becerra Engel Kildee  
 Berkley English (PA) Kilpatrick  
 Berman Eshoo Kind  
 Berry Etheridge King (NY)  
 Bishop (GA) Faleomavaega Kirk  
 Bishop (NY) Farr Klein (FL)  
 Blumenauer Fattah Kuhl (NY)  
 Bordallo Ferguson Lampson  
 Boswell Filner Langevin  
 Boucher Frank (MA) Lantos  
 Boyda (KS) Frelinghuysen Larsen (WA)  
 Brady (PA) Giffords Larson (CT)  
 Braley (IA) Gilchrest LaTourette  
 Brown, Corrine Gillibrand Lee  
 Butterfield Gonzalez Levin  
 Capps Green, Al Lewis (GA)  
 Capuano Green, Gene Lipinski  
 Cardoza Grijalva LoBiondo  
 Carnahan Gutierrez Loebsack  
 Castor Hall (NY) Lofgren, Zoe  
 Chandler Hare Lowey  
 Christensen Harman Lynch  
 Clarke Hastings (FL) Maloney (NY)  
 Clay Herseht Sandlin Markey  
 Cleaver Higgins Marshall  
 Clyburn Hill Matheson  
 Cohen Hinchey Matsui  
 Conyers Hirono McCarthy (NY)  
 Cooper Hodes McColium (MN)  
 Costello Holden McDermott  
 Courtney Holt McGovern  
 Crowley Honda McHugh  
 Cummings Hooley McIntyre  
 Davis (AL) Hoyer McNerney  
 Davis (CA) Inslee McNulty  
 Davis (IL) Israel Meek (FL)  
 Davis, Lincoln Jackson (IL) Meeks (NY)  
 DeFazio Jackson-Lee Melancon  
 DeGette (TX) Jefferson Michaud  
 Delahunt Jefferson Miller (NC)

Miller, George  
 Mitchell Rothman  
 Mollohan Roybal-Allard  
 Moore (KS) Ruppertsberger  
 Moore (WI) Rush  
 Moran (VA) Ryan (OH)  
 Murphy (CT) Salazar  
 Murphy, Patrick Sánchez, Linda  
 Murtha T.  
 Nadler Sanchez, Loretta  
 Napolitano Sarbanes  
 Neal (MA) Saxton  
 Norton Schakowsky  
 Oberstar Schiff  
 Obey Schwartz  
 Olver Scott (GA)  
 Ortiz Scott (VA)  
 Pallone Serrano  
 Pascrell Sestak  
 Pastor Shays  
 Payne Shea-Porter  
 Peterson (MN) Sherman  
 Pomeroy Shuler  
 Price (NC) Sires  
 Rahall Skelton  
 Rangel Slaughter  
 Renzi Smith (NJ)  
 Reyes Smith (WA)  
 Reynolds Snyder  
 Richardson Solis  
 Rodriguez Space

Spratt  
 Stark  
 Stupak  
 Sutton  
 Tauscher  
 Taylor  
 Thompson (CA)  
 Thompson (MS)  
 Tierney  
 Towns  
 Udall (CO)  
 Udall (NM)  
 Van Hollen  
 Velázquez  
 Vislosky  
 Walz (MN)  
 Wasserman  
 Schultz  
 Watson  
 Watt  
 Waxman  
 Weiner  
 Welch (VT)  
 Wexler  
 Whitfield  
 Wilson (OH)  
 Woolsey  
 Wu  
 Wynn  
 Yarmuth

NOT VOTING—15

Ackerman Gordon Kucinich  
 Bachus Herger Musgrave  
 Carson Hinojosa Putnam  
 Cubin Jindal Souder  
 Davis, Jo Ann Johnson, E. B. Waters

□ 1427

Mr. SAXTON, Mrs. MALONEY of New York, Mr. SHULER, Ms. WASSERMAN SCHULTZ, and Mr. SCOTT of Georgia changed their vote from "aye" to "no."

Mrs. BLACKBURN and Messrs. HOEKSTRA, BUCHANAN, ALTMIRE, DONNELLY, and ELLSWORTH changed their vote from "no" to "aye." So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. There being no further amendments, 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. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ROSS) having assumed the chair, Mr. CARDOZA, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2693), to direct the Occupational Safety and Health Administration to issue a standard regulating worker exposure to diacetyl, pursuant to House Resolution 678, 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 any amendment to the amendment reported from the Committee of the Whole? If not, the question is on the amendment.

The amendment 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. GEORGE MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 260, nays 154, answered “present” 2, not voting 16, as follows:

[Roll No. 913]  
YEAS—260

Allen Frelinghuysen  
Altmire Gerlach  
Andrews Giffords  
Arcuri Gilchrest  
Baca Gillibrand  
Baird Gonzalez  
Baldwin Green, Al  
Barrow Green, Gene  
Bean Grijalva  
Becerra Gutierrez  
Berkley Hall (NY)  
Berman Hare  
Berry Harman  
Bilirakis Hastings (FL)  
Bishop (GA) Herseth Sandlin  
Bishop (NY) Higgins  
Blumenauer Hill  
Blunt Hinchey  
Boswell Hirono  
Boucher Hobson  
Boyd (KS) Hodes  
Brady (PA) Holden  
Braley (IA) Holt  
Brown, Corrine Honda  
Burgess Hooley  
Butterfield Hoyer  
Buyer Hulshof  
Capps Inglis (SC)  
Capuano Inslee  
Carnahan Israel  
Carney Jackson (IL)  
Castor Jackson-Lee  
Chandler (TX)  
Clarke Jefferson  
Clay Johnson (GA)  
Cleaver Johnson (IL)  
Clyburn Jones (NC)  
Cohen Jones (OH)  
Conyers Kagen  
Cooper Kanjorski  
Costa Kaptur  
Costello Kennedy  
Courtney Kildee  
Crowley Kilpatrick  
Cummings Kind  
Davis (AL) King (NY)  
Davis (CA) Kirk  
Davis (IL) Klein (FL)  
Davis, Lincoln Kuhl (NY)  
DeFazio LaHood  
DeGette Lampson  
Delahunt Langevin  
DeLauro Lantos  
Dent Larsen (WA)  
Dicks Larson (CT)  
Dingell LaTourette  
Doggett Lee  
Donnelly Levin  
Doyle Lewis (GA)  
Edwards Lipinski  
Ellison LoBiondo  
Ellsworth Loeb sack  
Emanuel Lofgren, Zoe  
Emerson Lowey  
Engel Lynch  
English (PA) Maloney (NY)  
Eshoo Markey  
Etheridge Marshall  
Farr Matsui  
Fattah McCarthy (NY)  
Ferguson McCollum (MN)  
Filner McCotter  
Fortenberry McDermott  
Fossella McGovern  
Frank (MA) McHugh

Space Spratt  
Stark  
Stupak  
Sutton  
Tauscher  
Taylor  
Terry  
Thompson (CA)  
Thompson (MS)  
Tiberi  
Tierney  
Townes

Abercrombie  
Aderholt  
Akin  
Alexander  
Bachmann  
Baker  
Barrett (SC)  
Bartlett (MD)  
Barton (TX)  
Biggart  
Bilbray  
Bishop (UT)  
Blackburn  
Boehner  
Bonner  
Bono  
Boozman  
Boren  
Boustany  
Boyd (FL)  
Brady (TX)  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burton (IN)  
Calvert  
Camp (MI)  
Campbell (CA)  
Cantor  
Capito  
Carter  
Castle  
Chabot  
Coble  
Cole (OK)  
Conaway  
Cramer  
Crenshaw  
Cuellar  
Culberson  
Davis (KY)  
Davis, David  
Davis, Tom  
Deal (GA)  
Diaz-Balart, L.  
Diaz-Balart, M.  
Doolittle  
Drake  
Dreier  
Duncan

