



**DEATH BY A THOUSAND CUTS**

**DEMOCRATS'  
WAR ON  
AMERICAN JOBS**

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## **INTRODUCTION**

Since taking control of the United States Congress, congressional Democrats have waged an undeclared but aggressive policy war that poses a rising threat to millions of American jobs and the prosperity of millions of American families.

It is a war necessitated by the Democratic Party's ideological quest for increased spending and bigger government, and its reluctance to finance its ambitions by cutting spending and reducing existing waste, fraud, and abuse.

It is a war that turns a blind eye to the economic insecurities of working families, as politicians seek to take more from workers' paychecks and small businesses at a time when families are already struggling with rising mortgage rates, mounting debt, skyrocketing gas prices, and soaring health care costs – forcing workers to surrender an even larger share of their economic freedom for a government expansion they didn't ask for and don't want.

It is a war fueled by the Democratic Party's preference for government over the private sector, and its mistaken belief that American jobs are created by government policies and programs rather than small business and free enterprise.

The following report is the first comprehensive look at the full scope of the attacks launched against the American private sector by the Democratic Majority since it assumed power in January 2007. It catalogs and chronicles the weapons congressional Democrats deployed during the first session of the 110th Congress to finance their expansionist agenda – an arsenal of tax hikes, increased regulation, expanded bureaucracy, and new avenues for lawsuits and litigation.

Collectively, the Democrats' broad and reckless use of such weapons of economic havoc constitutes an undeclared war on American jobs – one likely to culminate in shrinking paychecks, job cuts, higher energy prices, and increased economic anxiety for tens of millions of working Americans.

## **EXECUTIVE SUMMARY**

- Searching for ways to finance an agenda of bigger government, Democrats have advocated dramatic changes in policy that threaten to kill jobs and reduce middle-income families' disposable income at a time when many are grappling with the rising cost of living and record tax burdens. These policies pit the federal government directly against small businesses and the economic freedom and security of American workers, contrary to both the will of the American people and the advice of independent economists and policy experts.
- This is a particularly perilous time for Washington politicians to raise taxes and increase spending. Experts warn the U.S. economy is uniquely vulnerable at this point in time to misguided economic policies, such as tax hikes, that deter job creation and investment.
- The U.S. House of Representatives has passed bills collectively raising taxes by more than \$200 billion (over 10 years) in just the first year of Democratic control of Congress (January-December 2007). These and other tax hikes proposed by Democrats threaten more than 16 million American jobs.
- The revenue from these tax increases will result in bigger government and pork-barrel spending, not deficit reduction or payments on the national debt. Studies show tax hikes historically lead to spending increases, not to economic growth or deficit reduction.
- Instead of financing this government expansion through corresponding cuts in government waste, fraud, and abuse, the Democrat-controlled Congress is increasing taxes on families and small businesses, the engine of job creation in the United States.
- At the same time they are advancing job-killing tax hikes to finance their expansionist agenda, Democrats have opened new doors for job-killing lawsuits and litigation, and sought to impose job-killing government mandates and regulation on American businesses of all sizes. These job-killing policies have been passed as a political pay-off to special-interests such as big labor bosses and trial lawyers, whose financial support and political muscle is needed to keep Democrats in charge of Congress.
- If these new job-killing mandates and lawsuits are coupled with the tax increases being threatened by the Democratic Congress, millions of additional American jobs will be jeopardized.
- Collectively, these Democratic policies threaten to subject our nation's economy to a "death by a thousand cuts" at a time when it is most vulnerable, and represent an unprecedented assault on American jobs at a time when working families are struggling with the high cost of living.

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## PART I: ECONOMIC INSECURITY – TODAY'S ECONOMY AND WORKING FAMILIES' ANXIETY

This is a time of anxiety for many American families. As legislators have traveled through their congressional districts during the past year and held telephone town hall meetings to listen to the concerns of their constituents, this fact has been evident. Despite the strong growth of the U.S. economy in recent years, many American families are increasingly anxious about the rising cost of living in the United States, and increasingly skeptical that elected officials are sensitive to their concerns.

### STRESSED-OUT FAMILIES

Public opinion research confirms this observation. Focus/dial test group research conducted among middle-income mothers and suburban independents during the summer of 2007 by Presentation Testing, a highly respected New York-based research organization, documented the growing sources of economic insecurity afflicting the typical working family. What the research found was consistent with what Republican legislators in Congress have noted publicly: American families are "stressed out," in the words of Presentation Testing's president, Richard Thau, by the high cost of living in the United States. They're increasingly anxious about the rising cost of essentials such as health care, energy, and college tuition. They're also concerned about job security, the federal budget deficit, the future of Social Security, the family tax burden, and government's tendency to waste their hard-earned tax dollars. Stephen Moore of the *Wall Street Journal*, writing recently about the Thau research, summarized it thusly:

*"[P]oliticians who boast about the rosy economy seem out of touch, even delusional, given the rising costs of gasoline, health insurance and college tuition. The reality, of course, is that the investment tax cuts did help create seven million jobs and did steer the economy out of recession. That doesn't matter to these 'stressed out' [Americans], as Thau calls them. The Bush tax cuts are a bridge to the past, not the future, to borrow a Clintonite term. Moreover, because local property and school taxes have been skyrocketing, many independent voters scratch their heads and wonder: What tax cuts?"*

Other recent public opinion research seems consistent with these findings. National surveys conducted this year by independent pollster John Zogby point to rising concern among American families with respect to economic matters:

*"Economic issues, which historically have loomed large. . . have been mostly overshadowed this year by talk of terror and the bitter divide over the war in Iraq. That is starting to change, however. Jobs, the economy, and healthcare together were cited as top concerns by 38.2 percent of likely voters in a Zogby International poll taken between Oct. 4 and Oct. 8. That was second to the war in Iraq and terrorism, which were cited by 66.1 percent. In June, a similar Zogby poll showed 73 percent citing war and terror and 25.7 percent the economy and healthcare. The change appears to reflect*

*rising economic anxiety and a sense that America's commitment in Iraq will begin winding down next year. . . Zogby said there are growing signs people again are worrying more about the economy. 'It's very real,' he suggested, citing the rollback of employer-funded health benefits and the credit crunch in the housing market. 'The old indicator of concern was when you knew someone who was laid off. Today it's when you know someone who lost their health benefits or was rejected for a loan.'* (Weisman, Robert; "It's the Economy"; *Boston Globe*, October 21, 2007)

## **A VULNERABLE ECONOMY**

American families' jitters may be justified, particularly if the 110th Congress continues along its present course, according to some economists. An analysis conducted in October 2007 by the Joint Economic Committee (JEC) minority staff warns that the economy, while still growing, is showing hints of difficulty – problems that could be exacerbated by misguided Washington economic policies.

*"[T]he U.S. economy is being buffeted by a number of economic forces that are adversely impacting economic growth. In recent weeks, most of the newly released economic data have been weaker-than-expected, suggesting that the economy is slowing down a bit. Most economic forecasters, including the Federal Reserve's staff, have revised down their economic forecast for the next few quarters but few are forecasting an actual recession. Examples of these forces adversely buffeting the economy include energy prices and real estate prices. Oil and gasoline prices, for example, have increased significantly and work to adversely affect the economy in certain sectors. Similarly, the real estate sector is experiencing the severe effects of the downside of a bursting housing price bubble. House prices are falling in many areas of the country, and housing is very weak by virtually any measure of its activity."*

Concerns about the impact of a tax increase on today's economy have been expressed by Federal Reserve Chairman Ben Bernanke, the successor to former Federal Reserve Chairman Alan Greenspan. Bernanke recently warned that a massive tax increase "would be a drag on the economy" and, as a result, "would probably not be advisable." (*Wall Street Journal*, 11/8/07)

Some note Congress has the ability to stall the economy simply by *threatening* to enact job-killing policy. Sometimes the mere discussion of anti-growth policy can be enough to negatively impact financial markets and, ultimately, the prosperity of American families. As our country recently approached the 20th anniversary of "Black Monday" -- October 19, 1987 -- writer Matthew Rees penned a piece for *The American* magazine examining the stock market crash that took place on that fateful day and some of the leading theories that have been offered as to what caused it (Rees, Matthew; "The Hunt for Black October," *The American*, September 10, 2007). As Rees wrote:

*"On October 19, 1987, a bizarre and completely unprecedented set of events unfolded in America's financial markets. . ."*

*"For the preceding seven weeks, the stock market had been skidding. Now, on this sunny Monday, it was on the verge of total collapse. When the day was over, the Dow Jones Industrial Average had lost more than 500 points, or 22.6 percent of its value -- the equivalent of a drop of about 3000 points today. A half-trillion dollars in wealth disappeared overnight -- equivalent at the time to the entire gross domestic product of France. On the heels of the decline, a recession was considered a near certainty and a depression a distinct possibility. After all, on the worst previous day, October 28, 1929, the market had dropped just 13 percent. . ."*

*"The size and speed of the 1987 decline were breathtaking. So was the very fact that it happened: the U.S. economy was strong, and there had been no major destabilizing events. No terrorist attack, no presidential assassination, no failure of a major bank or brokerage firm. While there was apprehension, only a few analysts were predicting a major market downturn, and no one called a crash of this size."*

Rees went on to describe the various theories that have been offered by experts as to what caused the October 1987 collapse -- including the "Washington did it" theory supported by James Chanos, a New York investor who was "the first on Wall Street to identify and exploit the problems of a Houston energy company called Enron." As Rees wrote:

*"When [Chanos] looks back at the 1987 crash, he fingers Congress."*

*"Late on October 13, Democrats on the tax-writing House Ways and Means Committee announced they had reached agreement on a measure that would limit interest deductions on debt used to finance corporate mergers and acquisitions. Chanos believes this little provision, approved on the Thursday before Black Monday, was a bombshell. 'So much of the market growth was driven by takeovers,' says Chanos today, 'that anything that would have burst that bubble could have been a culprit.'"*

*"Shares of companies that were targets of takeover activity -- for example, Gillette, Tenneco, and Dayton Hudson -- were devastated by the crash. A report by the SEC's Office of Economic Analysis later identified the bill, authored by Ways and Means chairman Dan Rostenkowski, as 'a fundamental economic event' contributing to the market decline on October 14 and on the days that followed. The Wall Street Journal quoted a Washington-based merger specialist calling the measure 'profoundly important... [I]ts impact is extraordinary -- I mean, unparalleled.' A month after the [1987] crash, Carl Icahn, the takeover specialist, described the [Rostenkowski] bill as 'the match that ignited the dynamite.'"*

With Democrats back in charge of Congress 20 years later, could it happen again? In its October 2007 analysis, the JEC staff warned that the tax increases under discussion by the

110th Congress – originating in the very same committee Rostenkowski chaired, discussed in greater detail later in this report – could be the same type of “dynamite” for American jobs and working families:

*“Clearly, with the economy already weakened by a number of such debilitating forces, a tax increase would be highly inappropriate, as such a tax increase would magnify the negative effects more than would normally be the case. Consequently, a combining of these negative impacts could tip the economy into a slowdown or possibly even a recession. In short, since the economy is especially vulnerable and has been buffeted by a wide array of supply shocks, a tax increase at this time would be highly inappropriate. An additional dosage (or additional burden) of increased taxes could complete the scenario for an economic ‘perfect storm.’ Certainly, the probability of a significant slowdown or even a recession would increase significantly with a major tax increase.”*

More on this point from the Joint Economic Committee, from an October 29, 2007 paper by JEC Ranking Member Jim Saxton (R-NJ) (“Now is Not the Time to Raise Taxes”):

*“Imposing tax increases at this time, whether through legislation or the failure to renew expiring tax relief provisions, may slow real GDP growth in an economy that has already been weakened by the bursting of housing bubble, the meltdown of the subprime residential mortgage loan market, and high oil prices. Over the next several quarters, real investment in housing may decrease, and a negative wealth effect due to declining housing prices may dampen real growth in consumer spending.”*

*“Any significant increase in the marginal tax rates for either households or businesses at this time may slow the growth of business investment in new structures, equipment, and software and may exacerbate any weakness in consumer spending. Hence, tax increases at this time would counteract the monetary easing by the Federal Reserve and could push the U.S. economy into an otherwise avoidable recession.”*

### **DANGEROUSLY HIGH TAXES ON FAMILIES & THE ECONOMY**

According to research released in April 2007 by the Tax Foundation, a nonpartisan educational organization, the state and local tax burden facing American families and small businesses in 2007 is now at its highest level in a quarter-century. In a special report (“State & Local Tax Burdens Hit 25-Year High,” April 4, 2007), the organization’s Curtis S. Dubay helps to explain why the typical American family, such as those studied by Thau, is nervous about the possibility of being hit with higher taxes from Washington:

*“State and local taxes will consume a record-setting 11 percent of the nation’s income in 2007. Since 1986, the state-local tax burden had never fallen below 10 percent or risen above 10.9 percent.”*

*"This estimate of state-local tax burdens at an all-time high comes at a time when personal and corporate incomes have risen for almost four consecutive years, sometimes at a remarkable pace. . ."*

*"However, even as the economy has thrived and progressive income taxes have increased the tax burden, some states have accelerated the trend by enacting new or higher state-level tax rates."*

Public opinion research conducted by David Winston of The Winston Group, publicized by the *Wall Street Journal* in October 2007, found the possibility of a job-killing tax increase is a major source of anxiety for already stressed-out working families.

