cleaner fuels states can require to meet their clean air targets; federalizing many siting and permitting decisions relating to refineries; limiting the kinds of diesel fuel that can be required and interfering with the low sulfur diesel rule that was championed by the Bush Administration; rewriting the permitting process for refineries to limit environmental reviews without any evidence that current processes are at all a problem; and enabling cities with harmful levels of ozone air pollutants to delay improving air quality.

Adoption of this bill would constitute a major setback for air quality across the nation. The longterm costs for backtracking on important pollution measures will be far greater than the short terms gains from this bill. Our states have worked aggressively to ensure that improvements are made to air quality and it is our duty to support, not hinder, such efforts.

Instead of only meeting our energy needs by increasing supply, we need to continue to improve conservation methods and our R&D efforts in renewable sources of energy like wind and solar power. And, we must take a hard look at automotives, from creating additional consumer incentives for domestic production and purchase of efficient hybrid-electric vehicles to the possibility of increasing fuel economy standards, so cars can go further on a tank of gas. A diversified approach, based on a variety of resources, will truly save consumers money at the pump and help to reduce our dependence on foreign oil.

The legislation before us today can only hurt our states and our environment and I urge a no vote on this legislation.

Mr. BARTON of Texas. Mr. Speaker, I submit the following exchange of letters for the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, October 5, 2005.

Hon. JOE BARTON,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN BARTON: On September 28, 2005, the Committee on Energy and Commerce ordered reported H.R. 3893, the ''Gasoline for America's Security Act of 2005.'' In recognition of the desire to expedite floor consideration of H.R. 3893, the Committee on the Judiciary hereby waives any consideration of the bill.

Several sections of H.R. 3893 contain matters within the Committee on the Judiciary's rule X jurisdiction. A summary of principal provisions within the Committee on the Judiciary's jurisdiction follows.

Section 102(e) grants original and exclusive Federal court jurisdiction to adjudicate civil actions filed under this section. Section 202(e) grants original and exclusive Federal court jurisdiction to adjudicate civil actions filed under this section. These matters fall within the Committee on the Judiciary's jurisdiction under rule X(1)(l)(1) (''The judiciary and judicial proceedings, civil and criminal'').

Section 605(f) grants members of the ''Commission for the Deployment of the Hydrogen Economy,'' as creted under Title VI of the bill, the authority to issue subpoenas without requesting the assistance of the Attorney General. This matter falls within the Committee on the Judiciary's jurisdiction under rule X(1)(l)(1) (''The judiciary and judicial proceedings, civil and criminal'').

The Committee on the Judiciary agrees to waive any formal consideration of the bill with the understanding that its jurisdiction over these and other provisions contained in the legislation is no way altered or diminished. This waiver is further conditioned upon the understanding between our Committees that there are no provisions contained in H.R. 3893 that could be construed or interpreted to alter, modify, or to have any effect on any laws or regulations pertaining to any fuel additive, including ethanol and MTBE. The Committee on the Judiciary also reserves the right to seek appointment to any House-Senate conference on this legislation. I would appreciate your including this letter in the Congressional Record during consideration of H.R. 3893 on the House floor. Thank you for your attention to these matters.

Sincerely,
F. JAMES SENSENBRENNER, JR.,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, October 4, 2005.

Hon. F. JAMES SENSENBRENNER, JR.,
Chairman, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: I write in regards to H.R. 3893, Gasoline for America's Security Act of 2005.

While the Committee on the Judiciary did not receive a referral of the bill upon introduction, I appreciate your willingness not to seek a referral on H.R. 3893. I agree that your decision to forego action on the bill will not prejudice the Committee on the Judiciary with respect to its jurisdictional prerogatives on this or future legislation.

Further, knowing of your interest in the debate surrounding fuel additive liability, nothing in H.R. 3893 should be construed or interpreted to alter, modify, or to have any effect on any laws or regulations pertaining to any additive, including ethanol and MTBE.

I will include our exchange of letters in the Committee's report on H.R. 3893, and I look forward to working with you as we prepare to pass this important energy legislation for the American people.

Sincerely,
JOE BARTON,
Chairman.

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

The SPEAKER pro tempore. All time for debate on the bill has expired.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2360) ''An Act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.''.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STUPAK

Mr. STUPAK. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk will designate the amendment in the nature of a substitute.

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

Amendment in the nature of a substitute offered by Mr. STUPAK:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Response to Energy Emergencies Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1 Short title; table of contents.

TITLE I—PROTECTING CONSUMERS FROM ENERGY PRICE GOUGING

Sec. 101. Unconscionable pricing of gasoline, oil, natural gas, and petroleum distillates during emergencies.
Sec. 102. Declaration of energy emergency.
Sec. 103. Enforcement by the Federal Trade Commission.
Sec. 104. Enforcement at retail level by State attorneys general.
Sec. 105. Low Income energy assistance.
Sec. 106. Effect on other laws.
Sec. 107. Market transparency for crude oil, gasoline, and petroleum distillates.
Sec. 108. Report on United States energy emergency preparedness.
Sec. 109. Protective action to prevent future disruptions of supply.
Sec. 110. Authorization of Appropriations.

TITLE II—ENSURING EMERGENCY SUPPLY OF REFINED PETROLEUM PRODUCTS

Sec. 201. Refineries.

TITLE I—PROTECTING CONSUMERS FROM ENERGY PRICE GOUGING

SEC. 101. UNCONSCIONABLE PRICING OF GASOLINE, OIL, NATURAL GAS, AND PETROLEUM DISTILLATES DURING EMERGENCIES.

(a) UNCONSCIONABLE PRICING.—

(1) IN GENERAL.—During any energy emergency declared by the President under section 102, it is unlawful for any person to sell crude oil, gasoline, natural gas, or petroleum distillates in, or for use in, the area to which that declaration applies at a price that—

(A) is unconscionably excessive; or

(B) indicates the seller is taking unfair advantage of the circumstances to increase prices unreasonably.

(2) FACTORS CONSIDERED.—In determining whether a violation of paragraph (1) has occurred, there shall be taken into account, among other factors, whether—

(A) the amount charged represents a gross disparity between the price of the crude oil, gasoline, natural gas, or petroleum distillate sold and the price at which it was offered for sale in the usual course of the seller's business immediately prior to the energy emergency; or

(B) the amount charged grossly exceeds the price at which the same or similar crude oil, gasoline, natural gas, or petroleum distillate was readily obtainable by other purchasers in the area to which the declaration applies.

(3) MITIGATING FACTORS.—In determining whether a violation of paragraph (1) has occurred, there also shall be taken into account, among other factors, whether the price at which the crude oil, gasoline, natural gas, or petroleum distillate was sold reasonably reflects additional costs, not within the control of the seller, that were paid or incurred by the seller.

(b) FALSE PRICING INFORMATION.—It is unlawful for any person to report information related to the wholesale price of crude oil, gasoline, natural gas, or petroleum distillates to the Federal Trade Commission if—

(1) that person knew, or reasonably should have known, the information to be false or misleading;

(2) the information was required by law to be reported; and

(3) the person intended the false or misleading data to affect data compiled by that department or agency for statistical or analytical purposes with respect to the market for crude oil, gasoline, natural gas, or petroleum distillates.

(c) MARKET MANIPULATION.—It is unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of crude oil, gasoline, natural gas, or petroleum distillates at wholesale, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Federal Trade Commission may prescribe as necessary or appropriate in the public interest or for the protection of United States citizens.

(d) RULEMAKING.—Not later than 180 days after the date of the enactment of this title, the Federal Trade Commission shall promulgate rules necessary and appropriate to enforce this section.

SEC. 102. DECLARATION OF ENERGY EMERGENCY.

(a) IN GENERAL.—If the President finds that the health, safety, welfare, or economic well-being of the citizens of the United States is at risk because of a shortage or imminent shortage of adequate supplies of crude oil, gasoline, natural gas, or petroleum distillates due to a disruption of the national distribution system for crude oil, gasoline, natural gas, or petroleum distillates (including such a shortage related to a major disaster (as defined in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122))), or significant pricing anomalies in national or regional energy markets for crude oil, gasoline, natural gas, or petroleum distillates of a more than transient nature, the President may declare that a Federal energy emergency exists.

(b) SCOPE AND DURATION.—The declaration shall apply to the Nation, a geographical region, or 1 or more States, as determined by the President, but may not be in effect for a period of more than 45 days.

(c) EXTENSIONS.—The President may—

(1) extend a declaration under subsection (a) for a period of not more than 45 days; and

(2) extend such a declaration more than once.

SEC. 103. ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.

(a) ENFORCEMENT BY FTC.—A violation of section 101 shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)). The Federal Trade Commission shall enforce this title in the same manner, by the same means, and with the same jurisdiction as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title. In enforcing section 101(a) of this title, the Commission shall give priority to enforcement actions concerning companies with total United States wholesale or retail sales of crude oil, gasoline, and petroleum distillates in excess of $500,000,000 per year.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Notwithstanding the penalties set forth under the Federal Trade Commission Act, any person who violates section 101 shall be subject to the following penalties:

(A) PRICE GOUGING; UNJUST PROFITS.—Any person who violates section 101(a) shall be subject to—

(i) a fine of not more than 3 times the amount of profits gained by such person through such violation; or

(ii) a fine of not more than $3,000,000.

(B) FALSE INFORMATION; MARKET MANIPULATION.—Any person who violates section 101(b) or 101(c) shall be subject to a civil penalty of not more than $1,000,000.

(2) METHOD OF ASSESSMENT.—The penalties provided by paragraph (1) shall be assessed in the same manner as civil penalties imposed under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) MULTIPLE OFFENSES; MITIGATING FACTORS.—In assessing the penalty provided by subsection (a)—

(A) each day of a continuing violation shall be considered a separate violation; and

(B) the Federal Trade Commission shall take into consideration the seriousness of the violation and the efforts of the person committing the violation to remedy the harm caused by the violation in a timely manner.

SEC. 104. ENFORCEMENT AT RETAIL LEVEL BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the provisions of section 101(a) of this title, or to impose the civil penalties authorized by section 103(b)(1)(B), whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a violation of this title or a regulation under this title.

(b) NOTICE.—The State shall serve written notice to the Federal Trade Commission of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

(c) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subsection (b), the Federal Trade Commission may intervene in such civil action and upon intervening—

(1) be heard on all matters arising in such civil action; and

(2) file petitions for appeal of a decision in such civil action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a)—

(1) the venue shall be a judicial district in which—

(A) the defendant operates;

(B) the defendant was authorized to do business; or

(C) where the defendant in the civil action is found;

(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(3) a person who participated with the defendant in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(f) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Federal Trade Commission has instituted a civil action or an administrative action for violation of this title, no State attorney general, or official or agency of a State, may bring an action under this subsection during the pendency of that action against any defendant named in the complaint of the Federal Trade Commission or the other agency for any violation of this title alleged in the complaint.

(g) ENFORCEMENT OF STATE LAW.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a civil or criminal statute of such State.

SEC. 105. LOW INCOME ENERGY ASSISTANCE.

Amounts collected in fines and penalties under sections 103 of this title shall be deposited in a separate fund in the treasury to be known as the Consumer Relief Trust Fund. To the extent provided for in advance in appropriations Acts, such fund shall be used to provide assistance under the Low Income Home Energy Assistance Program established under title XXVI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 106. EFFECT ON OTHER LAWS.

(a) OTHER AUTHORITY OF FEDERAL TRADE COMMISSION.—Nothing in this title shall be construed to limit or affect in any way the Federal Trade Commission's authority to bring enforcement actions or take any other measure under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any other provision of law.

(b) STATE LAW.—Nothing in this title preempts any State law.

