

English (PA) LaTourette  
 Everett Latta  
 Fallin Lewis (CA)  
 Feeney Lewis (KY)  
 Ferguson Linder  
 Flake LoBiondo  
 Forbes Lucas  
 Fortenberry Lungren, Daniel  
 Fossella E.  
 Foxx Mack  
 Franks (AZ) Manzullo  
 Frelinghuysen Marchant  
 Gallegly McCarthy (CA)  
 Garrett (NJ) McCaul (TX)  
 Gerlach McCotter  
 Gilchrest McCrery  
 Gingrey McHenry  
 Gohmert McHugh  
 Goode McKeon  
 Goodlatte McMorris  
 Granger Rodgers  
 Graves Mica  
 Hall (TX) Miller (FL)  
 Hastings (WA) Miller (MI)  
 Hayes Miller, Gary  
 Heller Moran (KS)  
 Hensarling Murphy, Tim  
 Herger Musgrave  
 Hill Myrick  
 Hobson Neugebauer  
 Hoekstra Nunes  
 Hunter Paul  
 Inglis (SC) Pearce  
 Johnson, Sam Peterson (PA)  
 Jones (NC) Petri  
 Jordan Pickering  
 Keller Platts  
 King (IA) Porter  
 Kingston Price (GA)  
 Kirk Pryce (OH)  
 Kline (MN) Putnam  
 Knollenberg Radanovich  
 Kuhl (NY) Ramstad  
 LaHood Regula  
 Lamborn Rehberg  
 Latham Reynolds

Rogers (AL)  
 Rogers (KY)  
 Rogers (MI)  
 Rohrabacher  
 Roskam  
 Royce  
 Ryan (WI)  
 Sali  
 Saxton  
 Scalise  
 Schmidt  
 Sensenbrenner  
 Sessions  
 Shadegg  
 Shays  
 Shimkus  
 Shuster  
 Simpson  
 Smith (NE)  
 Smith (NJ)  
 Smith (TX)  
 Stearns  
 Sullivan  
 Tancredo  
 Terry  
 Thornberry  
 Tiahrt  
 Tiberi  
 Turner  
 Upton  
 Walberg  
 Walden (OR)  
 Walsh (NY)  
 Wamp  
 Weldon (FL)  
 Weller  
 Westmoreland  
 Whitfield (KY)  
 Wilson (NM)  
 Wilson (SC)  
 Wittman (VA)  
 Wolf  
 Young (AK)  
 Young (FL)

Carnahan  
 Carney  
 Carson  
 Castor  
 Chandler  
 Childers  
 Clarke  
 Clay  
 Clyburn  
 Cohen  
 Cooper  
 Costa  
 Costello  
 Courtney  
 Cramer  
 Crowley  
 Cuellar  
 Cummings  
 Davis (AL)  
 Davis (CA)  
 Davis (IL)  
 Davis, Lincoln  
 DeFazio  
 DeGette  
 Delahunt  
 DeLauro  
 Dicks  
 Dingell  
 Doggett  
 Donnelly  
 Doyle  
 Edwards (MD)  
 Edwards (TX)  
 Ellison  
 Ellsworth  
 Emanuel  
 Engel  
 Eshoo  
 Etheridge  
 Farr  
 Fattah  
 Finer  
 Foster  
 Frank (MA)  
 Giffords  
 Gillibrand  
 Gonzalez  
 Gordon  
 Green, Al  
 Green, Gene  
 Gutierrez  
 Hall (NY)  
 Hare  
 Harman  
 Herseeth Sandlin  
 Higgins  
 Hinchey  
 Hinojosa  
 Hirono  
 Hodes  
 Holden  
 Hoit  
 Honda  
 Hooley  
 Hoyer

Price (NC)  
 Rahall  
 Reyes  
 Richardson  
 Rodriguez  
 Ross  
 Rothman  
 Roybal-Allard  
 Ruppersberger  
 Rush  
 Ryan (OH)  
 Salazar  
 Sanchez, Linda  
 T.  
 Sanchez, Loretta  
 Sarbanes  
 Schakowsky  
 Schiff  
 Schwartz  
 Scott (GA)  
 Scott (VA)  
 Serrano  
 Sestak  
 Shea-Porter  
 Sherman  
 Shuler  
 Sires  
 Skelton  
 Slaughter  
 Smith (WA)  
 Snyder  
 Solis  
 Space  
 Speier  
 Spratt  
 Stark  
 Stupak  
 Sutton  
 Tanner  
 Tauscher  
 Taylor  
 Thompson (CA)  
 Thompson (MS)  
 Tierney  
 Towns  
 Tsongas  
 Udall (NM)  
 Van Hollen  
 Velázquez  
 Visclosky  
 Walz (MN)  
 Wasserman  
 Schultz  
 Waters  
 Watson  
 Watt  
 Waxman  
 Weiner  
 Welch (VT)  
 Wexler  
 Wilson (OH)  
 Wu  
 Yarmuth

Shadegg  
 Shays  
 Shimkus  
 Shuster  
 Simpson  
 Smith (NE)  
 Petri  
 Smith (NJ)  
 Smith (TX)  
 Stearns  
 Sullivan  
 Tancredo  
 Terry  
 Thornberry  
 Tiahrt  
 Tiberi  
 Turner  
 Upton  
 Walberg  
 Walden (OR)  
 Walsh (NY)  
 Wamp  
 Weldon (FL)  
 Weller  
 Westmoreland  
 Whitfield (KY)  
 Wilson (NM)  
 Wilson (SC)  
 Wittman (VA)  
 Wolf  
 Young (AK)  
 Young (FL)

## NOT VOTING—22

Boucher  
 Brady (TX)  
 Brown, Corrine  
 Burgess  
 Capuano  
 Conyers  
 Cubin  
 Dreier

Grijalva  
 Hastings (FL)  
 Hulshof  
 Issa  
 Jackson-Lee  
 (TX)  
 King (NY)  
 Lampson

Moran (VA)  
 Pence  
 Pitts  
 Poe  
 Renzi  
 Souder  
 Udall (CO)

□ 1214

Messrs. MACK and SCALISE changed their vote from “yea” to “nay.”

Ms. ESHOO and Ms. CLARKE changed their vote from “nay” to “yea.”

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. PAS-TOR). The question is on the resolution.

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

## RECORDED VOTE

Mr. SESSIONS. 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 218, noes 190, not voting 25, as follows:

[Roll No. 606]

AYES—218

Abercrombie  
 Ackerman  
 Allen  
 Altmire  
 Andrews  
 Arcuri  
 Baca  
 Baird  
 Baldwin

Barrow  
 Becerra  
 Berkley  
 Berman  
 Berry  
 Bishop (GA)  
 Bishop (NY)  
 Blumenauer  
 Boren

Boswell  
 Boucher  
 Boyd (FL)  
 Boyda (KS)  
 Brady (PA)  
 Braley (IA)  
 Butterfield  
 Capps  
 Cardoza

Aderholt  
 Akin  
 Alexander  
 Bachmann  
 Barrett (SC)  
 Bartlett (MD)  
 Barton (TX)  
 Bean  
 Biggert  
 Bilbray  
 Bilirakis  
 Bishop (UT)  
 Blackburn  
 Blunt  
 Boehner  
 Bonner  
 Bono Mack  
 Boozman  
 Boustany  
 Broun (GA)  
 Brown (SC)  
 Brown-Waite,  
 Ginny  
 Buchanan  
 Burton (IN)  
 Buyer  
 Calvert  
 Camp (MI)  
 Campbell (CA)  
 Cannon  
 Cantor  
 Capito

## NOES—190

Carter  
 Castle  
 Cazayoux  
 Chabot  
 Coble  
 Cole (OK)  
 Conaway  
 Crenshaw  
 Culberson  
 Davis (KY)  
 Davis, David  
 Davis, Tom  
 Deal (GA)  
 Dent  
 Diaz-Balart, L.  
 Diaz-Balart, M.  
 Doolittle  
 Drake  
 Duncan  
 Ehlers  
 Emerson  
 English (PA)  
 Everett  
 Fallin  
 Feeney  
 Ferguson  
 Flake  
 Forbes  
 Fortenberry  
 Fossella  
 Foxx  
 Franks (AZ)

Frelinghuysen  
 Gallegly  
 Garrett (NJ)  
 Gerlach  
 Gilchrest  
 Gingrey  
 Gohmert  
 Goode  
 Goodlatte  
 Granger  
 Graves  
 Hall (TX)  
 Hastings (WA)  
 Hayes  
 Heller  
 Hensarling  
 Herger  
 Hill  
 Hobson  
 Hoekstra  
 Hunter  
 Inglis (SC)  
 Johnson (IL)  
 Johnson, Sam  
 Jones (NC)  
 Jordan  
 Keller  
 King (IA)  
 Kingston  
 Kirk  
 Kline (MN)  
 Knollenberg

## NOT VOTING—25

Bachus  
 Brady (TX)  
 Brown, Corrine  
 Burgess  
 Capuano  
 Cleaver  
 Conyers  
 Cubin  
 Dreier

Grijalva  
 Hastings (FL)  
 Hulshof  
 Issa  
 Jackson-Lee  
 (TX)  
 King (NY)  
 Lampson  
 Moran (VA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
 The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 1223

So the resolution was agreed to.  
 The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## COMMODITY MARKETS TRANSPARENCY AND ACCOUNTABILITY ACT OF 2008

Mr. PETERSON of Minnesota. Mr. Speaker, pursuant to House Resolution 1449, I call up the bill (H.R. 6604) to amend the Commodity Exchange Act to bring greater transparency and accountability to commodity markets, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6604

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

## SECTION 1. SHORT TITLE.

This Act may be cited as the “Commodity Markets Transparency and Accountability Act of 2008”.

## SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definition of energy commodity.
- Sec. 4. Speculative limits and transparency of off-shore trading.
- Sec. 5. Disaggregation of index funds and other data in energy and agriculture markets.

- Sec. 6. Detailed reporting from index traders and swap dealers.
- Sec. 7. Transparency and recordkeeping authorities.
- Sec. 8. Trading limits to prevent excessive speculation.
- Sec. 9. Modifications to core principles applicable to position limits for contracts in agricultural and energy commodities.
- Sec. 10. CFTC Administration.
- Sec. 11. Review of prior actions.
- Sec. 12. Review of over-the-counter markets.
- Sec. 13. Studies; reports.
- Sec. 14. Over-the-counter authority.
- Sec. 15. Expedited process.

### SEC. 3. DEFINITION OF ENERGY COMMODITY.

(a) DEFINITION OF ENERGY COMMODITY.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) by redesignating paragraphs (13) through (34) as paragraphs (14) through (35), respectively; and

(2) by inserting after paragraph (12) the following:

“(13) ENERGY COMMODITY.—The term ‘energy commodity’ means—

- “(A) coal;
- “(B) crude oil, gasoline, diesel fuel, jet fuel, heating oil, and propane;
- “(C) electricity;
- “(D) natural gas; and
- “(E) any other substance that is used as a source of energy, as the Commission, in its discretion, deems appropriate.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(c)(2)(B)(i)(II)(cc) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)(cc)) is amended—

(A) in subitem (AA), by striking “section 1a(20)” and inserting “section 1a(21)”; and

(B) in subitem (BB), by striking “section 1a(20)” and inserting “section 1a(21)”.

(2) Section 13106(b)(1) of the Food, Conservation, and Energy Act of 2008 is amended by striking “section 1a(32)” and inserting “section 1a”.

(3) Section 402 of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27) is amended—

(A) in subsection (a)(7), by striking “section 1a(20)” and inserting “section 1a”; and

(B) in subsection (d)—

(i) in paragraph (1)(B), by striking “section 1a(33)” and inserting “section 1a”; and

(ii) in paragraph (2)(D), by striking “section 1a(13)” and inserting “section 1a”.

### SEC. 4. SPECULATIVE LIMITS AND TRANSPARENCY OF OFF-SHORE TRADING.

(a) IN GENERAL.—Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

“(e) FOREIGN BOARDS OF TRADE.—

“(1) IN GENERAL.—The Commission may not permit a foreign board of trade to provide to the members of the foreign board of trade or other participants located in the United States direct access to the electronic trading and order matching system of the foreign board of trade with respect to an agreement, contract, or transaction in an energy or agricultural commodity that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, unless—

“(A) the foreign board of trade makes public daily trading information regarding the agreement, contract, or transaction that is comparable to the daily trading information published by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and

“(B) the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade)—

“(i) adopts position limits (including related hedge exemption provisions) for the agreement, contract, or transaction that are comparable, taking into consideration the relative sizes of the respective markets, to the position limits (including related hedge exemption provisions) adopted by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles;

“(ii) has the authority to require or direct market participants to limit, reduce, or liquidate any position the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade) determines to be necessary to prevent or reduce the threat of price manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process;

“(iii) agrees to promptly notify the Commission of any change regarding—

“(I) the information that the foreign board of trade will make publicly available;

“(II) the position limits that the foreign board of trade or foreign futures authority will adopt and enforce;

“(III) the position reductions required to prevent manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process; and

“(IV) any other area of interest expressed by the Commission to the foreign board of trade or foreign futures authority;

“(iv) provides information to the Commission regarding large trader positions in the agreement, contract, or transaction that is comparable to the large trader position information collected by the Commission for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and

“(v) provides the Commission with information necessary to publish reports on aggregate trader positions for the agreement, contract, or transaction traded on the foreign board of trade that are comparable to such reports for 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles.

“(2) EXISTING FOREIGN BOARDS OF TRADE.—Paragraph (1) shall not be effective with respect to any agreement, contract, or transaction in an energy commodity executed on a foreign board of trade to which the Commission had granted direct access permission before the date of the enactment of this subsection until the date that is 180 days after such date of enactment.”.

(b) LIABILITY OF REGISTERED PERSONS TRADING ON A FOREIGN BOARD OF TRADE.—

(1) Section 4(a) of such Act (7 U.S.C. 6(a)) is amended by inserting “or by subsection (f)” after “Unless exempted by the Commission pursuant to subsection (c)”.

(2) Section 4 of such Act (7 U.S.C. 6) is further amended by adding at the end the following:

“(f) A person registered with the Commission, or exempt from registration by the Commission, under this Act may not be found to have violated subsection (a) with respect to a transaction in, or in connection with, a contract of sale of a commodity for future delivery if the person has reason to believe the transaction and the contract is made on or subject to the rules of a board of trade that is legally organized under the laws of a foreign country, authorized to act as a board of trade by a foreign futures authority, subject to regulation by the foreign futures authority, and has not been determined by the Commission to be operating in violation of subsection (a).”.

(c) CONTRACT ENFORCEMENT FOR FOREIGN FUTURES CONTRACTS.—Section 22(a) of such Act (7 U.S.C. 25(a)) is amended by adding at the end the following:

“(5) A contract of sale of a commodity for future delivery traded or executed on or through the facilities of a board of trade, exchange, or market located outside the United States for purposes of section 4(a) shall not be void, voidable, or unenforceable, and a party to such a contract shall not be entitled to rescind or recover any payment made with respect to the contract, based on the failure of the foreign board of trade to comply with any provision of this Act.”.

### SEC. 5. DISAGGREGATION OF INDEX FUNDS AND OTHER DATA IN ENERGY AND AGRICULTURE MARKETS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6), as amended by section 4 of this Act, is amended by adding at the end the following:

“(g) DISAGGREGATION OF INDEX FUNDS AND OTHER DATA IN ENERGY AND AGRICULTURE MARKETS.—Subject to section 8 and beginning within 30 days of the issuance of the final rule required by section 4h, the Commission shall disaggregate and make public weekly—

“(1) the number of positions and total value of index funds and other passive, long-only and short-only positions (as defined by the Commission) in all energy and agricultural markets to the extent such information is available; and

“(2) data on speculative positions relative to bona fide physical hedgers in those markets to the extent such information is available.”.