*"Sen. Jon Kyl of Arizona [notes that] 'an overriding concern of economically anxious voters today is that they don't see their own taxes rise.' Pollster David Winston. . . agrees with that assessment. When Mr. Winston asked. . . 'Do you believe or not believe this statement: Given the cost of living these days, now is not the time to raise taxes,' 65% believe now isn't the time to raise taxes, while only 31% believe it is." (Stephen Moore, Wall Street Journal, October 5, 2007)*

When Winston looked specifically at independents – Americans who do not identify themselves as either Republicans or Democrats – he found the numbers were almost identical: 62 percent believe now is not the time to raise taxes, while just 34 percent disagreed.

## **PART II: JOB-KILLING TAX HIKES**

During the first 11 months of the 110th Congress, the Democrat-controlled House of Representatives ignored both the concerns of struggling American families and the recommendations of economic experts, passing a steady barrage of bills to increase taxes on families and small business. An analysis shows the House passed bills collectively raising taxes by more than \$200 billion in just the first year of Democratic control of Congress:

<b>Bills Passed by the House</b>	<b>Date Passed</b>	<b>Total Tax Increase Over 10 Years</b>
CLEAN Energy Act (H.R. 6)	1/18/2007	\$7.7 Billion
Small Business and Work Opportunity Act (H.R. 976)	2/16/2007	\$1.4 Billion
Katrina Housing Relief Act (H.R. 1562)	3/27/2007	\$241 Million
Taxpayer Protection Act (H.R. 1677)	4/17/2007	\$23 Million
To amend the Internal Revenue Code of 1986 to adjust the estimated tax payment safe harbor based on income for the preceding year in the case of individuals with adjusted gross income greater than \$5 million. (H.R. 1906)	4/19/2007	\$14 Million
War Funding Supplemental (H.R. 2206)	5/24/2007	\$4.9 Billion
Andean Trade Preferences Act (H.R. 1830)	6/27/2007	\$105 Million
Farm Nutrition and Bioenergy Act (H.R. 2419)	7/27/2007	\$7.5 Billion
The Renewable Energy and Energy Conservation Act (H.R. 2776)	8/4/2007	\$15.3 Billion
Mortgage Forgiveness Debt Relief Act (H.R. 3648)	10/4/2007	\$2 Billion
Children's Health Insurance Program Reauthorization Act (H.R. 3963)	10/25/2007	\$71.5 Billion
Trade and Globalization Assistance Act (H.R. 3920)	10/31/2007	\$12.2 Billion
Temporary Tax Relief Act (H.R. 3966)	11/9/07	\$81 Billion
<b>Total</b>		<b>\$203.9 Billion</b>

Many of the tax hikes passed by the Democrat-controlled House will have a direct and devastating impact on American jobs, which is why House Republicans have opposed them every step of the way. And the \$203.9 billion figure cited above does not take into account hidden tax increases such as increases in government fees and royalties imposed during 2007 by Congress, many of which will also have a lethal effect on both existing jobs and the creation of new jobs in the United States. The tax increases passed by the House and proposed by Democrats during 2007 collectively threaten more than 16 million American jobs, according to

an analysis of existing data by House Republican policy staff. This section documents a number of these job-killing tax hikes, and the potential impact they will have on American jobs.

### **FARM BILL TAX HIKE COULD KILL 5.1 MILLION AMERICAN JOBS**

In a sneak attack on American working families, House Democratic leaders on July 25, 2007 revealed plans to pay for new spending in the 2007 Farm Bill by imposing a new tax increase that threatens more than five million American jobs. The Democratic tax hike scheme was kept secret from House Republicans and the media during weeks of committee deliberation on the 2007 Farm Bill, which was rammed through the House one day later on July 26. As of this writing, the Farm Bill, including the job-killing tax hike, is currently awaiting action in the Democrat-controlled Senate.

The Democrats' surprise tax hike would raise taxes on "insourcing" companies operating inside the United States, potentially driving millions of American jobs out of the country. Specifically, the Democratic scheme would raise taxes on insourcing employers that operate throughout the U.S. and employ more than 5.1 million Americans. These jobs have an average compensation per worker of \$63,428 annually – 32 percent higher than other typical U.S.-based jobs (Source: Organization for International Investment).

Ways & Means Committee Republicans note that the Democratic tax hike legislation would, in some cases, impose the equivalent of a 30 percent gross receipts tax on certain American businesses owned by foreign companies. Among companies that could be affected: Honda North America, Food Lion, Nestle, Bayer, BASF, T-Mobile, and others. A state-by-state breakdown of the jobs threatened by the legislation appears on the following page (*see Table I*). A list of employers in the United States likely to be impacted by the Democrats' sneak attack tax hike can be found at <http://www.ofii.org/insourcing-stats.htm#statejobs>.

When the Farm Bill tax hike was unveiled, House Republican Leader John Boehner (R-OH) declared Republicans will fight the Democrats' tax increase and mobilize against it:

*"The tax increases just keep on coming. The proposed legislation – sprung on the American public at the last possible minute, right before the farm bill comes to the floor – would raise taxes and endanger the jobs of millions of American workers to pay for billions of dollars in new spending by the federal government. You can't increase the security of American farmers by destroying millions of American jobs and endangering the economic freedom and security of millions of our working families. House Republicans will stand and fight this proposal vigorously on behalf of the American people."*

## DEATH BY A THOUSAND CUTS: DEMOCRATS' WAR ON AMERICAN JOBS

**Table I: State-by-State Job Loss From Democrats' Farm Bill Tax Hike**  
*(Source: Organization for the International Investment)*

STATE	POTENTIAL JOB LOSS	STATE	POTENTIAL JOB LOSS	STATE	POTENTIAL JOB LOSS
Alabama	63,200	Ohio	213,800	North Dakota	7,100
Alaska	12,100	Louisiana	52,300	Oklahoma	34,800
Arizona	64,400	Maine	23,700	Oregon	47,400
Arkansas	32,000	Maryland	102,700	Pennsylvania	233,200
California	542,600	Massachusetts	167,500	Rhode Island	22,900
Colorado	72,200	Michigan	202,300	South Carolina	110,400
Connecticut	100,900	Minnesota	85,600	South Dakota	7,100
Delaware	27,200	Mississippi	25,200	Tennessee	125,900
Florida	226,000	Missouri	85,100	Texas	344,600
Georgia	170,300	Montana	6,700	Utah	31,700
Hawaii	30,300	Nebraska	18,700	Vermont	11,300
Idaho	12,200	Nevada	30,100	Virginia	138,800
Illinois	226,400	New Hampshire	34,200	Washington	85,900
Indiana	139,900	New Jersey	214,000	West Virginia	21,300
Iowa	36,200	New Mexico	13,600	Wisconsin	85,300
Kansas	32,900	New York	378,000	Wyoming	9,100
Kentucky	86,000	North Carolina	192,200		

The Democrats' surprise tax hike scheme was also condemned by Rep. Jim McCrery (R-LA), the ranking Republican member on the House Ways & Means Committee:

*"This proposal will raise taxes on many businesses operating in the United States. It will hurt our competitiveness and our standing in the world by carelessly violating a host of treaties. It is bad policy and bad politics. Democrats are trying to sneak a far-reaching and potentially destructive proposal through the House without proper consideration. Any fair-minded person who cares about the U.S. economy will oppose this bill."*

*"To attempt to impose this sort of one-size-fits all tax increase so cavalierly and capriciously, without hearings, without a markup, without any sort of bipartisan discussion, is an insult to the Ways and Means Committee and the House."*

### **ENERGY-FREE "ENERGY PLAN" THREATENS 4.9 MILLION AMERICAN JOBS**

The Democratic Majority came to power in January 2007 claiming Democrats had a comprehensive plan to address rising energy prices in the United States. But 11 months into the 110th Congress, nearly a year after Democrats assumed the gavel, Congress had yet to send any meaningful energy legislation to the President. And what congressional Democrats have managed to put forth is a plan likely to drive energy prices higher and potentially kill nearly five million American jobs.

An independent study released in November 2007 by CRA International, a leading economic forecasting and consulting organization, found that the combined effect of the Majority's legislative provisions on energy will be to simultaneously decrease the supply and increase the costs of energy supplies to the U.S. economy. These changes, CRA International projects, will reverberate through the economy and result in higher energy costs, a loss of five million American jobs, and a \$1 trillion decrease in U.S. economic output ("Economic Impacts of Proposed House/Senate Energy Legislation on the U.S. Economy," CRA International, November 2007).

The study examined the combined impact of seven major energy policy initiatives put forth by congressional Democrats during the first session of the 110th Congress, including a mandatory national "oil savings" program, a new government mandate on renewable fuel use, increased oil industry taxes of more than \$15 billion over a 10-year period, new mandated Corporate Average Fuel Economy (CAFÉ) standards, increased fees and royalty payments on oil and natural gas leases in the Gulf of Mexico, new government restrictions on drilling, and other expansions of government. According to the report:

*"The projected combined effect of these legislative provisions would be to simultaneously decrease the supply and increase the costs of energy supplies to the U.S. economy. These changes would be expected to reverberate through the economy and would likely increase energy costs and decrease production and consumption across a wide array of goods and services. The size of the projected impacts varies by region but the direction*

*does not. The projected impacts would increase with time with the largest changes projected to occur after 2020."*

Devastating job losses, starting slowly but mounting rapidly as the bill takes root, are projected by the CRA International study.

*"By 2030, the proposed legislation is projected to cause a net loss of roughly 4.9 million total jobs from baseline levels. While all regions of the country would be adversely impacted, the Southeast, areas around the Great Lakes, and Texas-Oklahoma regions would be disproportionately affected."*

*"Higher energy costs would likely cause decreases in the quantities of goods and services produced by the economy. As the expected costs of energy services climb, the productivity of capital and labor tend to fall. Business activity is likely to contract relative to the levels that would have prevailed without policy-induced energy cost hikes. The demand for labor would weaken, and employment would decline, again, relative to that which would have prevailed without the higher energy costs. . . [F]rom 2010, when the proposed legislation's impact is negligible, until 2020, when many proposed provisions would have taken effect fully or in part, job loss is projected to increase to more than 2 million below the baseline level. By the year 2025, non-farm job loss is estimated to increase to about 3.5 million, and would continue to decline to almost 5 million below the baseline level by the year 2030."*

*"[T]he job losses expected from the bills, although pervasive, would be distributed unevenly. Some industries are more energy intensive than others. In some cases, like commercial transportation, energy intensive activities are geographically widely dispersed. In other instances, like energy intensive manufacturing and petroleum refining/petrochemical production, activities are more geographically concentrated. The Mississippi Valley, the Midwest, Texas and Oklahoma and the Southeast are important centers for these industries. The model results indicate that these regions would be disproportionately affected though all regions would be adversely impacted."*

The study projects job losses of approximately 972,000 in the Southeast (Florida, Virginia, North Carolina, South Carolina, Tennessee, Georgia, Alabama, Mississippi), while the Texas-Oklahoma region would lose an estimated 671,000 jobs. The Midwest region (Ohio, Michigan, Indiana, West Virginia, Kentucky) will lose a projected 595,000 jobs, while the Mississippi Valley region (Missouri, Illinois, Wisconsin, Louisiana, Arkansas) will lose an estimated 614,000 jobs.

The study also indicates stressed-out American families will suffer from reduced purchasing power under the Democrats' energy legislation:

*"Higher energy costs generally mean that consumers must spend a larger percentage of their income to maintain their current level of household energy services. At the same*

*time, significant quantities of energy are needed to produce and transport the many non-energy goods and services. The projected higher costs of these goods and services would be expected to magnify the loss in household purchasing power associated with the direct purchase of energy services. . . In 2020, the average household is estimated to experience a loss in purchasing power of roughly \$830 relative to the baseline level, and by 2030, the average household's purchasing power is projected to decline by roughly \$1,700. . ."*

### **"MINING BAN" THREATENS 170,000 AMERICAN JOBS**

Abundant supplies of energy and mineral resources are critical to the economic and national security of the United States. But legislation passed by the Democrat-controlled House – H.R. 2262, the Hardrock Mining and Reclamation Act – would effectively ban American minerals production, and destroy the 170,000 high-wage American jobs it sustains along with it.