SEC. 107. MARKET TRANSPARENCY FOR CRUDE OIL, GASOLINE, AND PETROLEUM DISTILLATES.

(a) IN GENERAL.—The Federal Trade Commission shall facilitate price transparency in markets for the sale of crude oil and essential petroleum products at wholesale, having due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

(b) MARKETPLACE TRANSPARENCY.—

(1) DISSEMINATION OF INFORMATION.—In carrying out this section, the Federal Trade Commission shall provide by rule for the dissemination, on a timely basis, of information about the availability and prices of wholesale crude oil, gasoline, and petroleum distillates to the Federal Trade Commission, States, wholesale buyers and sellers, and the public.

(2) PROTECTION OF PUBLIC FROM ANTICOMPETITIVE ACTIVITY.—In determining the information to be made available under this section and time to make the information available, the Federal Trade Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

(3) PROTECTION OF MARKET MECHANISMS.—The Federal Trade Commission shall withhold from public disclosure under this section any information the Commission determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security.

(c) INFORMATION SOURCES.—

(1) IN GENERAL.—In carrying out subsection (b), the Federal Trade Commission may—

(A) obtain information from any market participant; and

(B) rely on entities other than the Commission to receive and make public the information, subject to the disclosure rules in subsection (b)(3).

(2) PUBLISHED DATA.—In carrying out this section, the Federal Trade Commission shall consider the degree of price transparency provided by existing price publishers and providers of trade processing services, and shall rely on such publishers and services to the maximum extent possible.

(3) ELECTRONIC INFORMATION SYSTEMS.—The Federal Trade Commission may establish an electronic information system if it determines that existing price publications are

not adequately providing price discovery or market transparency. Nothing in this section, however, shall affect any electronic information filing requirements in effect under this title as of the date of enactment of this section.

(4) DE MINIMUS EXCEPTION.—The Federal Trade Commission may not require entities who have a de minimus market presence to comply with the reporting requirements of this section.

(d) COOPERATION WITH OTHER FEDERAL AGENCIES.—

(1) MEMORANDUM OF UNDERSTANDING.—Within 180 days after the date of enactment of this title, the Federal Trade Commission shall conclude a memorandum of understanding with the Commodity Futures Trading Commission and other appropriate agencies (if applicable) relating to information sharing, which shall include provisions—

(A) ensuring that information requests to markets within the respective jurisdiction of each agency are properly coordinated to minimize duplicative information requests; and

(B) regarding the treatment of proprietary trading information.

(2) CFTC JURISDICTION.—Nothing in this section may be construed to limit or affect the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(e) RULEMAKING.—Within 180 days after the date of enactment of this title, the Federal Trade Commission shall initiate a rulemaking proceeding to establish such rules as the Commission determines to be necessary and appropriate to carry out this section.

SEC. 108. REPORT ON UNITED STATES ENERGY EMERGENCY PREPAREDNESS.

(a) POTENTIAL IMPACTS REPORT.—Within 30 days after the date of enactment of this title, the Federal Trade Commission shall transmit to the Congress a confidential report describing the potential impact on domestic prices of crude oil, residual fuel oil, and refined petroleum products that would result from the disruption for periods of 1 week, 1 year, and 5 years, respectively, of not less than—

(1) 30 percent of United States oil production;

(2) 20 percent of United States refinery capacity; and

(3) 5 percent of global oil supplies.

(b) PROJECTIONS AND POSSIBLE REMEDIES.—The President shall include in the report—

(1) projections of the impact any such disruptions would be likely to have on the United States economy; and

(2) detailed and prioritized recommendations for remedies under each scenario covered by the report.

SEC. 109. PROTECTIVE ACTION TO PREVENT FUTURE DISRUPTIONS OF SUPPLY.

The Secretary of Energy and the Energy Information Administration shall review expenditures by, and activities undertaken by, companies with total United States wholesale or retail sales of crude oil, gasoline, and petroleum distillates in excess of $500,000,000 per year to protect the energy supply system from terrorist attacks, international supply disruptions, and natural disasters, and ensure a stable and reasonably priced supply of such products to consumers in the United States, and, not later than 180 days after the date of the enactment of this title, shall transmit a report of their findings to Congress. Such report shall include an assessment of the companies' preparations for the forecasted period of more frequent and more intense hurricane activity in the Gulf of Mexico and other vulnerable coastal areas.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE II—REFINERIES

SEC. 201. REFINERIES.

Title I of the Energy Policy and Conservation Act is amended by adding at the end the following new part:

"PART E—REFINERIES

"SEC. 191. STRATEGIC REFINERY RESERVE.

''(a) ESTABLISHMENT.—The Secretary shall establish and operate a Strategic Refinery Reserve in the United States. The Secretary may design and construct new refineries, or acquire closed refineries and reopen them, to carry out this section.

''(b) OPERATION.—The Secretary shall operate refineries in the Strategic Refinery Reserve for the following purposes:

''(1) During any period described in subsection (c), to provide petroleum products to the general public.

''(2) To provide petroleum products to the Federal Government, including the Department of Defense, as well as State governments and political subdivisions thereof who choose to purchase refined petroleum products from the Strategic Refinery Reserve.

''(c) EMERGENCY PERIODS.—The Secretary shall make petroleum products from the Strategic Refinery Reserve available under subsection (b)(1) only—

''(1) during a severe energy supply interruption, within the meaning of such term under part B; or

''(2) if the President determines that there is a regional petroleum product supply shortage of significant scope and duration and that action taken under subsection (b)(1) would assist directly and significantly in reducing the adverse impact of such shortage.

''(d) LOCATIONS.—In determining the location of a refinery for the Strategic Refinery Reserve, the Secretary shall take into account the following factors:

''(1) Impact on the local community (determined after requesting and receiving comments from State, county or parish, and municipal governments, and the public).

''(2) Regional vulnerability to a natural disaster.

''(3) Regional vulnerability to terrorist attacks.

''(4) Proximity to the Strategic Petroleum Reserve.

''(5) Accessibility to energy infrastructure.

''(6) The need to minimize adverse public health and environmental impacts.

''(7) The energy needs of the Federal Government, including the Department of Defense.

''(e) INCREASED CAPACITY.—The Secretary shall ensure that refineries in the Strategic Refinery Reserve are designed to enable a rapid increase in production capacity during periods described in subsection (c).

''(f) IMPLEMENTATION PLAN.—Not later than 6 months after the date of enactment of this section, the Secretary shall transmit to the Congress a plan for the establishment and operation of the Strategic Refinery Reserve under this section. Such plan shall provide for establishing, within 2 years after the date of enactment of this section, and maintaining a capacity for the Reserve equal to 5 percent of the total United States daily demand for gasoline, home heating oil, and other refined petroleum products. If the Secretary finds that achieving such capacity within 2 years is not feasible, the Secretary shall explain in the plan the reasons therefor, and shall include provisions for achieving such capacity as soon as practicable. Such plan shall also provide for adequate delivery systems capable of providing Strategic Refinery Reserve product to the entities described in subsection (b)(2).

''(g) COMPLIANCE WITH FEDERAL ENVIRONMENTAL REQUIREMENTS.—Nothing in this section shall affect any requirement to comply with Federal or State environmental or other law.

"SEC. 192. REFINERY CLOSING REPORTS.

''(a) CLOSING REPORTS.—The owner or operator of a refinery in the United States shall notify the Secretary at least 6 months in advance of permanently closing the refinery, and shall include in such notice an explanation of the reasons for the proposed closing.

''(b) REPORTS TO CONGRESS.—The Secretary, in consultation with the Federal Trade Commission, shall promptly report to the Congress any report received under subsection (a), along with an analysis of the effects the proposed closing would have on petroleum product prices, competition in the refining industry, the national economy, regional economies and regional supplies of refined petroleum products, and United States energy security.''.

The SPEAKER pro tempore. Pursuant to House Resolution 481, the gentleman from Michigan (Mr. STUPAK) and the gentleman from Texas (Mr. BARTON) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. STUPAK).

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

Mr. Speaker, I urge every member to support this amendment which provides meaningful relief for our Nation that is facing record gas prices. This amendment has support of the Minority Leader PELOSI as well as the ranking member of the Energy and Commerce Committee, Congressman DINGELL. I would like to commend them for their support on this important initiative.

I would also like to thank the gentleman from Virginia (Mr. BOUCHER) for his hard work on the refinery portions of this amendment. The results of our efforts have produced a quality product that will benefit all Americans.

I would also like to recognize Congressmen BISHOP, BARROW and ETHERIDGE and Congresswomen HERSETH and SCHWARTZ for their valued input on this legislation.

Even before the devastation caused by Hurricane Katrina, skyrocketing oil and gasoline prices were taxing American families and burdening our Nation's economy, with notable exceptions of the oil and gas industry which continued to rack up record profits.

Following Katrina, gas prices in some States reached $6 per gallon, deepening suspicion of the oil industry profiteering. Our amendment would ensure that the President has the tools needed to adequately respond to any energy emergency and prohibits price gouging on all petroleum products with a priority on refineries and big oil.

Whether it is gasoline or natural gas, the problem lies right here at the refinery level, with a 255 percent increase in the last 12 months alone. Here is a 1995 memo from the American Petroleum Industry, and I quote. ''A senior analyst, at the recent American petroleum energy convention, warned that if the U.S. petroleum industry does not refine or reduce its refining capacity, it will never see any substantial increase in refining margins.''

So since 1995, since this memo, they have closed 30 refineries. This conclusion is also backed up by the GAO, Government Accountability Office, which said in 2004 that by closing refineries, they were able to drive up to those exorbitant prices we are paying today at the pump.

Currently, there are only 28 states that have laws on the books that define price gouging and have enforcement mechanisms to go after those ripping off consumers. At the Federal level, there is no oversight to protect consumers from this predatory pricing, gouging or market manipulation. We need to pass this amendment today. No American should have to pay too much for gas because the oil companies are rigging prices.

Our amendment will give the President authority to take immediate action in the face of energy crisis by declaring a national energy emergency.

It will provide the Federal Trade Commission with new authority to investigate and prosecute those that engage in predatory pricing, from oil companies on down to gas stations, with the emphasis on those who profit the most. This includes price gouging of gasoline and natural gas, home heating oil, propane.

H.R. 3893 does nothing to address natural gas and propane gas prices, even though gas prices are expected to rise by more than 90 percent as shown in today's USA Today. Staying warm is to cost up to 90 percent more. That is natural gas. And this bill does not even address it.

Our amendment also empowers the Federal Government to impose tough civil penalties of up to triple damage on all excess profits on companies that have cheated consumers. The base bill provides no additional penalties for those who engage in price gouging.

Our amendment will also provide for relief to consumers paying skyrocketing energy and transportation costs and increase funding for the low-income home energy assistance program through fines from price-gouging companies.

It would also put in place new consumer protections to prevent market manipulation and ensure greater transparency in the cost of a gallon of gas. The base bill provides no transparency. Why is it, we in America, no one can tell us what does it cost for a gallon of gas? What does it cost for a cubic foot of natural gas? Why do they not want us to know how they are manipulating the market, gouging the American consumer?

In the wake of Hurricane Katrina, Americans are pulling together, donating to relief organizations and giving their time to help the people of the Gulf Coast recover. That is how American people react when they see their fellow citizens in need.

Unfortunately, some people have looked at Hurricane Katrina not as a chance to give but as an opportunity to profit. Some have decided to take advantage of this terrible tragedy and line their own pockets by gouging the American people at the gas pump.

As eight governors wrote to us in Congress urging passage of our legislation, they stated, and I quote, ''to price gouge consumers under normal circumstances is dishonest enough. But to take money off from the severe misfortune of others is downright immoral.''