ANSWERED “PRESENT”—2  
Cardoza

NOT VOTING—16  
Ackerman  
Bachus  
Carson  
Cubin  
Davis, Jo Ann  
Gordon  
Herger  
Hinojosa  
Jindal  
Johnson, E. B.  
Kucinich  
Putnam

□ 1449

So the bill was passed.  
The result of the vote was announced as above recorded.  
A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair may postpone further proceedings today on a motion to suspend the rules

Watt  
Waxman  
Weiner  
Welch (VT)  
Weller  
Wexler  
Wilson (OH)  
Woolsey  
Wu  
Wynn  
Yarmuth  
Young (FL)

NAYS—154

Miller (FL)  
Miller, Gary  
Moran (KS)  
Musgrave  
Myrick  
Neugebauer  
Nunes  
Paul  
Pearce  
Pence  
Peterson (PA)  
Petri  
Pickering  
Pitts  
Platts  
Price (GA)  
Pryce (OH)  
Radanovich  
Ramstad  
Rehberg  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Ros-Lehtinen  
Roskam  
Royce  
Ryan (WI)  
Sali  
Schmidt  
Sensenbrenner  
Sessions  
Shadegg  
Shuster  
Smith (NE)  
Smith (TX)  
Stearns  
Sullivan  
Tancredo  
Tanner  
Thornberry  
Tiahrt  
Walberg  
Wamp  
Weldon (FL)  
Westmoreland  
Wicker  
Wilson (NM)  
Wilson (SC)  
Wolf  
Young (AK)

on which a recorded vote or the yeas or nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

TMA, ABSTINENCE EDUCATION, AND QI PROGRAMS EXTENSION ACT OF 2007

Mr. GENE GREEN of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3668) to provide for the extension of transitional medical assistance (TMA), the abstinence education program, and the qualifying individuals (QI) program, and for other purposes.

The Clerk read the title of the bill.  
The text of the bill is as follows:

H.R. 3668

*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 “TMA, Abstinence Education, and QI Programs Extension Act of 2007”.

SEC. 2. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM THROUGH DECEMBER 31, 2007.

Section 401 of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109–432), as amended by section 1 of Public Law 110–48, is amended—

- (1) by striking “September 30” and inserting “December 31”;
- (2) by striking “for fiscal year 2006” and inserting “for fiscal year 2007”;
- (3) by striking “the fourth quarter of fiscal year 2007” and inserting “the first quarter of fiscal year 2008”;
- (4) by striking “the fourth quarter of fiscal year 2006” and inserting “the first quarter of fiscal year 2007”.

SEC. 3. EXTENSION OF QUALIFYING INDIVIDUAL (QI) PROGRAM THROUGH DECEMBER 2007.

(a) THROUGH DECEMBER 2007.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking “September 2007” and inserting “December 2007”.

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of such Act (42 U.S.C. 1396u–3(g)) is amended—

- (1) in paragraph (2)—
- (A) by striking “and” at the end of subparagraph (F);
- (B) by striking the period at the end of subparagraph (G) and inserting “; and”;
- (C) by adding at the end the following new subparagraph:

“(H) for the period that begins on October 1, 2007, and ends on December 31, 2007, the total allocation amount is \$100,000,000.”;

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking “or (F)” and inserting “(F), or (H)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as of September 30, 2007.

SEC. 4. EXTENSION OF SSI WEB-BASED ASSET DEMONSTRATION PROJECT TO THE MEDICAID PROGRAM.

(a) IN GENERAL.—Beginning on October 1, 2007, and ending on September 30, 2012, the Secretary of Health and Human Services shall provide for the application to asset eligibility determinations under the Medicaid program under title XIX of the Social Security Act of the automated, secure, web-based asset verification request and response process being applied for determining eligibility

for benefits under the Supplemental Security Income (SSI) program under title XVI of such Act under a demonstration project conducted under the authority of section 1631(e)(1)(B)(ii) of such Act (42 U.S.C. 1383(e)(1)(B)(ii)).

(b) **LIMITATION.**—Such application shall only extend to those States in which such demonstration project is operating and only for the period in which such project is otherwise provided.

(c) **RULES OF APPLICATION.**—For purposes of carrying out subsection (a), notwithstanding any other provision of law, information obtained from a financial institution that is used for purposes of eligibility determinations under such demonstration project with respect to the Secretary of Health and Human Services under the SSI program may also be shared and used by States for purposes of eligibility determinations under the Medicaid program. In applying section 1631(e)(1)(B)(ii) of the Social Security Act under this subsection, references to the Commissioner of Social Security and benefits under title XVI of such Act shall be treated as including a reference to a State described in subsection (b) and medical assistance under title XIX of such Act provided by such a State.

**SEC. 5. 6-MONTH DELAY IN REQUIREMENT TO USE TAMPER-RESISTANT PRESCRIPTION PADS UNDER MEDICAID.**

Effective as if included in the enactment of section 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110-28, 121 Stat. 187), paragraph (2) of such section is amended by striking "September 30, 2007" and inserting "March 31, 2008".

**SEC. 6. ADDITIONAL FUNDING FOR THE MEDICARE PHYSICIAN ASSISTANCE AND QUALITY INITIATIVE FUND.**

Section 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w-4(1)(2)) is amended—

(1) in subparagraph (A), by adding at the end the following: "In addition, there shall be available to the Fund for expenditures during 2009 an amount equal to \$325,000,000 and for expenditures during or after 2013 an amount equal to \$60,000,000"; and

(2) in subparagraph (B)—

(A) in the heading, by striking "FURNISHED DURING 2008";

(B) by striking "specified in subparagraph (A)" and inserting "specified in the first sentence of subparagraph (A)"; and

(C) by inserting after "furnished during 2008" the following: "and for the obligation of the entire first amount specified in the second sentence of such subparagraph for payment with respect to physicians' services furnished during 2009 and of the entire second amount so specified for payment with respect to physicians' services furnished on or after January 1, 2013".

**SEC. 7. LIMITATION ON IMPLEMENTATION FOR FISCAL YEARS 2008 AND 2009 OF A PROSPECTIVE DOCUMENTATION AND CODING ADJUSTMENT IN RESPONSE TO THE IMPLEMENTATION OF THE MEDICARE SEVERITY DIAGNOSIS RELATED GROUP (MS-DRG) SYSTEM UNDER THE MEDICARE PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT HOSPITAL SERVICES.**

(a) **IN GENERAL.**—In implementing the final rule published on August 22, 2007, on pages 47130 through 48175 of volume 72 of the Federal Register, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall apply prospective documentation and coding adjustments (made in response to the implementation of a Medicare Severity Diagnosis Related Group (MS-DRG) system under the hospital inpatient prospective payment system under

section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) of—

(1) for discharges occurring during fiscal year 2008, 0.6 percent rather than the 1.2 percent specified in such final rule; and

(2) for discharges occurring during fiscal year 2009, 0.9 percent rather than the 1.8 percent specified in such final rule.

(b) **SUBSEQUENT ADJUSTMENTS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, if the Secretary determines that implementation of such Medicare Severity Diagnosis Related Group (MS-DRG) system resulted in changes in coding and classification that did not reflect real changes in case mix under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) for discharges occurring during fiscal year 2008 or 2009 that are different than the prospective documentation and coding adjustments applied under subsection (a), the Secretary shall—

(A) make an appropriate adjustment under paragraph (3)(A)(vi) of such section 1886(d); and

(B) make an additional adjustment to the standardized amounts under such section 1886(d) for discharges occurring only during fiscal years 2010, 2011, and 2012 to offset the estimated amount of the increase or decrease in aggregate payments (including interest as determined by the Secretary) determined, based upon a retrospective evaluation of claims data submitted under such Medicare Severity Diagnosis Related Group (MS-DRG) system, by the Secretary with respect to discharges occurring during fiscal years 2008 and 2009.