### SEC. 6. DETAILED REPORTING FROM INDEX TRADERS AND SWAP DEALERS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6), as amended by sections 4 and 5 of this Act, is amended by adding at the end the following:

“(h) INDEX TRADERS AND SWAP DEALERS REPORTING.—The Commission shall issue a proposed rule defining and classifying index traders and swap dealers (as those terms are defined by the Commission) for purposes of data reporting requirements and setting routine detailed reporting requirements for such entities in designated contract markets, derivatives transaction execution facilities, foreign boards of trade subject to section 4(e), and electronic trading facilities with respect to significant price discovery contracts with respect to exempt and agricultural commodities not later than 60 days after the date of the enactment of this subsection, and issue a final rule within 120 days after such date of enactment.”.

### SEC. 7. TRANSPARENCY AND RECORDKEEPING AUTHORITIES.

(a) IN GENERAL.—Section 4g(a) of the Commodity Exchange Act (7 U.S.C. 6g(a)) is amended—

(1) by inserting “a” before “futures commission merchant”; and

(2) by inserting “and transactions and positions traded pursuant to subsection (g), (h)(1), or (h)(2) of section 2, or any exemption issued by the Commission by rule, regulation or order,” after “United States or elsewhere.”.

(b) REPORTS OF DEALS EQUAL TO OR IN EXCESS OF TRADING LIMITS.—Section 4i of such Act (7 U.S.C. 6i) is amended—

(1) in the first sentence—

(A) by inserting “(a)” before “It shall”; and

(B) by inserting “in the United States or elsewhere, and of transactions and positions in any such commodity entered into pursuant to subsection (g), (h)(1), or (h)(2) of section 2, or any exemption issued by the Commission by rule, regulation or order” before “, and of cash or spot”; and

(2) by striking all that follows the 1st sentence and inserting the following:

“(b) With respect to agricultural and energy commodities, upon special call by the Commission, any person shall provide to the Commission, in a form and manner and within the period specified in the special call, books and records of all transactions and positions traded on or subject to the rules of any board of trade or electronic trading facility in the United States or elsewhere, or pursuant to subsection (g), (h)(1), or (h)(2) of section 2, or any exemption issued by the Commission by rule, regulation, or order, as the Commission may determine appropriate to deter and prevent price manipulation or any other disruption to market integrity or to diminish, eliminate, or prevent excessive speculation as described in section 4a(a).”

“(c) Such books and records described in subsections (a) and (b) shall show complete details concerning all such transactions, positions, inventories, and commitments, including the names and addresses of all persons having any interest therein, shall be kept for a period of 5 years, and shall be open at all times to inspection by any representative of the Commission or the Department of Justice. For the purposes of this section, the futures and cash or spot transactions and positions of any person shall include such transactions and positions of any persons directly or indirectly controlled by the person.”

(c) CONFORMING AMENDMENTS.—

(1) Section 2(g) of such Act (7 U.S.C. 2(g)) is amended—

(A) by inserting “4g(a), 4i,” before “5a (to);” and

(B) by inserting “, and the regulations of the Commission pursuant to section 4c(b) requiring reporting in connection with commodity option transactions,” before “shall apply”.

(2) Section 2(h)(2)(A) of such Act (7 U.S.C. 2(h)(2)(A)) is amended to read as follows:

“(A) sections 4g(a), 4i, 5b and 12(e)(2)(B), and the regulations of the Commission pursuant to section 4c(b) requiring reporting in connection with commodity option transactions.”

#### SEC. 8. TRADING LIMITS TO PREVENT EXCESSIVE SPECULATION.

Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended—

(1) in subsection (a)—

(A) by inserting “(1)” after “(a)”; and

(B) by adding after and below the end the following:

“(2) In accordance with the standards set forth in paragraph (1) of this subsection and consistent with the good faith exception cited in subsection (b)(2), with respect to agricultural commodities enumerated in section 1a(4) and energy commodities, the Commission, within 60 days after the date of the enactment of this paragraph, shall by rule, regulation, or order establish limits on the amount of positions that may be held by any person with respect to contracts of sale for future delivery or with respect to options on such contracts or commodities traded on or subject to the rules of a contract market or derivatives transaction execution facility, or on an electronic trading facility as a significant price discovery contract.

“(3) In establishing the limits required in paragraph (2), the Commission shall set limits—

“(A) on the number of positions that may be held by any person for the spot month, each other month, and the aggregate number of positions that may be held by any person for all months;

“(B) to the maximum extent practicable, in its discretion—

“(i) to diminish, eliminate, or prevent excessive speculation as described under this section;

“(ii) to deter and prevent market manipulation, squeezes, and corners;

“(iii) to ensure sufficient market liquidity for bona fide hedgers; and

“(iv) to ensure that the price discovery function of the underlying market is not disrupted; and

“(C) to the maximum extent practicable, in its discretion, take into account the total number of positions in fungible agreements, contracts, or transactions that a person can hold in agricultural and energy commodities in other markets.

“(4)(A) Not later than 150 days after the date of the enactment of this paragraph, the Commission shall convene a Position Limit Agricultural Advisory Group and a Position Limit Energy Group, each group consisting of representatives from—

“(i) 5 predominantly commercial short hedgers of the actual physical commodity for future delivery;

“(ii) 5 predominantly commercial long hedgers of the actual physical commodity for future delivery;

“(iii) 4 non-commercial participants in markets for commodities for future delivery; and

“(iv) each designated contract market or derivatives transaction execution facility upon which a contract in the commodity for future delivery is traded, and each electronic trading facility that has a significant price discovery contract in the commodity.

“(B) Not later than 60 days after the date on which the advisory groups are convened under subparagraph (A), and annually thereafter, the advisory groups shall submit to the Commission advisory recommendations regarding the position limits to be established in paragraph (2) and a recommendation as to whether the position limits should be administered directly by the Commission, or by the registered entity on which the commodity is listed (with enforcement by both the registered entity and the Commission).”; and

(2) in subsection (c)—

(A) by inserting “(1)” after “(c)”; and

(B) by adding after and below the end the following:

“(2) With respect to agricultural and energy commodities, for the purposes of contracts of sale for future delivery and options on such contracts or commodities, a bona fide hedging transaction or position is a transaction or position that—

“(A)(i) represents a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel;

“(ii) is economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise; and

“(iii) arises from the potential change in the value of—

“(I) assets that a person owns, produces, manufactures, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising;

“(II) liabilities that a person owns or anticipates incurring; or

“(III) services that a person provides, purchases, or anticipates providing or purchasing; or

“(B) reduces risks attendant to a position resulting from a transaction that—

“(i) was executed pursuant to subsection (g), (h)(1), or (h)(2) of section 2, or an exemption issued by the Commission by rule, regulation or order; and

“(ii) was executed opposite a counterparty for which the transaction would qualify as a bona fide hedging transaction pursuant to paragraph (2)(A) of this subsection.”.

#### SEC. 9. MODIFICATIONS TO CORE PRINCIPLES APPLICABLE TO POSITION LIMITS FOR CONTRACTS IN AGRICULTURAL AND ENERGY COMMODITIES.

(a) CONTRACTS TRADED ON CONTRACT MARKETS.—Section 5(d)(5) of the Commodity Exchange Act (7 U.S.C. 7(d)(5)) is amended by striking all that follows “adopt” and inserting “, for speculators, position limitations with respect to agricultural commodities enumerated in section 1a(4) or energy commodities, and position limitations or position accountability with respect to other commodities, where necessary and appropriate.”.

(b) CONTRACTS TRADED ON DERIVATIVES TRANSACTION EXECUTION FACILITIES.—Section 5a(d)(4) of such Act (7 U.S.C. 7a(d)(4)) is amended by striking all that follows “adopt” and inserting “, for speculators, position limitations with respect to energy commodities, and position limitations or position accountability with respect to other commodities, where necessary and appropriate for a contract, agreement or transaction with an underlying commodity that has a physically deliverable supply.”.

(c) SIGNIFICANT PRICE DISCOVERY CONTRACTS.—Section 2(h)(7)(C)(ii)(IV) of such Act (7 U.S.C. 2(h)(7)(C)(ii)(IV)) is amended by striking “where necessary” and all that follows through “in significant price discovery contracts” and inserting “for speculators, position limitations with respect to significant price discovery contracts in energy commodities, and position limitations or position accountability with respect to significant price discovery contracts in other commodities”.

#### SEC. 10. CFTC ADMINISTRATION.

(a) ADDITIONAL COMMODITY FUTURES TRADING COMMISSION EMPLOYEES FOR IMPROVED ENFORCEMENT.—Section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 2(a)(7)) is amended by adding at the end the following:

“(D) ADDITIONAL EMPLOYEES.—As soon as practicable after the date of the enactment of this subparagraph, subject to appropriations, the Commission shall appoint at least 100 full-time employees (in addition to the employees employed by the Commission as of the date of the enactment of this subparagraph)—

“(i) to increase the public transparency of operations in agriculture and energy markets;

“(ii) to improve the enforcement of this Act in those markets; and

“(iii) to carry out such other duties as are prescribed by the Commission.”.

(b) INSPECTOR GENERAL OF COMMODITY FUTURES TRADING COMMISSION.—

(1) ELEVATION OF OFFICE.—

(A) INCLUSION OF CFTC IN DEFINITION OF ESTABLISHMENT.—Section 11(2) of the Inspector General Act of 1878 (5 U.S.C. App.) is amended by striking “or the Export-Import Bank,” and inserting “, the Export-Import Bank, or the Commodity Futures Trading Commission.”.

(B) EXCLUSION OF CFTC FROM DEFINITION OF DESIGNATED FEDERAL ENTITY.—Section 8G(a)(2) of such Act (5 U.S.C. App.) is amended by striking “the Commodity Futures Trading Commission.”.

(2) TRANSITION.—Until such time as the Inspector General of the Commodity Futures Trading Commission is appointed in accordance with section 3 of the Inspector General Act of 1978, the Office of Inspector General of the Commission shall continue in effect as provided in such Act before the date of the enactment of this Act.

#### SEC. 11. REVIEW OF PRIOR ACTIONS.

Notwithstanding any other provision of the Commodity Exchange Act, the Commodity Futures Trading Commission shall review, as appropriate, all regulations, rules,

exemptions, exclusions, guidance, no action letters, orders, other actions taken by or on behalf of the Commission, and any action taken pursuant to the Commodity Exchange Act by an exchange, self-regulatory organization, or any other registered entity, that are currently in effect, to ensure that such prior actions are in compliance with the provisions of this Act.

## SEC. 12. REVIEW OF OVER-THE-COUNTER MARKETS.

(a) **STUDY.**—The Commodity Futures Trading Commission shall conduct a study—

(1) to determine the efficacy, practicality, and consequences of establishing position limits for agreements, contracts, or transactions conducted in reliance on sections 2(g) and 2(h) of the Commodity Exchange Act and of any exemption issued by the Commission by rule, regulation or order, as a means to deter and prevent price manipulation or any other disruption to market integrity or to diminish, eliminate, or prevent excessive speculation as described in section 4a of such Act for physical-based commodities; and

(2) to determine the efficacy, practicality, and consequences of establishing aggregate position limits for similar agreements, contracts, or transactions for physical-based commodities traded—

(A) on designated contract markets;

(B) on derivatives transaction execution facilities; and

(C) in reliance on such sections 2(g) and 2(h) and of any exemption issued by the Commission by rule, regulation or order.

(b) **PUBLIC HEARINGS.**—The Commission shall provide for not less than 2 public hearings to take testimony, on the record, as part of the fact-gathering process in preparation of the report.

(c) **REPORT AND RECOMMENDATIONS.**—Not less than 12 months after the date of the enactment of this section, the Commission shall provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(1) describes the results of the study; and

(2) provides recommendations on any actions necessary to deter and prevent price manipulation or any other disruption to market integrity or to diminish, eliminate, or prevent excessive speculation as described in section 4a of the Commodity Exchange Act for physical-based commodities, including—

(A) any additional statutory authority that the Commission determines to be necessary to implement the recommendations; and

(B) a description of the resources that the Commission considers to be necessary to implement the recommendations.

## SEC. 13. STUDIES; REPORTS.

(a) **STUDY RELATING TO INTERNATIONAL REGULATION OF ENERGY COMMODITY MARKETS.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study of the international regime for regulating the trading of energy commodity futures and derivatives.

(2) **ANALYSIS.**—The study shall include an analysis of, at a minimum—

(A) key common features and differences among countries in the regulation of energy commodity trading, including with respect to market oversight and enforcement standards and activities;

(B) variations among countries with respect to the use of position limits, position accountability levels, or other thresholds to detect and prevent price manipulation, excessive speculation as described in section 4a of the Commodity Exchange Act, or other unfair trading practices;

(C) variations in practices regarding the differentiation of commercial and non-commercial trading;

(D) agreements and practices for sharing market and trading data among futures authorities and between futures authorities and the entities that the futures authorities oversee; and

(E) agreements and practices for facilitating international cooperation on market oversight, compliance, and enforcement.

(3) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(A) describes the results of the study;

(B) addresses whether there is excessive speculation, and if so, the effects of any such speculation and energy price volatility on energy futures; and

(C) provides recommendations to improve openness, transparency, and other necessary elements of a properly functioning market in a manner that protects consumers in the United States.

(b) **STUDY RELATING TO EFFECTS OF SPECULATORS ON AGRICULTURE AND ENERGY FUTURES MARKETS AND AGRICULTURE AND ENERGY PRICES.**—

(1) **STUDY.**—The Comptroller General of the United States shall conduct a study of the effects of speculators on agriculture and energy futures markets and agriculture and energy prices.

(2) **ANALYSIS.**—The study shall include an analysis of, at a minimum—

(A) the effect of increased amounts of capital in agriculture and energy futures markets;

(B) the impact of the roll-over of positions by index fund traders and swap dealers on agriculture and energy futures markets and agriculture and energy prices; and

(C) the extent to which each factor described in subparagraphs (A) and (B) and speculators—

(i) affect—

(I) the pricing of agriculture and energy commodities; and

(II) risk management functions; and

(ii) contribute to economically efficient price discovery.

(3) **REPORT.**—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study.

## SEC. 14. OVER-THE-COUNTER AUTHORITY.

(a) **IN GENERAL.**—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by adding at the end the following:

“(j) **OVER-THE-COUNTER AUTHORITY.**—

“(1) Within 60 days after the date of the enactment of this subsection, the Commission shall, by rule, regulation, or order, require routine reporting as it deems in its discretion appropriate, on not less than a monthly basis, of agreements, contracts, or transactions, with regard to an agricultural or energy commodity, entered into in reliance on subsection (g), (h)(1), or (h)(2) of section 2, or any exemption issued by the Commission by rule, regulation, or order that are fungible (as defined by the Commission) with agreements, contracts, or transactions traded on or subject to the rules of any board of trade or of any electronic trading facility with respect to a significant price discovery contract.

“(2) Notwithstanding subsections (g), (h)(1), and (h)(2) of section 2, and any exemption issued by the Commission by rule, regulation, or order, the Commission shall assess and issue a finding on whether the agreements, contracts, or transactions reported pursuant to paragraph (1), alone or in con-

junction with other similar agreements, contracts, or transactions, have the potential to—

“(A) disrupt the liquidity or price discovery function on a registered entity;

“(B) cause a severe market disturbance in the underlying cash or futures market for an agricultural or energy commodity; or

“(C) prevent or otherwise impair the price of a contract listed for trading on a registered entity from reflecting the forces of supply and demand in any market for an agricultural commodity enumerated in section 1a(4) or an energy commodity.