Skyrocketing oil and gas prices are hurting the American consumer as well as our economy. Sadly, the majority bill does nothing to crack down on those who are manipulating the market and price gouging. The Stupak-Boucher amendment provides the kind of relief from high gas and energy prices that consumers deserve.

Our amendment will protect all consumers from unfair energy and gas prices and punish those who think that a time of a national tragedy is the right time to rob the American people of their hard-earned money.

I urge a ''yes'' vote on our amendment.

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

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. HALL).

Mr. HALL. Mr. Speaker, people are sick and tired of the two words, do nothing. And that is just no answer to folks who are startled when they go to gas their vehicle, 50 bucks, 60 bucks, $70 to fill it up. They are startled that we have airlines that are flying full and going broke because of the cost of energy, and we just cannot afford to do nothing.

Let me just list a few of the areas here of the Stupak substitute that do nothing. It will do nothing to limit boutique fuels that have propped up gasoline prices by artificially limiting supply. It will do nothing to encourage private industry to build new refineries that will increase daily supplies of gasoline. It will do nothing to help diversify our domestic refining capacity away from the gulf coast. It will do nothing to help site crude oil and petroleum product pipelines that transport gasoline to Americans. It will do nothing to help small refineries utilize their capacity to increase supply and encourage robust competition in the industry. It will do nothing to provide authority to the President to temporarily waive Federal, State and local fuel additive requirements in the event of an extreme and unusual supply circumstance caused by a natural disaster, which proved to be critical in the wake of Katrina and Rita. It will do nothing to encourage conservation like carpooling and van pooling. Do nothing to strengthen the Strategic Petroleum Reserve to ensure that critical crude oil supply is there when the Nation needs it. It will do nothing to ensure that the crude oil sold from the Strategic Petroleum Reserve is used for its intended purpose, to be refined for our domestic use. And finally, it will do nothing for the northeast to help develop the northeast home heating oil. We cannot afford to do nothing outlined in the Stupak amendment. I urge a vote against it.

Mr. STUPAK. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. BOUCHER), a member of the committee and my partner in drafting this amendment, the substitute amendment.

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

Mr. BOUCHER. Mr. Speaker, I am pleased to join with Mr. STUPAK in offering this substitute which would replace the underlying bill with two targeted provisions aimed at increasing our Nation's refinery capacity and giving the Federal Government the tools necessary to investigate, deter and punish price gouging. Together, these two provisions would be an effective response to problems in our gasoline market.

The gentleman from Michigan (Mr. STUPAK) has drafted the price-gouging provisions of our amendment. I fully support those provisions, and I commend the gentleman for his outstanding efforts.

I will direct my remarks today to the refinery specific provisions of our substitute. We would create a strategic refinery reserve. In doing so, we would build upon the success of the Strategic Petroleum Reserve by creating a natural extension of that successful program of refinery reserve. Under our amendment, the Secretary of Energy would establish refineries with capacity equal to 5 percent of the total United States demand for gasoline, home heating oil and other refined petroleum products. The location of these refineries would be out of harm's way at places to be designated by the Secretary of Energy.

During times of nonemergency, the refineries which make up the strategic reserve would produce refined gasoline for use by the Federal Government. In addition, State and local governments could choose to purchase refined products from the reserve. Keeping the refinery reserve operational in that fashion would ensure that there would be no lag time in it going on-line when needed to address a national emergency.

□ 1230

Weakening the clean air laws and providing incentives to the refinery industry as proposed in the underlying bill is not the best way to ensure new refinery construction. There has been no evidence that environmental permitting is the problem that leads to no new refinery capacity.

The truth is that the refinery owners are benefiting enormously from the current limited capacity, with profits increasing 255 percent during the past year alone, 255 percent of profit increase in a single year. Simply put, the refiners are making more money by refining less gasoline.

The substitute which the gentleman from Michigan (Mr. STUPAK) and I are offering is a commonsense approach to our problems, establishing a Federal mechanism to investigate and punish price gouging and creating a strategic refinery reserve to assure adequate refining capacity during times of emergencies.

I support strongly the substitute, and I urge its approval by the House.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. SHIMKUS), a distinguished member of the committee.

Mr. SHIMKUS. Mr. Speaker, I would like to address my friends and colleagues.

We have got a lot of good Members on the Committee on Energy and Commerce, and I have great respect for my friends, the gentleman from Michigan (Mr. STUPAK) and the gentleman from Virginia (Mr. BOUCHER), who come here with serious public policy concerns.

I want to speak on an issue they do not address, in fact, I think they roll back, which I think is critical to addressing the price spike, and that is boutique fuels. I will just give an example.

When I fly back home, I fill up in St. Louis. I fill up my vehicle in St. Louis, and then I drive across the river to my hometown in Collinsville, which is 30 minutes from the St. Louis airport, and then I drive up to Springfield, Illinois, which is the northern part of my district, probably 100, maybe 200 miles separation, I go through three different fuel markets. In other words, the unleaded gas I burn in St. Louis is not allowed to be purchased and bought in Illinois, and it is not allowed to be purchased and sold in Springfield, even though I am burning that fuel and driving back and forth. These environmental regulations on the boutique fuels really make sense.

What makes it more difficult is that when you have constrained refinery capacity and you have one refinery producing for one area of the country, when that refinery has a disruption or goes down, then there is no way you can get fuel in there unless you waive environmental regulations, which is what the bill allows us to do if there is a natural disaster or hurricane. It says we need to move fuel from St. Louis to Springfield, Illinois; Mr. President, you can waive those regulations.

So we should not discount the importance of addressing this boutique fuel. Boutique fuels, 48 to 58 different fuel brands around our country, will be pared down to six so that we can still meet the needs of the different regions of the country without holding us hostage.

I thank the chairman for the time.

Mr. STUPAK. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. GENE GREEN), a member of the committee.

Mr. GENE GREEN of Texas. Mr. Speaker, I thank my colleague for yielding me time.

I have to admit, it is frustrating when you have someone from an energy producing State and when you hear speaker after speaker complain about high energy prices, and yet the only thing they bring to the table is an empty tank. What we need is supply solutions, but I am supporting the Stupak substitute only because of the additional consumer protections.

I applaud the gentleman from Texas' (Mr. BARTON) amendment to the version we passed out of committee for strengthening consumer protections and for removing the new source review, or the NSR, language that would have weakened clean air protections.

But the language in the gentleman from Michigan's (Mr. STUPAK) amendment is clearer, and the penalties are much stronger than those in the original bill. This is a critical issue that must be addressed to prevent price spikes like we saw in Atlanta after the hurricane that drove prices to nearly $6 a gallon.

I am disappointed the substitute does not include my amendment that was accepted by the committee to address energy needs after a disaster. The amendment would require the Department of Energy to review and approve and offer recommendations on fuel supply segments of State evacuation plans.

It would also specifically authorize critical energy facilities like refineries to request direct help from the Department of Energy during a federally declared emergency or disaster.

If refineries go down, they must get back up quickly. The amendment would have authorized the DOE to provide assistance with generation capacity, water service, critical employees and ensure raw materials could be accessed, and any other necessity.

Mr. Speaker, this amendment strengthens the consumer protections in the overall bill, and that is why I support it, and I urge my colleagues to do the same.

Mr. BARTON of Texas. Mr. Speaker, I yield 2½ minutes to the gentleman from Florida (Mr. STEARNS), one of my subcommittee chairmen.

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

Mr. STEARNS. Mr. Speaker, I thank the distinguished chairman for the time, and I come to the floor to speak against the Stupak substitute.

I would tell all my colleagues in the energy markup in the full committee, the gentleman from Michigan (Mr. STUPAK) did offer his amendment. It was defeated. I offered an amendment that was dealing with price gouging, and I won by only one vote.

The gentleman from Michigan (Mr. STUPAK) did an able job of pointing out some of the things in my amendment that he felt were weak. So the chairman and I and others on the committee went back, and we incorporated a lot of what the gentleman from Michigan (Mr. STUPAK) brought up in the debate. We included it in this manager's amendment.

So there is really no reason to vote for the Stupak substitute because much of what we have in the manager's amendment is already included. As a Member on this side of the aisle, I wanted to thank the gentleman from Michigan (Mr. STUPAK) for his help so that we are able to include in the manager's amendment some of his points, and I think we made a stronger bill.

I would say to those Members on both sides of the aisle, there is really no reason to support the Stupak amendment because lots of what he is talking about dealing with price gouging, as I mentioned earlier in my speech, we have included in the manager's amendment.

There are some other things I would like to point out dealing with the Stupak amendment. It does not provide consumer protection against price gouging in the crude oil or home heating oil market. The manager's amendment that I mentioned earlier offers these important consumer protections.

The Stupak amendment caps damages at $3 million per day, while the manager's amendment allows for $11,000 per violation with no cap on the amount of damages that can be assessed. I think that is an important difference, and I think we should realize that is why the manager's amendment is better.

The Stupak amendment has a market manipulation provision that is current law. The manager's amendment does not include this provision because the Federal Trade Commission has authority under current antitrust law to enforce against market manipulation.

The Stupak amendment includes petroleum distillates that are subject to price-gouging violations. Unfortunately, petroleum distillates, which are used in so many products that are sold to consumer product companies, such as cosmetics, could be subject to price gouging under this amendment. That is our interpretation. My colleagues might not agree with it, but that is an area we are concerned about. If we have price gouging, it could affect such things as cosmetics.

Overall, I think the point I am trying to make is, we incorporate a lot of the gentleman from Michigan's (Mr. STUPAK) concerns in our manager's amendment. It made our bill stronger. We thank him for what he did.

In the end, I think my colleagues should realize we should vote against the Stupak substitute.

I agree we should have legislation to prevent people from lining their own pockets by taking advantage of others in a time of crisis. However, I cannot support the manner in which Mr. STUPAK's amendment addresses the problem.

The Stupak amendment will create serious problems for consumers at a time of disaster. There is no mechanism to allow prices to reflect the changes in the market dynamic following a disaster other than cost.

The Stupak amendment defines price gouging violations with very subjective terms,

such as "unconscionable" and "grossly exceeds", that will prove unworkable for the FTC. Instead, the FTC possesses a history of determining what is unfair under the FTC Act and we should rely upon their expertise to define price gouging.

Because the amendment only accounts for price increases related to costs increases and does not include other factors—such as fear or panic—it will artificially restrain prices that lead to shortages in gasoline at the time consumers in a disaster area most need access to gasoline. This is because the amendment does not adequately allow for actual or anticipated changes in supply to be reflected in price.

The Stupak amendment includes "petroleum distillates" that are subject to price-gouging violations. Unfortunately, petroleum distillates are used in so many products that selling distillates to consumer products companies, such as cosmetics, could be subject to price gouging under this amendment.

While it does provide supply and demand considerations as a mitigating factor, it does so only for dollar costs actually incurred by the seller. It does not allow the FTC to consider countervailing benefits to consumers, namely that an increase in price can discourage hording by the first consumers to arrive at the gas station, leaving no gas for those who arrive later.

The amendment is not adequately tied to a time of disaster. It gives the President authority to declare an emergency for any disruption of gasoline distribution or any significant pricing anomalies in the market. If exercised, this would interfere with supply and demand and lead to shortages for extended periods of time.

The Stupak amendment caps damages at $3 million per day while the Manager's Amendment allows for $11,000 per violation, with no cap on the amount of damages that can be assessed.

The Stupak amendment has a market manipulation provision that is current law. The Manager's Amendment does not include this provision because the FTC has authority under current antitrust law to enforce against market manipulation.