The modern mining of minerals is critical to the manufacture of everything from stainless steel, glass, cell phones, computers, pipes, and jewelry to the development of the military equipment that keeps America safe. H.R. 2262, authored by Rep. Nick Rahall (D-WV), takes eight percent of gross revenues for new American mines and four percent of gross revenues of existing mines if they need to use any government land.

Opponents argue H.R. 2262 will tax hardrock mining as we know it – and the American jobs it sustains – right out of the country, making America entirely dependent on foreign nations for the materials necessary for America's long-term economic and national security. Suppose you run a small business with total annual operating revenues of \$1 million, but after all your costs and expenses are paid, your net profit is \$100,000. Under the Rahall mining bill, the federal government would charge you eight percent of \$1 million, or \$80,000, leaving you with a paltry \$20,000 profit – and that's before you pay federal income tax. Given this punitive framework, would you invest here or take your money and know-how to a foreign country?

A recent editorial in the *Las-Vegas Review Journal* called H.R. 2262 a "draconian" bill that would devastate the American mining industry and the 170,000 American jobs it sustains:

*"'Reform' sounds good, but the list of outfits backing West Virginia Democrat Nick Rahall's H.R. 2262 reads like an honor roll of the anti-capitalist branch of the environmental movement. . ."*

*"Bob Hopper, who's operated the Bunker Hill mine in Kellogg, Idaho, for the past 14 years, predicted that a new 8 percent royalty on gross receipts -- not on net profits, mind you -- 'would put most mining folks out of business. Very few companies and very few deposits could stand an 8 percent royalty.' He calls the bill outline going through Congress 'absolutely terrifying' and an attempt to drive mining out of the West."*

*"So at a time that we're already desperate for minerals,' Mr. Hopper said from his office in Idaho. . . 'and a lot of our mineral processing facilities have been completely destroyed, this is kind of like shooting yourself in both feet. . . This is probably the most Draconian thing that I have ever read in my entire life.'"*

Opponents note the Rahall bill will increase the United States' dependency on foreign sources of mined materials and adversely impact rural mining communities in the West whose citizens working in the mines earn the best non-supervisory wages in the country. Republicans compare the bill and its impact to the infamous "luxury boat tax" imposed by the previous Democrat-controlled Congress in 1991, which had to be repealed a year later when Democrats discovered that it raised no revenue but did destroy jobs making boats.

### **TAX HIKE ON INVESTMENTS WILL KILL JOBS AND STIFLE JOB GROWTH**

Senior Democratic Reps. Sander Levin (D-MI) and Charles Rangel (D-NY) have used their newfound majority power to introduce legislation that would increase taxes on private equity and hedge funds from 15 percent to nearly 38 percent. The Levin-Rangel tax hike targets future profits on long-term, risk-based investment – a key source of job growth in today's U.S. economy.

Like many Democratic tax hike proposals, the Levin-Rangel bill is portrayed as a targeted tax hike that will have no effect on working families; one that will only affect mega-rich Americans who are not paying their fair share. The reality is quite different. "These funds put investment capital to its most productive use and encourage risk-taking, which boosts overall economic growth," House Budget Committee Republicans note. "Increasingly, average households have access to these funds through large institutional investors such as pension funds." The top U.S. public pension funds are heavily invested in private equity, Committee Republicans note. The California Public Employees and the Pennsylvania Public School Employees pension funds – a source of retirement security for schoolteachers, janitors and policemen – each have nearly 10 percent of their assets invested in private equity funds.

On September 6, 2007, the House Ways & Means Committee conducted a major hearing on the issue of fairness in the American tax code. The Democrats' proposed investment tax hike received a barrage of criticism from experts on job creation and economic growth in the American private sector. Rep. Jim McCrery (R-LA), the senior Republican member of the Committee, used his opening statement at the hearing to issue a stern warning about the potentially destructive impact of Democrats' proposed tax on investments. As McCrery told fellow Committee members:

*"We have all seen the benefits of tax policies that encourage investment. . . Nations compete for capital investment and the economic growth that comes with it. It is not a given that the United States will remain the strongest, most successful economy in the world, particularly if we enact policies that drive capital investment away. Across Europe, nations like Ireland, the Czech Republic, and Estonia are lowering and simplifying their*

*tax rates – and seeing record economic growth as a result. The new president of France is talking about lowering taxes on business. And, by some measures, London has passed New York as the center of global finance. Our corporate tax rates are already among the highest in the developed world. The last thing we need to do is drive more capital investment and more jobs away from this country with ill-conceived and short-sighted tax increases.*

McCrery's point was reinforced by Adam Ifshin, President of Tarrytown, NY-based DLC Management Corporation, who warned the Democrats' tax hike plan would threaten job opportunities for vulnerable Americans in vulnerable communities. As Ifshin told Committee members:

*"What [the Democrats' plan] proposes makes underserved and given-up-for-dead locations. . . far less appealing to developers because those deals are harder to put together and have greater risk associated with doing them. The net result will be to cause the greatest harm to those communities that need development and revitalization the most – communities like Newburgh, NY, Spring Valley, NY, and the West Side of Baltimore, where there is a fundamental lack of shopping alternatives for predominantly minority consumers. A lack of retail options leads to higher prices for basic commodities like milk and bread for those people who can least afford to pay. Community leaders where we do business fully understand and appreciate the benefits our development brings to their citizens -- more consumer choices at less cost, job opportunities, both at the construction phase and thereafter, an increased tax base and improved quality of life."*

Bruce Rosenblum, the managing director of The Carlyle Group and chairman of the board of the Private Equity Council, agreed the Democrats' proposed tax increases would restrict job growth and make America less competitive. Rosenblum told the Committee:

*"Another possible consequence [of the Democrats' threatened tax hike] is that U.S. firms will become less competitive with foreign PE [Private Equity] firms, and even foreign governments with huge investment war chests. . . [I]t is odd that, as governments the world over are striving to make their tax systems more competitive to attract foreign capital and challenge U.S. dominance, this Congress is considering a proposal that would go in the opposite direction."*

Rosenblum offered specific examples of how private equity firms have been instrumental in creating American jobs in the modern economy:

*"The best way to understand private equity ownership is to see it in practice. . . In 2005, we acquired a company called AxleTech International Holdings, Inc., which designs and manufactures drivetrain components for growing end markets in the military, construction, material handling, agriculture and other commercial sectors. AxleTech was a solid business, but it was focused on the low margin, low growth commercial segment*

*of the market. Under Carlyle's strategic direction, AxleTech developed a concerted business development initiative to offer its axle and suspension solutions to military vehicle manufacturers in need of heavier drivetrain equipment to support the heavy armored vehicles required to protect American soldiers in Iraq and Afghanistan. At the same time, AxleTech expanded its product and service offerings in its high margin replacement parts business while continuing to grow its traditional commercial business. The result is that since Carlyle's acquisition, AxleTech sales have increased 16 percent annually and employment has increased by 34 percent from 425 to 568, with new jobs created in AxleTech's facilities in Troy, MI, Oshkosh, WI, and overseas. Indeed, it is one of the very few US automotive-related companies that are growing in this challenging environment for the industry. And AxleTech's job growth does not take into account the ripple effects on AxleTech's suppliers which are experiencing new hiring and increased capital investments. . ."*

Rosenblum offered the congressional panel another example:

*"Bain Capital, THL Partners and Carlyle bought Dunkin' Brands (Dunkin' Donuts and Baskin-Robbins ice cream shops) in 2006 from a European beverage conglomerate which gave the business low priority and minimal attention. Under private equity ownership, investing in long-term growth is a key business strategy. Jon Luther, CEO of Dunkin' Brands, recently told the U.S. House of Representatives Financial Services Committee, 'The benefits of our new ownership to our company have been enormous. Their financial expertise led to a ground-breaking securitization deal that resulted in very favorable financing at favorable interest rates. This has enabled us to make significant investments in our infrastructure and our growth initiatives. They have opened the door to opportunities that were previously beyond our reach.' Today, Dunkin' Brands is expanding west of the Mississippi, and is on track to establish franchises that will create 250,000 new jobs – with the further benefit of creating a new class of small business entrepreneurs for whom owning multiple Dunkin' Donuts franchises is a way to achieve personal financial security and success."*

Brushing aside such testimony, House Democrats in the autumn of 2007 proceeded with plans for a significant tax hike on private equity. Legislation taxing "carried interest" as ordinary income, fundamentally changing the tax treatment of risk income, was included in the cynically named Temporary Tax Relief Act (H.R. 3996), passed by the House on November 9, 2007. Instead of taxing based on the character of income, the bill taxes income on the basis of who receives it. The carried interest portion of the bill threatens job growth by raising taxes by an estimated \$25.7 billion over 10 years.

### **"MOTHER OF ALL TAX HIKES" JEOPARDIZES MORE THAN SIX MILLION AMERICAN JOBS**

In October 2007, House Ways & Means Committee Chairman Charlie Rangel (D-NY), with the support of House Speaker Nancy Pelosi (D-CA), made good on his long-promised threat to

introduce "the mother of all tax bills." The bill, which would impose a four percent surtax on Americans (including small businesses) earning more than \$150,000 a year, quickly became known as the Mother of All Tax Hikes. "When dissected, this bill is a poison pill for capital investment, job growth, entrepreneurialism and the very ingenuity that has long propelled our economy to greatness," warned Rep. Eric Cantor (R-VA), House Republicans' Chief Deputy Whip, when the bill was introduced.

Rep. Jim McCrery (R-LA) explained the dire consequences the Pelosi-Rangel bill would have for small businesses, which are widely attributed with creating four out of every five American jobs in the United States:

*"The bill will add a four percent surtax on Americans earning more than \$150,000 a year (\$200,000 for couples). That is on top of the scheduled expiration of the 2001 and 2003 tax cuts. . ."*

*"[U]nder the [Rangel] plan, over the next few years, the individual income top tax rate in the United States will rise from 35 percent to 44 percent. . . This crushingly high tax rate will affect approximately 10 million taxpayers directly – including those who report business income, like small business owners and farmers – but the damage will ripple throughout our economy. Because small businesses and family farms often pay their income taxes as individuals, this is a massive tax hike on the engine that drives job growth in this country. . ."*

*"[W]e should not forget that many, if not most, small business owners file their small business income on their individual tax returns. There are up to 3.4 million individuals who have small business income on their tax returns and earn over \$150,000, so they could have to pay the new 'Additional Mandatory Tax' - the four percent surtax created by the Democratic legislation. The bill also takes the manufacturing tax deduction away from small business, raising their taxes and putting them at a competitive disadvantage compared to larger companies."*

Small businesses are actually hit with a "triple whammy" under the Rangel bill, McCrery notes.