“(3) If the Commission makes a finding pursuant to paragraph (2) of this subsection, the Commission may, in its discretion, utilize its authority under section 8a(9) to impose position limits for speculators on the agreements, contracts, or transactions involved and take corrective actions to enforce the limits.”

(b) **CONFORMING AMENDMENTS.**—

(1) Section 2(g) of such Act (7 U.S.C. 2(g)) is amended by inserting “subsection (j) of this section, and” after “(other than”.

(2) Section 2(h)(2)(A) of such Act (7 U.S.C. 2(h)(2)(A)) is amended by inserting “subsection (j) of this section and” before “sections”.

(3) Section 8a(9) of such Act (7 U.S.C. 12a(a)(9)) is amended by inserting after “of the Commission’s action” the following: “, and to fix and enforce limits to agreements, contracts, or transaction subject to section 2(j)(1) pursuant to a finding made under section 2(j)(2)”.

## SEC. 15. EXPEDITED PROCESS.

The Commodity Futures Trading Commission may use emergency and expedited procedures (including any administrative or other procedure as appropriate) to carry out this Act if, in its discretion, it deems it necessary to do so.

The **SPEAKER pro tempore**. Pursuant to House Resolution 1449, the amendment in the nature of a substitute printed in House Report 110-859 is adopted and the bill, as amended, is considered read.

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

H.R. 6604

## SECTION 1. SHORT TITLE.

This Act may be cited as the “Commodity Markets Transparency and Accountability Act of 2008”.

## SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definition of energy commodity.
- Sec. 4. Speculative limits and transparency of off-shore trading.
- Sec. 5. Disaggregation of index funds and other data in energy and agriculture markets.
- Sec. 6. Detailed reporting from index traders and swap dealers.
- Sec. 7. Transparency and recordkeeping authorities.
- Sec. 8. Trading limits to prevent excessive speculation.
- Sec. 9. Modifications to core principles applicable to position limits for contracts in agricultural and energy commodities.
- Sec. 10. CFTC Administration.
- Sec. 11. Review of prior actions.
- Sec. 12. Review of over-the-counter markets.
- Sec. 13. Studies; reports.
- Sec. 14. Over-the-counter authority.
- Sec. 15. Expedited process.

## SEC. 3. DEFINITION OF ENERGY COMMODITY.

(a) **DEFINITION OF ENERGY COMMODITY.**—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) by redesignating paragraphs (13) through (34) as paragraphs (14) through (35), respectively; and

(2) by inserting after paragraph (12) the following:

“(13) ENERGY COMMODITY.—The term ‘energy commodity’ means—

“(A) coal;

“(B) crude oil, gasoline, diesel fuel, jet fuel, heating oil, and propane;

“(C) electricity;

“(D) natural gas; and

“(E) any other substance that is used as a source of energy, as the Commission, in its discretion, deems appropriate.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(c)(2)(B)(i)(II)(cc) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)(cc)) is amended—

(A) in subitem (AA), by striking “section 1a(20)” and inserting “section 1a(21)”; and

(B) in subitem (BB), by striking “section 1a(20)” and inserting “section 1a(21)”.

(2) Section 13106(b)(1) of the Food, Conservation, and Energy Act of 2008 is amended by striking “section 1a(32)” and inserting “section 1a”.

(3) Section 402 of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27) is amended—

(A) in subsection (a)(7), by striking “section 1a(20)” and inserting “section 1a”; and

(B) in subsection (d)—

(i) in paragraph (1)(B), by striking “section 1a(33)” and inserting “section 1a”; and

(ii) in paragraph (2)(D), by striking “section 1a(13)” and inserting “section 1a”.

#### SEC. 4. SPECULATIVE LIMITS AND TRANSPARENCY OF OFF-SHORE TRADING.

(a) IN GENERAL.—Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

“(e) FOREIGN BOARDS OF TRADE.—

“(1) IN GENERAL.—The Commission may not permit a foreign board of trade to provide to the members of the foreign board of trade or other participants located in the United States direct access to the electronic trading and order matching system of the foreign board of trade with respect to an agreement, contract, or transaction in an energy or agricultural commodity that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, unless—

“(A) the foreign board of trade makes public daily trading information regarding the agreement, contract, or transaction that is comparable to the daily trading information published by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and

“(B) the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade)—

“(i) adopts position limits (including related hedge exemption provisions) for the agreement, contract, or transaction that are comparable, taking into consideration the relative sizes of the respective markets, to the position limits (including related hedge exemption provisions) adopted by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles;

“(ii) has the authority to require or direct market participants to limit, reduce, or liquidate any position the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade) determines to be necessary to prevent or reduce the threat of price manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process;

“(iii) agrees to promptly notify the Commission of any change regarding—

“(I) the information that the foreign board of trade will make publicly available;

“(II) the position limits that the foreign board of trade or foreign futures authority will adopt and enforce;

“(III) the position reductions required to prevent manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process; and

“(IV) any other area of interest expressed by the Commission to the foreign board of trade or foreign futures authority;

“(iv) provides information to the Commission regarding large trader positions in the agreement, contract, or transaction that is comparable to the large trader position information collected by the Commission for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and

“(v) provides the Commission with information necessary to publish reports on aggregate trader positions for the agreement, contract, or transaction traded on the foreign board of trade that are comparable to such reports for 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles.

“(2) EXISTING FOREIGN BOARDS OF TRADE.—Paragraph (1) shall not be effective with respect to any agreement, contract, or transaction in an energy commodity executed on a foreign board of trade to which the Commission had granted direct access permission before the date of the enactment of this subsection until the date that is 180 days after such date of enactment.”.

(b) LIABILITY OF REGISTERED PERSONS TRADING ON A FOREIGN BOARD OF TRADE.—

(1) Section 4(a) of such Act (7 U.S.C. 6(a)) is amended by inserting “or by subsection (f)” after “Unless exempted by the Commission pursuant to subsection (c)”.

(2) Section 4 of such Act (7 U.S.C. 6) is further amended by adding at the end the following:

“(f) A person registered with the Commission, or exempt from registration by the Commission, under this Act may not be found to have violated subsection (a) with respect to a transaction in, or in connection with, a contract of sale of a commodity for future delivery if the person has reason to believe the transaction and the contract is made on or subject to the rules of a board of trade that is legally organized under the laws of a foreign country, authorized to act as a board of trade by a foreign futures authority, subject to regulation by the foreign futures authority, and has not been determined by the Commission to be operating in violation of subsection (a).”.

(c) CONTRACT ENFORCEMENT FOR FOREIGN FUTURES CONTRACTS.—Section 22(a) of such Act (7 U.S.C. 25(a)) is amended by adding at the end the following:

“(5) A contract of sale of a commodity for future delivery traded or executed on or through the facilities of a board of trade, exchange, or market located outside the United States for purposes of section 4(a) shall not be void, voidable, or unenforceable, and a party to such a contract shall not be entitled to rescind or recover any payment made with respect to the contract, based on the failure of the foreign board of trade to comply with any provision of this Act.”.

#### SEC. 5. DISAGGREGATION OF INDEX FUNDS AND OTHER DATA IN ENERGY AND AGRICULTURE MARKETS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6), as amended by section 4 of this Act, is amended by adding at the end the following:

“(g) DISAGGREGATION OF INDEX FUNDS AND OTHER DATA IN ENERGY AND AGRICULTURE MARKETS.—Subject to section 8 and beginning within 30 days of the issuance of the final rule required by section 4(h), the Commission shall disaggregate and make public weekly—

“(1) the number of positions and total value of index funds and other passive, long-only and short-only positions (as defined by the Commission) in all energy and agricultural markets to the extent such information is available; and

“(2) data on speculative positions relative to bona fide physical hedgers in those markets to the extent such information is available.”.

#### SEC. 6. DETAILED REPORTING FROM INDEX TRADERS AND SWAP DEALERS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6), as amended by sections 4 and 5 of this Act, is amended by adding at the end the following:

“(h) INDEX TRADERS AND SWAP DEALERS REPORTING.—The Commission shall issue a proposed rule defining and classifying index traders and swap dealers (as those terms are defined by the Commission) for purposes of data reporting requirements and setting routine detailed reporting requirements for such entities in designated contract markets, derivatives transaction execution facilities, foreign boards of trade subject to section 4(e), and electronic trading facilities with respect to significant price discovery contracts with respect to exempt and agricultural commodities not later than 60 days after the date of the enactment of this subsection, and issue a final rule within 120 days after such date of enactment.”.

#### SEC. 7. TRANSPARENCY AND RECORDKEEPING AUTHORITIES.

(a) IN GENERAL.—Section 4g(a) of the Commodity Exchange Act (7 U.S.C. 6g(a)) is amended—

(1) by inserting “a” before “futures commission merchant”; and

(2) by inserting “and transactions and positions traded pursuant to subsection (g), (h)(1), or (h)(2) of section 2, or any exemption issued by the Commission by rule, regulation or order,” after “United States or elsewhere.”.

(b) REPORTS OF DEALS EQUAL TO OR IN EXCESS OF TRADING LIMITS.—Section 4i of such Act (7 U.S.C. 6i) is amended—

(1) in the first sentence—

(A) by inserting “(a)” before “It shall”; and

(B) by inserting “in the United States or elsewhere, and of transactions and positions in any such commodity entered into pursuant to subsection (g), (h)(1), or (h)(2) of section 2, or any exemption issued by the Commission by rule, regulation or order” before “, and of cash or spot”; and

(2) by striking all that follows the 1st sentence and inserting the following:

“(b) With respect to agricultural and energy commodities, upon special call by the Commission, any person shall provide to the Commission, in a form and manner and within the period specified in the special call, books and records of all transactions and positions traded on or subject to the rules of any board of trade or electronic trading facility in the United States or elsewhere, or pursuant to subsection (g), (h)(1), or (h)(2) of section 2, or any exemption issued by the Commission by rule, regulation, or order, as the Commission may determine appropriate to deter and prevent price manipulation or any other disruption to market integrity or to diminish, eliminate, or prevent excessive speculation as described in section 4a(a).

“(c) Such books and records described in subsections (a) and (b) shall show complete

details concerning all such transactions, positions, inventories, and commitments, including the names and addresses of all persons having any interest therein, shall be kept for a period of 5 years, and shall be open at all times to inspection by any representative of the Commission or the Department of Justice. For the purposes of this section, the futures and cash or spot transactions and positions of any person shall include such transactions and positions of any persons directly or indirectly controlled by the person."

(C) CONFORMING AMENDMENTS.—

(1) Section 2(g) of such Act (7 U.S.C. 2(g)) is amended—

(A) by inserting "4g(a), 4i," before "5a (to)"; and

(B) by inserting ", and the regulations of the Commission pursuant to section 4i(b) requiring reporting in connection with commodity option transactions," before "shall apply".

(2) Section 2(h)(2)(A) of such Act (7 U.S.C. 2(h)(2)(A)) is amended to read as follows:

"(A) sections 4g(a), 4i, 5b and 12(e)(2)(B), and the regulations of the Commission pursuant to section 4i(b) requiring reporting in connection with commodity option transactions;"

**SEC. 8. TRADING LIMITS TO PREVENT EXCESSIVE SPECULATION.**

Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding after and below the end the following:

"(2) In accordance with the standards set forth in paragraph (1) of this subsection and consistent with the good faith exception cited in subsection (b)(2), with respect to agricultural commodities enumerated in section 1a(4) and energy commodities, the Commission, within 60 days after the date of the enactment of this paragraph, shall by rule, regulation, or order establish limits on the amount of positions, other than bona fide hedge positions, that may be held by any person with respect to contracts of sale for future delivery or with respect to options on such contracts or commodities traded on or subject to the rules of a contract market or derivatives transaction execution facility, or on an electronic trading facility as a significant price discovery contract.

"(3) In establishing the limits required in paragraph (2), the Commission shall set limits—

"(A) on the number of positions that may be held by any person for the spot month, each other month, and the aggregate number of positions that may be held by any person for all months;

"(B) to the maximum extent practicable, in its discretion—

"(i) to diminish, eliminate, or prevent excessive speculation as described under this section;

"(ii) to deter and prevent market manipulation, squeezes, and corners;

"(iii) to ensure sufficient market liquidity for bona fide hedgers; and

"(iv) to ensure that the price discovery function of the underlying market is not disrupted; and

"(C) to the maximum extent practicable, in its discretion, take into account the total number of positions in fungible agreements, contracts, or transactions that a person can hold in agricultural and energy commodities in other markets.

"(4)(A) Not later than 150 days after the date of the enactment of this paragraph, the Commission shall convene a Position Limit Agricultural Advisory Group and a Position Limit Energy Group, each group consisting of representatives from—

"(i) 7 predominantly commercial short hedgers of the actual physical commodity for future delivery;

"(ii) 7 predominantly commercial long hedgers of the actual physical commodity for future delivery;

"(iii) 4 non-commercial participants in markets for commodities for future delivery; and

"(iv) each designated contract market or derivatives transaction execution facility upon which a contract in the commodity for future delivery is traded, and each electronic trading facility that has a significant price discovery contract in the commodity."

"(B) Not later than 60 days after the date on which the advisory groups are convened under subparagraph (A), and annually thereafter, the advisory groups shall submit to the Commission advisory recommendations regarding the position limits to be established in paragraph (2) and a recommendation as to whether the position limits should be administered directly by the Commission, or by the registered entity on which the commodity is listed (with enforcement by both the registered entity and the Commission); and

(2) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding after and below the end the following:

"(2) With respect to agricultural and energy commodities, for the purposes of contracts of sale for future delivery and options on such contracts or commodities, the Commission shall define what constitutes a bona fide hedging transaction or position as a transaction or position that—

"(A)(i) represents a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel;

"(ii) is economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise; and

"(iii) arises from the potential change in the value of—

"(I) assets that a person owns, produces, manufactures, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising;

"(II) liabilities that a person owns or anticipates incurring; or

"(III) services that a person provides, purchases, or anticipates providing or purchasing; or

"(B) reduces risks attendant to a position resulting from a transaction that—

"(i) was executed pursuant to subsection (g), (h)(1), or (h)(2) of section 2, or an exemption issued by the Commission by rule, regulation or order; and

"(ii) was executed opposite a counterparty for which the transaction would qualify as a bona fide hedging transaction pursuant to paragraph (2)(A) of this subsection."

**SEC. 9. MODIFICATIONS TO CORE PRINCIPLES APPLICABLE TO POSITION LIMITS FOR CONTRACTS IN AGRICULTURAL AND ENERGY COMMODITIES.**

(a) **CONTRACTS TRADED ON CONTRACT MARKETS.**—Section 5(d)(5) of the Commodity Exchange Act (7 U.S.C. 7(d)(5)) is amended by striking all that follows "adopt" and inserting ", for speculators, position limitations with respect to agricultural commodities enumerated in section 1a(4) or energy commodities, and position limitations or position accountability with respect to other commodities, where necessary and appropriate."

(b) **CONTRACTS TRADED ON DERIVATIVES TRANSACTION EXECUTION FACILITIES.**—Section 5a(d)(4) of such Act (7 U.S.C. 7a(d)(4)) is amended by striking all that follows "adopt" and inserting ", for speculators, position limitations with respect to energy commod-

ities, and position limitations or position accountability with respect to other commodities, where necessary and appropriate for a contract, agreement or transaction with an underlying commodity that has a physically deliverable supply."