The Stupak amendment does not provide consumer protection against price gouging in the crude oil or home heating oil markets. The Manager's Amendment offers these important consumer protections.

Mr. STUPAK. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. SCHWARTZ), one of the authors of this substitute, and we appreciate her.

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, I rise in strong support of the Stupak-Boucher-Bishop-Schwartz-Barrow substitute amendment, and I want to thank the gentleman from Michigan (Mr. STUPAK) for his leadership on this issue of national importance.

Mr. Speaker, Americans across the country are deeply concerned about the skyrocketing costs of gasoline, and rightly so. This year, the average American family will pay nearly $4,500 to meet their energy needs. This is 19 percent more than last year.

Contributing to these costs, as we all know, is the dramatic increase in the price of gasoline. In the midst of Hurricane Katrina, gas refiners were selling a barrel of gasoline for 434 percent more than a barrel was selling exactly 1 year ago.

These steep costs make it difficult for hardworking Americans to meet their financial obligations, and they underscore the reality that the President and the majority party in Congress have failed to enact policies to protect American consumers from price gouging and reduce the Nation's overall dependence on gasoline and oil.

The American public is concerned, and they are concerned that at the same time that oil refiners' profits are more than tripled over the last year, consumers are paying record high gas prices.

They are concerned because after a double-digit increase in home heating costs last year, prices are expected to increase at even higher rates this winter.

They are concerned that the cost of gasoline is rising faster than the actual price of crude oil.

Mr. Speaker, they are concerned that neither the White House nor the Republican Congress has put forward a plan to address this problem.

The bill before us is yet another giveaway, not a plan. Behind the rhetoric is an empty bill that favors the oil industry while failing to take meaningful action to reduce prices for consumers. In fact, it makes matters worse.

It ignores the harsh realities of price gouging at the pump by weakening our ability to crack down on those trying to manipulate the market for their own profit.

And it eliminates long-standing production and refining standards that safeguard the environment and the public's health.

My colleagues, we have the opportunity to answer the concerns of everyday Americans and to promote our nation's and our families' security and economic well-being. To meet this goal, we must make clear that price gouging and profiteering is unacceptable and will be met with stiff penalties. We must reduce our reliance on foreign oil. We must find better, more efficient ways to use traditional energy sources. And must help bring to market more affordable, reliable, and cleaner energy sources. And, the plan we are offering in the substitute amendment today will help to meet these goals.

It will provide relief at the pump by bolstering our ability to punish oil companies and refiners who wrongly ratchet up the cost of their product. Our plan will stop price gouging, not just for gasoline, but for natural gas, home hearing oil, and propane. And our plan will improve our nation's energy security through the establishment of a Strategic Refining Reserve so that we are never again are in the position of releasing crude oil from our emergency reserves, but unable to refine it and bring it to market.

Do not be fooled by the title of this bill, vote for this substitute. Enact a plan that will deliver real relief to the American people.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. PICKERING), the vice chairman of the committee.

Mr. PICKERING. Mr. Speaker, I rise in opposition to the Stupak substitute and in support of the underlying legislation.

I want to thank the gentleman from Texas (Mr. BARTON), the chairman of the committee, my friend, for his leadership. We have seen this year that we have passed comprehensive energy legislation, but that legislation did not address really the linchpin of the need in our country for greater refining capacity and greater pipeline security, redundancy and reliability. Katrina exposed that fundamental weakness in our Nation's energy security and in our Nation's economic security.

For 30 years, we have done nothing. We have not had a new refinery come into our Nation. No one has invested. And much of that reason is that the cost of doing business, a refinery investment in this country, is so much higher than offshore. If we can streamline the regulatory process, give new incentives so that companies will invest in our country and new pipeline security and redundancy and reliability, as well as a new refining capacity, then we can do something about high gas prices and the disruptions that occur in a natural disaster like Katrina.

We must act. We cannot fail to act. We have seen the fundamental flaw and weakness. It has been exposed with Katrina, and the other side reminds me of those who, when a barn is burning and the fire truck is wanting to come and put the fire out and do something about it, they stand in the way and block the road and then want to blame the fire department for failing to put the fire out.

Now is the time to act. The chairman of the committee has shown remarkable speed in getting this legislation to the floor. We need to act. It is what the American people want. They would agree with us. Give us a chance to do something to make it better.

Mr. STUPAK. Mr. Speaker, I yield 1½ minutes to the gentleman from New York (Mr. BISHOP), who helped us with the substitute and had invaluable input.

Mr. BISHOP of New York. Mr. Speaker, I thank the gentleman from Michigan (Mr. STUPAK) and the gentleman from Virginia (Mr. BOUCHER) for their leadership in offering this substitute, and I am proud to join them.

I rise in strong support of this substitute for two reasons. Unlike the underlying legislation, it contains a meaningful deterrent to price gouging, and it provides an effective strategy to expand refinery capacity.

We can all agree there were some good provisions in the first energy bill, but Katrina exposed its shortcomings, as well as vulnerabilities that still exist in the energy market.

We can also agree that the hurricane made it harder to meet the challenge of delivering relief to families struggling to pay their energy bills and that a rash of price gouging compounded this problem.

Our substitute takes direct aim at these challenges by creating a strong

deterrent to price gouging that keeps gas prices stable. The underlying bill sets an $11,000 fine for price gouging. That may sound like a lot to the average middle class family, but it is not much to the Exxon-Mobils of this world who earn record profits.

In contrast, this substitute deters price gouging at every stage of production, not just the retail phase, but at all phases in the chain of supply, and this will strengthen those measures.

Mr. Speaker, now is the time that we must stand up to profiteers by assuring hardworking American families that Congress is standing up for their interests, not the oil companies'.

I urge my colleagues to support this substitute that protects American taxpayers and our national security.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. MURPHY), another distinguished member of the committee.

Mr. MURPHY. Mr. Speaker, I thank the chairman for the time.

There are two points I would like to make here. First of all, with regard to the amendment, let us understand what is in there. If there is concern for giving large amounts of money to oil companies, what they propose we do is that the Federal Government gets in the business of, quote, designing and constructing refineries and then put that into use at times in their national emergencies or sell gas to States, which this bill actually allows States and governments to have some of this gasoline now, but for the government to own and operate refineries and invest all the money in there. In the alternative, if we can provide incentives for private industries to build, whether it is something small or large refineries, that makes a lot more sense.

□ 1245

And if we are concerned at all about the budget, let us do the more efficient thing, rather than have the government run these things, have them sit mothballed until times of emergency, and then suddenly act like there is a switch one can throw and start them up.

The second thing I want to point out is that I wish we could have included some important movement forward to make some changes on new source review. What happens now with a coal-fired power plant, for example, if they want to go in and do some routine maintenance, and while they are in there maybe improve the efficiency of the plant, the EPA comes by and says, no, you are going to do something different here. Even though you are going to improve efficiencies, we want you to do everything now. The energy company comes back and says we cannot afford those larger investments; we were going to make some smaller ones, so, therefore, we will do nothing.

What they have done, instead of using the abundant supply of coal, we have 300 years' worth of coal in this Nation, they will move to natural gas instead in order to meet some of those standards. Natural gas means we have more demand, the costs go up, it affects homeowners in the price of heating their homes, and it affects our chemical industry.

The Unions for Jobs and the Environment have sent a letter, and I will submit this letter as well for the RECORD, which states the efficiency and competitiveness of our facilities and the safety of our workers hang in the balance. This is a jobs and safety issue for millions of American workers. And they go on to say that delaying the new source review issue is costly to jobs. So I want to make sure that we address this the next time when we get on to more of these energy issues.

The letter referred to is as follows:

UNIONS FOR JOBS AND THE ENVIRONMENT,
Washington, DC, October 5, 2005.

Re: Support for Section 106 of H.R. 3893

Hon. JOE BARTON,
Chairman, House Committee on Energy and Commerce, Washington, DC.

Hon. JOHN DINGELL,
Ranking Member, House Committee on Energy and Commerce, Washington, DC.

DEAR CONGRESSMEN BARTON AND DINGELL: On behalf of the members of Unions for Jobs and the Environment and the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, we write to express our support for Section 106 of H.R. 3893, the Gasoline for America's Security Act of 2005 (the Act) to provide much needed clarification of the New Source Review (NSR) program. We oppose any effort to amend this provision, and therefore, we urge you and your colleagues to vote against any amendment or rule that would complicate implementation of these important NSR reforms.

Our unions have had a long-time commitment to clear, effective and reasonable NSR policy. Like the Act does in Section 106(a), we have encouraged the Environmental Protection Agency (EPA) to clarify the program as soon as possible. The efficiency and competitiveness of our facilities and the safety of our workers hang in the balance. This is a jobs and safety issue for millions of American workers.

NSR, correctly interpreted as we hope EPA's new rules will do, forces new sources or those undergoing major modifications, to install new technology. We support NSR in that context. However, when NSR is applied in an unclear or inflexible manner to existing facilities, very different results occur. In those cases, facilities are discouraged from undertaking appropriate actions for fear of huge penalties, long delays, or both. By applying NSR in that way, our members will not have the opportunity to work on projects that we know are extremely important to energy efficiency. Further, by reducing the useful economic life of boilers or by inaccurately setting baselines, the existing NSR confusion undermines the competitiveness of American job sites. The result is that some of the almost 20 million manufacturing jobs at stake in heavy industry are placed at risk.

Finalizing new NSR rules is also important to maintain worker safety. As the Boilermakers testified earlier this year, ''the threat of litigation too often acts as a deterrent to capital investments that create work and maintain safe facilities for our members. Boilers operate under high temperatures and pressures—with superheater tubes exposed to flue gases at temperatures as high as 2,000 degrees and pressure around 3,000 lbs./square inch—and must be maintained in order to be safe for workers.'' Section 106(a) and (b) ensure the orderly and timely implementation of NSR clarification.

Therefore, we ask you and your colleagues not to accept any amendment that would complicate the implementation of the final NSR rules. Thank you for your consideration of our view on this important matter.

Sincerely,

BILL CUNNINGHAM,
President, Unions for Jobs and the Environment.

Mr. STUPAK. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BARROW).

Mr. BARROW. Mr. Speaker, I want to address a serious problem with the underlying bill, and that is that it relies exclusively on the Federal Trade Commission and its willingness and ability and resources to enforce the price gouging remedy in the bill.

I think we should all remember this is the same FTC that said, we do not have any authority to investigate price gouging in this area; we do not need any authority in this area. Everything is just fine, thank you very much; and then, when pressed further, said we do not want any authority in this area because we will just make a bad situation worse.

Well, Mr. Speaker, relying on a sorry bunch of people that do not know their job, do not care about their job, and do not believe in their job is like going hunting and having to tote the dog.

Our substitute corrects this problem by giving the States attorneys general the same authority to enforce the price gouging remedies that we give the FTC. The attorneys general of our States are elected by our constituents, they know the conditions in their States better than we do, they have the resources and the discretion under the substitute to decide whether or not it is in the best interest of their constituents, our constituents, for them to act when we do not. This is Federalism at its best.

I urge everybody to support the substitute for this reason, if none other. Any attorney general doing something is better than the FTC doing nothing.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Midland, Texas (Mr. CONAWAY), the former mayor of Midland.

Mr. CONAWAY. Mr. Speaker, I thank the gentleman for yielding me this time, but I do need to correct the record. I was not the mayor. I should have been, perhaps, but I thank my colleague.

Mr. Speaker, the issue is about refining capacity and the ability for us to convert crude oil into gasoline and other products. The record is pretty clear on both sides that we have not built a new refinery since 1976. In 1981, we had 324 refineries in production. Today, we have 148. We refine about 17 million barrels of gasoline a day, and we use about 21 million. We are importing gasoline; and, obviously, one of the choke points in the supply system is

the ability to convert crude oil into gasoline.