*"Millions of Americans who own small businesses and who pay taxes on that income on their individual tax returns are going to face a triple-whammy. First, they will be hit with the four percent surtax on some of their income. Second, many of them will lose the Section 199 manufacturing deduction that lowers taxes on their business income. And third, this is happening at the same time as [large] businesses get an across-the-board rate cut, making it even tougher for these small business engines of job-creation to compete."*

Economist Larry Kudlow, the current host of the CNBC program *Kudlow & Company*, complimented Rangel for having the courage to offer what the chairman believes is the right

plan, but warned about the destructive impact the Rangel plan would likely to have in practice on American job creation, particularly those created by small businesses:

*"I have tremendous respect for House Ways and Means chairman Charlie Rangel. . . [But under Rangel's plan,] the top earners are going to see a big tax hike from 35 to 44 percent. Capital-gains taxes are going to go up. Small-business taxes are going to go up. And large corporate taxes would go down under this plan."*

*"Among the many issues I raised with Mr. Rangel during our interview is that we are experiencing a slowdown in the economy. Wall Street and Main Street are worried about recession. Is this the right time to be talking tax hikes for anyone?"*

Kudlow also added: "Small businesses add serious firepower to our economy. They are our biggest job creators. So going from 35 percent to 44 percent would be rather punitive." ([The Corner](#), October 25, 2007)

Kudlow's trepidation is shared by employers themselves. For example, in a statement reacting to the introduction of the Pelosi-Rangel bill, National Association of Manufacturers (NAM) Vice President Dorothy Coleman said "[w]e are extremely concerned about the tax increases that will impact manufacturers of all sizes." ([NAM press release, 10/25/07](#))

The Pelosi-Rangel plan has also triggered the rebirth of an alliance of employer groups known as the Tax Relief Coalition, which collectively represents millions of American jobs. The Coalition played a key role in supporting passage of the 2001 and 2003 tax relief laws, and has now been re-launched due to widespread concern about the destructive impact Congress' tax increase plans are likely to have on job creation and growth. The new Tax Relief Coalition is run by the National Association of Wholesalers-Distributors (NAWD):

*"The new Tax Relief Coalition, [NAWD Vice President Jade] West said, is growing. 'Fear does that to you,' she said. The coalition has about 1,000 public members, groups or companies that go on record supporting the coalition but do not pay dues and have less decision-making authority. Another 70 or so members — including the U.S. Chamber of Commerce, National Association of Manufacturers, National Federation of Independent Business and the National Restaurant Association — pay \$5,000 a year and belong to the steering committee. The Tax Relief Coalition is just now in the process of assessing dues for the first time since 2003, and some of that money will go to a revamped Web site that is expected to launch in the coming weeks. . . [In late October], the group's membership came together to raise the alert against the Rangel plan." (Ackley, Kate; "Tax Coalition Wakes Up," *Roll Call*, October 31, 2007)*

Economic data indicates the fear among employers West refers to is well-founded. In November 2007, the Heritage Foundation released an analysis showing the Pelosi-Rangel "Mother of All Tax Hikes" will lead to the loss of more than one million American jobs in 2013, and kill an average of 600,000 more American jobs annually over the next 10 years ([Heritage](#)

[Foundation, 11/7/07](#)). Heritage concludes the Pelosi-Rangel tax hike signals “the end of pro-growth tax policy” in the United States.

*“An analysis of the ‘Mother of All Tax Bills’ (H.R. 3970, The Tax Reduction and Reform Act of 2007) reveals that the U.S. economy will suffer huge losses in gross domestic product, job creation and personal income if this bill is passed into law. Analysts at the Center for Data Analysis estimated the economic costs of H.R. 3970 by looking at the combined effects of provisions contained within the legislation along with the effects of allowing the Bush Tax Cuts of 2001 and 2003 to expire. In 2012, alone, the U.S. economy stands to lose \$108.2 billion in gross domestic product and will lose 955,000 jobs that would have otherwise been created. In addition, there will be a loss of approximately \$247 billion in disposable personal income – an average loss in income of over \$2000 per household in the United States.”*

*“If the [Pelosi-Rangel] bill is enacted in its current form, consequences would include the following: [t]he U.S. economy would fall significantly short of the potential forecasted for it by the Congressional Budget Office (CBO) earlier this year; [j]ob creation would fall below its potential by more than 100,000 jobs per year; and [t]he disposable income of households would shrink by more than \$30 billion per year from forecasted levels. . .”*

*“H.R. 3970 is part of an even larger approach to tax policy change that focuses on repeal of the Bush tax cuts. Because the Bush tax cuts expire within Congress's current budget window and because the Ways and Means Committee is not moving now to make them permanent, one can only assume that repeal of the President's key tax policies are an unwritten part of the committee's current legislation. If so, the U.S. economy would severely weaken. The economic effects of combining [Pelosi-Rangel] with a repeal of the Bush tax cuts would likely include the following: [t]he output of the economy as measured by the gross domestic product (GDP), after subtracting inflation, would fall by an average of \$60 billion per year; [m]ore than one million jobs would be lost in 2013, and an average of 600,000 would be lost annually over the next 10 years (most of which would be after 2011); [d]isposable income of households (after inflation is subtracted) would fall short of potential by nearly \$200 billion per year; and [h]ousehold savings would shrink, investment would decline, and the general pace of economic life would subside.”*

The Heritage Foundation looked at the projected job losses likely to be caused in specific states and congressional districts by the Pelosi-Rangel “Mother of All Tax Hikes.” Heritage estimates 36,848 jobs would be destroyed in the state of Ohio alone in 2012. In Pennsylvania, more than 39,000 jobs would be eliminated in 2012. In Texas, 71,616 would be destroyed. And in California, a staggering 111,808 jobs would be destroyed by the Pelosi-Rangel tax hike in one year alone. A state-by-state breakdown of the projected impact of the Pelosi-Rangel tax hike appears on the following page (*see Table II*). The complete breakdown of the impact of the Pelosi-Rangel tax hike on jobs by state and congressional district is available online at [http://www.heritage.org/research/economy/upload/HR3970\\_table.pdf](http://www.heritage.org/research/economy/upload/HR3970_table.pdf).

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**TABLE II: State-by-State Impact of Pelosi-Rangel "Mother of All Tax Hikes" On Jobs & Household Income (2012)**

*(Source: Heritage Foundation)*

STATE	AVG INCOME LOSS PER HOUSEHOLD (2012)	AVG LOSS IN JOBS (2012)	STATE	AVG INCOME LOSS PER HOUSEHOLD (2012)	AVG LOSS IN JOBS (2012)
Alabama	\$1,853	13,836	Montana	\$1,804	3,083
Alaska	\$2,434	2,142	Nebraska	\$1,991	6,044
Arizona	\$2,009	18,758	Nevada	\$2,296	8,258
Arkansas	\$1,645	8,535	New Hampshire	\$2,366	4,603
California	\$2,734	111,808	New Jersey	\$3,006	27,974
Colorado	\$2,352	16,623	New Mexico	\$1,827	5,807
Connecticut	\$3,023	11,476	New York	\$2,710	58,729
Delaware	\$2,388	2,754	North Carolina	\$1,915	27,987
Florida	\$2,113	56,606	North Dakota	\$1,746	2,255
Georgia	\$2,076	29,822	Ohio	\$1,931	36,848
Hawaii	\$2,483	4,016	Oklahoma	\$1,900	10,747
Idaho	\$1,882	4,666	Oregon	\$2,024	11,942
Illinois	\$2,410	41,317	Pennsylvania	\$2,179	39,034
Indiana	\$1,919	20,319	Rhode Island	\$2,211	3,586
Iowa	\$1,883	10,265	South Carolina	\$1,758	13,347
Kansas	\$2,074	9,150	South Dakota	\$1,957	2,699
Kentucky	\$1,700	12,805	Tennessee	\$1,894	18,870
Louisiana	\$1,806	12,369	Texas	\$2,339	71,616
Maine	\$1,817	4,415	Utah	\$2,155	8,243
Maryland	\$2,726	18,657	Vermont	\$1,943	2,240
Massachusetts	\$2,764	21,148	Virginia	\$2,487	25,050
Michigan	\$2,023	31,378	Washington	\$2,250	20,795
Minnesota	\$2,286	18,358	West Virginia	\$1,562	5,034
Mississippi	\$1,163	8,162	Wisconsin	\$1,992	19,149
Missouri	\$1,952	18,966	Wyoming	\$2,347	1,778

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On a nationwide basis, Heritage estimates that the Pelosi-Rangel tax hike, combined with the repeal or expiration of the Bush tax cuts, will kill more than 57,000 American jobs in 2008 and another 148,000 in 2009. After 2010, Heritage estimates, the job losses will kick into higher gear as the Bush tax cuts expire, causing an enormous tax spike. More than 507,000 American jobs will be destroyed in 2011; another 955,000 destroyed in 2012; and more than one million will be destroyed in 2013. The massive losses would continue: more than 907,000 in 2014, more than 794,000 in 2015, more than 701,000 in 2016, and more than 899,000 in 2017. All told, the cumulative job loss projected by the Heritage Foundation as a result of the Pelosi-Rangel tax scheme is more than six million by 2017. A year-by-year breakdown of the projected impact of the tax hike on American jobs and real personal disposable income appears below (*see Table III*). A more detailed version of the year-by-year projection is available online at <http://www.heritage.org/research/taxes/images/WM1697-chart1-lg.gif>.

**TABLE III: Projected Impact of Pelosi-Rangel Tax Increase  
On U.S. Jobs & Personal Income (2008-2017)**

*(Source: Heritage Foundation)*

Pelosi-Rangel Tax Plan (Year)	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Impact on U.S. Employment (In Thousands)	-57.8	-148.2	-15.7	-507.6	-955.0	-1,029.2	-907.6	-794.4	-701.5	-899.7
Real Disposable Personal Income (In Billions of Dollars, Inflation Adjusted)	-27.1	-31.5	-0.5	-167.3	-246.8	-250.1	-250.4	-253.4	-253.0	-244.9

As if job losses were not enough, the Pelosi-Rangel bill will directly add to the woes of stressed-out American families by increasing their taxes. According to a non-partisan analysis, 113,000,000 Americans will pay higher taxes under “Mother of All Tax Hikes” ([Nonpartisan Joint Committee on Taxation Analysis, 11/6/07](#)). The middle class takes a big hit: in 2011, of people with adjusted gross income (AGI) between \$20,000 and \$200,000, more than 94 million would see a tax hike; only about 800,000 would see a tax cut. Expiration of the 2001 and 2003 tax cuts would reduce key family tax credits while re-imposing the marriage penalty on some taxpayers; the notorious Death Tax will return; the highest tax rate will rise from 35 percent to 39.6 percent; and the tax rate on dividends would more than double from 15 percent to 35 percent ([Heritage Foundation, 11/7/07](#)).

The “Mother of All Tax Hikes” will also vastly expand the size of government, consuming a larger-than-ever share of the nation’s gross domestic product (GDP). Under the Pelosi-Rangel plan, tax revenue will rise to almost 21 percent of GDP by the end of the next decade, and will consume nearly one-fourth of our nation’s economic resources by the middle of the century. ([Budget Committee Republicans](#)). This statistic is particularly troubling in light of economists’ warnings, detailed earlier in this report, about the tax burden on the nation’s economy already being at dangerous levels, possibly foreshadowing a recession.

## WAITING IN THE WEEDS: MORE TAX HIKES

During the course of 2007, their first year in the majority, congressional Democrats passed a host of bills increasing taxes, and threatened to pass even more. In addition to the tax increases documented earlier, which have all advanced in some form during the First Session of the 110th Congress, congressional Democrats have also revealed plans for additional tax increases that – while currently dormant – could be dusted off and pushed through at any time as the Majority continues to seek ways to finance its agenda of bigger government and pork-barrel spending. Among the additional tax hikes floated by congressional Democrats this year:

- **A \$150 billion “war surtax.”** Under a plan proposed by Appropriations Chairman David Obey (D-WI), Defense Appropriations Chairman John Murtha (D-PA), and Rep. Jim McGovern (D-MA), low and middle-income taxpayers would have added two percent to their tax bill, while higher-income taxpayers would have taken on an additional 12 to 15 percent.
- **A 50-cent increase per gallon federal gas tax hike** proposed by Energy & Commerce Chairman John Dingell (D-MI) to be inserted into energy legislation.
- **A five-cent increase per gallon federal gas tax hike** proposed by Rep. James Oberstar (D-MI) to pay for infrastructure. The proposal, which would raise the federal gas tax to 23.4 cents a gallon from 18.4 cents, was made last summer in the wake of the collapse of the I-75 bridge in Minnesota.

Taken together, the Oberstar and Dingell tax hikes would quadruple the federal gas tax – from 18.4 cents to 73.4 cents per gallon – and would force American families to pay an extra \$10 to fill up an 18-gallon tank.

## PART III: JOB-KILLING SPENDING

What is the connection between government spending and the destruction of American jobs? Simple. To pay for its agenda of bigger government and pork-barrel spending, the Democratic Majority needs to raise taxes – not just on families and workers, but on small business, the principal engine of job creation in the United States economy.

American families are worried about higher taxes because they're already being squeezed by rising costs in health care, education, and energy. But they're also concerned about higher taxes for another reason: they don't trust government to spend their money effectively. Their suspicion, particularly when it comes to increased taxation by the federal government, is that their money will be squandered by politicians in ways that have no benefit for most Americans.