(c) **SIGNIFICANT PRICE DISCOVERY CONTRACTS.**—Section 2(h)(7)(C)(ii)(IV) of such Act (7 U.S.C. 2(h)(7)(C)(ii)(IV)) is amended by striking "where necessary" and all that follows through "in significant price discovery contracts" and inserting "for speculators, position limitations with respect to significant price discovery contracts in energy commodities, and position limitations or position accountability with respect to significant price discovery contracts in other commodities".

**SEC. 10. CFTC ADMINISTRATION.**

Section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 2(a)(7)) is amended by adding at the end the following:

"(D) **ADDITIONAL EMPLOYEES.**—As soon as practicable after the date of the enactment of this subparagraph, subject to appropriations, the Commission shall appoint at least 100 full-time employees (in addition to the employees employed by the Commission as of the date of the enactment of this subparagraph)—

"(i) to increase the public transparency of operations in agriculture and energy markets;

"(ii) to improve the enforcement of this Act in those markets; and

"(iii) to carry out such other duties as are prescribed by the Commission."

**SEC. 11. REVIEW OF PRIOR ACTIONS.**

Notwithstanding any other provision of the Commodity Exchange Act, the Commodity Futures Trading Commission shall review, as appropriate, all regulations, rules, exemptions, exclusions, guidance, no action letters, orders, other actions taken by or on behalf of the Commission, and any action taken pursuant to the Commodity Exchange Act by an exchange, self-regulatory organization, or any other registered entity, that are currently in effect, to ensure that such prior actions are in compliance with the provisions of this Act.

**SEC. 12. REVIEW OF OVER-THE-COUNTER MARKETS.**

(a) **STUDY.**—The Commodity Futures Trading Commission shall conduct a study—

(1) to determine the efficacy, practicality, and consequences of establishing limits on the amount of positions, other than bona fide hedge positions, that may be held by any person with respect to agreements, contracts, or transactions involving an agricultural or energy commodity, conducted in reliance on sections 2(g) and 2(h) of the Commodity Exchange Act and of any exemption issued by the Commission by rule, regulation or order, that are fungible (as defined by the Commission) with agreements, contracts, or transactions traded on or subject to the rules of any board of trade or of any electronic trading facility with respect to a significant price discovery contract, as a means to deter and prevent price manipulation or any other disruption to market integrity or to diminish, eliminate, or prevent excessive speculation as described in section 4a of such Act for physical-based agricultural or energy commodities; and

(2) to determine the efficacy, practicality, and consequences of establishing aggregate position limits for similar agreements, contracts, or transactions for physical-based agricultural or energy commodities traded—

(A) on designated contract markets;

(B) on derivatives transaction execution facilities; and

(C) in reliance on such sections 2(g) and 2(h) and of any exemption issued by the Commission by rule, regulation or order.



(b) PUBLIC HEARINGS.—The Commission shall provide for not less than 2 public hearings to take testimony, on the record, as part of the fact-gathering process in preparation of the report.

(c) REPORT AND RECOMMENDATIONS.—Not less than 12 months after the date of the enactment of this section, the Commission shall provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(1) describes the results of the study; and

(2) provides recommendations on any actions necessary to deter and prevent price manipulation or any other disruption to market integrity or to diminish, eliminate, or prevent excessive speculation as described in section 4a of the Commodity Exchange Act for physical-based commodities, including—

(A) any additional statutory authority that the Commission determines to be necessary to implement the recommendations; and

(B) a description of the resources that the Commission considers to be necessary to implement the recommendations.

#### SEC. 13. STUDIES; REPORTS.

(a) STUDY RELATING TO INTERNATIONAL REGULATION OF ENERGY COMMODITY MARKETS.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the international regime for regulating the trading of energy commodity futures and derivatives.

(2) ANALYSIS.—The study shall include an analysis of, at a minimum—

(A) key common features and differences among countries in the regulation of energy commodity trading, including with respect to market oversight and enforcement standards and activities;

(B) variations among countries with respect to the use of position limits, position accountability levels, or other thresholds to detect and prevent price manipulation, excessive speculation as described in section 4a of the Commodity Exchange Act, or other unfair trading practices;

(C) variations in practices regarding the differentiation of commercial and non-commercial trading;

(D) agreements and practices for sharing market and trading data among futures authorities and between futures authorities and the entities that the futures authorities oversee; and

(E) agreements and practices for facilitating international cooperation on market oversight, compliance, and enforcement.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(A) describes the results of the study;

(B) addresses whether there is excessive speculation, and if so, the effects of any such speculation and energy price volatility on energy futures; and

(C) provides recommendations to improve openness, transparency, and other necessary elements of a properly functioning market in a manner that protects consumers in the United States.

(b) STUDY RELATING TO EFFECTS OF SPECULATORS ON AGRICULTURE AND ENERGY FUTURES MARKETS AND AGRICULTURE AND ENERGY PRICES.—

(1) STUDY.—The Commodity Futures Trading Commission shall conduct a study of the effects of speculators on agriculture and energy futures markets and agriculture and energy prices.

(2) ANALYSIS.—The study shall include an analysis of, at a minimum—

(A) the effect of increased amounts of capital in agriculture and energy futures markets;

(B) the impact of the roll-over of positions by index fund traders and swap dealers on agriculture and energy futures markets and agriculture and energy prices; and

(C) the extent to which each factor described in subparagraphs (A) and (B) and speculators—

(i) affect—

(I) the pricing of agriculture and energy commodities; and

(II) risk management functions; and

(ii) contribute to economically efficient price discovery.

(3) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Commodity Futures Trading Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study.

#### SEC. 14. OVER-THE-COUNTER AUTHORITY.

(a) IN GENERAL.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by adding at the end the following:

“(j) OVER-THE-COUNTER AUTHORITY.—

“(1) Within 60 days after the date of the enactment of this subsection, the Commission shall, by rule, regulation, or order, require routine reporting as it deems in its discretion appropriate, on not less than a monthly basis, of agreements, contracts, or transactions, with regard to an agricultural or energy commodity, entered into in reliance on subsection (g), (h)(1), or (h)(2) of section 2, or any exemption issued by the Commission by rule, regulation, or order that are fungible (as defined by the Commission) with agreements, contracts, or transactions traded on or subject to the rules of any board of trade or of any electronic trading facility with respect to a significant price discovery contract.

“(2) Notwithstanding subsections (g), (h)(1), and (h)(2) of section 2, and any exemption issued by the Commission by rule, regulation, or order, the Commission shall assess and issue a finding on whether the agreements, contracts, or transactions reported pursuant to paragraph (1), alone or in conjunction with other similar agreements, contracts, or transactions, have the potential to—

“(A) disrupt the liquidity or price discovery function on a registered entity;

“(B) cause a severe market disturbance in the underlying cash or futures market for an agricultural or energy commodity; or

“(C) prevent or otherwise impair the price of a contract listed for trading on a registered entity from reflecting the forces of supply and demand in any market for an agricultural commodity enumerated in section 1a(4) or an energy commodity.

“(3) If the Commission makes a finding pursuant to paragraph (2) of this subsection, the Commission may, in its discretion, utilize its authority under section 8a(9) to impose position limits (including, as appropriate and in its discretion, related hedge exemption provisions for bona fide hedging comparable to bona fide hedge provisions of section 4a(c)(2)) on agreements, contracts, or transactions involved, and take corrective actions to enforce the limits.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(g) of such Act (7 U.S.C. 2(g)) is amended by inserting “subsection (j) of this section, and” after “(other than)”.

(2) Section 2(h)(2)(A) of such Act (7 U.S.C. 2(h)(2)(A)) is amended by inserting “subsection (j) of this section and” before “sections”.

(3) Section 8a(9) of such Act (7 U.S.C. 12a(a)(9)) is amended by inserting after “of the Commission’s action” the following: “, and to fix and enforce limits to agreements, contracts, or transaction subject to section 2(j)(1) pursuant to a finding made under section 2(j)(2)”.

#### SEC. 15. EXPEDITED PROCESS.

The Commodity Futures Trading Commission may use emergency and expedited procedures (including any administrative or other procedure as appropriate) to carry out this Act if, in its discretion, it deems it necessary to do so.

The SPEAKER pro tempore. The gentleman from Minnesota (Mr. PETERSON) and the gentleman from Virginia (Mr. GOODLATTE) each will control 30 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. PETERSON of Minnesota. Mr. Speaker, H.R. 6604, the Commodity Markets Transparency and Accountability Act of 2008, will strengthen oversight of the Commodity Futures Market for energy and agricultural commodities. This bill will be almost entirely identical to the version that we considered under suspension here on July 30, 2008.

There are two changes that are purely technical and corrected typographical errors, and there are two other changes that we made in the bill to make sure the provisions are entirely within the jurisdiction of the Agriculture Committee.

One strikes section 10(b) regarding the Inspector General of the CFTC. The other, section 13(b) is modified so the Commodity Futures Trading Commission does the reference study instead of the Comptroller General.

Mr. Speaker, on this bill we have gotten more information in the committee, and Mr. ETHERIDGE had a hearing that he chaired last week.

I would at this time yield 5 minutes to the gentleman from North Carolina (Mr. ETHERIDGE) who has been working with me tirelessly on this to talk about the process and explain the bill.

Mr. ETHERIDGE. I thank the chairman.

I am pleased today to join Chairman PETERSON and Ranking Member GOODLATTE in bringing this legislation, the Commodity Markets Transparency and Accountability Act of 2008, to the floor for consideration by the House.

Mr. Speaker, since our bill was considered by the full House this past July, much has happened. For one thing, oil prices have dropped, and they have dropped considerably. They have gone up in the last day or so. Additionally, the CFTC has released a report providing the most detailed and accurate look at data on index trading and swap dealers participating in the over-the-counter market.

While all of us are glad to see the prices of oil decline and other commodities in recent months, it does not relieve the Commission or this Congress of our responsibility to make sure that commodity markets are operating effectively, efficiently and fairly. And

while the CFTC report indicates that index funds and swap dealers have less influence on our markets than had otherwise been reported, the report does not tell us the whole story or provide us with all the answers to our questions regarding these markets.

The CFTC report fails to include the time period of this July and August and recent weeks when oil prices fell fairly rapidly. Do we have a clear understanding of why prices fell? No. Passing H.R. 6604 will provide the CFTC with the authority and the tools to examine the entire marketplace to ensure no individual group or groups of market participants is having an undue influence on the market.

Months ago, the CFTC was telling Congress that it needed no additional changes to the Commodity Exchange Act and that markets were functioning properly. Now the CFTC's report contains a host of proposals very similar to the provisions in the Commodities Market Transparency and Accountability Act.

The report recommends measures designed to enhance transparency and data accuracy for commodity markets. Our bill provides the commission with the tools to make that happen.

The report suggests revising the hedge exemption rules that allow traders to exceed speculation position limits. Our bill accomplishes that too.

The report highlights the desperate need for additional staff and resources at the CFTC, not only to accomplish its current mission, but also to implement its recommendations to bring greater transparency and accountability to the commodity markets. We happen to agree.

Since 2000, volume on the commodity markets has increased sixfold, but currently staffing levels at the CFTC have fallen to their lowest level in the 33-year history of the Commodities Exchange. Through this legislation, we acknowledge the need for 100 additional full-time positions at CFTC that they need to effectively regulate the futures industry, including our energy markets. But we should not kid ourselves. The CFTC needs far more resources to do the job that we expect them to do.

□ 1230

Earlier this year the chairman of the CFTC testified at a hearing that the agency needed 100 additional staff right now just to meet the growing surveillance needs.

In testimony presented to the House Agriculture Committee a week ago today, the chairman of the commission testified the CFTC would need still another 138 full-time staff and \$38 million just in 2009 to implement the provisions of H.R. 6604. Given the light of what is happening in the markets, I think we understand why the need is there.

I have said this before, but it bears repeating, if Congress places additional responsibility upon the Commission, without providing the resources nec-

essary to meet those responsibilities, then what we pass here today is simply a farce. Through its report, CFTC views on effective oversight of commodity markets have changed dramatically from where the commission was previously.

I know some of my colleagues will say let's wait and give the commission time to implement these recommendations administratively. I say why wait for the commission to implement changes that we as a Congress can do right now with H.R. 6604.

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

Mr. PETERSON of Minnesota. Mr. Speaker, I yield the gentleman another 30 seconds.

Mr. ETHERIDGE. We can all agree that no one factor is responsible for the movement we have seen in agriculture and energy prices, but this legislation is an important measure to provide the CFTC with additional tools and authority to keep our markets free of manipulation and excess speculation and help restore confidence to these markets. We cannot allow excess speculation by Wall Street to cause folks on Main Street to suffer.

I urge my colleagues to support this legislation.

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

For the past few years, the Committee on Agriculture has taken a proactive approach to try to understand and monitor the issue of trading activity in the futures markets and conduct appropriate oversight. This was so we could make an informed decision about whether or not commodity markets need greater transparency and accountability.

Last week, CFTC Acting Chairman Walt Lukken presented a 6-month study of the futures market to the committee. Chairman Lukken and his staff spent a lot of hours and a great deal of work over the past 3 months to produce that report. We appreciated their efforts, especially for keeping an aggressive timetable.

The CFTC report was useful in providing a reference point in determining the relationship between index fund-related activity in the over-the-counter markets and commodity futures, and energy and agriculture prices in the United States.

However, as we move forward today with H.R. 6604, there are key factors for us to consider.

One, after hearing testimony from Mr. Lukken, and after examining the findings of this report, it is evident that our priority should be ensuring that the CFTC has the tools and resources it needs to protect and preserve the integrity of our futures markets.

The CFTC devoted more than 30 employees and 4,000 staff hours to produce this report. Those who have read the report all agree that these broad snapshots of the markets are necessary, but the CFTC does not have the staff to dedicate to similar projects.

This bill directs the CFTC to hire 100 additional employees. But because there has not been a single appropriations bill passed by both Chambers and presented to the President, I have no idea how the already underfunded agency will be able to do so.

The Democratic leadership is fond of pointing the finger of blame, but ultimately the Democratic leadership has one duty, to consider and pass the appropriations bills that fund the government. The Democratic leadership has refused to execute this duty and has failed the American taxpayer.

Second, this bill will not reduce the price of oil. It will not relieve the burden many Americans face at the gas pump. In order to achieve that very important goal, Congress must focus on creating a viable energy policy that goes beyond the measures passed thus far to increase the domestic supply of energy sources and promote energy independence.

Though I have concerns that some of the provisions in H.R. 6604 are too far-reaching, I will continue to support this bill to ensure that the CFTC has all the tools it needs to preserve and protect the integrity of our futures markets.

But I know, as I have worked closely with the chairman of the committee, who has worked in a very bipartisan fashion to fashion this legislation and address these concerns and make sure the CFTC has the necessary oversight authority and capability, that this bill would provide for it.

I also know that this is not what the American people want and need when it comes to energy. I know that there are many on the other side of the aisle who are hoping still to have an opportunity to vote, not on a hoax, not on a sham like we did 2 days ago, but on a real American energy bill that provides for real offshore drilling, not a bill that would shut off 80 to 90 percent of the known oil and natural gas reserves from access, not a bill that does nothing to promote nuclear power, not a bill that doesn't take up consideration of drilling in the Arctic National Wildlife Refuge, not a bill that shuts us off from tapping into the oil shale reserves that are in tremendous abundance in the Rocky Mountain States, not a bill that does nothing for coal-to-liquid and other clean coal technologies that would benefit the American people, since we have the largest coal reserves in the world, not a bill that imposes tax increases in order to get to the alternative forms of energy that the American people want to have, but, rather, the American Energy Act, something that we asked this Congress to bring up before we went into a 5-week August recess.