What this bill does, and I am speaking against the substitute and in favor of the underlying bill, is that it removes a regulatory burden that many folks who want to build a refinery have to submit themselves to. It takes about 3 years to build a refinery, exclusive of the permitting process. Major investments are needed in order to construct a refinery, and businesses simply are not willing to put those dollars at risk subject to a regulatory approval permitting scene that is disjointed at best.

Under the bill, we allow the Governor to designate a particular site subject to these provisions. We put the DOE in charge of shepherding the permitting process, not making the decisions on behalf of the State and the Federal regulators, but simply encouraging them to get it done on a timely basis.

Most businesses can deal with an answer, but a maybe or a give me more information or a delay is what is killing us. So I am standing in favor of the original bill, the manager's amendment and speaking against the Stupak substitute.

Mr. STUPAK. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. FARR).

Mr. FARR. Mr. Speaker, I rise in strong support of the Stupak substitute and in strong opposition to the underlying bill. I would use this moment just to wake up the city councils and boards of supervisors and county folks around this country, particularly if you have had a closed military base. Because this underlying bill just opens that up and says if the President of the United States decides we need oil refining capacities, they can puts it in your back yard. They waive all the requirements.

They did make an amendment at midnight last night that is still vague, but says they have to following BRAC re-use law, but that does not affect Federal lands that may be in the closed base. So essentially they could parachute an oil refinery in the middle of a closed military base, and it waives all of the requirements that are local, zoning and all of that. That just would not have any effect.

I will tell you why this is crazy. Because one of the bases that would probably qualify with a deep port and a lot of land is Fort Ord. Fort Ord, California, is surrounded by the National Marine Sanctuary and is one of the most beautiful areas in the whole United States. The last thing we should ever do is have an oil refinery there. This is a crazy bill, and I urge its defeat.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume to enter into a colloquy with the gentleman from Michigan (Mr. STUPAK) and the gentleman from Virginia (Mr. BOUCHER) if they are on the floor. I know the gentleman from Michigan (Mr. STUPAK) is. I do not know if the gentleman from Virginia (Mr. BOUCHER) is or not.

First of all, I want to say that I think it is good that we have a Democrat substitute. I think it adds to the debate. It certainly adds to the fairness of the debate. But I do have some questions for my good friend from Michigan.

On page 2, title I, section 101, it basically says if a President has issued a declaration that there is an energy emergency, it begins to talk about a price that is unconscionably excessive. That is line 4. What is unconscionably excessive?

Mr. STUPAK. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Michigan.

Mr. STUPAK. Mr. Speaker, when the oil refineries raise their rates 255 percent in the last 12 months, that is unconscionably excessive.

Mr. BARTON of Texas. So reclaiming my time, Mr. Speaker, if they were up 250 percent, that would not be unconscionably excessive?

Mr. STUPAK. Well, Mr. Speaker, if the gentleman will continue to yield, I guess we are going to have to look in the bill, because in the bill we also put in there factors to be considered excessively too much. If you go to the bottom of page 2, bottom of page 3, we put it in there. Our bill says that in 90 days the FTC has to define it for us.

Mr. BARTON of Texas. I am asking what if it was conscious? What if somebody set a price that was not unconscious, but said I am going to raise the price? Would that trigger it?

Look, I am asking legitimate questions.

Mr. STUPAK. I will give the gentleman examples. I think excessive is more than reasonable. When it is more than reasonable pricing.

Mr. BARTON of Texas. Then you need to put the example in the statute.

Mr. STUPAK. A great example is Georgia. Why did it go up $6 a gallon after Hurricane Katrina? Was that reasonable, when the rest of the Nation was about $3? That is excessive. That is unconscionable.

Mr. BARTON of Texas. Let me ask another question. It says ''in the area to which the declaration applies.'' What if the price gouging is outside of the declaration area? What does your amendment do then?

Mr. STUPAK. Then the President, much like the manager's bill, and much like excessive, and the gentleman's bill has the same language basically because you copied our bill, so you can go outside the area. The President has the authority to go outside the area, just like he does in the underlying area.

And getting back to the FTC and what is excessive, again just like your bill, you used different words, but you allow the FTC to define it. We gave more than you gave. We actually gave concrete factors to consider.

Mr. BARTON of Texas. We do not have in the manager's amendment the words ''unconscionably excessive.'' We do not have the words ''gross disparity.'' I am not disputing the intent. I understand that. I do question the advisability of putting that in statute when it is not defined. That is my question.

Can the gentleman answer questions about the strategic reserve?

Mr. STUPAK. In answer to the gentleman's last question, if you look at page 4, we have rulemaking in there, where the FTC shall promulgate the rules necessary and appropriate to enforce. Under the rulemaking process, you, myself, just about all of us have an opportunity to put in our two cents' worth on what we feel may be excessive, market manipulation, or price gouging. So, again, if you want to dwell on a word or two, I think all Americans know when they are being excessively gouged at the pump.

Mr. BARTON of Texas. Mr. Speaker, I know the gentleman's intent is honorable. I am not questioning that.

Can the gentleman answer questions about section 191, the Strategic Refinery Reserve? I know the gentleman from Virginia (Mr. BOUCHER) is the prime author.

Mr. STUPAK. Go ahead. I will try to answer it.

Mr. BARTON of Texas. First of all, it says the Secretary shall establish and operate. Does that mean that the Federal Government would actually build these refineries and operate them with Federal employees?

Mr. STUPAK. It is just like the Strategic Petroleum Reserve; it is up to the Secretary to approve it. Would the Federal Government and Federal employees operate it? No. Much like we did in the energy bill for nuclear. Let us put it up and build it, but let someone else operate it and manage it.

Mr. BARTON of Texas. Would these refineries operate continuously, around the clock, or would they only operate when the President has declared an energy emergency?

Mr. STUPAK. They would operate around the clock. Mr. Chairman, if you look on page 18 on how it would be implemented, it is starting on line 9, we have the implementation plan, and it must be established within 2 years and how they are going to do it. But we would operate it year-round. The refined product would go to, without an energy declaration by the President, refined product would go to the military to meet their military needs. At times of emergency, then we would shift to give relief at home at the pump for the American people.

Mr. BARTON of Texas. Well, on page 18, the implementation plan just says the Secretary shall transmit to the Congress a plan. But it is your understanding that if this were to become law, these refineries that would be built by the Department of Energy would actually be operated on a continual basis; is that correct?

Mr. STUPAK. ''Shall transmit the plan to Congress for establishment and operation of the strategic refinery reserve,'' lines 11 and 12.

Again, he will submit his plan, whoever the Secretary is. They may have a different idea, but they must submit it to the Congress so we can see. It is just like SPR, subject to appropriation, subject to congressional oversight.

Mr. BARTON of Texas. But the strategic petroleum reserve is a reserve that you take crude oil and store it so if we need it you bring it up and transmit it to refineries to be refined into refined products. A strategic refinery reserve, as I understand it in this bill, you actually go out and build the refineries, and it is unclear to me whether you would operate them around the clock or just in some sort of an emergency.

I do understand that you require the Secretary of Energy to transmit the plan. But if the Secretary of Energy did not want to operate them continuously, I guess he would have that authority in the plan to have them as a sort of ready reserve.

Mr. STUPAK. Mr. Speaker, I yield 3½ minutes to the gentleman from Maryland (Mr. HOYER), the distinguished Democratic floor leader.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me this time, and I would like to make an observation to the chairman at the outset.

Mr. Chairman, had we had hearings on this bill, perhaps your questions could have been answered. But your side decided not to have any hearings, not to explore the facts. Your side decided to go ahead, in my opinion, for political purposes. I do not question your motives, because my understanding is you were acting under instructions, and we all understand that.

Mr. Speaker, the American people are being pummeled at the pump by high gas prices, and they are being told to brace themselves for record heating costs this winter. And what is this House majority doing to reduce the consumers' pain? Nothing.

Let us be clear: this bill is not a panacea; it is not even a solution or a plan. But do not take my word for it, just listen to the Republican chairman of the House Committee on Science, the gentleman from New York (Mr. BOEHLERT). In a letter that he sent today, after the Committee on Rules reported the manager's amendment late last night, the gentleman from New York (Mr. BOEHLERT) wrote in a Dear Colleague: ''Please join me in voting no on H.R. 3893, which will increase the deficit, harm the environment, undermine the States, and give charity to the oil companies while doing virtually nothing to help consumers.'' Chairman BOEHLERT's remarks.

□ 1300

Mr. Speaker, it is clear that this Republican majority is exploiting the disruption to our Nation's refining capacity caused by Hurricane Katrina and Rita to push many of the same provisions that they could not pass in the Energy Policy Act we passed in July.

This Republican bill, for example, would create a fund that would pay oil companies if they are sued, even if they lose in court. It would enable cities with dirty air to delay meeting clean air requirements, and it would preempt State and local zoning regulations related to the siting of refineries.

What do these provisions have to do with reducing gas prices today? In sharp contrast, the Democratic substitute, sponsored by the gentleman from Michigan (Mr. STUPAK) and the gentleman from Virginia (Mr. BOUCHER) would put some bite in the Federal Trade Commission's bark. It would give the FTC explicit authority to stop price gouging, not just for gasoline and diesel fuels, but for natural gas home heating oil and propane as well. It provides for enhanced penalties for price gouging, explicitly outlaws market manipulation, substitute Enron activities, if you will, and empowers State attorneys general to enforce the Federal law.

Furthermore, Mr. Speaker, the substitute would establish a strategic refinery reserve. The fact is our national security and economic strength are susceptible to private industry decisions that are motivated primarily by profit, but not by national security issues. This Congress has a duty to address this vulnerability.

I urge my colleagues to vote for this substantive substitute, and I urge further, that if the substitute passes, maybe vote for the bill; but if it does not pass, to vote against this bad bill, which is bad for the consumers of our country.

Mr. STUPAK. Mr. Speaker, I yield the balance of my time to the gentlewoman from California (Ms. PELOSI), our Democratic leader, who has been so supportive in our efforts to make sure that Americans get a fair shake at the gas pump and when they heat their homes this winter and go to work each and every day. She has been there fighting for the American people.

Ms. PELOSI. Mr. Speaker, I thank the distinguished gentleman from Michigan for yielding. I commend the gentleman from Michigan for his great leadership, and I thank him for his great leadership on behalf of the American consumer and the American taxpayer.

The gentleman from Michigan and the gentleman from Virginia with their very wise substitute give a chance to help the consumer and declare energy independence. I also want to commend the gentleman from Michigan (Mr. DINGELL), the distinguished ranking member of the full committee, for his extraordinary leadership on this and so many issues. Also, I salute the gentleman from New York (Mr. BOEHLERT), chair of the Science Committee, for his recognition that this Democratic substitute is a better way to go.

Mr. Speaker, I rise in strong opposition to the Republican energy bill. It is anti-taxpayer. It is anti-consumer. And it is anti-environment. I encourage my colleagues to support the Stupak-Boucher substitute. This bill should be called, The Republican Gifts to Special Interests Bill. It is a perfect example of the Republican culture of cronyism and corruption. Using Hurricane Katrina as their excuse, the Republicans are once again pushing their special interest agenda at the expense of the American people.

Americans do not need legislation passed here today to enrich the oil industry. Americans need relief from high Georgia prices. This week, the average price at the pump was $2.92 a gallon. That is 99 cents more than a year ago and 30 cents higher than just pre-Katrina. It is also twice the cost per gallon than the first year when President Bush took office.