(2) **REQUIREMENT.**—Any adjustment under paragraph (1)(B) shall reflect the difference between the amount the Secretary estimates that implementation of such Medicare Severity Diagnosis Related Group (MS-DRG) system resulted in changes in coding and classification that did not reflect real changes in case mix and the prospective documentation and coding adjustments applied under subsection (a). An adjustment made under paragraph (1)(B) for discharges occurring in a year shall not be included in the determination of standardized amounts for discharges occurring in a subsequent year.

(3) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed as—

(A) requiring the Secretary to adjust the average standardized amounts under paragraph (3)(A)(vi) of such section 1886(d) other than as provided under this section; or

(B) providing authority to apply the adjustment under paragraph (1)(B) other than for discharges occurring during fiscal years 2010, 2011, and 2012.

(4) **JUDICIAL REVIEW.**—There shall be no administrative or judicial review under section 1878 of the Social Security Act (42 U.S.C. 1395oo) or otherwise of any determination or adjustments made under this subsection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GENE GREEN) and the gentleman from Georgia (Mr. DEAL) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

**GENERAL LEAVE**

Mr. GENE GREEN of Texas. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

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

There was no objection.

Mr. GENE GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring forward H.R. 3668, the TMA Abstinence, Education, and QI Programs Extension Act of 2007, a bill to protect the health of Americans, both young and old.

The Transitional Medical Assistance program assists mothers who are transitioning off of welfare and into the workforce. Unfortunately, these working parents often find themselves in low-income jobs that do not offer health insurance. The TMA program extends Medicaid coverage to these vulnerable individuals for up to 1 year. The TMA expires on September 30, and this bill extends it for one additional quarter.

Along with the TMA extension is a one-quarter extension of the Abstinence Education program. In addition, the bill provides a one-quarter extension of the Qualifying Individual (QI) program. The QI program provides Medicare part B premium assistance to low-income seniors, helping ensure Medicare remains affordable for more than 200,000 seniors.

The legislation also includes provisions that will provide immediate relief to hospitals threatened by regulatory cuts, and a 6-month delay of the recently enacted requirement that all Medicaid prescriptions be written on tamper-resistant paper in order to be eligible for reimbursement. This latter provision postpones what would otherwise take effect on October 1, causing significant disruption in access to medicines. This will give pharmacies and physicians more time to prepare for the new requirement.

Finally, the bill invests an additional \$385 million into the Medicare Physician Assistance and Quality Initiative Fund. This funding is used to improve care for millions of seniors and people with disabilities in Medicare.

These critical programs are fully funded under PAYGO by an item in the President's budget that extends the current Web-based SSI Asset Demonstration program to Medicaid in the two States in which it is currently operating. This demonstration program would be funded for 5 years.

Finally, this legislation extends and improves programs that are of critical importance to Americans young and old, and I ask my colleagues to join me in supporting this bill.

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

Mr. DEAL of Georgia. Mr. Speaker, I rise today in support of the bill before us which extends Transitional Medical Assistance and the Title V Abstinence Education programs, and the Qualified Individuals programs, more commonly referred to as QI-1 program. I am pleased that the Congress can work together toward extending the funding for these particular programs.

I support the reauthorization of Title V Abstinence Education program, a program that provides resources to

educate our Nation's youth about the benefits of an abstinent lifestyle. I'm sure many of my colleagues have heard, as I have, from the numerous programs within my State that rely on this Federal funding. They believe in the program, and they hope to continue providing abstinence educational opportunities to local teens.

The QI-1 program provides money to States to pay the Medicare part B premiums of low-income beneficiaries ineligible for Medicaid. Without this relief, the low-income beneficiaries enrolled in this program would have to start paying for their part B premiums, which have risen over the past few years due to overspending in Medicare.

I am supportive of extending this program in order that we may continue to provide assistance for our low-income seniors and beneficiaries as we've done in such a bipartisan manner each year for the past several years.

This bill also corrects a provision that was included in a bill for money for our troops in Iraq passed earlier this year. There is a provision in that bill that denies payment for any Medicaid prescription that isn't written on a Secretary-approved, tamper-resistant drug pad. Since then, we've heard from doctors, nurses, pharmacists and State health officials across the Nation that the October 1 implementation deadline required by that bill is much too soon. I am pleased we are affording our Nation's health care providers the flexibility needed to properly implement this new requirement so as not to jeopardize access to care for our Medicaid beneficiaries.

In addition, this package includes \$385 million in new funding for the Medicare Physician Assistance and Quality Initiative fund created by last year's tax relief bill. That fund provides bonus payments to physicians for reporting on quality measures this year, and includes over \$1 billion set aside for bonus payments in 2008. I am pleased to see this fund extended into 2009 and beyond.

It is a bipartisan recognition that incentivizing physicians to provide quality, efficient and effective health care holds the promise of a better Medicare physician reimbursement system, one that reflects accountability for the type and volume of Medicare services. The Physician Assistance and Quality Initiative fund that we put in place last year takes an important first step in that direction, and I'm happy to see that the House Democrats agree with that position.

In closing, I would like to reiterate my support for the bill and encourage my colleagues to do the same.

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

Mr. GENE GREEN of Texas. Mr. Speaker, I yield whatever time he may consume to our colleague from the Ways and Means Committee, Chairman STARK.

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

Mr. STARK. I thank the gentleman for yielding.

The Ways and Means Committee has an interest in several of the issues in this bill, and we support the bill. The protection of low-income seniors in Medicare deals with people between \$12,252 and \$13,782 in income. And when their part B premium is \$1,122, they need that protection, and extends that through December 31.

The Abstinence Education program is one that is very important to the Democrats. We've extended it on the theory that if we really enforce this abstinence education, there will be fewer Republicans. So, we support that big time.

The Hospital Perspective Payment System regulation is one of the most important to our hospital community, and we have changed the way we will collect the funds from the hospitals and not collect it all up front. We will collect part of it up front, and then wait until later in the 5-year cycle to see how they behave to collect the balance, which will create less of a financial burden on the hospitals across the country.

I thank all the people who have worked to make this more acceptable for the hospitals.

The 2008 final regulation that governs inpatient hospital payments under Medicare makes important, long-overdue refinements to the system by differentiating payments based on the severity of illness.

In doing so, practice shows that hospital payments are likely to increase hospitals will get smarter about how the document and code their patient cases. There is nothing inappropriate about this behavior, but in order to remain budget neutral, the regulation includes a "behavioral offset". The offset was designed to counterbalance the increased spending expected from using the severity-adjusted payments.

I want to be clear that the Committee supports both efforts in the regulation—moving to severity-adjusted groupings and the so-called "behavioral offset." However, the regulation includes a prospective adjustment.

Questions have been raised about the size of the adjustment and whether it should be prospective or retrospective. Those are fair questions, and it seems that a retrospective adjustment would make a lot of sense. However, we are advised it may take CMS up to two years to gather the necessary data.

Given historical payment and coding patterns, we feel it is appropriate to have an interim policy—rather than simply voiding this part of the regulation. As such, this legislation requires a reduction of 0.6 percent in 2008 and 0.9 percent in 2009.

Even with that "down payment" from the hospitals, we are concerned that the data in 2010 could indicate a need for a substantial reduction to fully recoup the extra spending that occurs in the next two years. I want to be clear that we have talked with hospitals about this possibility and raised with them the difficulty of addressing that when the time comes. This exercise may simply be forestalling the inevitable, not erasing an unwanted reduction.

We are limiting the amount of the offset now, in order to spread out the payments over

time. When that time comes, I do not want to hear complaints about the eventual amount of this adjustment when it comes on-line down the road.

Mr. DEAL of Georgia. Mr. Speaker, I have no other requests for time. I reserve the balance of my time at this point.

Mr. GENE GREEN of Texas. Mr. Speaker, I would like to yield to our colleague from Ohio, CHARLES WILSON, whatever time he may consume.

Mr. WILSON of Ohio. Mr. Speaker, I rise in support of this bill. It contains language that I introduced to help us avoid a case of unintended consequences.