Public opinion research indicates government waste is a major source of anxiety for stressed-out American families, particularly those struggling with the tax burden:

*"There's no question that for seven out of 10 [Americans], wasteful government spending is one of the largest problems in Washington," says pollster Tony Fabrizio. . . All of the polling consistently finds that [Americans] believe about 40 cents of every dollar spent by Washington is wasted." (Stephen Moore, Wall Street Journal, October 5, 2007)*

Based on his research, Richard Thau summarizes the view held by the typical American family this way: *"People are entitled to keep as much a share of their hard-earned money as possible, while maintaining essential government functions and services. Therefore the primary responsibility of politicians is to ensure that taxpayer dollars are spent carefully and responsibly."*

In a private conference call the day before the 2006 elections, then-Minority Leader Nancy Pelosi (D-CA) told her colleagues that three words would define the incoming Democratic Majority: "civility, honesty and fiscal responsibility." Democrats pledged going into the 110th Congress to abandon their tax-and-spend ways and to be more careful stewards of the American people's hard-earned money. They touted so-called "PAYGO" (pay-as-you-go) budget rules as their cure for Washington's spending epidemic, suggesting all new government spending would be paid for. What they did not acknowledge were their plans to increase government spending significantly, or their willingness to finance this expansion of government on the backs of families and small businesses rather than through corresponding cuts in existing waste, fraud, abuse, and bloat. Republicans predicted in January 2007 that the Democrats' "PAYGO" rules would be better termed "pay more taxes as you go." The prediction has since proven accurate, to the chagrin of working families and small business operators nationwide.

History alone should have provided a warning as to the hollowness of the incoming Majority's promise of fiscal austerity. Economic data show increased government spending – not deficit reduction – is likely to be the result of higher taxes imposed on American families

and small businesses, particularly in the absence of budget reforms long opposed by Democrats such as the presidential line-item veto and a constitutional amendment requiring a balanced federal budget. According to a Joint Economic Committee (JEC) study released in July 2007 by U.S. Rep. Jim Saxton (R-NJ), the JEC's Ranking Republican Member, each dollar of tax increases since 1947 has led to \$1.07 in additional federal spending. The JEC study, "Taxes and Deficits: An Observation on the Relationship Between Taxes and Spending," is a statistical analysis of federal taxes and spending since World War II. The study was authored by Professor Richard Vedder of Ohio University and Jonathan Leirer. Excerpts from the JEC study:

*"A statistical analysis of the relevant data in the 1946-2006 period finds that each \$1.00 of additional taxes was associated with \$1.07 in additional federal spending. This finding indicates that tax increases have been an ineffective and self-defeating approach to reducing budget deficits. . ."*

*"[T]he historical evidence from the first administration of President George Washington to the present shows. . .the federal propensity to spend new tax revenues has grown over time, as the political advantages of new spending have increased. At one time, new taxes were associated with very significant deficit reduction, but not in recent decades."*

*"[N]ew tax monies are associated not only with greater deficits but with relative reductions in traditionally provided government services. The results lend support to those who argue that tax increases promote income redistribution, or what some economists call 'rent-seeking,' the use of political power by special interest groups to obtain added income without a corresponding provision of added labor or capital services. . ."*

*"Increases in federal tax revenues continue to be associated with greater increases in federal expenditures, leading us to conclude that tax increases do not reduce budget deficits. The evidence suggests that higher tax revenues are associated with massive increases in income redistribution activity of various forms, especially transfer payments. Indeed, redistributionist activities seem to have crowded out some traditional expenditures of government services, particularly defense."*

*"The cause of the deficit problem does not appear to be inadequate taxes, but rather the political gains from spending, gains that are rising over time, particularly to finance redistributionist activity. Historically, there was a time when tax increases meant deficit reduction, but that time passed in the early part of this century. State and local governments still are able to constrain spending increases to levels equal to or less than the taxes raised. Why? We would tentatively suggest that the answer may lie in different institutional constraints, such as balanced budget amendments, spending limitation amendments, line-item vetoes, etc., measures that lower the marginal political benefits of new spending to political decision makers. In any case, the federal fiscal problem is not likely to be solved without significant behavioral change on the part of*

*those decision makers, and those changes are not likely given the current system of political rewards and costs."*

The fiscal record of Congress during 2007 has been far different from what was promised by its leaders, and strikingly consistent with the model portrayed in the JEC study. So-called "PAYGO" rules have done nothing to discourage Congress from engaging in irresponsible spending. Instead what Americans have received is a Congress intent on increasing the reach of the federal government, and willing to seize increasing sums from families and small businesses to finance the expansion.

The current Majority's approach to budgeting threatens not only future generations of Americans, who will confront a fiscal tsunami brought on by the potential bankruptcy of Medicare and Social Security, but also current American jobs and the prosperity of today's working families. To pay for their agenda of bigger government, Democrats are taking more money out of the pockets of working families and small businesses instead of cutting wasteful programs. Nothing has been done to address the problem of runaway entitlement spending (the budget approved by the Democrat-controlled House in 2007 actually makes the entitlement problem worse, in contrast to budgets put forth by Republicans in 2007 and preceding years). The spending bills put forth by the Democratic Majority have been loaded with wasteful pork-barrel projects that will have no benefit of any kind for the vast majority of taxpaying workers or job-producing small businesses in America today. And the leaders of the Democratic Majority have refused to allow a vote on – much less support – legislation such as the presidential line-item veto and the balanced budget amendment that would help to ensure tax dollars are spent responsibly.

This irresponsible approach to budgeting will kill American jobs and squeeze working families at a time when they can ill afford it, largely for the benefit of Democratic lawmakers eager to stay in office. This section chronicles some of the more egregious examples of job-killing congressional spending advanced by Congress during the past year at the expense of working families and small business.

### **JOB-KILLING ENTITLEMENT SPENDING**

On the opening day of the 110th Congress, Speaker Nancy Pelosi (D-CA) declared that the incoming Majority would commit itself to fiscal discipline, and would confront the challenges facing future generations of Americans:

*"[T]his new Congress will commit itself to a higher standard: pay-as-you-go, no new deficit spending. Our new America will provide unlimited opportunities for future generations, not burden them with mountains of debt."* (Speaker Nancy Pelosi, D-CA, 1/4/07)

The Speaker's opening day pledge was greeted with applause by Republicans and Democrats alike. It appeared to acknowledge the grim reality facing future generations of

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Americans: without reform, by 2040, Social Security, Medicare and Medicaid alone will cost Americans as much as the entire federal government does today.

Unfortunately, the Speaker's pledge was abandoned almost immediately after it was delivered. Within weeks, congressional Democrats slapped aside an opportunity to work with Republicans to address the looming crisis in entitlement spending, shutting down GOP budget blueprint in favor of a Democratic budget crafted behind closed doors that failed to even acknowledge the existence of a problem. During the First Session of the 110th Congress, the Democratic Majority voted to *raise* entitlement spending by nearly \$180 billion over 10 years, while doing nothing to implement real entitlement reform.

### Major New Entitlement Spending Passed by the House (2007)

Bills Passed by the House	Date Passed	Total New Spending
State Children's Health Insurance Act (H.R. 976)	9/25/07	\$127 Billion
Farm Nutrition and Bioenergy Act (H.R. 2419)	7/27/07	\$20.8 Billion
Higher Education Access Act (H.R. 2669)	7/11/07	\$16.3 Billion
Terrorism Risk Insurance Revision and Extension Act (H.R. 2761)	9/19/07	\$10.4 Billion
Agricultural Disaster Assistance and Western States Emergency Unfinished Business Appropriations Act (H.R. 2207)	5/10/07	\$2.4 Billion
The Renewable Energy and Energy Conservation Act (H.R. 2776)	8/4/07	\$1.721 Billion
<b>Total over 10 years</b>		<b>\$178.6 Billion</b>

### JOB-KILLING DISCRETIONARY SPENDING

"Democratic leadership has earned the mantle of fiscal responsibility with a strong record," Speaker Pelosi claimed in her leadership blueprint, "The 110th Congress: A New Direction for America" (11/1/07). But the record on fiscal discipline during the first year of the Democratic Majority has been anything but strong.

In their first year in the Majority, Democrats have proposed a \$21.2 billion boost in discretionary spending that actually translates to \$204 billion over the next five years. Republicans, having renewed their commitment to fiscal discipline, have promised to sustain a presidential veto of any appropriations bill that is vetoed due to excessive spending. Democrats, by contrast, have seized upon their first opportunity to lead the appropriations process in a dozen years to fund favored projects and make good on backroom deals.

The Transportation-HUD spending bill passed by Congress is a case in point. The Transportation-HUD Conference Report approved by the House on November 14, 2007 provides

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\$51 billion in spending for fiscal year 2008, an increase of 7.4 percent over the current level (\$47.5 billion). As the bill was being written, Democrats rejected funding cuts proposed by Republicans, and in some cases went in exactly the opposite direction, increasing funding for programs recommended for cuts or elimination by budget watchdogs inside and outside of government.

The nearly \$21.2 billion in excessive spending sought by Congress for the upcoming fiscal year is certain to force a budget showdown between Republican reformers and the Democratic Majority. It comes on the heels of approximately \$17 billion in additional spending piled into the emergency supplemental spending bill passed in May 2007 and \$6 billion in new spending added to the omnibus spending package approved by Congress in late January 2007. To put the numbers in perspective: \$21.2 billion is more than the budgets of 34 states, and it exceeds the Gross Domestic Product (GDP) of all but 77 countries. Over the next five years, this new spending translates into an increase of \$204 billion by 2012 – an expansion of government financed by higher taxes on stressed-out families and small businesses in the United States, and it would eliminate any chance of balancing the federal budget by 2012.

A complete breakdown of the new discretionary spending approved by the Democrat-controlled House to date appears below. The numbers show Congress is increasing spending in literally every category, despite Republicans' publicly-expressed willingness to work with Democrats to support lower spending levels in several key areas. Bills marked with asterisks (\*\*) are bills the President has indicated he will veto due to excessive spending if and when they reach his desk. In areas in which Congress had completed a House-Senate conference agreement as of the end of November 2007, the conference report figure is listed instead of the House-passed figure.

### **Discretionary Spending Totals:** *(Numbers in billions, as of December 1, 2007)*

Appropriations Bill	FY'08 House Proposal	FY'08 Conference Report	FY'07 Enacted	% Change from FY07	Vote/Date
State-Foreign Ops	\$34.2		\$31.3	9.3%	241-178 (6/22/07)
Transportation-HUD**		\$51.0	\$47.5	7.4%	270-147 (11/14/07)
Labor-HHS-Education**		\$150.7	\$144.5	4.3%	274-141 (11/08/07)
Interior-Environment**	\$27.6		\$26.4	4.5%	272-155 (6/27/07)
Energy & Water**	\$31.6		\$30.3	4.3%	312-112 (7/17/07)

## DEATH BY A THOUSAND CUTS: DEMOCRATS' WAR ON AMERICAN JOBS

VA	\$64.7		\$52.9	22.3%	409-2 (6/15/07)
DHS**	\$36.3		\$33.7	7.4%	268-150 (6/15/07)
Leg Branch	\$3.1		\$2.9	6.9%	216-176 (6/22/07)
Financial Services	\$21.4		\$19.5	9.7%	240-179 (6/28/07)
CJS**	\$53.5		\$50.3	6.4%	281-142 (7/26/07)
DOD		\$459.6	\$419.9	9.5%	400-15 (11/08/07)
Agriculture**	\$18.8		\$17.8	5.7%	237-18 (8/2/07)

### **JOB-KILLING SPENDING: BUDGET BOONDOGGLE AWARD RECIPIENTS**

To pay for the Democratic Party's agenda of bigger government, Congress is taking money out of the pockets of working families and job-creating small business owners instead of cutting wasteful programs.

Congressional Republicans, who acknowledge more should have been done to combat taxpayer-funded waste, fraud, and abuse during GOP control of the legislature, offered to work with Speaker Pelosi and the leaders of the Democratic Majority during the First Session of the 110th Congress to bring needed reforms to the federal budget. Led by Rep. Paul Ryan (R-WI), House Republicans proposed a "Budget Boondoggle" award modeled after the legendary "Golden Fleece" awards given to egregious instances of government waste a generation ago by the late U.S. Sen. William Proxmire (D-WI). Following are some examples of "Budget Boondoggles" identified by Rep. Ryan and Congressional Republicans during 2007 – examples of wasteful or duplicative federal spending that the leaders of the 110th Congress have chosen to preserve instead of cutting them to help prevent job-killing tax hikes on the American people and small businesses.

### **DUPLICATIVE, INEFFECTIVE, AND INAPPROPRIATE PROGRAMS**

- **Technological Corporate Welfare (Commerce-Justice-Science Appropriations Bill).** The Advanced Technology Program (ATP) is recognized as one of the worst forms of corporate welfare, and the President has proposed to eliminate it. As of 2005, 39 Fortune 500 companies had received a total of \$732 million in ATP subsidies. GAO studies have found that some of the projects funded were similar to projects conducted by unsubsidized firms, demonstrating the program is no longer warranted. One survey showed that 65 percent of ATP applicants did not even bother trying to procure private funding before lining up at the Federal trough. Although authorizing legislation

terminates the program, this appropriations bill still funds it at \$93 million for fiscal year 2008.