Winter is around the corner, and so are skyrocketing increases in home heating costs. Families who heat with natural gas could see their fuel costs increase more than 70 percent in some parts of the country. It is astounding. Families are expected to spend nearly three times as much for home heating oil again than they did 4 years ago, the first year President Bush took office. Let us get this straight. Price at the pump for the consumer, per gallon of gas, is twice as high as 4 years ago, the first year President Bush took office. For home heating oil, you are expected to pay three times as much as you did 4 years ago, the first year President Bush took office.

Yet for the second time in 1 month, the Republicans have brought a bill to the floor that fails to address price gouging, fails to bring down prices and fails to put us on the road to energy independence.

As with the energy bill passed this summer, this bill ignores the real need of the American people and rewards the greed of special interests. Need or greed, take your choice. The Republicans in this culture of corruption and cronyism came down on the side of greed. This bill includes all the special favors to the energy industry that were too extreme to be included in the energy bill passed by Congress less than 3 months ago.

Refinery companies have deliberately closed and consolidated their facilities to drive up profit margins. They are making enormous profits. Do the American people really believe the right response is to waive environmental laws, brush aside State and local authorities and open up Federal lands to new refineries? Of course not. But that is the Republican approach: Greed over need.

Republicans blame the Clean Air Act for our record energy costs. Even after removing its most extreme provisions, this bill still includes the so-called bump-up provision, which would expose millions of Americans to unhealthy levels of smog for years to come. Once again, greed over need.

Our Democratic substitute to this bill, introduced again by the gentleman from Michigan (Mr. STUPAK) and the

gentleman from Virginia (Mr. BOUCHER) creates a strategic refinery initiative which would be able to produce 5 percent of the daily demand for gasoline when needed, real solutions to America's energy crisis. That is what this substitute contains. If you are able to produce 5 percent, bump that up to the daily demand, you can reduce the price of gasoline at the pump drastically.

For weeks, Democrats have demanded a new Federal law to crack down on price gouging by the energy industry. In fact, the gentleman from Michigan (Mr. STUPAK) has that very bill. Consumers are being cheated every time they fill up their cars or turn up their thermostat by an industry making record profits. But this bill does not come close to addressing the severe gouging of consumers.

Our Democratic substitute provides real protection from price gouging for the first time. We have been asking for it over and over. Here we have a bill on the floor that will do just that. The Stupak-Boucher bill gives the Federal Trade Commission broad authority to crack down on price gouging for a wide range of fuels, for businesses all along the supply chain.

Our substitute provides for tough civil penalties and allows attorneys general to enforce the Federal law without interfering with State price gouging laws. Mr. Speaker, it is time for our Nation to make a declaration of energy independence. This is an urgent issue of national security. Together, America can do better. We have the resources. We have the technology. We have the innovative ideas, and more of them are springing forth all the time. We can do it right and create millions of new jobs at the same time.

We have an enormous untapped potential in the area of energy efficiency and renewable energy. By implementing existing technologies and developing new ones in every sector of the economy and American life, we can take a giant step toward energy independence. This is not just about turning down the thermostat or driving less. Many Americans have had to do that for a long time now, they have already taken those steps; as much as this is about using our ingenuity to make our lives better and more comfortable.

Let us make progress. Let us set aside this back-to-the-future energy bill and turn our faces into the 21st Century, toward our Nation's true needs. I urge my colleagues to again reject this special interest Republican giveaway act and support the Democratic substitute. Together, Americans can do better.

Mr. MARKEY. Mr. Speaker, I rise in support of the amendment offered by the gentleman from Michigan (Mr. STUPAK) and the gentleman from Virginia (Mr. BOUCHER).

The bill before us today proposes to gut the Clean Air Act in order to promote construction of more refineries. It is predicated upon the false premise that somehow our nation's environmental laws somehow stand in the way of the oil companies' attempts to build new refineries. Nothing could be further from the truth. The oil companies have shut down 30 refineries over the last decade. They've ordered 1 new refinery, and that one got its permit through the EPA in 9 months!

The Republican Energy bill that we passed just 8 weeks ago contained a refinery siting proposal that the Speaker of the House said "promotes greater refinery capacity so more gasoline will be on the market and it increases gasoline supply by putting an end to the proliferation of boutique fuels." The bill before us today repeals that provision. Why? Has the Majority lost confidence in its own new law?

The Republican Energy bill that we passed just 8 weeks ago contained boutique fuels language that you, Mr. Chairman, praised on the House floor, arguing that they would "make it more efficient to use our boutique fuels" by reducing the number of these fuels "so that we have greater transportability of our boutique fuels between those regions of the country that need those fuel sources." Now, the bill you have brought before us today has repealed that provision. Why? Has the Majority lost confidence that its earlier boutique fuels solution would work?

The Republican Energy bill that we passed just 8 weeks ago dropped provisions of the House bill that would have weakened the Clean Air Act. These provisions were dropped because there was bipartisan opposition to their adoption, and Chairman DOMENICI stated during the conference that the bill could not pass the Senate if they were included. The language that delays compliance with the Clean Air Act was resurrected. Why? Does the Majority really think that they've picked up any more votes for dirtying our Nation's air due to the terrible tragedies Katrina and Rita?

Why would we allow the EPA to extend deadlines for cleaning up ozone pollution, in some cases until 2015, without imposing any of the additional cleanup requirements mandated under current law? The proponents of this bad provision are trying to justify it by saying it is for the "protection" of downwind States.

However, just yesterday, 9 Attorneys General, including 6 from "downwind" States such as Massachusetts, sent a letter to the House leadership opposing this bill. Well if the States that are the supposed beneficiaries of these relaxed regulations don't want them, then who does? The polluters, that's who!

The bottom line is that these rollbacks of clean air requirements don't benefit the states that have to breathe dirty air for another 10 years, they benefit the corporations that don't want to clean up their power plants.

This bill before us today also proposes to preempt the ability of state or local officials to make decisions regarding the siting of a new refinery or an oil pipeline. Instead of allowing State and local officials to make land use decisions, to consider environmental impacts, impacts on local communities, on historic or cultural sites, or other factors, we are going to have the bureaucrats at the Department of Energy and the Federal Energy Regulatory Commission make these decisions. State and local officials, the cities, the Mayors, all oppose doing this.

The Democratic Substitute would replace the many objectionable provisions of the underlying bill with language that would give the Federal Trade Commission new authority to investigate and punish certain manipulative or abusive practices during any presidentially declared national or regional "energy emergency." It would bar any party from selling crude oil, gasoline, home heating oil or other petroleum products at a price that is unconscionably excessive or which takes unfair advantage of the circumstances to increase prices unreasonably.

At the same time, the Substitute creates a new Strategic Refinery Reserve that builds on the highly successful Strategic Petroleum Reserve. The Refinery Reserve would provide the Federal Government with the ability to produce gasoline, home heating oil, or other refined petroleum products during an energy emergency. It would be designed to be able to serve 5 percent of daily demand. During non-emergency periods, the Reserve would produce petroleum products to serve demand from the Federal government, including the Department of Defense. It would also serve demand from State and local governments that elected to opt-in to receiving fuel supplies from the Reserve.

The Substitute avoids the extreme overreaching of the underlying bill. It limits our response to the two issues that have been highlighted for us all as the result of Katrina and Rita—the need for a Federal price gouging law and the need for a Federal refinery reserve.

I urge adoption of the amendment.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 481, the previous question is ordered on the bill and on the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. STUPAK).

The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. STUPAK).

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

RECORDED VOTE

Mr. STUPAK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 222, not voting 12, as follows:

[Roll No. 517]

AYES—199

Abercrombie	Cardin	Dicks
Ackerman	Cardoza	Dingell
Allen	Carnahan	Doggett
Andrews	Carson	Doyle
Baca	Case	Edwards
Baird	Chandler	Emanuel
Baldwin	Clay	Emerson
Barrow	Cleaver	Engel
Bean	Clyburn	Eshoo
Becerra	Conyers	Etheridge
Berkley	Cooper	Evans
Berman	Costa	Farr
Berry	Costello	Fattah
Bishop (GA)	Cramer	Filner
Bishop (NY)	Crowley	Ford
Blumenauer	Cuellar	Frank (MA)
Boren	Cummings	Gonzalez
Boucher	Davis (AL)	Gordon
Boyd	Davis (CA)	Green, Al
Brady (PA)	Davis (FL)	Green, Gene
Brown (OH)	Davis (IL)	Grijalva
Brown, Corrine	Davis (TN)	Gutierrez
Butterfield	DeFazio	Harman
Capps	DeGette	Herseth
Capuano	DeLauro	Higgins

Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Oberstar
Obey
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—222

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Beauprez
Boswell
Deal (GA)
Delahunt
Hastings (FL)
Neal (MA)
Norwood
Olver
Payne
Poe
Royce
Schwarz (MI)

□ 1332

Messrs. GOODLATTE, MCCAUL of Texas and HALL and Ms. PRYCE of Ohio changed their vote from ''aye'' to ''no.''

Messrs. STARK, CARDOZA, CRAMER, AL GREEN of Texas, RUPPERSBERGER and SHAYS changed their vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. POE. Mr. Speaker, I was not present for debate on rollcall vote No. 515, rule providing for consideration of Gasoline for America's Security Act (H.R. 3893); rollcall vote No. 516, on approving the journal; and rollcall vote No. 517, substitute amendment by STUPAK to H.R. 3893.

Had I been present, I would have voted ''yea'' for rollcall votes 515 and 516. I would have voted ''nay'' for rollcall vote No. 517.

The SPEAKER pro tempore (Mr. SIMPSON). 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.

MOTION TO RECOMMIT OFFERED BY MR. BISHOP OF NEW YORK

Mr. BISHOP of New York. Mr. Speaker, I offer a motion to recommit.

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

Mr. BISHOP of New York. In its present form, yes.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Bishop of New York moves to recommit the bill, H.R. 3893, to the Committee on Energy and Commerce with instructions to report the bill back to the House forthwith with the following amendment:

Strike section 402 of the bill and insert the following:

SEC. 402. PROTECTING CONSUMERS FROM ENERGY PRICE GOUGING.

(a) UNCONSCIONABLE PRICING OF GASOLINE, OIL, NATURAL GAS, AND PETROLEUM DISTILLATES DURING EMERGENCIES.—

(1) UNCONSCIONABLE PRICING.—

(A) IN GENERAL.—During any energy emergency declared by the President under subsection (b), it is unlawful for any person to sell crude oil, gasoline, natural gas, or petroleum distillates in, or for use in, the area to which that declaration applies at a price that—

(i) is unconscionably excessive; or

(ii) indicates the seller is taking unfair advantage of the circumstances to increase prices unreasonably.

(B) FACTORS CONSIDERED.—In determining whether a violation of subparagraph (A) has occurred, there shall be taken into account, among other factors, whether—

(i) the amount charged represents a gross disparity between the price of the crude oil, gasoline, natural gas, or petroleum distillate sold and the price at which it was offered for sale in the usual course of the seller's business immediately prior to the energy emergency; or

(ii) the amount charged grossly exceeds the price at which the same or similar crude oil, gasoline, natural gas, or petroleum distillate was readily obtainable by other purchasers in the area to which the declaration applies.

(C) MITIGATING FACTORS.—In determining whether a violation of subparagraph (A) has occurred, there also shall be taken into account, among other factors, whether the price at which the crude oil, gasoline, natural gas, or petroleum distillate was sold reasonably reflects additional costs, not within the control of the seller, that were paid or incurred by the seller.