This spring, a provision was slipped into the Iraq War Supplemental appropriation that requires Medicaid prescriptions to be written on tamper-resistant pads for Medicaid reimbursements starting October 1. The tamper-proof pad mandate was designed to fight fraud, and that's a good thing, but this October 1 deadline isn't enough time for States to inform providers and patients about the new requirements. This could mean patients are turned away from pharmacies as of this next week and their prescriptions not be filled. And that paper isn't widely available. Pharmacies that fill prescriptions not written on that special paper may be forced out of business if they're not getting reimbursed by Medicaid. All we need is a 6-month delay. The clock is ticking on this, and I'm asking for your help.

□ 1500

Mr. DEAL of Georgia. Mr. Speaker, I assume that the majority does not have any additional speakers. Therefore, I will close.

I would simply urge my colleagues to support the bill before us. It does some short-term extensions of some very vital programs. I think that is appropriate.

Mr. DINGELL. Mr. Speaker, I would like to speak briefly about the provision of this legislation which provides for a 3-month reauthorization of the Title V abstinence-only education block grant program.

On August 1 of this year, the House of Representatives passed legislation which made significant and responsible changes to the abstinence-only education programs. The House-passed legislation would have provided states with the flexibility to offer programs best suited to the needs and desires of their citizens and it would have ensured that Federal funds were being spent on effective programs that provide medically accurate information.

Sadly, those changes are not incorporated into the bill before us today because opponents of the House-passed abstinence language decided to hold hostage the important reauthorizations of TMA and Q1, in an effort to ensure that no improvements were made to the discredited abstinence-only programs.

Because it is absolutely necessary that we reauthorize TMA and Q1, the abstinence-only education changes were sacrificed for now. Let me be clear: I am dismayed that the House-passed abstinence-only language was omitted from this legislation and I will continue

to fight for those important, responsible, and necessary changes in the coming months.

Mr. WELLER of Illinois. Mr. Speaker, H.R. 3668 contains temporary extensions of several important programs that affect low-income families with children. I urge its passage.

The subcommittee on which I am the ranking Republican, the Ways and Means Subcommittee on Income Security and Family Support, oversees the Nation's welfare, child care, and related programs designed to promote and support work by low-income families. It is important to extend the critical supports Congress enacted in recent years to advance those goals, such as the Transitional Medical Assistance program continued under this bill. I am all for that. Every Member should support that.

This legislation also extends the Abstinence Education program, which supports efforts to prevent teenage pregnancy and premarital sexual activity, with a goal of reducing the childbearing outside marriage. Childbearing outside marriage is directly associated with higher poverty rates and ultimately greater welfare receipt and dependence. All Members should support measures designed to reduce the chances children are raised in poverty.

The legislation has other important features, like an extension of the Qualified Individuals program that provides Medicare premium assistance to certain low-income beneficiaries. However, I would like to draw the House's attention to one provision that, as currently drafted, may not achieve the intended effect and thus may not result in the savings suggested by the CBO scoring of this legislation.

This provision appears in section 4 of the legislation, titled "Extension of SSI Web-Based Asset Demonstration Project to the Medicaid Program." The Social Security Administration, SSA, currently is operating a project testing ways to improve asset verification under the Supplemental Security Income, SSI, program. The current project seeks to make sure that SSI applicants are accurately reporting all the assets, like personal savings accounts, to which they can and should turn for support before expecting monthly SSI checks from taxpayers. Since SSI is a means-tested benefit program, it only makes sense to focus benefits on those who don't have a large amount of personal savings, for example, on which to depend.

In recent years, the SSA project has tested comparing individuals' self-reports of their savings account assets with actual bank records. This effort has already produced significant savings in the few States where it has been applied, including uncovering some individuals with tens of thousands or even hundreds of thousands of dollars in undisclosed assets. So it makes sense to expand this effort to include other means-tested programs, as the legislation proposes, including the expensive Medicaid program.

However, it is my understanding that the legislative language in H.R. 3668 includes a number of drafting flaws that will effectively prevent the proposed expansion of this asset verification project from being achieved. Problems include a lack of reference in the legislative language to the need to obtain written consent from individuals for the purpose of obtaining information for the Medicaid program. This may prevent banks from sharing such information with Medicaid officials as would be required to actually expand the current project

as proposed. Such "consent" language exists under the current SSI program as required by the Right to Financial Privacy Act, but not in H.R. 3668.

Even if this provision were to work as intended, it is noteworthy that nowhere does this legislation provide for reimbursement of Social Security Administration administrative costs that would inevitably result. SSA is already seeking additional administrative funds to address growing disability claims backlogs as well as handle its current duties, which include serving millions of America's seniors, including the rising numbers applying for retirement and disability benefits as the Baby Boom generation heads into retirement in the coming years. It is my understanding that the authors of this legislation consulted with SSA on such technical issues during the drafting process, and opted against implementing any of the SSA suggestions.

Because of that, while the current CBO score suggests this legislation is paid for, I am afraid that the real world experience of these provisions will not reflect that optimistic forecast. If that turns out to be correct, the legislation before the House today will not satisfy the pay-as-you-go requirements of this body, which require that increases in spending by fully paid for by such as by offsetting spending cuts. And some individuals will obtain Medicaid benefits for which they should not have qualified.

While it may be too late to correct the drafting errors in this particular bill, I urge my colleagues especially on the House Energy and Commerce and the Senate Finance Committees, which have jurisdiction over Medicaid law, to revisit this legislative language and make the appropriate changes at the next available opportunity. I do not disagree with their intent, but suggest the legislative text reflected in this bill will not result in the outcome they intend. Related language appears in legislation preauthorizing the State Children's Health Insurance Program, which as it continues to be acted on in the coming days would serve as a worthy vehicle for making the appropriate changes to ensure the will of the House is carried out, and misspending under the Medicaid program is minimized as the House intends with this legislation.

Mr. DEAL of Georgia. I yield back the balance of my time and urge the approval of the bill.

Mr. GENE GREEN of Texas. Mr. Speaker, I yield back the balance of my time and encourage our fellow Members to pass H.R. 3668 and the extension.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. GENE GREEN) that the House suspend the rules and pass the bill, H.R. 3668.

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

A motion to reconsider was laid on the table.

#### BARBARA KAUFMAN EULOGY

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Mr. Speaker, we have lost a popular and well-educated school

administrator who was an outstanding student and gifted in music. Early on, her teachers would say of her, "She could walk amongst kings and not lose her common touch." She moved easily among people, singing her way into star status, and even appeared on an early TV version of "Star Search." Using her own talents of fashion, decorating and cooking, she was a role model for her students.

Barbara Kaufman was a special education administrative secretary for Los Angeles County Schools for over 25 years. She was a champion for the rights of children with special needs and deeply loved working in her chosen profession. In addition, Barbara volunteered in the political campaigns of myself, and she accepted any job that would add to the improvement of the people's social, political and economic conditions.

After many bouts with illness, Barbara's activities were limited. However, she participated as much as possible in her church, particularly enjoying Bible study and prayer support groups. Barbara Kaufman was a woman for all seasons and a witness for Christ.

A life so well lived has to be recognized by our Congress so the record will show her life as a role model for others. BJ's star will forever shine in the lives of those who knew and loved her.

#### SPECIAL ORDERS

The SPEAKER pro tempore (Mr. WILSON of Ohio). Under the Speaker's announced policy of January 18, 2007, 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 Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

(Mr. CUMMINGS 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 Texas (Mr. POE) is recognized for 5 minutes.

(Mr. POE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### OPPOSING EXTENSION OF HABEAS CORPUS RIGHTS TO ALIEN ENEMY COMBATANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIEL E. LUNGREN) is recognized for 5 minutes.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, today in the Judiciary Committee we were supposed to mark up H.R. 2826. I was informed that the Judiciary Committee has postponed this to a time uncertain. This was also to be the day that that bill or

a similar bill was to be marked up in the Armed Services Committee. That was postponed as well.