- **Buying Culture at Taxpayers' Expense (Interior-Environment Appropriations Bill).** The National Capital Arts and Cultural Affairs (NCACA) provides non-competitive grants to Washington, DC cultural organizations that receive contributions from non-federal sources. The organizations also can apply for federal funding from other national competitive grant programs. Funding recipients include the Kennedy Center, the National Symphony Orchestra, the Shakespeare Theatre, the Washington Ballet, the Woolly Mammoth Theatre Company, and 16 other DC-based performing arts centers and museums that receive millions of dollars from private donors. One recipient, the Kennedy Center, already receives more than \$70 million in private donations each year. It is clearly not in need of an additional \$500,000 in government funding. The President proposed terminating the program because it is duplicative and should not be a government priority. But the House-passed fiscal year 2008 appropriations bill gives the program \$10 million, 40 percent more than 2007.
- **More Information Than Needed (Financial Services Appropriations Bill).** The Federal Citizens Information Center (FCIC) is a wasteful and duplicative service in the General Services Administration (GSA). The center is intended to be a one-stop shop for answers to questions about federal agencies, programs, and services – but it also gives out information that consumers easily can find elsewhere. Among other things, this agency provides advice on how to get a good airfare deal and how to buy a car. It also provides investment advice and tips on family relationships. Even the information about the government is duplicative and could be obtained elsewhere. This money would be much better spent on priorities such as veterans, education, or national defense – but the Financial Services bill funds the FCIC at \$15.8 million, a 6.2-percent increase from 2007.
- **Diversion of Funds from Bridges to Non-Priority Items (Transportation-HUD Appropriations Bill).** At a time when the nation's roads and bridges need attention – as demonstrated by the recent collapse of a bridge in Minneapolis – the federal government continues to divert large amounts of money to bike paths and other cosmetic projects that could be funded locally. More than 73,000 bridges across the United States are considered structurally deficient. Yet according to Transportation Secretary Peters, only about 60 percent of the Highway Trust Fund is directed toward highway and bridge construction. The Congressional Budget Office [CBO] also has reported that while transportation spending has increased, funding for infrastructure has declined. The House Transportation appropriations bill for fiscal year 2008 also contains more than 1,400 earmarks at a cost of \$2.2 billion.

WASTE

- **Living Large on the Global Fund to Fight AIDS, Tuberculosis, and Malaria (Labor-HHS-Education Appropriations Bill).** The former executive director of the Global Fund enjoyed a lavish lifestyle at home and abroad, and shared the largesse with his staff as well. He spent between \$91 and \$930 per day for limousines in London, Paris, Rome, Washington, and San Francisco, averaging \$376 a day. He also spent \$1,695 for a dinner for 12 at the U.S. Senate dining room; \$226 to rent a suit; \$8,780 for a boat cruise on Lake Geneva in Switzerland; \$8,436 for a dinner in Switzerland for 63 people; and \$5,150 for a meal and drinks for 74 staff members at a retreat in Switzerland. Other spending went to flowers for staff members and champagne at a retreat. This money could have saved 24,513 infants from dying of malaria – but there is no appreciable evidence that the fiscal year 2008 Labor-HHS bill prevents abuses of Global Fund resources, such as those cited above.
- **More FEMA Funds Squandered (Homeland Security Appropriations Bill).** Congress has provided \$129 billion to help rebuild communities devastated by Hurricane Katrina, with most of the money going through the Federal Emergency Management Agency (FEMA). But large amounts have been squandered, and there has been no appreciable oversight in this appropriations bill. FEMA spent \$3.5 million to melt \$24 million worth of ice it had purchased but did not need – for an “ice-capade” totaling \$27.5 million. Fraudulent FEMA payments cited by the Government Accountability Office (GAO) include: \$17 million in rental assistance paid to individuals to whom FEMA had already provided free housing in trailers or apartments; \$20 million in duplicate payments to thousands of individuals who claimed damages to the same property from both Hurricanes Katrina and Rita; and free housing to 10 individuals in apartments in Plano, TX, while these individuals received \$46,000 to cover out-of-pocket housing expenses.
- **The World Bank’s Misdirected Priorities (State-Foreign Operations Appropriations Bill).** The United States is the leading contributor to the World Bank, and will spend more than \$1 billion helping finance the lending institution in 2008. But the Bank has strayed widely from its mission of providing funding for the world’s poorest countries and those who cannot receive credit elsewhere. More than 80 percent of the Bank’s loans flow to middle-income governments instead of those who need help most. Two of the top loan recipients – China and India – are among the stiffest competitors to the U.S. in a globalizing world. China has the second largest [GDP] in the world and is awash with foreign direct investment. Yet China continues to receive more than \$1 billion a year in subsidized loans from the Bank. Iran has been a top 10 recipient of World Bank subsidized loans in recent years. Despite all this, the State-Foreign Operations bill does nothing to redirect the World Bank toward its original mission.
- **Unnecessary Paper from the GPO (Legislative Branch Appropriations Bill).** Even in the current era of on-line data, the Government Printing Office (GPO) prints thousands of excess copies of floor proceedings and legislation -- most of which are

never read. GPO prints 5,600 paper copies of the *Congressional Record* every day that Congress is in session. The overall budget for compiling, printing, and distributing the *Congressional Record* is more than \$25 million, with at least \$6.5 million spent on printing costs alone. GPO also prints three copies of every bill for every cosponsoring Member. In a rare victory against waste, the House passed an amendment by Congressman Jeff Flake (R-AZ) to reduce funds for printing the *Congressional Record* (Republicans supported the amendment 181-2; Democrats opposed it 189-37). Still in doubt is whether this policy will be retained in the appropriations conference report.

- **Underused Farm Service Agency Offices (Agriculture Appropriations Bill).** Nationwide, the Farm Service Agency (FSA) maintains 2,350 field offices that help the Department of Agriculture administer its farm programs. Some of these offices are located in areas where farms are fewer in number than was the case in the past due to urbanization and other factors. There are currently 52 FSA field offices with no permanent employees, 130 offices with one employee, and a total of 534 offices with two or fewer employees. The offices without employees are occasionally staffed by employees from neighboring FSA county offices for short periods, but they stand empty most of this time. Yet the government continues to pay for them all. In 2007, the rent for these 534 offices is estimated at nearly \$19 million. The FSA is seeking to streamline its operations to improve efficiency and services provided to producers and rightfully ensuring the wisest use of taxpayer dollars. Furthermore, successful consolidation measures could also lead to possible savings being passed on to taxpayers in the future. But unfortunately these efforts have been thwarted by Congress. In fact, this bill delays the development and implementation of any plans to close any local or county office of the FSA until at least six months after the next Farm Bill is passed or the end of the 2008 fiscal year.
- **Army Corps of Engineers Manipulation of Data (Energy and Water Appropriations Bill).** The Army Corps of Engineers delivers an important service by investigating, developing and maintaining the nation's water and related environmental resources and rendering disaster response. But several GAO reports have shown systematic manipulation of cost and benefit analyses of civil works projects by the Corps. A 2006 GAO report found that in one instance the Corps valued project benefits at three times the estimate made by GAO. In another instance, GAO found that the Corps estimate of project benefits would have been reduced by 90 percent if it used current instead of outdated statistics. GAO termed the reliability of Corps information as "spotty at best." Most recently, a DC Circuit Court Judge presiding over a case regarding a Corps Civil Works project said the Corps "obviously worked backwards from the mitigation dollars it could afford to make the project appear to return a positive benefit-cost ratio." Congress and the Corps have made modest attempts to address these problems, but the Energy-Water Appropriations bill still increases Corps funding by \$246 million more than 2007, and \$713 million more than the President's request.

### **OMB PROGRAM ELIMINATIONS/PART RATINGS**

- **OMB Program Eliminations.** The President's fiscal year 2008 budget recommended the elimination of 91 government programs because they have consistently been identified as duplicative or ineffective. This would have saved \$4.9 billion in taxpayer dollars, but the fiscal year 2008 appropriations bills continue to fund 78 of these 91 programs. That leaves \$4.8 billion of the potential savings untouched. Of the 78 programs that have not been streamlined, 32 of these actually received funding increases.
- **PART Ratings.** In 2007, the Administration's Program Rating Assessment Tool (PART) rated 25 programs as ineffective for their failure to achieve their goals. But Congress has increased funding for 13 of these, and has provided continued funding for 10 more without increasing oversight.

The complete list of Rep. Ryan's "Budget Boondoggles" is available online at: <http://www.house.gov/ryan>.

### **JOB-KILLING SPENDING: PORK-BARREL EARMARKS**

"We will bring openness to the budget process and to the use of earmarks, and we will give the American people the leadership they deserve." Thus promised Speaker-in-Waiting Nancy Pelosi on December 12, 2006. The 110th Congress got off to what seemed to be a promising start. But as of December 2007, a year after Speaker Pelosi's "openness" pledge, the Democratic leadership in Congress is blocking earmark reforms advocated by House Republicans that would require all taxpayer-funded earmarks to be publicly disclosed and subject to debate on the House floor. And the "earmark culture" in Washington, DC is alive, well, and thriving in the Democrat-controlled Congress.

In a move praised by House Republican Leader John Boehner (R-OH) on the opening day of the 110th Congress in January 2007, the incoming Majority's leadership appeared to keep intact and even build on earmark reforms adopted by Republicans in 2006 that required all earmarks in all types of bills to be publicly disclosed and subject to challenge and debate on the floor of the House. But as the legislative year went on, the Democratic leadership in the House signaled a different course – a course that many argued was even less transparent and accountable with respect to taxpayer-funded earmarks than had been followed under previous Congresses. Boehner described the Majority's earmark reform retreat in a September 2007 op-ed for the *Wall Street Journal*:

*"Pork-barrel earmarks were an important factor in the loss of the GOP Majority last November. Years of irresponsible earmarks, slipped into bills behind closed doors without public debate or scrutiny, eroded Republicans' reputation as the party of fiscal responsibility and trustworthy custodians of taxpayer funds."*

*"The Democratic Majority came to power in January promising to do a better job on earmarks. They appeared to preserve our reforms and even take them a bit further. I commended Democrats publicly for this action."*

*"Unfortunately, the leadership reversed course. Desperate to advance their agenda, they began trading earmarks for votes, dangling taxpayer-funded goodies in front of wavering members to win their support for leadership priorities."*

*"The Democrats' retreat began quietly, with passage of a 'continuing resolution' in February that contained hidden earmarks. It steadily became more blatant. A troop funding bill was loaded with pork-barrel spending for things like spinach and peanuts – which one top Democrat publicly conceded was only in the bill to buy votes. Members were denied the ability to challenge individual earmarks on the House floor, stepping back from our original reforms and leaving members with no way to force a floor debate and vote on any earmark, even if it violated the rules or was particularly egregious." (Boehner, John; "Pork Barrel Stonewall," *Wall Street Journal*, September 27, 2007)*

The Democratic Majority's retreat on earmark reform is drawing increasing scrutiny from the media, as evidenced by a November 16, 2007 article appearing in the *Christian Science Monitor*:

*"After moving earlier this year to make the federal budget process more transparent to the public, Congress is falling short of its goal of full and timely disclosure of lawmakers' pet projects, or earmarks."*

*"Despite lawmakers' promises to slash earmarks by half, the spending bills for this fiscal year – now wending their way through the appropriations process – include at least 12,000 earmarks totaling more than \$24.7 billion, according to the White House Office of Management and Budget."*

*"Moreover, say watchdog groups and some members, Congress has waived its own new rules on these spending add-ons, meaning the public is unable to see earmarks on a searchable database before they come up for a vote. Millions of dollars in projects are still being 'air-dropped' into final bills behind closed doors, they charge."*

*"Only two projects – \$129,000 for the 'home of the perfect Christmas tree' project in Spruce Pine, N.C., and \$1 million for a museum to celebrate the 1969 music festival in Woodstock, Vt. – were voted out of bills this year after challenges on the floor. But public interest in waste and corruption -- and Americans' rising distrust of Congress as an institution – continues to act as a prod toward greater transparency and disclosure on Capitol Hill." (Chaddock, Gail Russell; "Pork still reigns on Capitol Hill," *Christian Science Monitor*, November 16, 2007)*

Democratic leaders continue to use the rhetoric of reform with respect to taxpayer-funded earmarks. But in practice during the First Session of the 110th Congress, the leaders of the current Majority have refused to lift the veil over wasteful earmarks and bring sunshine to back-door budgeting. The result has been a lack of transparency and public debate regarding billions of taxpayer-funded projects, at the very time Congress is proposing job-killing tax increases on working families and small businesses.