(2) FALSE PRICING INFORMATION.—It is unlawful for any person to report information related to the wholesale price of crude oil, gasoline, natural gas, or petroleum distillates to the Federal Trade Commission if—

(A) that person knew, or reasonably should have known, the information to be false or misleading;

(B) the information was required by law to be reported; and

(C) the person intended the false or misleading data to affect data compiled by that department or agency for statistical or analytical purposes with respect to the market for crude oil, gasoline, natural gas, or petroleum distillates.

(3) MARKET MANIPULATION.—It is unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of crude oil, gasoline, natural gas, or petroleum distillates at wholesale, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Federal Trade Commission may prescribe as necessary or appropriate in the public interest or for the protection of United States citizens.

(4) RULEMAKING.—Not later than 180 days after the date of the enactment of this section, the Federal Trade Commission shall promulgate rules necessary and appropriate to enforce this section.

(b) DECLARATION OF ENERGY EMERGENCY.—

(1) IN GENERAL.—If the President finds that the health, safety, welfare, or economic well-being of the citizens of the United States is at risk because of a shortage or imminent shortage of adequate supplies of crude oil, gasoline, natural gas, or petroleum distillates due to a disruption of the national distribution system for crude oil, gasoline, natural gas, or petroleum distillates (including such a shortage related to a major disaster (as defined in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122))), or significant pricing anomalies in national or regional energy markets for crude oil, gasoline, natural gas, or petroleum distillates of a more than transient nature, the President

may declare that a Federal energy emergency exists.

(2) SCOPE AND DURATION.—The declaration shall apply to the Nation, a geographical region, or 1 or more States, as determined by the President, but may not be in effect for a period of more than 45 days.

(3) EXTENSIONS.—The President may—

(A) extend a declaration under paragraph (1) for a period of not more than 45 days; and

(B) extend such a declaration more than once.

(c) ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.—

(1) ENFORCEMENT BY FTC.—A violation of subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)). The Federal Trade Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this section. In enforcing subsection (a)(1), the Commission shall give priority to enforcement actions concerning companies with total United States wholesale or retail sales of crude oil, gasoline, and petroleum distillates in excess of $500,000,000 per year.

(2) CIVIL PENALTIES.—

(A) IN GENERAL.—Notwithstanding the penalties set forth under the Federal Trade Commission Act, any person who violates subsection (a) shall be subject to the following penalties:

(i) PRICE GOUGING; UNJUST PROFITS.—Any person who violates subsection (a)(1) shall be subject to—

(I) a fine of not more than 3 times the amount of profits gained by such person through such violation; or

(II) a fine of not more than $3,000,000.

(ii) FALSE INFORMATION; MARKET MANIPULATION.—Any person who violates paragraph (2) or (3) of subsection (a) shall be subject to a civil penalty of not more than $1,000,000.

(B) METHOD OF ASSESSMENT.—The penalties provided by subparagraph (A) shall be assessed in the same manner as civil penalties imposed under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(C) MULTIPLE OFFENSES; MITIGATING FACTORS.—In assessing the penalty provided by this paragraph—

(i) each day of a continuing violation shall be considered a separate violation; and

(ii) the Federal Trade Commission shall take into consideration the seriousness of the violation and the efforts of the person committing the violation to remedy the harm caused by the violation in a timely manner.

(d) ENFORCEMENT AT RETAIL LEVEL BY STATE ATTORNEYS GENERAL.—

(1) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the provisions of subsection (a)(1) or to impose the civil penalties authorized by subsection (c)(2)(a)(ii), whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a violation of this section or a regulation under this section.

(2) NOTICE.—The State shall serve written notice to the Federal Trade Commission of any civil action under paragraph (1) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

(3) AUTHORITY TO INTERVENE.—Upon receiving the notice required by paragraph (2), the Federal Trade Commission may intervene in such civil action and upon intervening—

(A) be heard on all matters arising in such civil action; and

(B) file petitions for appeal of a decision in such civil action.

(4) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(5) VENUE; SERVICE OF PROCESS.—In a civil action brought under paragraph (1)—

(A) the venue shall be a judicial district in which—

(i) the defendant operates;

(ii) the defendant was authorized to do business; or

(iii) where the defendant in the civil action is found;

(B) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(C) a person who participated with the defendant in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(6) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Federal Trade Commission has instituted a civil action or an administrative action for violation of this section, no State attorney general, or official or agency of a State, may bring an action under this subsection during the pendency of that action against any defendant named in the complaint of the Federal Trade Commission or the other agency for any violation of this section alleged in the complaint.

(7) ENFORCEMENT OF STATE LAW.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a civil or criminal statute of such State.

(e) LOW INCOME ENERGY ASSISTANCE.—Amounts collected in fines and penalties under subsection (c) shall be deposited in a separate fund in the treasury to be known as the Consumer Relief Trust Fund. To the extent provided for in advance in appropriations Acts, such fund shall be used to provide assistance under the Low Income Home Energy Assistance Program established under title XXVI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621 et seq.).

(f) EFFECT ON OTHER LAWS.—

(1) OTHER AUTHORITY OF FEDERAL TRADE COMMISSION.—Nothing in this section shall be construed to limit or affect in any way the Federal Trade Commission's authority to bring enforcement actions or take any other measure under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any other provision of law.

(2) STATE LAW.—Nothing in this section preempts any State law.

(g) MARKET TRANSPARENCY FOR CRUDE OIL, GASOLINE, AND PETROLEUM DISTILLATES.—

(1) IN GENERAL.—The Federal Trade Commission shall facilitate price transparency in markets for the sale of crude oil and essential petroleum products at wholesale, having due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

(2) MARKETPLACE TRANSPARENCY.—

(A) DISSEMINATION OF INFORMATION.—In carrying out this subsection, the Federal Trade Commission shall provide by rule for the dissemination, on a timely basis, of information about the availability and prices of wholesale crude oil, gasoline, and petroleum distillates to the Federal Trade Commission, States, wholesale buyers and sellers, and the public.

(B) PROTECTION OF PUBLIC FROM ANTICOMPETITIVE ACTIVITY.—In determining the information to be made available under this subsection and time to make the information available, the Federal Trade Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

(C) PROTECTION OF MARKET MECHANISMS.—The Federal Trade Commission shall withhold from public disclosure under this subsection any information the Commission determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security.

(3) INFORMATION SOURCES.—

(A) IN GENERAL.—In carrying out paragraph (2), the Federal Trade Commission may—

(i) obtain information from any market participant; and

(ii) rely on entities other than the Commission to receive and make public the information, subject to the disclosure rules in paragraph(2)(C).

(B) PUBLISHED DATA.—In carrying out this subsection, the Federal Trade Commission shall consider the degree of price transparency provided by existing price publishers and providers of trade processing services, and shall rely on such publishers and services to the maximum extent possible.

(C) ELECTRONIC INFORMATION SYSTEMS.—The Federal Trade Commission may establish an electronic information system if it determines that existing price publications are not adequately providing price discovery or market transparency. Nothing in this subsection, however, shall affect any electronic information filing requirements in effect under this section as of the date of enactment of this section.

(D) DE MINIMUS EXCEPTION.—The Federal Trade Commission may not require entities who have a de minimus market presence to comply with the reporting requirements of this subsection.

(4) COOPERATION WITH OTHER FEDERAL AGENCIES.—

(A) MEMORANDUM OF UNDERSTANDING.—Within 180 days after the date of enactment of this section, the Federal Trade Commission shall conclude a memorandum of understanding with the Commodity Futures Trading Commission and other appropriate agencies (if applicable) relating to information sharing, which shall include provisions—

(i) ensuring that information requests to markets within the respective jurisdiction of each agency are properly coordinated to minimize duplicative information requests; and

(ii) regarding the treatment of proprietary trading information.

(B) CFTC JURISDICTION.—Nothing in this subsection may be construed to limit or affect the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(5) RULEMAKING.—Within 180 days after the date of enactment of this subsection, the Federal Trade Commission shall initiate a rulemaking proceeding to establish such rules as the Commission determines to be

necessary and appropriate to carry out this subsection.

(h) REPORT ON UNITED STATES ENERGY EMERGENCY PREPAREDNESS.—

(1) POTENTIAL IMPACTS REPORT.—Within 30 days after the date of enactment of this section, the Federal Trade Commission shall transmit to the Congress a confidential report describing the potential impact on domestic prices of crude oil, residual fuel oil, and refined petroleum products that would result from the disruption for periods of 1 week, 1 year, and 5 years, respectively, of not less than—

(A) 30 percent of United States oil production;

(B) 20 percent of United States refinery capacity; and

(C) 5 percent of global oil supplies.

(2) PROJECTIONS AND POSSIBLE REMEDIES.—The President shall include in the report—

(A) projections of the impact any such disruptions would be likely to have on the United States economy; and

(B) detailed and prioritized recommendations for remedies under each scenario covered by the report.

Mr. BISHOP of New York (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. BISHOP) is recognized for 5 minutes in support of his motion.

Mr. BISHOP of New York. Mr. Speaker, 1 year ago, the price of a gallon of gasoline in America was $1.94. The day before Hurricane Katrina struck, it was $2.61. This difference shows that exorbitant increases began even before Katrina wreaked havoc on our economy. The day after Katrina, prices jumped to $3.07. Today, our constituents are looking toward their elected representatives to rein in gas prices once and for all.

Earlier this year, we passed up a golden opportunity to protect Americans from price gouging when we enacted the first energy bill. If we pass this energy bill in its current form, we pass up that opportunity a second time. Let us not make the same mistake twice.

In that spirit, we offer this motion to recommit, which attacks soaring gas prices head on. Our motion achieves this objective by investing new authority in the FTC to investigate, enforce and then punish price gouging and market manipulation.

Specifically, our motion prohibits the sale of crude oil, gasoline, natural gas or any other petroleum distillates at a price that is considered either unconscionably excessive or indicates the seller is taking unfair advantage of the circumstances to increase prices unreasonably.

Any violation will result in new civil penalties, and will be enforced with up to triple the damages of the profits gained by the violation. Unlike the underlying bill, this motion has teeth by reining in scrupulous practices of the oil and gas executives, interested more in padding their bottom line than helping middle-class families make ends meet.

I urge my colleagues to stand up to the oil companies and show hardworking Americans that we are in their corner. Now is the time we must act, to prove that their interests are paramount, not the oil companies'. Our price gouging provisions are superior to those of the underlying legislation, and our provisions are in effect at every stage of the oil and gas production, covering everyone in the supply chain.

Let us put an end to price gouging once and for all. Do not let another opportunity go by without giving middle-class families the relief that they so desperately need and deserve. If you want to do the right thing for America here and now, vote for the motion to recommit.

Mr. Speaker, I yield to the gentlewoman from Pennsylvania (Ms. SCHWARTZ).

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, there is no doubt that the entire Nation is paying a price for the astronomical costs of oil and gasoline, and, Mr. Speaker, Pennsylvanians are no exception. Just yesterday, Philadelphia residents were told that their home heating bills would increase by 19.4 percent. That comes on top of double-digit price increases that they had to absorb last year, and it means they will pay on average an additional $335 to heat their homes this winter.

Winter can be very cold in Pennsylvania, and if Congress fails to take immediate action, some of my constituents will simply not have enough money to pay these high prices and may be forced to choose between heating their homes and putting food on their table. That, Mr. Speaker, is a decision that no American should be forced to make.

And it is more than just home heating costs. In the last 60 days, it has gotten a whole lot more expensive to drive to and from work, with the price of gasoline going up. It rose about 55 cents in just the last 2 months. Higher home heating costs, higher gas prices, these are daily expenses for most Americans, and they have real consequences for families across this Nation and to our national economy.

The bill under consideration today is simply another giveaway for special interests, and it comes at the expense of hardworking Americans.