The bill, H.R. 2826, was to deal with an issue that is unprecedented and, I would say, unnecessary. And while I am pleased that there was a postponement of consideration of the bill today, I would hope that those on the other side of the aisle who control the schedule both on this floor and in committees would reconsider this bill or any similar bill because this bill is an effort to extend habeas corpus rights to alien enemy combatants. It is a dramatic departure not only from the language of the Detainee Treatment Act, which was passed by this House and the Senate and signed by the President, but from longstanding principles in our Anglo-American legal tradition. As the United States Supreme Court recognized in the *Johnson v. Eisentrager* case, there is "no instance where a court in this or any other country where the writ is known issued it on behalf of an alien enemy."

What possible reason could we give to the American people and to our troops currently involved in combat for giving al Qaeda and Taliban detainees rights that have never been given to alien enemy combatants in the history of armed conflict? Never. I underscore "never."

Was the Greatest Generation wrong for its failure to accord habeas rights to the more than 425,000 enemy combatants held inside the United States during World War II? We held well over a million, I believe it was over 2 million POWs around the world. But we held 425,000 of them in the United States. Imagine if we had granted them the right to habeas corpus access to our Federal courts. Not only would it have cluttered all of the Federal courts in this land, but it would have had judges making decisions on combat issues rather than the Commander in Chief and our military as we have always recognized since the founding of this Republic.

In responding to the argument that the writ extends to alien enemy combatants, Justice Jackson of the Supreme Court said, "No decision of this court supports such a view. None of the learned commentators on our Constitution has ever hinted at it. The practice of every modern government is opposed to it."

So I want people to understand, Mr. Speaker, that when we are to consider this in the Judiciary Committee and the Armed Services Committee, we are doing something so fundamentally drastic, so different from anything that has ever been done in the history of this Nation. We are opening the gates to the full panoply of rights under the Federal habeas corpus statute. Complex evidentiary hearings, the rules of civil procedure, rules of evidentiary custody are understandable in relation to the protection of the constitutional rights of Americans where evidence and witnesses are more accessible.

But are we willing to force our men and women in uniform to cross-examination, to depositions or to interrogatories as outlined in the Federal habeas statute? The availability of the habeas corpus remedy may serve the interest of justice with respect to U.S. prisoners; however, it is a blunt instrument. As Justice Frankfurter observed in *McCleskey v. Zant*, "The writ has potentialities for evil as well as for good. Abuse of the writ may undermine the orderly administration of justice." It has no relevance here and presents the prospect of abuse. It is for that reason that from time immemorial, habeas relief has not been extended to alien enemy combatants captured outside the realm of the sovereign.

We must reject the notion that we can fight the war on terrorism with platoons of lawyers. It was stunning to learn that prior to the Detainee Treatment Act, some detainee attorneys sought the wholesale disruption of interrogations. In a telling revelation, one detainee lawyer boasted in public that "the litigation is brutal. It's huge. We have over 100 lawyers now from big and small firms working to represent the detainees. Every time an attorney goes down there, it makes it that much harder to do what they're doing. You can't run an interrogation with attorneys. What are they going to do now that we're getting court orders to get more lawyers down there?"

That is why we changed the law and to have two committees in this House now to say we should change it back is irresponsible. We should not do this.

□ 1515

#### TERRIBLE NEW THREATS TO OUR NATIONAL SECURITY AND THE SAFETY OF THE AMERICAN PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, we have learned in the last few days and weeks about terrible new threats to our national security and the safety of the American people.

On August 29, a B-52 bomber accidentally flew six nuclear warheads across the country with a combined power of 60 Hiroshima A-bombs. Imagine the horror, the destructive power of 60 Hiroshima A-bombs flying over the American heartland on a course that took them near Minneapolis, Des Moines, Omaha, Kansas City, St. Louis, Tulsa and Little Rock.

Then, on September 16, we learned that American military contractors in Iraq were involved in the shooting deaths of 11 innocent Iraqi civilians in a Baghdad square.

Was it a case of American military contractors gone wild? We don't know for sure yet. But it is becoming increasingly clear that the vast army of 180,000 military contractors in Iraq are

not being held accountable for their actions and often make things more difficult for our troops in Iraq. A senior U.S. military official told the Washington Post that the incident in Baghdad was "a nightmare. This is going to hurt us badly. It may be worse than Abu Ghraib."

And then on September 22, the press reported that Federal prosecutors are investigating charges that the military contractors involved in the Baghdad incident, Blackwater U.S.A., smuggled weapons into Iraq that may have been sold on the black market and ended up in the hands of terrorists.

Mr. Speaker, we must take immediate action to improve our security. The accidental flight of A-bombs over our homeland should remind us that America must return to a policy of nuclear nonproliferation. This administration has abandoned our decades-old commitment to nonproliferation, and that has been a terrible mistake.

We must also end the occupation of Iraq. Secretary of Defense Robert Gates announced today that he will try to strengthen the Pentagon's oversight of the contractors. This is a welcome step, but it doesn't solve the real problem. The real problem is that we need military contractors, because our forces are stretched to the limit in Iraq and beyond. The only solution is to end the occupation.

In testimony prepared for delivery before Congress today, Secretary Gates asked for additional funds for the occupation. We must tell him no. The occupation is hurting America politically, economically and morally. The American people deserve better. Congress has the power of the purse, and it is the only real tool we have to force the administration to change course.

We should not spend another dime to continue the occupation. Instead, we must fully fund the safe, orderly and responsible withdrawal of all of our troops and all of our military contractors by a date certain. That is the best way, Mr. Speaker, for our country to change course and restore the moral leadership that is the true source of our national security.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina 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 Oregon (Mr. DEFazio) is recognized for 5 minutes.

(Mr. DEFazio 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 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.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

(Ms. WATERS addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

(Mrs. MCCARTHY of New York addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. PETERSON) is recognized for 5 minutes.

(Mr. PETERSON of Pennsylvania addressed the House. His remarks will ap-

pear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Minnesota (Mrs. BACHMANN) is recognized for 5 minutes.

(Mrs. BACHMANN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

REVISIONS TO ALLOCATIONS FOR HOUSE COMMITTEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. SPRATT) is recognized for 5 minutes.

Mr. SPRATT. Mr. Speaker, under sections 211, 304, and 320, of S. Con. Res. 21, the

Concurrent Resolution on the Budget for fiscal year 2008, I hereby submit for printing in the CONGRESSIONAL RECORD a revision to the budget allocations and aggregates for certain House committees for fiscal years 2007, 2008, and the period of 2008 through 2012. This revision represents an adjustment to certain House committee budget allocations and aggregates for the purposes of section 302 and 311 of the Congressional Budget Act of 1974, as amended, and in response to the bill H.R. 3668, to provide for the extension of transitional medical assistance (TMA) and the abstinence education program, and the qualifying individuals (QI) program, and for other purposes. Corresponding tables are attached.

Under section 211 of S. Con. Res. 21, this adjustment to the budget allocations and aggregates applies while the measure is under consideration. The adjustments will take effect upon enactment of the measure. For purposes of the Congressional Budget Act of 1974, as amended, a revised allocation made under section 211 of S. Con. Res. 21 is to be considered as an allocation included in the resolution.