While the Speaker of the House ordered the microphones turned off, the C-SPAN cameras turned off, the lights turned down low, we stayed here day after day, week after week, calling for a vote on the American Energy Act. We didn't get it.



Instead, we got this sham hoax that won't produce a drop of new oil, won't produce a cubic foot of new natural gas, will do nothing for nuclear power, will do nothing for coal, will do nothing for alternative forms of energy. It is simply an effort to try to derail what the American people clearly wanted to see on the floor of this House.

We still haven't seen it. This bill doesn't do it. We need to have that vote, and that's what the debate should be about here today, not this legislation which is good, but does not do what the American people want.

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

Mr. PETERSON of Minnesota. I want to take a second to commend my ranking member for the outstanding work that did he with us on a bipartisan basis in this committee to bring this bill forward. We take our jurisdiction very seriously, and we think we have produced a good product.

Mr. Speaker, I am now pleased to recognize the gentleman from Connecticut (Mr. COURTNEY) for 1 minute.

Mr. COURTNEY. Mr. Speaker, I rise in strong support of Chairman PETERSON's bill, which is a logical follow-on to Tuesday's energy bill that had two goals: number one, to bring immediate relief to consumers; and, two, to bring long-term solutions to America's energy challenges. This bill will go a long way to bring accountability to the price of a critical commodity, oil, which is the lifeblood of our economy.

The facts are clear, before energy commodities trading was exempted from CFTC oversight, about 70 percent of the energy futures trading was done by energy companies, 30 percent was done by speculators. Today those numbers are reversed, and the trading volume has increased sixfold.

As an old friend of mine, who has been in the scrap metal business in Willimantic, Connecticut, for 30 years said, commodity markets were never intended to be investment markets. Yet that is what they have become, and consumers and small businesses cannot keep up with the huge price swings occurring every day with no apparent connection to supply and demand.

These huge price swings have a direct result on my constituents in eastern Connecticut who are facing dire circumstances if home heating oil remains at high and unstable prices this fall and winter. It is time that Congress took additional steps to make sure that all markets, including foreign boards of trade, operate with CFTC oversight. We must bring transparency and stability to energy trading.

I urge my colleagues to support this bill.

Mr. GOODLATTE. Mr. Speaker, at this time I am pleased to yield 4 minutes to the gentleman from Florida (Mr. FEENEY).

Mr. FEENEY. I thank the ranking member, and I am pleased to rise to

talk about this bill. I just think that it's important that we be square with the American people about what this bill does and what it doesn't do.

This bill essentially creates a straw man or a boogeyman and attacks that straw man or boogeyman as though they were responsible for the price of gasoline and energy in America today. Regardless of whether you are voting for or against this bill, it doesn't do anything to help Americans concerned about saving the American family and American business from the high price of oil and gas.

Let me explain to Americans what speculators do. I am not a speculator. Speculators bet on the future. It's legal to make a gamble in America and bet on the future of commodities prices, of pork bellies, and, as the agriculture chairman and ranking member are well aware, of the price of corn and wheat in the future. Speculators bet on the future.

What speculators have done with the price of oil and gas on the commodities market, they have simply bet on the future price of oil and gas. Now in this case, what are they betting on? They are betting that the demand for energy in the world, places like India and China and the third world, will increase. That's a pretty smart bet.

But they are betting on another thing. They are betting that the Democratic-led Congress will continue to be stupid and refuse to supply more energy for America. It's a simple preponderance rule of supply and demand. If you have less corn 2 months from now, the price of corn will go up. That's what speculators bet on.

If you are going to have more demand for energy and oil and gas, and you know you will not produce more supply, then the price of oil and gas will go up. To punish the speculators for betting that Congress will continue to be stupid and not produce American energy is really attacking a boogeyman. It is attacking a straw man and will not help with the price of oil.

Now, as the ranking member said, the great news is, America has an abundant supply of energy. We just won't access it. We are the Saudi Arabia of the world's coal supply. We can produce and burn coal in a liquefied or gasified manner cleaner than ever, but we refuse to do it. China is doing it, India is doing it, our competitors are doing it. We won't, even though we are the Saudi Arabia of coal.

We won't drill in ANWR. We will not access oil and tar shale. We passed a fraud on the American people in a bill the other day that said 88 percent of the area where we could drill off the Outer Continental Shelf for oil can never be drilled in, and the other 12 percent can be drilled in, but only if all of the radical environmentalists and trial lawyers somehow, someday, give us permission.

That is a no drilling bill. It is a no energy bill. Now we won't build nuclear

plants. America has the finest nuclear technology in the world. We stopped building nuclear plants 30 years ago, and American nuclear expertise, scientists and technologies went to France. You are a really foolish country if the French are outsmarting you on policy with your own technology, but that is what's happening every day.

So what do we do here today? Instead of passing a real American-based energy bill where American energy can be produced by American workers to save American families and American jobs, we have tax speculators who have bet on the future, and they have bet that the Democrat-led Congress will continue to be dumb.

I think they made a good bet.

Mr. PETERSON of Minnesota. Mr. Speaker, I am pleased now to yield 2 minutes to the gentleman from Vermont (Mr. WELCH) who has been a leader on this issue.

Mr. WELCH of Vermont. Mr. Speaker, a couple of things about this. Number one, the fact that this is a bipartisan bill is really a breakthrough. The fact is that having the support of the Agriculture Committee, ranking member and the chairman, indicates that there is a coming together on something that is incredibly important.

We have had a lot of debate about how this is going to affect the price of gas, but the way, as I understand it, the Agriculture Committee approached this, was how are we going to protect consumers? How are we going to protect farmers? How are we going to protect fuel dealers and airlines that have the burden of buying in the futures market because they need price stability, and they need a futures trading market in order to have price discovery, so that coming together was about recognizing that the institutional mechanism of a commodity futures trading commission has to be in service of those farmers in the Midwest.

It has to be in service of airlines that are trying to get us from here to there, of our fuel dealers that are delivering home heating fuel to our people at home. We can have a debate about how much prices are going to come down. In fact, since this committee took this under active consideration, the prices have come from 150 to 100. We can argue about what's the cause and effect, but it certainly was contemporaneous and had a big impact.

□ 1245

But what is happening in our economy is that basic institutions that have served us well, mortgages for homeowners, or the futures trading for farmers and others, have been hijacked for other reasons, not just to help a person buy a home or help a farmer have a price, but to become a commodity itself used by Wall Street to speculate for financial manipulation and market reasons.

That is not what these institutions are about, and the Congress has a fundamental decision before it. Are we

going to stand up for American farmers and American consumers and provide protection for the institutions that they absolutely need, we need, or are we going to allow them to continue to be hijacked by Wall Street for other reasons?

Mr. GOODLATTE. Mr. Speaker, it is my pleasure to yield 5 minutes to the gentleman from Kansas (Mr. MORAN), the ranking Republican member on the subcommittee with jurisdiction over commodity futures trading.

Mr. MORAN of Kansas. Mr. Speaker, I rise today, in contrast to my colleagues on the committee and subcommittee, in opposition to H.R. 6604. It is an awkward position to be in because I spend more time and have a greater closer working relationship with the three members of the House of Representatives who are here today speaking from the Agriculture Committee in favor of this legislation than probably any group of Members of Congress since I came to Congress.

But I rise today in opposition to this legislation for the same reason that I did nearly a month and a half ago. This bill will do little, if anything, to bring down the price of energy. In fact, certain provisions of this bill could likely lead to less market transparency and increased market volatility. Unlike one and a half months ago, however, Congress has some data provided by the CFTC. The data shows that the commodity markets were not broken, and while crude oil went from \$96 per barrel to \$146 per barrel over the first 6 months of this year, the aggregate long position of index traders and swap dealers fell by 11 percent or 45,000 contracts.

As I stated back in July, I favor changes in the Commodities Exchange Act that will improve market transparency, oversight and enforcement activities. In fact, in working with the CFTC and others, I have introduced legislation, H.R. 6921, that I believe will enhance transparency in the futures markets without disrupting the markets. Based on consensus recommendations of the CFTC, the bill that I have introduced codifies the recommendations of the commission that they suggested would benefit from codification that were presented to our committee. That hearing has been referenced. It just occurred on September 11.

What my bill does not do and what this bill does, this bill on the House floor, is redefine a bona fide hedging transaction to prohibit the ability of legitimate market participants from utilizing the market, push domestic traders overseas where CFTC will have little oversight and contains cumbersome and contradictory requirements that will overburden the CFTC staff and lead to little useful information.

In July I said this bill was put together quickly, in fact I thought too quickly and went too far. The information provided by the CFTC at our hear-

ing on September 11 in my opinion confirmed that fact. Given that this bill was defeated on suspension and it includes provisions that go beyond the scope of the commission's recommendations, one would think that we would now take that bill back to committee and craft a more precise product rather than bringing the same product to the House floor. We asked for more information, we got more information, and yet the crux of this legislation didn't change.

A well-crafted bill needs to provide additional transparency, oversight authority, and not exclude legitimate market participants or reduce market liquidity. One of the problems of this legislation, as I said, is it will reduce market transparency. This is because certain provisions, like the provision dealing with the foreign boards of trade that seek direct access to U.S. markets, will push traders to foreign markets. Rather than giving the CFTC a better picture of markets to prevent fraud and manipulation, it will actually restrict the ability of the CFTC to see that market.

In addition, the bill errantly attempts to define a "bona fide hedging transaction." In its current form, section 8 will exclude legitimate commercial market participants from properly hedging risk. This will cause immediate disruption of the markets as the legitimate market participants are forced out of the market. It will reduce market liquidity and increase price volatility.

I am also concerned with provisions in this bill that require routine reporting and potential use of position limits in over-the-counter transactions that are "fungible." "Fungible" is not defined and suggests that a significant amount of CFTC transactions would be implicated by this section.

I am especially concerned about the authority of section 14 which gives the CFTC the opportunity to impose position limits on over-the-counter trades. This is a problem because the OTC trades are nonstandardized contracts. Unlike standardized contracts traded on designated contract markets, OTC trades are often tailored to manage a specific company's risk in a market. And unlike a contract traded on a designated contract market, an OTC trade is made with a single counterparty. On a designated contract market, unlike many OTC trades, a clearinghouse is the counterparty to every contract and can facilitate liquidation of a position. In an OTC trade, if one party is in violation of a position limit and the other is not, liquidation of a position will adversely affect the party that is in compliance, again causing greater market volatility and increased cash prices of a commodity because of a disruption in commercial market participant's risk management strategy.

I think this bill has some technical problems that will harm price discovery and risk management strategies. It should be returned to com-

mittee where we address, again, the root cause of high energy prices.

The goal must be to do no harm, but this goal is not met in this legislation.

GENERAL LEAVE

Mr. PETERSON of Minnesota. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 6604.

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

There was no objection.

Mr. PETERSON of Minnesota. Mr. Speaker, we saw the information, and some of us became convinced all the more that the bill we have put on the floor is the appropriate bill.

I now yield 3 minutes to the gentleman from Maryland (Mr. VAN HOLLEN), one of our leaders and a leader on this issue.

Mr. VAN HOLLEN. Mr. Speaker, I rise in strong support of this legislation that will bring greater transparency and greater accountability to the commodity futures markets, and I want to commend committee Chairman PETERSON, Ranking Member GOODLATTE, and subcommittee Chairman BOB ETHERIDGE for coming together with the committee and others to pass and develop this bipartisan legislation which I hope we will all pass. I also want to thank and commend ROSA DELAURO, JOHN LARSON, and BART STUPAK for their leadership on this issue.

If there is one thing we should have all learned over the last couple weeks given the turmoil in our financial markets, it is that we need greater transparency and greater accountability. These are not just abstract good government ideals, these are tools that people need for responsible regulation of our financial markets, including our futures markets. They are absolutely necessary if we want to make sure that the CFTC and our regulators have the information that they need, especially when you are talking about the great impact that these things can have on our economy, as we are seeing every day on Wall Street.

The old adage that "what you don't know won't hurt you" is no longer a tenable position for this Congress. We need the information. With this legislation, for the first time, we will shine a light on the so-called dark markets and empower the CFTC to take corrective action where they find problems.

It provides for stronger position limits for energy commodities traded on regulated exchanges while ensuring that our futures markets continue to have the liquidity they need to function properly. No one has said there is not an important role for our futures markets, it is making sure that they are regulated properly to protect consumers and investors.

This bill will also rein in excessive speculation by ensuring that hedging exemptions are granted only to commercial market participants seeking to

hedge their actual physical risk, rather than to speculators facing only financial risk.

Mr. MORAN mentioned the recent report by the CFTC, and I would point out there was a recommendation they made which really follows a provision that we make in this bill, and that is to make sure that we, with respect to the commodity swap dealers and index traders, that we remove the swap dealers from the commercial category of market participants. We do that in this bill.

Additionally, in recognition of the numerous instances where the same CFTC staff report found traders effectively circumventing position limits they would ordinarily face on regulated exchanges by going to the over-the-counter market, in some cases exceeding those established positions by substantial amounts, the CFTC report proposes requiring swap dealers to certify that they are noncommercial clients that do not exceed established position limits with their over-the-counter trades. We do that here.

Mr. Speaker, we have a fundamental choice here. It is a choice between transparency and keeping things hidden behind the curtain. It is a choice between whether we want our futures markets to reflect the fundamentals of supply and demand, or whether we want our futures markets to be continuously whipsawed by massive inflows of speculative money.

We have a job to do. We have seen in recent days and weeks on Wall Street the effects of taking our eye off the ball and not providing regulators with the tools they need and them not following through with what they have. Let's make sure that we don't make that mistake in the commodities futures trading market. We have already seen the impact of not giving those complete tools. Let's make sure that those folks have what they need and are empowered to do the job on behalf of the American public. I thank the committee for their work on this.

Mr. GOODLATTE. Mr. Speaker, I am pleased to recognize the gentleman from Connecticut (Mr. SHAYS) for such time as he may consume.

Mr. SHAYS. Mr. Speaker, I thank my colleague for giving me this time to speak on what I think is important legislation.

I believe the Commodity Futures Trading Commission, the CFTC, must investigate speculation in the energy futures market and respond to any manipulation in price distortions.

While opinion is not unanimous, I believe the increased positions of institutional investors, such as pension funds and endowments and sovereign funds in this market are contributing to the escalating price of oil at an alarming rate. The CFTC should level the playing field and apply position limits to the institutional investors, such as the New York Mercantile Exchange has required of its members for years.

Investigating market manipulation will give us temporary relief, but the

high gas prices of today compel us to confront the inconvenient truth of our energy needs in other ways. We clearly need to increase domestic energy production, including solar, wind, geothermal, biofuel, nuclear power; and yes, oil and natural gas. It is truly insane to transfer \$700 billion of our wealth, our income, to other nations, most of whom are, frankly, unfriendly to us.

Alongside increased conservation and energy efficiency, I believe we must drill for oil and natural gas miles off our coast in an environmentally responsible way, and build new nuclear power plants. Bringing more supply online will send a strong signal to the market and help bring down high energy costs even in the short term. The rest of the world needs to know that the United States is serious about energy.