House Republicans united during the autumn of 2007 behind a "discharge petition" that would force a vote on a GOP-authored resolution that would require all earmarks in all types of bills – appropriations bills, authorizing bills, and tax bills – to be publicly disclosed and subject to debate on the House floor. A total of 197 House Republicans have signed the discharge petition as of December 2007. The Democratic leadership in the House, however, continues to refuse to allow a vote on the earmark reform measure, and no rank-and-file Democrats had signed the petition as of December 2007.

Public opinion research indicates the Democratic Majority's position on earmark disclosure is not shared by the American people. A New Models survey taken September 29-30, 2007 by The Winston Group (sample size: 1000 RV) showed a whopping 78 percent of Americans believe Congress should require all taxpayer-funded earmarks to be publicly disclosed and debated before they become law, "even if it would cause significant delays in passing important bills." The failure of Congress to adopt such reforms is almost certainly contributing to American families' anxiety about tax hikes, and their belief that much of the money they send to Washington in the form of tax dollars is simply wasted.

The House Republican Conference, chaired by Rep. Adam Putnam (R-FL), recently compiled a list of some of the most egregious examples of wasteful pork-barrel spending advanced by the Democratic Majority. Many were inserted into spending bills without scrutiny or debate, making a mockery of the earmark rules adopted at the start of the 110th Congress. Examples include:

- **Democrat Earmarking 101: Murtha Inc. Exposed.** *The Wall Street Journal* and the *Washington Post* have both run front page stories about Rep. John Murtha's (D-PA) earmark factory. According to the *Journal*, "many [earmarks] weren't sought by the military or federal agencies they were intended to benefit. Some were inefficient or mismanaged ... One Murtha-backed firm, ProLogic Inc., is under federal investigation..." The *Post* credits the rise of Concurrent Technologies to the largesse of Congressman Murtha, "who helped arrange funding to launch the organization in 1988. Murtha has since arranged millions of dollars more in directed congressional appropriations called earmarks. Now Concurrent has nearly \$250 million in annual revenue and 1,500 employees." ([The Wall Street Journal, 10/30/07](#); [The Washington Post, 11/2/07](#))
- **An Ode to Daschle: The Tom Daschle Center for Public Service.** "A massive federal appropriations bill that includes a \$1 million earmark to create a center for former Sen. Tom Daschle drew heavy fire Tuesday in Washington, D.C. The earmark would pay

for the Thomas Daschle Center for Public Service and Representative Democracy at South Dakota State University. It's among 150 pages of earmarks in a combined bill for education, health services, veterans programs, and other areas of federal government." ([Sioux Falls Argus Leader, 11/7/07](#))

- **Intelligent Earmarking: PAC Contributors Get Earmarks in Intelligence Bill.** "A new political action committee [BEST PAC] created by the brother of [House Intelligence Committee Chair] Rep. Silvestre Reyes (D-Texas) raised \$50,000 this spring almost entirely from staff and clients of powerhouse lobbying shop PMA Group, and within weeks, those same donors reaped millions of dollars in earmarks from Reyes and other Members of Congress closely affiliated with PMA ... Most of the donations were made on May 7, four days before the Intelligence panel approved the 2008 intelligence authorization bill, which included earmarks for several donors to the PAC ... Many of the donors to BEST PAC also are long-time supporters of Reps. John Murtha (D-Pa.), Alan Mollohan (D-W.Va.) and Peter Visclosky (D-Ind.)." ([Roll Call, 10/1/07](#))
- **Flying the Friendly Skies: Appropriations Committee Chairman David Obey's earmark for high-flying Wisconsin CEOs.** "Rice Lake regional airport ... \$2 million in federal funds without debate. Back at Rice Lake, Wisconsin, we sat at the end of the runway and waited – four hours. In all that time, we counted one corporate jet, one twin engine plane and five single engine planes. A total of seven aircraft in four hours. On a good day, we're told, 34 planes in an hour. But no commercial flights. But this airport is vital for corporate executives. They like to visit Rice Lake's manufacturing plants but apparently don't like to spend the night. . . which U.S. congressman decided extending the runway for a few corporate jets was worth your money? Wisconsin Democrat David Obey – the very same person now in charge of appropriations and earmarks." ([CNN, 5/25/07](#))
- **The Boondoggle to End All Boondoggles: Murtha earmarks a "\$39 million taxpayer gift" for a "boondoggle" pet project.** *U.S. News & World Report* criticized the National Drug Intelligence Center (NDIC) as a "[drug war boondoggle](#)." John Carnevale, a former official with the Office of National Drug Control Policy, said "none of us wanted it in Johnstown. We viewed it as a jobs program Murtha wanted [for his district]." CNN labeled it a "\$39 million taxpayer gift to Johnstown," and the *Washington Examiner* noted that "the House Government Reform Committee called NDIC 'an [expensive and duplicative use of scarce federal drug enforcement resources](#).'"
- **Hospital Pork: Democrats secretly earmark hundreds of millions for local projects.** "Despite promises by Congress to end the secrecy of earmarks and other pet projects, the House of Representatives has quietly funneled hundreds of millions of dollars to specific hospitals and health care providers ... Instead of naming the hospitals, the bill describes them in cryptic terms, so that identifying a beneficiary is like solving a riddle. Most of the provisions were added to the bill at the request of Democratic

lawmakers ... Some Republicans have complained about what they call 'hospital pork' ..."  
 ([New York Times, 8/12/07](#))

- **A Monument to Me: Rep. Charles Rangel's (D-NY) earmark for the "magnificent" Rangel Center.** "Is Rangel's 'Monument to Me' Worth It?" ([CBS News, 9/14/07](#)) "New York's Charlie Rangel provided smirks this week when news emerged that the Harlem Congressman was humbly seeking a \$2 million earmark to celebrate the 'Charles B. Rangel Center for Public Service' at the City College of New York. Titters turned to dropped jaws yesterday when a 20-page glossy brochure popped up, describing the yet-to-be-created center. That flyer, which asks for donations, explains that organizers need a mere \$4.7 million to restore a 'magnificent Harlem limestone townhouse' ...one dollop would go to 'a well-furnished office for Congressman Rangel' and another dollop would fund 'the Rangel Library'..." (*Wall Street Journal's OpinionJournal, 7/20/07*)
- **Quite a Stretch: Rep. Pete Visclosky's (D-IN) \$2 million "yoga" earmark.** "The House of Representatives' defense-spending bill has money to pay troops, buy fighter jets and an aircraft carrier – and fund a nonprofit group researching yoga, 'bioenergy' and alternative medicines. The \$2 million earmarked for the Samueli Institute for Information Biology, started by Broadcom Corp. Chairman Henry Samueli and his wife Susan, was inserted into the measure by Democratic Representative Peter Visclosky. The Samueli family has contributed thousands of campaign dollars to Visclosky ... federal records show the Samueli family began contributing to Visclosky's campaigns in 2005, and are now among his largest donors. The \$44,800 they gave is more than they donated to any other member of Congress over the last three years." ([Bloomberg, 9/19/07](#))
- **The Earmark Flood Is Coming: Rep. Henry Waxman (D-CA) rebuilds pricey "Noah's Ark" with taxpayers' money.** "With decaying bridges and crumbling highways sorely underfunded, Congress somehow found the money in last year's transportation budget to help build a boat that won't take you anywhere. . .The ark is actually a children's play park. . .[Rep. Henry] Waxman replied by giving the ark money through a special earmark in, of all things, the transportation budget. . .Noah's Ark has been bringing in \$16,000 in ticket sales per week since it opened last June. And no, taxpayers don't get a cut." ([CBS News, 9/20/07](#))
- **Student Becomes the Teacher: Rep. Mike Doyle (D-PA), "following in Murtha's footsteps," earmarks tax dollars for the "Doyle Center":** "Rep. Mike Doyle, a Forest Hills Democrat and staunch Murtha ally, is an eager apprentice. One major achievement is the Doyle Center for Manufacturing Technology, based in South Oakland. In 2003, Mr. Doyle helped launch the center with a \$1.5 million grant from the Air Force. . .Mr. Doyle's close relationship with Mr. Murtha, head of the powerful House Defense Appropriations subcommittee, is apparent in the center's inner workings. Its board chairman is Edward J. Sheehan Jr., chief financial officer of Concurrent Technologies

Corp., a technology consulting organization that grew from Murtha earmarks in the 1980s." ([Pittsburgh Post-Gazette, 7/15/07](#))

- **Hippie Museum: \$1 million for a museum to commemorate hippies?** Critics called the earmark a "[hippie museum and a taxpayer-funded LSD flashback](#)." According to *The Hill*, "the museum is an interpretation of the 1969 Woodstock music festival and 'the legacies of the Sixties.'" Senator Clinton inserted the \$1 million earmark for the hippie museum because it would "continue to promote education, the arts, culture and tourism in the region." The person that requested the earmark happens to be "a longtime major political donor. The contributions — \$20,000 to the Democratic Senatorial Campaign Committee and \$9,200 to Clinton's presidential campaign — came just days after the earmark was inserted into the legislation." (*Fox News*, November 2007)
- **Fashionably Wasteful: Democrats Earmark Funds for High-Cost Fashion District.** According to its own website, the Los Angeles Fashion District "continues to thrive." California Democrat Lucille Roybal-Allard (D-CA), however, still thought it was important to insert a \$100,000 earmark for the LA Fashion District for "signage and streetscape improvements." One of the district's main thoroughfares, Robertson Boulevard, is known as a [great place to spot celebrity shoppers](#).
- **The Sailing Earmark: A 65-Foot Catamaran Sailing Monterey Bay.** Democratic Rep. Sam Farr (D-CA) received a \$100,000 earmark for O'Neill Sea Odyssey, an "educational" program conducted "on board a 65-foot catamaran sailing Monterey Bay." Its namesake, Jack O'Neill, was "[a wealthy manufacturer of surfing wet suits](#)." One of the program's board members, [Donna Blitzer](#), served as Rep. Farr's chief of staff for 18 years.
- **Big Labor Earmark: Cutting Union Oversight, Boosting Labor Bosses.** Democrats provided Big Labor with a \$1.5 million earmark for the Working for America Institute – a non-profit training program that just happens to be run by the AFL-CIO, an organization that spent a whopping [\\$40 million](#) to elect Democrats to Congress last year. In the very same legislation, Democrats drastically cut the funding for the Office of Labor Management Standards (OLMS), which is tasked with providing audits and disclosures of union financial records to prevent workers' union dues from being squandered.
- **The Speaker's Exploratorium: Instead of "Getting Rid of Earmarks," Speaker Lands \$300,000 for San Francisco Museum.** Not long ago, Speaker Pelosi said about earmarks: "Personally, myself, I'd get rid of all of them...None of them is worth the skepticism, the cynicism the public has...and the fiscal irresponsibility of it." However, she recently included \$300,000 for an Exploratorium in her district. According to the *Politico*, "Republicans argue that the museum is not lacking resources — it received more than \$33 million in federal funding through grants and earmarks in the past six years, according to FedSpending.org — and taxpayers outside the Bay Area should not be subsidizing the program, no matter how worthy it may be."

## PART IV: JOB-KILLING LAWSUITS & LITIGATION

According to the Center for Responsive Politics, lawyers and law firms gave \$23.7 million to the Democratic Party during the 2006 election cycle – nearly three times the amount the industry donated to the Republican Party during the same cycle.

As a political payoff to this special-interest constituency since taking the majority, Congressional Democrats have focused on legislating new avenues for litigation and lawsuits on their behalf. But the consequences of frivolous litigation on the economy are ominous. Lawsuits run amok hamstringing employers and small business owners, stifling innovation and forcing employers to withdraw products, compelling innocent small businesses to pay exorbitant costs to combat frivolous claims, and ultimately endangering American jobs.

In signing into law the 2005 *Class Action Fairness Act* under a Republican-led Congress, President Bush [underscored](#) the exacting toll that lawsuit abuse has on job-creation and the American economy:

*"Small business owners across America fear that one junk lawsuit could force them to close their doors for good. Medical liability lawsuits are driving up the cost for doctors and patients and entrepreneurs around the country. Asbestos litigation alone has led to the bankruptcy of dozens of companies and cost tens of thousands of jobs, even though many asbestos claims are filed on behalf of people who aren't actually sick."*

*"Overall, junk lawsuits have driven the total cost of America's tort system to more than \$240 billion a year, greater than any other major industrialized nation. It creates a needless disadvantage for America's workers and businesses in a global economy, imposes unfair costs on job creators, and raises prices to consumers."*

Indeed, frivolous lawsuits increase the cost of health care and the price of life-saving prescription drugs, hike home heating costs and gasoline prices, and punish consumers by raising the cost of basic goods and services – all of which put a dent in the family budget, undermine job-creation, and harm the U.S. economy. To make matters worse, trial lawyers who benefit from the pro-lawsuit agenda put forth by House Democrats use their expansive fees to perpetuate the cycle of lawsuit abuse by reinvesting millions back into the very same campaign coffers of those who support the right to offer frivolous litigation. In contrast, congressional Republicans advocate curbing the number of frivolous lawsuits, protecting employers and small business owners from financial ruin, and safeguarding the American economy to create more and more good-paying jobs for working families.