DIRECT SPENDING LEGISLATION—AUTHORIZING COMMITTEE 302(A) ALLOCATIONS FOR RESOLUTION CHANGES

(Fiscal Years, in millions of dollars)

House Committee	2007		2008		2008–2012 Total	
	BA	Outlays	BA	Outlays	BA	Outlays
Current allocation:						
Education and Labor .....	-4,877	-4,886	-326	-987	5,004	4,146
Energy and Commerce .....	-1	-1	134	132	89	87
Ways and Means .....	0	0	-38	-38	-98	-98
Change in TMA, Abstinence Education, and QI Programs Extension Act (H.R. 3668):						
Education and Labor .....	0	0	13	4	13	11
Energy and Commerce .....	0	0	213	211	-149	-150
Ways and Means .....	0	0	570	570	135	135
Total .....	0	0	796	785	-1	-4
Revised allocation:						
Education and Labor .....	-4,877	-4,886	-313	-983	5,017	4,157
Energy and Commerce .....	-1	-1	347	343	-60	-63
Ways and Means .....	0	0	532	532	37	37

BUDGET AGGREGATES

(On-budget amounts, in millions of dollars)

	Fiscal Years		
	2007	2008 <sup>1</sup>	2008–2012
Current Aggregates: <sup>2</sup>			
Budget Authority .....	2,250,680	2,350,181	( <sup>3</sup> )
Outlays .....	2,263,759	2,353,150	( <sup>3</sup> )
Revenues .....	1,900,340	2,015,841	11,137,671
Changes in TMA, Abstinence Education, and QI Programs Extension Act (H.R. 3668):			
Budget Authority .....	0	796	( <sup>3</sup> )
Outlays .....	0	785	( <sup>3</sup> )
Revenues .....	0	0	0
Revised Aggregates:			
Budget Authority .....	2,250,680	2,350,977	( <sup>3</sup> )
Outlays .....	2,263,759	2,353,935	( <sup>3</sup> )
Revenues .....	1,900,340	2,015,841	11,137,671

<sup>1</sup> Pending action by the House Appropriations Committee on spending covered by section 207(d)(1)(E) (overseas deployments and related activities), resolution assumptions are not included in the current aggregates.

<sup>2</sup> Excludes emergency amounts exempt from enforcement in the budget resolution.

<sup>3</sup> Not applicable because annual appropriations Acts for fiscal years 2009 through 2012 will not be considered until future sessions of Congress.

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 17 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1825

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro

tempore (Mr. WELCH of Vermont) at 6 o'clock and 25 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3567, SMALL BUSINESS INVESTMENT EXPANSION ACT OF 2007

Mr. HASTINGS of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 110-350) on the resolution (H. Res. 682) providing for consideration of the bill (H.R. 3567) to amend the Small Business Investment Act of 1958 to expand opportunities for

investments in small businesses, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3121, FLOOD INSURANCE REFORM AND MODERNIZATION ACT OF 2007

Mr. HASTINGS of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 110-351) on the resolution (H. Res. 683) providing for consideration of the bill (H.R. 3121) to

restore the financial solvency of the national flood insurance program and to provide for such program to make available multiperil coverage for damage resulting from windstorms and floods, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON (at the request of Mr. HOYER) for September 24 through October 1.

Mr. BACHUS (at the request of Mr. BOEHNER) for today after 11:30 a.m. and September 27 on account of attending a funeral.

Mr. HERGER (at the request of Mr. BOEHNER) for today and the balance of the week on account of illness.

#### 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. WATSON) to revise and extend their remarks and include extraneous material:)

Mr. CUMMINGS, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

Mrs. MCCARTHY of New York, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. SPRATT, for 5 minutes, today.

(The following Members (at the request of Mr. DEAL of Georgia) to revise and extend their remarks and include extraneous material:)

Mr. POE, for 5 minutes, October 3.

Mr. JONES of North Carolina, for 5 minutes, October 3.

Mr. DANIEL E. LUNGREN of California, for 5 minutes, today.

Mr. PETERSON of Minnesota, for 5 minutes, today.

Mrs. BACHMANN, for 5 minutes, today.

#### ENROLLED BILLS SIGNED

Ms. Lorraine C. Miller, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3375. An act to extend the trade adjustment assistance program under the Trade Act of 1974 for 3 months.

H.R. 3580. An act to amend the Federal Food, Drug, and Cosmetic Act to revise and extend the user-fee programs for prescription drugs and for medical devices, to enhance the postmarket authorities of the Food and Drug Administration with respect to the safety of drugs, and for other purposes.

#### SENATE ENROLLED BILL SIGNED

The Speaker announced her signature to an enrolled bill of the Senate of the following title:

S. 1983. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act to renew and amend the provisions for the en-

hanced review of covered pesticide products, to authorize fees for certain pesticide products, to extend and improve the collection of maintenance fees, and for other purposes.

#### ADJOURNMENT

Mr. HASTINGS of Florida. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 26 minutes p.m.), the House adjourned until tomorrow, Thursday, September 27, 2007, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3473. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Tepraloxymid; Pesticide Tolerance [EPA-HQ-OPP-2007-0145; FRL-8148-1] received September 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3474. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Sulfosulfuron; Pesticide Tolerance [EPA-HQ-OPP-2006-0206; FRL-8147-4] received September 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3475. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pyraclostrobin; Pesticide Tolerance [EPA-HQ-OPP-2006-0522; FRL-8148-6] received September 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3476. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Methamidophos, Oxydemeton-methyl, Profenofos, and Trichlorfon; Tolerance Actions [EPA-HQ-OPP-2007-0261; FRL-8147-6] received September 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3477. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Alachlor; Pesticide Tolerance [EPA-HQ-OPP-2007-0146; FRL-8147-2] received September 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3478. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Turkey pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

3479. A letter from the Director, Regulations Policy and Mgmt. Staff, Department of Health and Human Services, transmitting the Department's final rule — Current Good Manufacturing Practice for Blood and Blood Components; Notification of Cosignees and Transfusion Recipients Receiving Blood and Blood Components at Increased Risk of Transmitting Hepatitis C Virus Infection ("Lookback") [Docket No. 1999N-2337 (formerly Docket No. 99N-2337)] (RIN: 0910-AB76) received September 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3480. A letter from the Principal Deputy Associate Administrator, Environmental

Protection Agency, transmitting the Agency's final rule — Technical Amendments to Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Correction of Effective Date Under Congressional Review Act [EPA-R03-OAR-2007-0174; FRL-8473-1] received September 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3481. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Award of United States-Mexico Border Program and Alaska Rural and Native Villages Program Grants Authorized by the Revised Continuing Appropriations Resolution, 2007 [FRL-8472-1] received September 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3482. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Arkansas; Clean Air Interstate Rule Nitrogen Oxides Ozone Season Trading Program [EPA-R06-OAR-2007-0886; FRL-8473-3] received September 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3483. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of Missouri [EPA-R07-OAR-2007-0926; FRL-8471-9] received September 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3484. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Louisiana; Clean Air Interstate Rule Nitrogen Oxides Trading Programs [EPA-R06-OAR-2007-0651; FRL-8473-5] received September 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3485. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Ohio [EPA-R05-OAR-2006-0544 FRL-8470-7] received September 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3486. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, Transmittal No. 07-60, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Iraq for defense articles and services; to the Committee on Foreign Affairs.

3487. A letter from the Associate General Counsel for General Law, Department of Homeland Security, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

3488. A letter from the Director of Administration, National Labor Relations Board, transmitting the Board's Inherently Governmental and Commercial Activities Inventory for FY 2007, as required by the Federal Activities Inventory Reform Act of 1998 (the FAIR ACT); to the Committee on Oversight and Government Reform.

3489. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Mississippi Abandoned Mine Land Reclamation Plan [Docket No. MS-021-FOR] received

September 24, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

3490. A letter from the Secretary, Judicial Conference of the United States, transmitting the Conference's report entitled, "Report on the Necessity and Desirability of Amending the Federal Rules of Evidence to Codify a 'Harm to Child' Exception to the Marital Privileges," pursuant to Public Law 109-248, section 214; to the Committee on the Judiciary.