Mr. ETHERIDGE. We have just a couple more speakers we are waiting on, but in the meantime I would take this opportunity, Mr. Speaker, to just share with my colleagues that this bill has substantial support from the Air Transportation Association, the Air Line Pilots Association, Tyson Foods, Sierra Club, Environmental America, League of Conservation Voters, the Wilderness Society, National Chicken Council, National Corn Growers Association, National Cotton Council, National Farmer Unions, National Grains, National Milk Producers Federation, National Sorghum Producers, Southern Cotton Shippers Association, Southern Peanut Farmers Association, Southwest Council of Agriculture, Texas Cotton Association, United Egg Producers, United States Cattlemen Association, U.S. Rice Producers Association, U.S. Rice Federation, Western Cotton Shippers, Western Peanut Growers Association, Women Involved in Farm Economics, the American Agriculture Movement, American Association of Crop Insurance, American Corn Growers, American Cotton Shippers, the Atlantic Cotton Association, the Minnesota Corn Growers Association, National Association of State Departments of Agriculture, and I think at the end of the day, Mr. Speaker, the American people.

□ 1300

The American people only ask of us in this body to do what's right and be fair. I think they want markets to work. They want them to work fairly because they don't want them working against us. Today we have an opportunity to make these markets, once again, work for the American people.

We heard testimony in our committee of grain elevators who were caught in the wedge. When the prices ran so high, they were unable to get financing to be able to assist farmers. When you're looking at finding a real price through the futures, that's what they're supposed to do. But you can't do it when the markets aren't working the way they should work.

Mr. Speaker, if the gentleman from Virginia has any other speakers, I would be willing for him to call his speakers while I wait for a couple of folks here.

Mr. GOODLATTE. Will the gentleman yield?

Mr. ETHERIDGE. I would be happy to yield.

Mr. GOODLATTE. I have only myself to close. If the gentleman is thinking that we're close to closing, then I am prepared to do that.

Mr. ETHERIDGE. I am prepared to close, unless we get one more speaker. If you will go ahead and proceed, and then as soon as our speaker comes, I will let them do it and I'll close.

I reserve the balance of my time.

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

As I say, I appreciate working with the gentleman from North Carolina and the gentleman from Minnesota on this legislation.

I think this legislation gives to the Commodity Futures Trading Commission the necessary tools for appropriate oversight and enforcement. I think this is a light touch. I do not think that it interferes in the marketplace.

And I think that the evidence that was brought forth by the recent report submitted by the CFTC is very strong evidence that the marketplace is working very well, but it needs constant vigilance. We can see that with the difficulties that are being experienced around the country and around the world in other types of markets.

Certainly in the mortgage area and other financial areas, the risk of not giving the regulatory agencies the appropriate authority to do oversight and to act is certainly a grave concern. But I think we are doing that in this area. I think the CFTC is doing that in this area, and I think this legislation will help to enhance their ability to remain vigilant in making sure that this market operates properly; that there is not excessive speculation; that there is not manipulation of this marketplace.

Having said all of that, I will say, once again, that this is not the issue that we should be debating here today. I support this legislation. I will vote for it. But we deserve an opportunity to vote on what the American people want. And poll after poll have shown that they want to see a real energy act. They know that the problem with the high price of energy is the lack of supply. They know the problem with the disruption of our energy supply that just occurred due to Hurricane Ike is because we have not enough refinery capacity in this country, and that it is not distributed around the United States.

The American Energy Act provides for using abandoned U.S. military bases to build new refineries. We haven't built a new one in more than 30 years. And the bill that was brought to the floor of the House by the Democratic leadership earlier this week did absolutely nothing in that area.

We're now importing refined petroleum products, paying a higher price. We're seeing more and more billions of dollars going out of this country every week, costing America jobs, harming our economy because we are so dependent upon foreign oil, at the same time that we have huge resources, not just oil, but natural gas, coal, the potential of new nuclear power, as well as a whole array of alternative sources of energy like wind and solar and geothermal and biomass and hydrogen. All of these things are available to us if we will take the leadership here in this Congress and get the American Government out of the way of developing these new sources of energy. But, instead of doing that, we bring a no drill, no energy bill to the floor that was clearly a sham, a hoax on the American people.

We have abundant resources in oil. The estimates are that we could be producing 3 to 4 million barrels of oil from the Outer Continental Shelf. The bill that was brought forth on the floor of the House shuts off 80 to 90 percent of that oil from access to the marketplace because they don't allow drilling.

I introduced legislation, as have other people, to allow drilling off the coast of our respective States. I've introduced one for Virginia that has strong support in our delegation. And yet the legislation that was brought forward earlier this week does not provide any royalties for the States. So our Governor, Democratic Governor of the State has already indicated that if the State can't benefit from deriving royalties that can be used for developing better transportation systems, alternative forms of energy, public education and so on, if it can't be used for that, he's not interested in participating. So that bill was meaningless. It was a sham.

We need to bring forth real legislation like the American Energy Act that shares those royalties with the States so that they're able to do that.

It's estimated that we could have a million barrels of oil a day coming down the pipeline that already exists in Canada, if we would drill for oil in the Arctic National Wildlife Refuge, an area the size of the State of South Carolina; and the area that would be utilized for drilling for oil is about 2,000 acres, like a postage stamp on a football field. That's how much of this land of this huge area would be utilized. The people of Alaska support it. The Governor of Alaska, Sarah Palin, supports it.

Are we doing that?

No. Wouldn't even bring it up. Wouldn't bring up a bill that we could even offer an amendment to to allow for that to take place.

Meanwhile, the oil that comes from the Prudhoe Bay area is declining. It was 2.1 million barrels a day at its peak. It's now down to 700,000 barrels a day. We're told that when it gets down to 300,000 barrels a day, we'll have to close down the pipeline because it's not

economically efficient to transport the oil.

At the same time we could be adding a million barrels of oil a day for an estimated 30 years, we're at risk of losing not just that million, but an additional 300,000 barrels of oil a day, about 6 percent of the consumption in this country every day for 30 years.

And then look at the oil shale available in the Rocky Mountain States. Here we have an estimated somewhere between 800 billion and 2 trillion barrels of oil that can be extracted from that oil shale, much like the Canadians are extracting oil from tar sands in Canada. So while they're doing that in Canada, this Congress last year passed legislation that prohibits the United States Government from buying that oil from Canada.

And then in terms of our own reserves which are huge, to just give you an idea, since the first oil well was drilled in Pennsylvania in 1859, until today, the entire world has used about 1 trillion barrels of oil. And yet we're leaving untapped, because legislation was not brought forward to address it, untapped, 800 billion to 2 trillion barrels of oil available to us in that oil shale deposits in the Rocky Mountain States. It's a shame, Mr. Speaker, that we're not doing that today.

Coal reserves. We have more coal reserves than any other nation in the world. New technology exists to convert it to liquid that can be used for transportation purposes. We have new technology that is cleaner burning coal, and yet we're not doing anything in the legislation that was offered here earlier this week to tap into that.

Nuclear power. It's been correctly noted here today that while the United States still derives 20 percent of its electricity from nuclear power, France today gets close to 80 percent of its electricity from nuclear power. They continue to develop that technology. We haven't, for 30 years. We haven't for 30 years built a single new nuclear power plant. There are now some on the drawing boards, thanks to legislation that the Congress adopted 2 years ago to incentivize that.

But because of regulations that stand in the way, we will not have the opportunity to see a single kilowatt hour of electricity generated from those new nuclear power plants for at least 10 years. Why?

Because this Democratic leadership would not bring up legislation like the American Energy Act that enables that.

The same thing with the development of alternative fuels like wind and solar and geothermal and hydrogen and biomass. What do they do to incentivize? They increase taxes. That's the last thing we need right now when the American economy is in the condition that it's in, to have tax increases to pay for something that we could pay for with the royalties that would come from drilling offshore, from drilling in Alaska, from tapping

into that oil shale, from drilling for natural gas where the largest deposit known in the world is in the Gulf of Mexico, and yet we can't have access to it.

There's natural gas all down the eastern coast of the United States. We can't have access to that. Why? Because they won't share the royalties with the States and it won't happen. And they've kept some of these areas off limits in their legislation as well.

This is a travesty, Mr. Speaker. We should be having the American Energy Act on the floor today. That's what the American people want. That's what will create millions of American jobs in creating this new energy, and in revitalizing our industry and revitalizing manufacturing and strengthening agricultural production in this country and strengthening all of American commerce, making us more competitive with the rest of the world if we would simply seek to be energy independent, which we could accomplish in 10 or 15 years if the leadership of this Congress would simply bring forward legislation that would enable us to empower America to have real energy independence and real American jobs and save this economy.

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

Mr. ETHERIDGE. Mr. Speaker, I ask for a time check.

The SPEAKER pro tempore. The gentleman has 14½ minutes remaining.

Mr. ETHERIDGE. Mr. Speaker, I yield 4 minutes to the gentlelady from Connecticut, someone who has worked hard in this area, Representative DELAURO.

Ms. DELAURO. Mr. Speaker, our economy is struggling. We know the price at the gas pump is killing middle class families trying to make ends meet, farmers harvesting their crops, truckers traveling our highways.

I rise in support of this bill. It's an important first step to address the concerns of millions of Americans who fear something more than just supply and demand is at play and our energy markets are not operating as they should.

I want to commend Chairman PETERSON for being so open and available as he worked with myself and my colleagues, Congressmen STUPAK, LARSON and VAN HOLLEN throughout the summer to make this bill a priority and to bring transparency back to our futures market.

This is a complex issue. Our responsibility as a Congress and the Nation is serious, however. Excessive speculation occurs when the market price for a given commodity no longer accurately reflects the forces of supply and demand. Today we can point to loopholes and exemptions that have allowed interested parties with special access to information to improperly speculate on the price of energy without oversight. That excessive speculation has contributed to rising gas prices.

This bill begins to confront that speculation, providing the Commodity

Futures Trading Commission new authority to gather information from currently unregulated over-the-counter energy transactions. And if it finds improper speculation is driving up the prices, the agency has the authority then to act to reduce the speculation. This is new, it's long overdue authority that will shed light on once hidden markets.

The bill also makes sure we know who is participating in the market to what extent by requiring detailed trading information from index traders and swap dealers. It works to make sure hedge exemptions are not exploited, making clear only legitimate hedgers may use them.

This vote follows the report last week from the Commodity Futures Trading Commission which suggested the need for a legislative fix to restore balance to the energy marketplace, recommending a significant increase in the transparency of energy markets, more careful analysis of data, and even a reclassification of swap dealers.

A day earlier, hedge fund managers Michael Masters and Adam White released their own report pointing to institutional investors pouring money into energy futures and contributing to rising prices. Later, by pulling those funds out of the market, the rush for the exits helped bring the prices down. And this decline may continue, according to yesterday's Wall Street Journal which reported, and I quote, "Evaporating access to credit, fears of an economic washout are taking a toll on oil prices, forcing speculators using borrowed money out of the market."

Whether prices are up or down, the bottom line that growing volatility, a growing disconnect between where the market is and where supply and demand would normally put it.

We have a responsibility to protect consumers from excessive speculation. We can no longer allow random speculators free rein to play these games while our entire economy hangs in the balance. It is time to empower the Commodity Futures Trading Commission to do its regulatory job and provide the kind of relief that we need to get Americans who are in great need in this faltering economy, we need to provide relief to middle class Americans and American taxpayers, and not provide relief or profit for those who are already taking the profits and making a fortune with them.

Let's pass this bill.

□ 1315

Mr. GOODLATTE. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Thank you for yielding the time.

Congratulations to you, Mr. GOODLATTE and Chairman PETERSON, for this bill. I voted for it last time, and I will vote for it again today.

But the difficulty is that we find ourselves with about 5 days left in this 110th Congress. There was a famous

emperor of Rome, Nero, who fiddled while Rome burned. I just want to talk a little bit about what we've been doing for 2 years since gas prices went up and the Democratic majority took over in January.

When they took over in January, gas was at \$2.20 a gallon which was high, but people still said, "Okay. I can still get by on that." But Congress, rather than dealing with what was going to begin to happen, on that day, January 29, we congratulated the University of California, Santa Barbara soccer team for doing swell stuff. I like soccer. I bet everybody that's on that team, their moms and dads, are proud of them. But when gas is going up, what are we doing that for?

Next one, February 6, it's gone up 60 cents a gallon. February 6, 2008, we declare National Passport Month here on the House floor. That's the most important issue in America, apparently, to the majority.

It passed \$3 for the first time in my lifetime, and we're commending another soccer team, the Houston Dynamos. I bet they're a great soccer team, too, but gas is \$3. The most important issue that we're debating on the floor of the House of Representatives is congratulating the Houston Dynamos.

Then \$3.77. That should have gotten our attention. So what did they debate? Did we debate this bill or an energy policy? No. We declared National Train Day on that particular day with gas at \$3.77.

Goes up on May 20, \$3.84. On that particular day, I gotta tell you, we passed—and I don't even know what these are—Great Cats and Rare Canids Day. Maybe, Mr. Speaker, you know what a canid is. Somebody told me maybe it's a dog. But we're not debating energy. Our constituents are paying \$3.84 a gallon for the first time in their lives, and we're recognizing great cats and canids.

Well, surely at \$4 a gallon we have America's attention, the mighty House of Representatives, the new majority is going to debate energy. Nope. We declare the International Year of Sanitation.

I gotta tell you, Mr. Speaker, then it hits \$4.14 on June 17, 2008. I bet we're going to debate energy now. I bet we're going to do this bill. No. We did the Monkey Safety Act. Folks, I love monkeys. They're cute, they're cuddly, they're everything else; but for crying out loud, when it costs \$80 to fill up your gas tank, the most important issue in the United States of America is not the Monkey Safety Act.

It's time for this majority to quit monkeying around with our gas prices. It's no coincidence, Mr. Speaker, that at the same time we're doing the Monkey Safety Act, unemployment in this country goes from a little over 4½ percent to where it is today, over 6 percent.

Quit fooling around. Quit horsing around. Some people say, Well, this chart doesn't go far enough. We also

did some other important things after we got back. We declared National Watermelon Month, and we also indicated that we were going to recognize Bo Diddley. He's a great guy. I'm all for honoring him. But it's time that we tell our friends on the other side, You haven't done diddley about oil and gas.

Mr. PETERSON of Minnesota. Mr. Speaker, I yield myself such time as I may consume.

As I said when we first considered this bill in July, this is a great bipartisan effort that Mr. GOODLATTE and I have worked on. This bill addresses the realization that the trading volume and the futures market for physical commodities has increased dramatically in recent years. This increase includes vast amounts of capital from parties that are not traditional futures market participants, and this has been my concern, these participants, such as the index funds, pension funds, and some hedge funds.

The presence of this additional capital has raised concerns in our committee that the resulting futures market prices may not accurately represent the forces of supply and demand, nor may they fundamentally support at the local selling points where those in the producing and selling of the commodities are doing business.

Mr. Speaker, this debate is more than just the presence of speculators in the futures market. As I said on the floor in July, this lack of convergence—and this is one of the big problems that I am concerned about—the lack of convergence that we're getting in some of these agricultural markets where we have a \$2.40 difference between the futures price and the actual cash price of wheat in some of our markets, these are the things that really concerns us on the committee.

So we have put forward transparency so that we know what's going on in these markets, and we're giving the authority for some position limits on these nontraditional investments that were created that really have nothing to do with the underlying commodity market. And in my opinion, the more I learn about this, I think this has some effect on why we're not getting convergence in those markets.

We believe this is a modest step that addresses the concerns that have been identified to the committee, and we're going to continue to work on this. We're going to continue to get information from the CFTC and other sources as to what is going on in these markets, and we will see how this progresses through this Congress.