The gentleman from New York (Mr. BISHOP) and I stand here today offering a way to give the Federal Government the authority to investigate and punish those using anti-competitive practices. It ensures immediate action to address the concerns of our constituents suffering from the high price of energy.

Support the Bishop motion to recommit and report this bill back to committee so we can adequately address price gouging and reduce costs for everyday Americans.

Mr. BARTON of Texas. Mr. Speaker, I claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas (Mr. BARTON) is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Speaker, I want to engage in a short colloquy with the gentleman from New York (Mr. MCHUGH) concerning LIHEAP funding.

Mr. MCHUGH. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from New York.

Mr. MCHUGH. Mr. Chairman, as you know, the high energy costs are having a very negative effect on the Low Income Home Energy Assistance Program, and many State LIHEAP programs are expecting a major increase in applications and need for additional funding immediately to help ensure low-income families and seniors can afford to heat their homes.

I recently joined with more than 100 of my colleagues in writing to the Committee on Appropriations Members requesting $1.276 billion in additional LIHEAP funding, and I hope, Mr. Chairman, that you would work with me and other Members who share those concerns to make sure this very important assistance program will be available to those who need it in the upcoming winter heating season.

Mr. BARTON of Texas. Mr. Speaker, reclaiming my time, I support increased LIHEAP funding and the Energy Policy Act of 2005 the for LIHEAP funding from $2 billion to $5.1 billion. I will work with the gentleman to help increase the amount of funds appropriated for LIHEAP, to help those Americans, including those Americans in your great State of New York, most vulnerable to the higher energy costs we are seeing today.

Mr. Speaker, I oppose the motion to recommit. I know we are tired and grumpy, and we want to go home and catch planes.

Let me simply say that it appears to be the Stupak language on price gouging that was in the Democratic substitute. If that is correct, we have already had the vote, and we have in the pending bill language that addresses price gouging. So I guess we just have a difference of opinion.

It reminds me of what Ginger Rogers said when she was asked to comment on what a great dancer Fred Astaire was. She said, ''Yes, but I do it, and I do it in high heels backwards.''

So we both agree on both sides of the aisle that we need to do something about price gouging. I would say the base bill before us does it a little bit more eloquently, and it does it so that we can actually get to the root cause without preempting the States.

Mr. Speaker, I urge a ''no'' vote on the motion to recommit.

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 noes appeared to have it.

RECORDED VOTE

Mr. BISHOP of New York. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on passage of H.R. 3893, if ordered, and on the motion to suspend the rules on H. Con. Res. 248.

The vote was taken by electronic device, and there were—ayes 200, noes 222, not voting 12, as follows:

[Roll No. 518]

AYES—200

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Oberstar
Obey
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—222

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Beauprez
Boswell
Deal (GA)
Delahunt
Hastings (FL)
Neal (MA)
Norwood
Olver
Payne
Royce
Schwarz (MI)
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1358

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

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.

RECORDED VOTE

Mr. DELAY. 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 212, noes 210, not voting 12, as follows:

[Roll No. 519]

AYES—212

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Ryun (KS)
Schmidt
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—210

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boren

Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fitzpatrick (PA)
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Oberstar
Obey
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOT VOTING—12

Beauprez
Boswell
Deal (GA)
Delahunt
Hastings (FL)
Neal (MA)
Norwood
Olver
Paul
Payne
Royce
Schwarz (MI)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

PARLIAMENTARY INQUIRY

Mr. HOYER (during the vote). Mr. Speaker, Members have planes to catch, as you well know; and I am just wondering if you could advise us as to the time frame of this vote.

The SPEAKER pro tempore. Does the gentleman have a parliamentary inquiry?

Mr. HOYER. The parliamentary inquiry would be how long, under parliamentary procedure, will this vote continue?

The SPEAKER pro tempore. The rules specify only a minimum time for the vote.

Mr. HOYER. We have passed that, is my understanding, Mr. Speaker.

The SPEAKER pro tempore. The Chair is exercising his discretion as to when the vote has been completed.

PARLIAMENTARY INQUIRY

Mr. SANDERS (during the vote). Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state his inquiry.

Mr. SANDERS. How long was this vote for?

The SPEAKER pro tempore. There is no maximum time for a vote.

Mr. SANDERS. My understanding is this was a 5-minute vote; is that correct?

The SPEAKER pro tempore. The rule specifies only a minimum time for voting, which on this vote is 5 minutes.

Mr. SANDERS. And how many minutes have elapsed? How many minutes have elapsed since the vote was called?

The SPEAKER pro tempore. Fourteen.

Mr. SANDERS. Fourteen for a 5-minute vote. I thank the Chair.

PARLIAMENTARY INQUIRIES

Mr. MARKEY (during the vote). Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman may inquire.

Mr. MARKEY. Mr. Speaker, I observe that we are operating in a 5-minute vote, and we are now nearing 20 minutes for this vote to have been completed. Mr. Speaker, where does the point at which at the discretion of the Chair is no longer being used for the convenience of the Members but instead in order to abuse the discretion that the Chair has in keeping——

The SPEAKER pro tempore. The Chair will inform the gentleman that the rules do not set a maximum duration for the vote. The Chair intends to bring the vote to a close at such time as he believes Members have finished voting.

Mr. FRANK of Massachusetts. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. FRANK of Massachusetts. Mr. Speaker, my question is in the current uncertainty, do you know which Members the leadership from whom you are to take instruction to close the vote——

The SPEAKER pro tempore. The gentleman has not stated a proper parliamentary inquiry.

Mr. LEVIN. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. LEVIN. Mr. Speaker, the all-time world's record for a vote was 3 hours for the prescription drug Medicare bill. Do we anticipate beating that today?

The SPEAKER pro tempore. The gentleman has not stated a proper parliamentary inquiry.

Mr. LEVIN. I am sorry, Mr. Speaker.

Mr. MENENDEZ. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. MENENDEZ. Mr. Speaker, is the discretion of the Chair or the abuse of the discretion of the Chair and the abuse of power subject to a vote of the House to continue this vote open? Because we have a history on this House floor of illegalities taking place to change people's vote. Is the discretion of the Chair and an abuse of the discretion of the Chair subject to a ruling and a vote by this House?

The SPEAKER pro tempore. The Chair has affirmed that the rules establish a minimum duration of the vote; the rules do not set a maximum duration; and the Chair intends to bring the vote to a close at such time as he believes that Members have finished voting.

The Chair feels that further parliamentary inquiry at this stage of the proceedings is not constructive.

PARLIAMENTARY INQUIRY

Mr. HOYER (during the vote). Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman will state his inquiry.

Mr. HOYER. Mr. Speaker, I am informed by the tally clerk that every Member of Congress who is in town has voted. Has voted. Has voted.

The SPEAKER pro tempore. Does the gentleman have a parliamentary inquiry?

Mr. HOYER. I do have a parliamentary inquiry. In that instance, is it not appropriate, once the people have spoken through their representatives in this House, to bring the vote to a close?

The SPEAKER pro tempore. That is a hypothetical question. The Chair will not answer a hypothetical question.

Mr. HOYER. I do not think that is hypothetical. That is the fact.

The SPEAKER pro tempore. As previously stated, the Chair intends to bring the vote to a close at such time as he believes that Members have finished voting. Have finished voting.

Mr. HOYER. I thank the Speaker. I am disappointed at the response, but I understand it.

PARLIAMENTARY INQUIRY

Mr. WAXMAN (during the vote). Parliamentary inquiry, Mr. Speaker. When a bill does not have a hearing——

The SPEAKER pro tempore. Does the gentleman have a parliamentary inquiry?

Mr. WAXMAN. I do have an inquiry.

The SPEAKER pro tempore. The gentleman may state a parliamentary inquiry.

Mr. WAXMAN. When there is a markup without Members having more than a day to review it; when the bill is rewritten and put on the House floor without Members having had a chance to review it; when the vote is held open a long period of time after the time has expired, does that not make the House a banana republic?

The SPEAKER pro tempore. The gentleman is not stating a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. DINGELL (during the vote). Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. DINGELL. Mr. Speaker, I have a plane to catch in about 1 hour. Am I going to be able to make it?

The SPEAKER pro tempore. That is not a parliamentary inquiry.

Mr. DINGELL. Will my colleagues be able to make it? Will the vote be ended by that time?

The SPEAKER pro tempore. That is not a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Ms. PELOSI (during the vote). Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman may inquire.

Ms. PELOSI. Mr. Speaker, my parliamentary inquiry is: Is it not bringing dishonor to the House of Representatives for this body to act in the shameful way that it is? Is it not part of the culture of corruption of the Republican Party to dishonor the wishes of the American people?

The SPEAKER pro tempore. Does the gentlewoman have a parliamentary inquiry?

Ms. PELOSI. I have a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. THOMAS (during the vote). Parliamentary inquiry, Mr. Speaker. Based upon the statement of the gentleman from Maryland that everyone had voted and that therefore the vote should have been closed——

The SPEAKER pro tempore. Does the gentleman have a parliamentary inquiry?

The Chair will recognize Members for appropriate parliamentary inquiries.

PARLIAMENTARY INQUIRY

Mr. WAXMAN (during the vote). Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. WAXMAN. After the votes have been cast, is it not appropriate to announce the votes?

The SPEAKER pro tempore. As previously stated, the Chair intends to bring the vote to a close at such time as he believes that all Members have finished voting.

□ 1442

Messrs. MOLLOHAN, CUELLAR, GENE GREEN of Texas, and BRADLEY of New Hampshire changed their vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HONORING THE LIFE AND WORK OF SIMON WIESENTHAL

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 248, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 248, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 354, nays 0, not voting 79, as follows:

[Roll No. 520]

YEAS—354

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, Tom
DeGette
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Etheridge
Evans
Farr
Fattah
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Frank (MA)
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goodlatte
Gordon
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy
Myrick
Nadler
Napolitano
Neugebauer
Northup
Nunes
Oberstar
Obey
Ortiz
Otter
Owens
Pallone
Pastor
Paul
Pearce
Pelosi
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Wasserman Schultz
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—79

Ackerman
Bachus
Beauprez
Blackburn
Boswell
Boucher
Brady (TX)
Brown-Waite, Ginny
Capps
Carson
Cleaver
Clyburn
Coble
Davis (FL)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
Delahunt
DeLauro
Dicks
Eshoo
Everett
Feeney
Filner
Foxx
Frelinghuysen
Gillmor
Goode
Granger
Graves
Green (WI)
Gutierrez
Harris
Hastings (FL)
Hinchey
Hooley
Israel
Jenkins
Johnson (IL)
King (NY)
LaHood
Larson (CT)
Lynch
Marchant
McCarthy
McDermott
Meehan
Mica
Moran (KS)
Murtha
Musgrave
Neal (MA)
Ney
Norwood
Nussle
Olver
Osborne
Oxley
Pascrell
Payne
Pence
Peterson (MN)
Peterson (PA)
Pombo
Royce
Sabo
Schwarz (MI)
Stark
Stupak
Taylor (NC)
Terry
Tiberi
Walsh
Wamp
Waters
Watson
Westmoreland
Wicker

□ 1453

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PENCE. Mr. Speaker, I was detained this afternoon. Had I been present, I would have voted in the following manner: Rollcall 520 (On Passage—H. Con. Res. 248)—''yea.''

Mr. GREEN of Wisconsin. Mr. Speaker, had I been present, I would have voted ''yea'' on rollcall 520.

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this Chamber for one rollcall vote today. I would like the RECORD to show that, had I been present, I would have voted ''yea'' on rollcall vote 520.

Mr. LARSON of Connecticut. Mr. Speaker, I was unable to vote on H. Con. Res. 248, honoring the life and work of Simon Wiesenthal