3491. A letter from the Acting Chief, Trade and Commercial Regulations, Department of Homeland Security, transmitting the Department's final rule — EXTENSION OF IMPORT RESTRICTIONS IMPOSED ON ARCHAEOLOGICAL MATERIAL FROM MALI [CBP Dec. 07-77 USCBP 2007-0075] (RIN: 1505-AB86) received September 20, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3492. A letter from the Acting Chief, Trade and Commercial Regulations, Department of Homeland Security, transmitting the Department's final rule — EXTENSION OF IMPORT RESTRICTIONS IMPOSED ON ARCHAEOLOGICAL MATERIAL FROM GUATEMALA [CBP Dec. 07-79 USCBP-2007-0074] (RIN: 1505-AB87) received September 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3493. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Temporary Closing of the Determination Letter Program for Adopters of Pre-Approved Defined Contribution Plans [Announcement 2007-90] received September 20, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3494. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Section 1274.—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Also Sections 42, 280G, 382, 412, 467, 468, 482, 642, 807, 846, 1288, 7520, 7872.) (Rev. Rul. 2007-63) received September 20, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3495. A letter from the Chief, Publications and Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Section 61.—Gross Income Defined 26 CFR 1.61-21: Taxation of fringe benefits. (Rev. Rul. 2007-55) received September 20, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3496. A letter from the Secretary, Judicial Conference of the United States, transmitting the views of the Conference regarding provisions included in S. 274, the "Federal Employee Protection of Disclosures Act" and H.R. 985, the "Whistleblower Protection Enhancement Act of 2007"; jointly to the Committees on Oversight and Government Reform and the Judiciary.

#### 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. CARDOZA: Committee on Rules. House Resolution 682. Resolution providing for consideration of the bill (H.R. 3567) to amend the Small Business Investment Act of 1958 to expand opportunities for investments in small businesses, and for other purposes (Rept. 110-350). Referred to the House Calendar.

Ms. MATSUI: Committee on Rules. House Resolution 683. Resolution providing for con-

sideration of the bill (H.R. 3121) to restore the financial solvency of the national flood insurance program and to provide for such program to make available multiperil coverage for damage resulting from windstorms and floods, and for other purposes (Rept. 110-351). 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. DINGELL (for himself and Mr. RANGEL):

H.R. 3668. A bill to provide for the extension of transitional medical assistance (TMA), the abstinence education program, and the qualifying individuals (QI) program, and for other purposes; 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. Considered and passed.

By Mr. FALEOMAVAEGA:

H.R. 3669. A bill to amend title 46, United States Code, to promote the U.S. distant water tuna fleet; to the Committee on Transportation and Infrastructure.

By Mr. FARR (for himself, Mr. PORTER, Mr. DELAHUNT, and Mr. BLUNT):

H.R. 3670. A bill to direct the Secretary of State to enhance diplomatic relations with foreign countries and to promote domestic business interests abroad by establishing a grant program to promote international travel to the United States; to the Committee on Energy and Commerce, and in addition to the Committee on Foreign Affairs, 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. BAKER:

H.R. 3671. A bill to suspend temporarily the duty on glyoxylic acid; to the Committee on Ways and Means.

By Mr. BAKER:

H.R. 3672. A bill to suspend temporarily the duty on cyclopentanone; to the Committee on Ways and Means.

By Mr. GONZALEZ (for himself and Mr. RODRIGUEZ):

H.R. 3673. A bill to require the Secretary of Defense to establish a National Trauma Institute; to the Committee on Armed Services.

By Mr. HASTINGS of Florida (for himself, Mr. ISRAEL, and Mr. MCGOVERN):

H.R. 3674. A bill to address the impending humanitarian crisis and security breakdown as a result of the mass influx of Iraqi refugees into neighboring countries, and the growing internally displaced population in Iraq, by increasing directed accountable assistance to these populations and their host countries, increasing border security, and facilitating the resettlement of Iraqis at risk; to the Committee on Foreign Affairs, and in addition to the Committee on the Judiciary, 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. HUNTER:

H.R. 3675. A bill to prohibit Federal grants to or contracts with Columbia University; to the Committee on Education and Labor.

By Mr. SHULER (for himself, Mr. JONES of North Carolina, Mr. DONNELLY, Mr. PRICE of North Carolina, Mr. HILL, Mr. CARDOZA, Mr. WAMP, Mr. SOUDER, Ms. WASSERMAN

SCHULTZ, Mr. DUNCAN, Mr. MCINTYRE, Mr. BARROW, and Mr. LINCOLN DAVIS of Tennessee):

H.R. 3676. A bill to amend title 49, United States Code, to provide for a child safe viewing area within which covered air carriers shall not display violent in-flight programming; to the Committee on Transportation and Infrastructure.

By Mr. WEINER:

H.R. 3677. A bill to authorize the Secretary of Transportation to carry out programs to enhance bridge safety monitoring in the United States; to the Committee on Transportation and Infrastructure.

By Mr. BOSWELL (for himself, Mr. BRALEY of Iowa, Mr. LATHAM, Mr. LOEBACK, Mr. KING of Iowa, Ms. WASSERMAN SCHULTZ, Mr. VAN HOLLEN, Mrs. CAPPS, and Mrs. MCMORRIS RODGERS):

H. Res. 684. A resolution congratulating Shawn Johnson on her victory in becoming the 2007 World Artistic Gymnastics Champion in women's gymnastics; to the Committee on Oversight and Government Reform.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 241: Mr. CULBERSON.

H.R. 369: Mr. DINGELL.

H.R. 462: Mr. PRICE of North Carolina.

H.R. 579: Mr. ROTHMAN and Mr. MAHONEY of Florida.

H.R. 581: Mr. MANZULLO, Ms. FALLIN, Mrs. MYRICK, and Mr. FRANKS of Arizona.

H.R. 601: Mr. BAKER.

H.R. 618: Mr. FEENEY.

H.R. 621: Mr. CUELLAR and Mr. PUTNAM.

H.R. 743: Mr. BLUNT, Mr. LEWIS of Kentucky, Mr. REYES, Mr. AKIN, Mr. BROWN of South Carolina, Mr. DENT, Mr. MELANCON, Mr. SAXTON, and Ms. SCHWARTZ.

H.R. 758: Mr. SPACE.

H.R. 861: Mr. BROUN of Georgia and Mr. TANCREDO.

H.R. 946: Ms. WATERS.

H.R. 970: Mr. WALDEN of Oregon.

H.R. 989: Mr. ISSA.

H.R. 1029: Mr. MCNERNEY and Ms. HIRONO.

H.R. 1078: Mr. NADLER and Mr. TIERNEY.

H.R. 1127: Mrs. MILLER of Michigan.

H.R. 1198: Ms. BALDWIN and Mr. LOBIONDO.

H.R. 1201: Mr. PRICE of North Carolina and Mr. BOOZMAN.

H.R. 1205: Mr. GILCHREST.

H.R. 1232: Mr. GENE GREEN of Texas, Mr. WELCH of Vermont, and Mr. MARSHALL.

H.R. 1279: Mr. BISHOP of Georgia.

H.R. 1293: Ms. ROYBAL-ALLARD.

H.R. 1349: Mr. BUCHANAN.

H.R. 1357: Mr. CAMP of Michigan.

H.R. 1422: Mr. EHLERS, Mr. TOM DAVIS of Virginia, and Ms. ESHOO.

H.R. 1497: Mr. HARE.

H.R. 1514: Mr. SCOTT of Virginia and Mr. SPACE.

H.R. 1553: Ms. BALDWIN.

H.R. 1671: Mr. TOWNS and Mr. ISRAEL.

H.R. 1687: Ms. DEGETTE.

H.R. 1727: Mrs. MCCARTHY of New York and Mr. INSLEE.

H.R. 1738: Mr. SIRES, Mr. WALZ of Minnesota, Mr. MARCHANT, Mr. FARR, and Mr. EDWARDS.

H.R. 1772: Ms. WOOLSEY and Mrs. BOYDA of Kansas.

H.R. 1876: Mr. ALLEN.

H.R. 1975: Ms. DEGETTE.