But I can tell people if this is not resolved in this Congress, we will take this up in the next Congress to address these issues.

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

Mr. GOODLATTE. Mr. Speaker, I have no further speakers. I will reserve the balance of my time.

Mr. PETERSON of Minnesota. Mr. Speaker, I am now pleased to recognize

the vice chairman of our caucus and the leader on this issue, the gentleman from Connecticut (Mr. LARSON) for 2 minutes.

Mr. LARSON of Connecticut. Thank you, Mr. Chairman.

I want to commend Chairman PETERSON for the extraordinary work that he's done in this area and the sensitive manner in which he's approached a very oftentimes complex issue.

I'm especially pleased that the Ag Committee adopted a provision that addressed the Inspector General and elevating that Inspector General to independent status. I understand why it had to be removed. I'm pleased, though, that Mr. WAXMAN has indicated that we intend to bring the bill to the floor under suspension because of the bipartisan agreement that, especially in this day and age, the need to make sure that we have referees on the field in lieu of everything that's happening to guarantee that we don't have the foxes guarding the henhouse but that we provide an opportunity for independent overview.

Lastly, I would like to close by saying this. Again, my thanks to the committee and the chairman. But it's voices outside this Chamber; and, specifically, I want to credit John Mitchell, former Republican mayor of South Windsor, Connecticut, for coming to me with the independent petroleum dealers talking about actually what happens to people because of speculation, talking about women turning over their entire Social Security check to pay for their home heating oil and the system being broken and that the issues of supply and demand not working.

These came from main street businesses who aren't in the Beltway, who care deeply about the citizens they serve and represent. I want to commend them and this committee for its sensitivity in passing a comprehensive step—not a silver bullet, not a panacea—but an appropriate step towards restoring what we need in terms of the oversight and review that must go on to restore integrity in the marketplace.

I thank the chairman again for the opportunity.

Mr. GOODLATTE. Mr. Speaker, I am prepared to close if the gentleman from Minnesota is.

I would again thank the gentleman for his hard work on this legislation. This is not legislation that this committee has in any way taken lightly over the past several years. We've conducted oversight into the activities of the Commodity Futures Trading Commission and the futures markets. We've done it in a bipartisan way. We have watched closely to make sure that the commission has the resources it needs to do its job.

We found some areas where we think it could use some additional help in terms of personnel, in terms of the authority to gather information, and in a few instances in giving them additional

authority to act if they find that there are indicators in the marketplace that it's not functioning properly, that there is excessive speculation and that there is manipulation; and this legislation does that, and I support that. Although I do have some reservations about the legislation, I think it is legislation that deserves to be passed into law.

However, I will say it once again that this is not the legislation that the American people want and expect to see us debating on the floor of the House today. They want real energy legislation, not the sham bill that was offered 2 days ago, but legislation that would allow for real drilling for American oil and natural gas and would allow for utilizing new clean-burning coal technologies, that would expand our nuclear power generation of electricity, that would expand our alternative forms of energy.

And as we move in that direction, utilizing the resources that are created by producing American energy to accomplish more in the areas of wind and solar and geothermal and hydrogen and biomass and tidal energy production and a whole array of others, that we are simply neglecting because this Congress, the Democratic leadership, refuses to bring to the floor for a vote the American Energy Act, which would command very, very overwhelming bipartisan support if it were brought to the floor for a vote.

But it's more than just what consumers are paying at the gas pump. It's more than what they're worried about having to pay to fill their tanks with oil or kerosene to heat their homes this winter or their natural gas bills or their electric bills that are going up and up. It's more than that. It's about the American economy, and it's about American jobs.

This legislation would create millions of American jobs, not only in energy production but also in manufacturing and agriculture, in a whole host of areas that would make America more confident, would make America more competitive with the rest of the world. We need this legislation. We need it badly. It will be a shame, Mr. Speaker, if we leave town without passing the American Energy Act.

I yield back the balance of my time.

Mr. PETERSON of Minnesota. Mr. Speaker, again I want to thank my good friend, Mr. GOODLATTE, for the great work he did with us on this bill. Like any bill, it's not perfect but it's, I think, a step in the right direction. We take very seriously our responsibility and the jurisdiction that we have in making sure that the CFTC is doing the proper oversight, the proper job, and that we're getting convergence of these markets so that they work for people that need them on a day-to-day basis.

This is almost the exact same bill that received 275 votes on a bipartisan basis on July 30. At one time we were up to 291 votes. At one time we had

two-thirds, but it eroded away. I'm confident today that we will have the support to move this bill through the House, and hopefully our friends in the other body will move because I believe we have uncovered some things that need to be addressed in legislation, and we are doing that in this legislation.

With that, Mr. Speaker, I ask every-body to support the bill.

Mr. DINGELL. Mr. Speaker, H.R. 6604, the "Commodity Markets Transparency and Accountability Act" will help restore integrity to commodity futures markets. Lax regulation has allowed prices to become divorced from fundamental supply and demand. Lax regulation has allowed speculative bubbles to form in food and energy prices. And lax regulation has caused billions of dollars in damage to businesses and consumers.

Oil prices doubled from \$72 per barrel on July 11, 2007, to \$145 on July 11, 2008, even though supply and demand was fundamentally unchanged. While excess capacity was reduced and the dollar had dropped, there were no oil shortages, and inventories were ample. Fundamentals alone do not explain a 100 percent price increase.

What has changed over the past few years is that oil has been transformed from a basic commodity into a financial asset, and traded for its speculative value by institutional investors who want to diversify portfolios, hedge the dollar, or make a fast buck. The Washington Post reports that speculators control as much as 81 percent of the futures market, up from an estimated 37 percent in 2000.

Investment banks and futures exchanges claim that institutional investors are providing badly needed liquidity to the futures market, that futures prices reflect supply and demand, and Congress should not turn them into a scapegoat.

Wall Street's commodity brokers told their investors privately, however, that supply and demand did not explain the doubling of oil prices.

Just yesterday, Michael Cembalest, J.P. Morgan's global chief investment officer, wrote:

the Peak Oil crowd promoting crude oil . . . at \$200 should concede what we've been saying: there was an enormous amount of speculation pent up in energy markets (e.g., an 8-fold increase in bank OTC oil derivative exposure in the last 3 years), and it wasn't just the supply-demand equation. Oil will rise again, and we need solutions to energy supplies, but \$140 in July 2008 was ridiculous.

Yet on the same day, Blythe Masters, Managing Director and Head of Global Commodities for J.P. Morgan submitted testimony before the Senate Energy Committee stating:

we fundamentally believe that high energy prices are a result of supply and demand, not excessive speculation.

Lehman Brothers told its investors in May that it is seeing "the classic ingredients of an asset bubble" in oil. It linked it to an inflow of \$90 billion in commodity index investments.

The cost to our economy from excessive speculation is destructive.

For every penny increase in the price of a gallon of gasoline, consumer costs jump by \$1 billion a year, according to Moody'sEconomy.com. The run-up since last September has added nearly \$1 per gallon, costing consumers \$100 billion absorbing the



economic stimulus package enacted earlier this year.

The Industrial Energy Consumers indicate that natural gas consumers paid an extra \$40.4 billion this year already. They support this bill.

The airlines have lost 36,000 jobs and re-tired 746 planes this year, while eliminating 635 routes, due to jet fuel prices. They support this bill.

Petroleum marketers have seen oil prices come unhinged from supply and demand. They support this bill.

Some institutional investors are now starting to unwind their massive positions. Nearly 127 million barrels of oil futures valued at \$40 billion were liquidated by institutional investors between July 15, 2008, and September 2, 2008, according to a recent analysis of the CFTC's public data. Oil futures prices plunged \$53 per barrel to \$92 in only two months, yet fundamental supply and demand was not changed materially in the past 60 days.

What did change in mid July is that Congress in both Houses took up legislation to rein in excessive speculation—particularly in the unregulated dark markets—which may have spurred some speculators to get out early.

The central issue is whether pension funds, endowments, and sovereign wealth funds should be allowed to hijack commodity markets and set oil and food prices, or whether consumers and producers should set prices based on supply and demand. If speculators can drive prices back up to \$140, they can really turn the lights out on the U.S. economy.

Some may argue that given the crisis in financial markets, this is not the time to start regulating Wall Street. Beginning with the repeal of the Glass-Steagall Act, however, deregulation has allowed recklessness to compromise our entire financial system.

The recent collapse of Fannie Mae, Freddie Mac, Bear Stearns, AIG, and Lehman Brothers are a product of lax regulation which has led to systemic risk for the entire financial system.

This legislation puts a cop on the beat and codifies some of the transparency measures recently recommended by the CFTC. I commend Chairman PETERSON and ETHERIDGE, as well as Representatives STUPAK, VAN HOLLEN, DELAURO, and LARSON for their leadership on forging this bill and urge its passage.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in today in support of the H.R. 6604, the Commodity Markets Transparency and Accountability Act of 2008, introduced by Congressman PETERSON of Minnesota.

BACKGROUND ON H.R. 6604

This legislation will bring greater transparency to commodity and futures markets. It will improve price discovery and risk mitigation functions working to benefit producers, processors and consumers. This bill toughens position limits on oil and other futures markets as a way to prevent potential price distortions caused by excessive speculative trading. H.R. 6604 extends Commodity Futures Trading Commission, CFTC, oversight to previously exempt over-the-counter markets, and it calls for new full-time CFTC staff to improve enforcement, to prevent manipulation, and to prosecute fraud.

Closes the "London Loophole"—Foreign boards of trade that offer electronic access to U.S. traders for energy or agricultural com-

modities settled by physical delivery in the U.S. are not currently subjected by statute to the same speculative position limits traders are subject to on domestic exchanges.

H.R. 6604 requires foreign boards of trade to adopt speculative position limits on these contracts similar to exchanges under U.S. regulation and to share large trader reporting data with the CFTC.

Foreign boards of trade must have the authority to require traders to limit, reduce, or liquidate a position in order to prevent excessive speculation or price distortion.

Increases Transparency in Dark Markets—H.R. 6604 requires the CFTC to get a complete picture of the swaps markets by defining and classifying index traders and swap dealers, and subjecting them to strict reporting and recordkeeping requirements. Position reporting will become mandatory for over-the-counter trading in agricultural and energy contracts, similar to on-exchange contracts.

The commission will also disaggregate and publicly provide data to examine the true extent of index and other passive fund participation in futures markets for energy and agricultural products.

Speculative Position Limits—Currently, speculative position limits are set by regulated exchanges for energy contracts and the CFTC for some agricultural futures contracts. H.R. 6604 requires the CFTC to set position limits for all energy and agricultural futures markets. This bill will limit traders' ability to amass huge positions that would otherwise allow them to distort the market.

Restrict Hedge Exemptions to Bona Fide Hedgers—H.R. 6604 will reform the process for granting hedge exemptions from position limits. Exemptions would be available only for bona fide market participants who actually engage in the commercial use, production, or distribution of the physical commodity. While position limits are currently granted to bona fide hedgers, who are using the futures markets to offset their price risk, the CFTC has also granted hedge exemptions to swaps dealers who are not taking delivery of the physical commodity. This loophole has allowed institutional investors to take, through a series of trades, larger positions, than they would be able to take if they traded on the exchanges directly.

Strengthens CFTC Enforcement Resources—The CFTC was created in 1974 as the chief regulator of futures and options markets. It does this with a full-time enforcement staff that monitors large trader positions, prevents scams, and prosecutes and prevents market manipulation. Trading volume has increased 8,000 percent since the CFTC was created, but the agency is operating at its lowest staffing levels since 1974. H.R. 6604 calls for a minimum of 100 full-time CFTC employees to enforce manipulation and fraud in the commodities markets.

#### CONCLUSION

Mr. Speaker I urge my colleagues on both sides of the aisle to support H.R. 6604. I fully support Representative PETERSON and the Agriculture Committee.

Mr. PETERSON of Minnesota. I yield back the balance of my time.

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

Pursuant to House Resolution 1449, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

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

□ 1330

#### MOTION TO RECOMMIT

Mr. MORAN of Kansas. Mr. Speaker, I have a motion to recommit at the desk.

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

Mr. MORAN of Kansas. In its current form, yes, sir.

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

The Clerk read as follows:

Mr. Moran of Kansas moves to recommit the bill H.R. 6604 to the Committee on Agriculture with instructions to report the bill back to the House promptly with the following amendment:

At the end of the bill, add the following:

#### SEC. 16. EFFECTIVE DATE.

The provisions in this bill shall become effective only after the Commodity Futures Trading Commission determines that the imposition of any position limits that would be authorized by this Act or the amendments made by this Act for any agreement, contract or transaction involving a pension fund would not result in an equity loss for any party to an agreement, contract or transaction as a direct result of the imposition of any such position limits.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kansas is recognized for 5 minutes in support of his motion.

Mr. MORAN of Kansas. Mr. Speaker, as I indicated in my earlier comments here on the House floor concerning this legislation, I think our goal has been to make certain that we do no harm, and I have concerns that we will do harm with the legislation that's before us. And by harm, I don't mean harm to the industry, not speculators, not swap dealers, but harm to the consumers, harm to the American people, harm to the United States economy.

One of those concerns we have is concern with those who have invested their retirement in pension funds. And so this motion to recommit simply is a requirement that CFTC, before they impose those position limitations, would make certain, would certify that the imposition of those payment limitations would not reduce the value of a person's pension fund.

The effort here is to make certain that no harm is caused, a goal I'm sure we all share, and in particular, make certain that we know what we are doing does not damage the value of the American people's retirement accounts.

Mr. Speaker, I yield to the gentleman from Virginia.

Mr. GOODLATTE. I thank the gentleman for yielding, and I would join him in supporting this motion to recommit because it would help to assure a great many Members on our side of the aisle that the concerns raised about the legislation that somehow

this might prove to be disruptive of the markets would indeed not occur. It would simply require that the CFTC examine that and certify that they do not believe that that would be the case, and then the legislation could proceed to be fully implemented, and I think this is a wise consideration.

The evidence that we have before us from the findings of a recent CFTC report is that these markets are functioning well. I think this legislation will enable them to continue to function well, but it does not, I think, in any way hurt and could, in fact, indeed enhance the operation of CFTC for them to require to make this investigation and make this certification that people, millions, tens of millions of Americans whose pension funds may include some investment in commodity futures markets will be unaffected by the legislation in terms of empowering the CFTC to conduct further oversight and to take further action as is allowed by the legislation.

Again, I would point out that the best thing we can do to secure the pension funds of Americans would be to create more energy in this country that would meet the supply demands that are necessary, would help to hold down the cost of oil and natural gas and electricity and everything else that drives this economy, both in terms of our transportation, our manufacturing, the heating of our homes. All of these things would be greater enhanced if we would have the American Energy Act brought before us.

Unfortunately, I believe the American Energy Act would not be a germane motion to recommit. Otherwise, we'd be offering it right now, but I believe the gentleman's alternative is a good one, and I support it.

Mr. MORAN of Kansas. Mr. Speaker, again, I would ask the House of Representatives to approve our motion to recommit.

Again, as the gentleman from Virginia says, we believe there's a better policy that hasn't even been debated upon the House floor in dealing with energy prices than the bill that's before us today. That's the American Energy Act. We wish that motion could be made in order today so that we could have a clear debate and vote upon the issue that is compelling to the American people and damaging to the United States economy.

In lieu of that, we would ask that we take this additional step to make certain no unintended consequences occur and we protect the retirement accounts, the pension accounts of Americans.

I yield back my time.