H.R. 1992: Mr. BACA, Mr. LA TOURETTE, and Mr. CAPUANO.

H.R. 2015: Mr. MEEK of Florida and Mr. LARSEN of Washington.

H.R. 2016: Ms. HOOLEY, Mr. PLATTS, Mr. GEORGE MILLER of California, and Mr. BERMAN.

H.R. 2064: Mr. INSLEE, Ms. DELAURO, Mr. CAPUANO, and Ms. SCHAKOWSKY.

H.R. 2066: Mr. HOLT.

H.R. 2109: Mr. SHUSTER.

H.R. 2112: Mr. BISHOP of New York.

H.R. 2132: Mr. DAVIS of Alabama.

H.R. 2128: Mr. BOUCHER.

H.R. 2169: Mr. BUTTERFIELD.

H.R. 2183: Mr. ISSA.

H.R. 2221: Mr. MEEK of Florida.

H.R. 2265: Mr. PRICE of North Carolina and Mr. TOWNS.

H.R. 2287: Mr. SAXTON.

H.R. 2329: Mr. WAMP and Mr. SPACE.

H.R. 2332: Mr. MARSHALL and Mr. ENGLISH of Pennsylvania.

H.R. 2452: Mr. KING of New York, Mr. SIREN, and Mr. HASTINGS of Florida.

H.R. 2468: Ms. HIRONO and Mr. COHEN.

H.R. 2478: Ms. BALDWIN.

H.R. 2537: Mr. WEXLER, Mr. ACKERMAN, Ms. LORETTA SANCHEZ of California, and Ms. DELAURO.

H.R. 2606: Mr. WEXLER and Mr. SPACE.

H.R. 2666: Mr. CUMMINGS.

H.R. 2702: Ms. SCHAKOWSKY, Mr. SMITH of New Jersey, and Mr. WATT.

H.R. 2758: Mr. ALLEN and Mrs. CHRISTENSEN.

H.R. 2779: Mr. LANGEVIN.

H.R. 2818: Ms. MCCOLLUM of Minnesota and Mrs. WILSON of New Mexico.

H.R. 2820: Mr. KANJORSKI.

H.R. 2933: Mr. BUTTERFIELD, Mrs. MALONEY of New York, Mr. SKELTON, Mr. CARTER, and Mr. MILLER of Florida.

H.R. 3008: Mr. GORDON.

H.R. 3026: Mr. HERGER.

H.R. 3132: Mr. MEEKS of New York, Mr. CROWLEY, and Mr. JACKSON of Illinois.

H.R. 3139: Mrs. MYRICK.

H.R. 3298: Ms. HERSETH SANDLIN and Ms. HOOLEY.

H.R. 3326: Mr. UDALL of New Mexico and Ms. ROYBAL-ALLARD.

H.R. 3331: Ms. SCHAKOWSKY.

H.R. 3358: Mr. MARCHANT.

H.R. 3386: Mr. CUMMINGS.

H.R. 3416: Mr. TOWNS.

H.R. 3430: Mr. BAIRD.

H.R. 3438: Mr. HASTINGS of Florida and Ms. MATSUI.

H.R. 3439: Mr. JEFFERSON, Mr. GORDON, and Mr. GRIJALVA.

H.R. 3452: Mr. CALVERT and Mr. GARY G. MILLER of California.

H.R. 3457: Mr. CLEAVER, Mr. AL GREEN of Texas, Mr. MCCAUL of Texas, Mr. FEENEY, and Mr. CAMPBELL of California.

H.R. 3477: Mr. TERRY.

H.R. 3481: Mr. HOLT, Mr. BRADY of Pennsylvania, Ms. BORDALLO, Mr. HONDA, Mr. COHEN, and Ms. LEE.

H.R. 3498: Mr. HINCHEY.

H.R. 3512: Mr. HONDA.

H.R. 3533: Mr. ETHERIDGE, Ms. ZOE LOFGREN of California, Mr. PASTOR, Mr. WALSH of New York, Mr. WYNN, Ms. ROYBAL-ALLARD, Ms. ESHOO, and Mrs. TAUSCHER.

H.R. 3548: Mr. REYES and Mr. CUMMINGS.

H.R. 3577: Mr. LANGEVIN, Mr. FILNER, and Mr. YOUNG of Alaska.

H.R. 3587: Mr. HASTINGS of Florida.

H.R. 3609: Mr. DELAHUNT and Mr. DAVIS of Alabama.

H.R. 3612: Mr. TANCREDO, Mr. GOODE, Mr. BARTLETT of Maryland, and Mr. FEENEY.

H.J. Res. 6: Mr. ENGLISH of Pennsylvania, Mrs. MYRICK, and Mr. MCINTYRE.

H. Con. Res. 108: Ms. Richardson.

H. Con. Res. 203: Mr. BRADY of Pennsylvania.

H. Con. Res. 204: Mr. MCCAUL of Texas and Mr. GOODE.

H. Res. 258: Mr. BLUMENAUER.

H. Res. 335: Mr. VAN HOLLEN, Mr. CALVERT, Mr. PRICE of North Carolina, and Ms. BALDWIN.

H. Res. 433: Mr. BERMAN.

H. Res. 524: Ms. MATSUI.

H. Res. 563: Mr. DINGELL, Mr. HONDA, Mr. JACKSON of Illinois, Mr. KENNEDY, and Mr. BERMAN.

H. Res. 573: Mr. BISHOP of Georgia.

H. Res. 587: Mr. PETERSON of Minnesota.

H. Res. 620: Mr. CARNAHAN, and Mr. ANDREWS.

H. Res. 624: Mr. NADLER, Mr. LINDER, Mr. ENGLISH of Pennsylvania, and Mr. ENGEL.

H. Res. 630: Mr. MCDERMOTT.

H. Res. 640: Mr. JACKSON of Illinois, and Ms. BORDALLO.

H. Res. 646: Mr. BAKER, Mr. BILBRAY, Mrs. BONO, Mr. CHABOT, Mr. DUNCAN, Mr. FERGUSON, Mr. GERLACH, Mr. GINGREY, Mr. GOODE, Mr. HASTINGS of Florida, Mr. LATOURETTE, Mr. MARCHANT, Mr. MCCOTTER, Mr. MCCRERY, Mrs. MILLER of Michigan, Mr. MORAN of Kansas, Mr. NEUGEBAUER, Mr. PEARCE, Mr. RADANOVICH, Mr. ROHRBACHER, Mr. SESSIONS, Mr. TIAHRT, Mr. WELDON of

Florida, Mr. ABERCROMBIE, Ms. CASTOR, Mr. MARKEY, Mr. MCDERMOTT, Mr. PASCRELL, Mr. PERLMUTTER, Ms. WASSERMAN SCHULTZ, Mr. SPRATT, Mr. TAYLOR, Mr. PAYNE, Mr. CASTLE, Mr. TURNER, Mr. JORDAN, Mr. WALBERG, Mr. MOORE of Kansas, Mr. BROUN of Georgia, and Mr. PITTS.

H. Res. 671: Mr. BERMAN, and Mr. BURTON of Indiana.

H. Res. 680: Mr. HAYES, Mr. BOSWELL, Mr. LATHAM, Mr. PITTS, and Mr. DEFAZIO.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

The amendment to be offered by Representative Frank of Massachusetts or a designee to H.R. 3121 the Flood Insurance Reform and Modernization Act of 2007, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

The amendment to be offered by Representative Chabot or a designee to H.R. 3567, the Small Business Investment Expansion Act of 2007, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

#### 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. 1665: Mr. UDALL of Colorado.

#### PETITIONS, ETC.

Under clause 3 of rule XII,

171. The SPEAKER presented a petition of the City Council of Philadelphia, Pennsylvania, relative to Resolution No. 060861 urging the President of the United States and the Congress of the United States to make year 2007 the time to re-deploy U.S. troops out of harm's way in Iraq; which was referred to the Committee on Armed Services.