Mr. PETERSON of Minnesota. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. PETERSON of Minnesota. Mr. Speaker, first of all, we were delayed in getting something done with this bill back in July when, at one time, we had

the votes to pass this under suspension, and then the votes eroded away. This is going to delay the process again. And beyond delay because it says "promptly," it will have the effect of us not being able to move this bill in the House before we're out of here for the elections.

As chairman of the committee and somebody that's worked on this, I disagree with that. I think we need to move this, irrespective of whatever's going to happen in the other body or with the administration. I think this has the effect of killing the bill because we won't have the time to deal with this.

Lastly, I think the CFTC has the ability to do this under the legislation. Apparently Mr. MORAN doesn't trust the CFTC. We have people over here that don't trust the CFTC, but I think they could deal with this. I don't think there's anything that precludes them from accomplishing this in the underlying legislation.

I would ask people to oppose the motion, and I would say that I believe this kills the bill for this session.

I yield back my time.

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.

Mr. MORAN of Kansas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were 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 the bill, if ordered; ordering the previous question on House Resolution 1441; and adopting House Resolution 1441, if ordered.

The vote was taken by electronic device, and there were—yeas 196, nays 221, not voting 16, as follows:

[Roll No. 607]

YEAS—196

Aderholt	Calvert	Fallin
Akin	Camp (MI)	Feeney
Alexander	Campbell (CA)	Ferguson
Altmire	Cannon	Flake
Bachmann	Cantor	Forbes
Bachus	Capito	Fortenberry
Barrett (SC)	Carter	Fossella
Bartlett (MD)	Castle	Foster
Barton (TX)	Chabot	Fox
Bean	Coble	Franks (AZ)
Biggert	Cole (OK)	Frelinghuysen
Bilbray	Conaway	Gallely
Bilirakis	Crenshaw	Garrett (NJ)
Bishop (UT)	Culberson	Gerlach
Blackburn	Davis (KY)	Gilchrest
Blunt	Davis, David	Gingrey
Boehner	Davis, Tom	Gohmert
Bonner	Deal (GA)	Goode
Bono Mack	Dent	Goodlatte
Boozman	Diaz-Balart, L.	Granger
Boustany	Diaz-Balart, M.	Graves
Broun (GA)	Doolittle	Hall (TX)
Brown (SC)	Drake	Hastings (WA)
Brown-Waite,	Duncan	Hayes
Ginny	Ehlers	Heller
Buchanan	Emerson	Hensarling
Burton (IN)	English (PA)	Herger
Buyer	Everett	Hill

Hobson	McMorris	Sali
Hoekstra	Rodgers	Saxton
Hunter	McNerney	Scalise
Inglis (SC)	Mica	Schmidt
Johnson (IL)	Miller (FL)	Sensenbrenner
Johnson, Sam	Miller (MI)	Sessions
Jones (NC)	Miller, Gary	Shadegg
Jordan	Mitchell	Shays
Keller	Moran (KS)	Shimkus
King (IA)	Murphy, Tim	Shuster
Kingston	Musgrave	Simpson
Kirk	Myrick	Smith (NE)
Kline (MN)	Neugebauer	Smith (NJ)
Knollenberg	Nunes	Smith (TX)
Kuhl (NY)	Paul	Souder
LaHood	Pearce	Stearns
Lamborn	Peterson (PA)	Sullivan
Latham	Petri	Tancredo
LaTourette	Pickering	Terry
Latta	Platts	Thornberry
Lewis (CA)	Porter	Tiahrt
Lewis (KY)	Price (GA)	Tiberi
Linder	Pryce (OH)	Turner
LoBiondo	Putnam	Upton
Lucas	Radanovich	Walberg
Lungren, Daniel	Ramstad	Walden (OR)
E.	Regula	Walsh (NY)
Mack	Rehberg	Wamp
Manzullo	Reichert	Weldon (FL)
Marchant	Renzi	Weller
Marshall	Reynolds	Westmoreland
McCarthy (CA)	Rogers (AL)	Whitfield (KY)
McCaul (TX)	Rogers (KY)	Wilson (NM)
McCotter	Rogers (MI)	Wilson (SC)
McCrery	Rohrabacher	Wittman (VA)
McHenry	Ros-Lehtinen	Wolf
McHugh	Roskam	Young (AK)
McKeon	Royce	Young (FL)
	Ryan (WI)	

NAYS—221

Abercrombie	Doggett	Loebsack
Ackerman	Donnelly	Lofgren, Zoe
Allen	Doyle	Lowe
Andrews	Edwards (MD)	Lynch
Arcuri	Edwards (TX)	Mahoney (FL)
Baca	Ellison	Maloney (NY)
Baird	Ellsworth	Markey
Baldwin	Emanuel	Matheson
Barrow	Engel	Matsui
Becerra	Eshoo	McCarthy (NY)
Berkley	Etheridge	McCollum (MN)
Berman	Farr	McDermott
Berry	Fattah	McGovern
Bishop (GA)	Filner	McIntyre
Bishop (NY)	Frank (MA)	McNulty
Blumenauer	Giffords	Meek (FL)
Boren	Gillibrand	Meeks (NY)
Boswell	Gonzalez	Melancon
Boucher	Gordon	Michaud
Boyd (FL)	Green, Al	Miller (NC)
Boyda (KS)	Green, Gene	Miller, George
Brady (PA)	Gutierrez	Mollohan
Braley (IA)	Hall (NY)	Moore (KS)
Brown, Corrine	Hare	Moore (WI)
Butterfield	Harman	Moran (VA)
Capps	Herseth Sandlin	Murphy (CT)
Capuano	Higgins	Murphy, Patrick
Cardoza	Hinchey	Murtha
Carnahan	Hinojosa	Nadler
Carney	Hirono	Napolitano
Carson	Hodes	Neal (MA)
Castor	Holden	Oberstar
Cazayoux	Holt	Obey
Chandler	Honda	Olver
Childers	Hookey	Ortiz
Clarke	Hoyer	Pallone
Clay	Inslee	Pascarell
Cleaver	Israel	Pastor
Clyburn	Jackson (IL)	Payne
Cohen	Jefferson	Perlmutter
Cooper	Johnson (GA)	Peterson (MN)
Costa	Johnson, E. B.	Pomeroy
Costello	Kagen	Price (NC)
Courtney	Kanjorski	Rahall
Cramer	Kaptur	Rangel
Crowley	Kennedy	Reyes
Cuellar	Kildee	Richardson
Cummings	Kilpatrick	Rodriguez
Davis (AL)	Kind	Ross
Davis (CA)	Klein (FL)	Rothman
Davis (IL)	Kucinich	Roybal-Allard
Davis, Lincoln	Langevin	Ruppersberger
DeFazio	Larsen (WA)	Rush
DeGette	Larson (CT)	Ryan (OH)
Delahunt	Lee	Salazar
DeLauro	Levin	Sanchez, Linda
Dicks	Lewis (GA)	T.
Dingell	Lipinski	Sanchez, Loretta

Sarbanes  
Schakowsky  
Schiff  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Shea-Porter  
Sherman  
Shuler  
Sires  
Skelton  
Slaughter  
Smith (WA)  
Snyder  
Solis  
Space

Speier  
Spratt  
Stark  
Stupak  
Sutton  
Tanner  
Tauscher  
Taylor  
Thompson (CA)  
Thompson (MS)  
Tierney  
Towns  
Tsongas  
Udall (CO)  
Udall (NM)  
Van Hollen  
Velázquez

Visclosky  
Walz (MN)  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch (VT)  
Wexler  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth

## NOT VOTING—16

Brady (TX)  
Burgess  
Conyers  
Cubin  
Dreier  
Grijalva

Hastings (FL)  
Hulshof  
Issa  
Jackson-Lee  
(TX)  
King (NY)

Lampson  
Pence  
Pitts  
Poe  
Sestak

## □ 1400

Messrs. BERMAN, JOHNSON of Georgia, MURTHA, RODRIGUEZ, GUTIERREZ, MURPHY of Connecticut, ROSS, BAIRD, Mrs. CAPPS, and Mr. RUPPERSBERGER changed their vote from “yea” to “nay.”

Messrs. CANNON, CARTER, WILSON of South Carolina, SIMPSON, WOLF, GERLACH, and TANCREDO changed their vote from “nay” to “yea.”

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. HUNTER. 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 283, noes 133, not voting 17, as follows:

[Roll No. 608]

## AYES—283

Abercrombie  
Ackerman  
Allen  
Altmire  
Andrews  
Arcuri  
Baca  
Baird  
Baldwin  
Barrow  
Becerra  
Berkley  
Berman  
Berry  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Blumenauer  
Bono Mack  
Boren  
Boswell  
Boucher  
Boyd (KS)  
Brady (PA)  
Braley (IA)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan  
Butterfield  
Capito

Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson  
Castle  
Castor  
Cazayoux  
Chabot  
Chandler  
Childers  
Clay  
Cleaver  
Clyburn  
Cohen  
Costello  
Courtney  
Cramer  
Cuellar  
Cummings  
Davis (CA)  
Davis (IL)  
Davis, Lincoln  
Deal (GA)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.

Dicks  
Dingell  
Doggett  
Donnelly  
Doyle  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emanuel  
Emerson  
Engel  
English (PA)  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Forbes  
Fortenberry  
Frank (MA)  
Frelinghuysen  
Gallegly  
Gerlach  
Giffords  
Gilchrest  
Gillibrand  
Gohmert  
Gonzalez

Goode  
Goodlatte  
Gordon  
Graves  
Green, Al  
Green, Gene  
Gutierrez  
Hall (NY)  
Hall (TX)  
Hare  
Harman  
Hayes  
Hereth Sandlin  
Higgins  
Hill  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoolley  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jefferson  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Jones (NC)  
Kagen  
Kanjorski  
Kaptur  
Keller  
Kennedy  
Kildee  
Kilpatrick  
Kirk  
Klein (FL)  
Knollenberg  
Kucinich  
Kuhl (NY)  
LaHood  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Lee  
Levin  
Lewis (GA)  
Lewis (KY)  
Lipinski  
LoBiondo  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lucas  
Lynch  
Mahoney (FL)  
Marchant  
Markey

Marshall  
Matsui  
McCarthy (NY)  
McCollum (MN)  
McCotter  
McDermott  
McGovern  
McHugh  
McIntyre  
McMorris  
Rodgers  
McNerney  
McNulty  
Meek (FL)  
Meeks (NY)  
Michaud  
Miller (MI)  
Miller (NC)  
Miller, George  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (VA)  
Murphy (CT)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Nadler  
Napolitano  
Neal (MA)  
Oberstar  
Obey  
Oliver  
Ortiz  
Pallone  
Pascrell  
Pastor  
Payne  
Perlmutter  
Peterson (MN)  
Platts  
Pomeroy  
Porter  
Price (NC)  
Rahall  
Ramstad  
Rangel  
Regula  
Reyes  
Richardson  
Rodriguez  
Rogers (AL)  
Rogers (KY)  
Ros-Lehtinen  
Ross  
Rothman  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Salazar  
Sanchez, Linda  
T.

Sanchez, Loretta  
Sarbanes  
Saxton  
Schakowsky  
Schiff  
Schmidt  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Shays  
Shea-Porter  
Sherman  
Shuler  
Sires  
Skelton  
Slaughter  
Smith (NJ)  
Smith (WA)  
Snyder  
Solis  
Souder  
Space  
Speier  
Spratt  
Stark  
Stearns  
Stupak  
Sutton  
Tanner  
Taylor  
Terry  
Thompson (CA)  
Thompson (MS)  
Tierney  
Towns  
Tsongas  
Udall (CO)  
Udall (NM)  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walsh (NY)  
Walz (MN)  
Wamp  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Welch (VT)  
Weller  
Wexler  
Whitfield (KY)  
Wilson (OH)  
Wittman (VA)  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (FL)

## NOES—133

Costa  
Crenshaw  
Crowley  
Culberson  
Davis (AL)  
Davis (KY)  
Davis, David  
Davis, Tom  
Doolittle  
Drake  
Everett  
Feeney  
Ferguson  
Flake  
Fossella  
Foster  
Fox  
Franks (AZ)  
Garrett (NJ)  
Gingrey  
Granger  
Hastings (WA)  
Heller  
Hensarling  
Herger  
Hobson  
Hoekstra  
Hunter  
Inglis (SC)  
Johnson, Sam  
Jordan  
Kind  
King (IA)

Kingston  
Kline (MN)  
Lamborn  
Latta  
Lewis (CA)  
Linder  
Lungren, Daniel  
E.  
Mack  
Maloney (NY)  
Manzullo  
Matheson  
McCarthy (CA)  
McCaul (TX)  
McCrery  
McHenry  
McKeon  
Melancon  
Mica  
Miller (FL)  
Miller, Gary  
Moran (KS)  
Musgrave  
Myrick  
Neugebauer  
Nunes  
Paul  
Pearce  
Petri  
Pickering  
Price (GA)  
Pryce (OH)  
Putnam

Radanovich  
Rehberg  
Reichert  
Renzi  
Reynolds  
Rogers (MI)  
Rohrabacher  
Roskam  
Royce  
Ryan (WI)  
Sali  
Scalise

Sensenbrenner  
Sessions  
Shadegg  
Shinkus  
Shuster  
Simpson  
Smith (NE)  
Smith (TX)  
Sullivan  
Tancredo  
Tauscher  
Thornberry

Tiahrt  
Tiberi  
Turner  
Walberg  
Walden (OR)  
Weiner  
Weldon (FL)  
Westmoreland  
Wilson (NM)  
Wilson (SC)  
Young (AK)

## NOT VOTING—17

Brady (TX)  
Burgess  
Conyers  
Cubin  
Dreier  
Grijalva

Hastings (FL)  
Hulshof  
Issa  
Jackson-Lee  
(TX)  
King (NY)

Lampson  
Pence  
Peterson (PA)  
Pitts  
Poe  
Sestak

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes.

## □ 1411

Messrs. BURTON of Indiana, MICA, CRENSHAW, and ROGERS of Michigan changed their vote from “aye” to “no.”

Ms. FALLIN and Mrs. McMORRIS RODGERS changed their vote from “no” to “aye.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## RAISING A QUESTION OF THE PRIVILEGES OF THE HOUSE

Mr. BOEHNER. Mr. Speaker, I have a privileged resolution at the desk, and I ask for its immediate consideration in the House.

The SPEAKER pro tempore (Mr. ROSS). The Clerk will report the resolution.

The Clerk read as follows:

## H. RES. 1460

Whereas the Committee on Ways and Means has jurisdiction over the United States Tax Code;

Whereas The New York Times reported on September 5, 2008, that, “Representative Charles B. Rangel has earned more than \$75,000 in rental income from a villa he has owned in the Dominican Republic since 1988, but never reported it on his federal or state tax returns, according to a lawyer for the congressman and documents from the resort”;

Whereas in an article in the September 5, 2008 edition of The New York Times, his attorney confirmed that Representative Rangel’s annual congressional Financial Disclosure statements failed to disclose the rental income from his resort villa;

Whereas The New York Times reported on September 6, 2008 that, “Representative Charles B. Rangel paid no interest for more than a decade on a mortgage extended to him to buy a villa at a beachfront resort in the Dominican Republic, according to Mr. Rangel’s lawyer and records from the resort. The loan, which was extended to Mr. Rangel in 1988, was originally to be paid back over seven years at a rate of 10.5 percent. But within two years, interest on the loan was waived for Mr. Rangel.”;

Whereas clause 5(a)(2)(A) of Rule 25 of the Rules of the House defines a gift as, “. . . a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value” and prohibits the acceptance of such gifts except in limited circumstances;