Following are just some of the examples of the job-killing, pro-lawsuit agenda put forth during the first 10 months of the Democrat-controlled Congress:

## **JOB-KILLING "FAIR PAY" BILL ENSURES ONLY PAYDAY FOR TRIAL LAWYERS**

In July, House Democrats passed partisan legislation, the *Lilly Ledbetter Fair Pay Act* (H.R. 2831), purportedly intended to protect workers against pay discrimination.

Democrats and Republicans on the House Education & Labor Committee (where the Ledbetter bill originated) agreed all employees should have redress in cases of workplace discrimination. But Republicans and many employers argued the Ledbetter bill went much too far. The bill, opponents warned, opens the door for trial lawyers to cash in on the most substantial change to employment law in more than four decades, undermining U.S. job creation at the same time.

If enacted, the job-killing *Ledbetter* measure, which is currently awaiting action in the Democrat-controlled Senate, would put small business men and women on the hook for decades of decisions that may or may not have even been truly discriminatory, even if the accused passed away long ago. The *Ledbetter* bill would dismantle the statute of limitations established by the 1964 Civil Rights Act and replace it with a new system in which every paycheck received by an employee allegedly targeted by discrimination would start the clock on an entirely new statute. While fair-minded in principle, this dramatic change would have an incredibly far-reaching impact – one that puts the interests of trial lawyers before employers and small businesses that create jobs, as well as the workers the law purports to protect.

The statute of limitations was clearly established in current law to encourage the timely filing of claims, which ultimately protects jobs by helping to prevent the filing of "stale" claims and preventing abuse of the legal system at the expense of potentially innocent employers. House Education & Labor Committee Senior Republican Howard P. "Buck" McKeon (R-CA) and Health, Employment, Labor, and Pensions Subcommittee Ranking Republican John Kline (R-MN) [discussed](#) some of the worst-case scenarios:

*"By gutting the long-standing statute of limitations, an employee could bring a claim against an employer decades after the alleged initial act of discrimination occurred. That means the employee could have received wages and benefits for dozens of years, while the employer's senior leadership could have changed numerous times during that same time period."*

*"This loophole would allow a retiree to seek damages against a company now led by executives who had nothing to do with the initial act of alleged discrimination," said Kline. "The person who allegedly committed that act could have passed away – and in fact, his or her children could have passed away as well. But, under this Democrat bill, the potential for abuse and ambiguity would live on and on. Trial lawyers, you can be sure, are salivating at this very prospect."*

In a letter to House Speaker Nancy Pelosi (D-CA) and Republican Leader John Boehner (R-OH) prior to the *Ledbetter* bill's consideration on the House floor, more than 40 prominent

employer and human resource groups – including the U.S. Chamber of Commerce, the National Association of Minority Contractors, National Federation of Independent Business, and the National Association of Manufacturers – expressed strong opposition to the bill. Specifically, the groups noted that H.R. 2831 “[R]emoves an important incentive to prompt surfacing and resolution of potential claims. It also invites frivolous claims when unwarranted litigation is already an issue under current discrimination laws.”

In a payoff to its special interest allies, the Democrat-controlled House passed the job-killing *Ledbetter* bill on July 31, 2007 – just hours, ironically, after the House passed a lobbying bill that Speaker Pelosi claimed was needed to sever the link between lobbyists and legislation.

### **NEW RIGHTS TO SUE = NEW WAYS TO LOSE YOUR JOB**

On November 7, 2007, Democratic leaders passed controversial legislation – the *Employment Non-Discrimination Act* (H.R. 3685) – which creates a new anti-discrimination framework for actual or “perceived” sexual orientation that is a departure from the longstanding structure of the 1964 Civil Rights Act. The bill undermines state marriage laws, infringes on employment practices of religious organizations, and creates vague, undefined “protections” that will open the door to frivolous, costly litigation that could endanger the ability of employers and small business owners to create more American jobs.

The bill seeks to prohibit discrimination on the basis of “perceived” sexual orientation, yet the term is defined nowhere in the bill. Perceived characteristics are not covered by the existing anti-discrimination framework of the Civil Rights Act, and for good reason. Under this bill, employers would be held liable for their perception of an employee’s sexual orientation, with virtually no way to disprove the allegations of what they did or did not perceive. The bill creates a new protected class that would be afforded protections on the basis of vague and highly subjective measures that are sure to cause confusion in the workplace and lead to costly litigation. Moreover, the bill sets up a conflict with the 11th Amendment by authorizing federal civil damage actions against state entities.

In a recent op-ed, House Republican Whip Roy Blunt (R-MO) explained the consequences the ENDA bill would have for both workers and employers:

*“The legal question this legislation creates is simple: Can one or more of your co-workers – finding passages relating to homosexuality in the Bible morally objectionable -- bring suit against you and your employer on the grounds the mere presence of religious symbology constitutes a ‘hostile workplace’ in which they’re being forced to work?”*

*“[W]e’re reminded by the Majority in Congress that any and all questions of legal concern arising from this legislation can be settled in court. And you can be assured there would be plenty of activity. Because by advancing legislation that creates an entirely new class of protected freedoms (the freedom to claim discrimination on the basis of sexual orientation) outside existing Title VII law, Democrats are putting those newly established*

*freedoms on a collision course with classes of protected freedoms that already exist -- of which freedom of religious expression is a poignant example."*

*"The inevitable upshot of pitting two classes of people against each other – one protected by the Constitution, the other through congressional fiat – is litigation. Loads of it. And depending on who is sitting on the bench that day, and in what state he or she happens to be sitting, your freedom to practice religion could be greatly impinged. So much so that you may lose your job because of it."*

The ill-conceived, ill-defined ENDA legislation is another example of how Democrats are working to create new causes of action for frivolous lawsuits at the expense of employers and small business owners who create American jobs.

### **ENCOURAGING JOB-KILLING LITIGATION, DISCOURAGING ARBITRATION**

At the urging of the trial lawyer lobby, Democratic leaders have made a concerted effort to undermine the use of arbitration in dispute between sellers and buyers in the American marketplace. The Democrats' objective is to enhance trial lawyers' ability to file class action lawsuits – even, evidently, if doing so destroys thousands of American jobs in the process.

Many employers, small businesses and consumers use favor arbitration over lawsuits because it works to the advantage of both parties involved in a dispute. Employers favor arbitration because it allows for an orderly dispute resolution process that avoids the costly court system and doesn't undermine their competitiveness or their ability to create new jobs. Even lawyers acknowledge the comparative merits of arbitration. As the editors of the *Wall Street Journal* explained in a recent editorial:

*"Arbitration, which avoids the cost and time of going to court, has proven to be a popular form of alternative dispute resolution. Even lawyers concede its virtues. In 2003, an American Bar Association survey found that 78% of lawyers 'believe that arbitration is generally timelier than litigation, and 56% feel it is more cost effective."*

*"[Trial lawyers and politicians] claim that arbitration is often heavily stacked in favor of companies, but a 2004 study in *Law and Contemporary Problems*, a publication of Duke Law School, found exactly the opposite. Under existing law, judges can throw out arbitration agreements tilted too far in favor of one party, so most arbitration clauses tend to give the consumer a reasonably fair shake."*

*"University of Kansas law professor Stephen J. Ware says that even in cases where arbitration contract terms are more favorable to sellers, the result is generally lower prices for consumers, because the cost of lawyering has been stripped out. 'Recognition of this has been standard in the law-and-economics literature for at least a quarter of a century,' he notes." ("Party at Ralph's," *Wall Street Journal*, November 7, 2007).*

Despite this evidence, key Democrats during the 110th Congress have introduced a number of bills that would destroy jobs and hurt consumers by restricting or eliminating the use of arbitration agreements in commercial transactions. "The Democratic strategy is to attach an anti-arbitration provision to nearly every new law in order to limit non-lawsuit dispute settlement," the editors of the *Wall Street Journal* explain.

Rep. Luis Gutierrez (D-IL), for example, has introduced legislation, H.R. 1443, that would make all pre-dispute consumer arbitration agreements unenforceable. The stated goal of the bill is "[T]o treat arbitration clauses which are unilaterally imposed on consumers as an unfair and deceptive trade practice and prohibit their use in consumer transactions" (Library of Congress records, via THOMAS, November 6, 2007). But the practical implications of the bill are much more ominous, for both workers and employers. The nonpartisan Congressional Research Service (CRS) offers this somewhat more useful characterization of the bill's effect: "[The Gutierrez bill amends] the Consumer Credit Protection Act to treat as an unfair and deceptive trade act or practice under federal or state law any written provision in a consumer transaction or contract which requires binding arbitration to resolve a controversy arising out of or related to the transaction or contract, or the failure to perform any part." Put simply: the bill, and others like it being championed by other Congressional Democrats, would discourage or prohibit arbitration in favor of expensive lawsuits and litigation.

The Gutierrez bill is dwarfed, according to the *Wall Street Journal's* editors, by a separate arbitration bill, offered by Rep. Hank Johnson (D-GA):

*"The mother of them all is a bill that lunges to fulfill the trial bar's long-cherished dream: prohibiting all Americans from voluntarily agreeing at the start of any business relationship to settle disputes without litigation. The lawyers may concede the principle, but they still want the money. And speaking of money, the trial bar has plenty to share with friendly lawmakers. Representative Hank Johnson [D-GA], who coincidentally collected more money from lawyers than from any other industry group in the 2006 election cycle, has introduced the Arbitration Fairness Act [H.R. 3010]. The bill would outlaw pre-dispute arbitration agreements in the future for all private contracts involving consumers, employment and franchising. And it would retroactively rewrite hundreds of millions of existing private contracts, all voluntarily accepted by consenting adults."*

*"You could then count the minutes until class-actions are detonated against Wall Street brokerages, with their 100 million customer agreements featuring pre-dispute arbitration clauses, or against America's cell phone carriers, with more than 60 million customers who have agreed to forgo litigation. . ."*

*"The idea that Americans could do business and even settle arguments without litigation is evidently beyond the pale to Mr. Johnson. The Congressman also displays a peculiar understanding of American markets when he notes in the findings section of his bill that when companies offer contracts to potential customers, 'people increasingly have no choice but to accept them.'"*

*"What you will not see in the findings of this bill, where politicians typically describe the problem they intend to solve, is any evidence that arbitration harms consumers or anyone else." ("Party at Ralph's," Wall Street Journal, November 7, 2007)*

A third anti-arbitration bill, the so-called Predatory Mortgage Lending Practices Reduction Act (H.R. 2061), authored by Rep. Stephanie Tubbs-Jones (D-OH), seeks to reduce arbitration and encourage lawsuits in the U.S. housing industry, which employs hundreds of thousands of American workers.

The National Association of Home Builders, which represents 235,000 job-creating employers in the United States, has spoken out against job-killing legislation and regulation that would seek to shut down arbitration in home-building contracts in favor of lawsuits and litigation. "[A]lternative dispute resolution, including binding arbitration, is often the most rapid, fair and cost-effective means to resolving disputes – for both the builder and the buyer – arising out of the construction or sale of the home," NAHB spokeswoman Donna Reichle told the *Cincinnati Enquirer* this summer McNair, James; "Construction arbitration remains in legal limbo," *Cincinnati Enquirer*, July 28, 2007). "In contrast. . . litigation is an inefficient means to resolve construction defect disputes. It is expensive, time-consuming and unlikely to produce the desired result, which is having a problem repaired."

Subjecting the homebuilding industry to unnecessary new lawsuits and litigation will have consequences for American jobs. As Paul Emrath explained in a 2005 report:

*"Building a home impacts the national economy in a number of ways. Probably the most obvious way is by employing the workers who actually build the structure, but the impacts are broader and extend to other industries as well. For example, jobs are generated in the industries that produce and distribute lumber, concrete, lighting fixtures, heating equipment, and other products that go into a home. Additional jobs are generated for professionals such as architects, lawyers, lenders, real estate agents and others who provide services used by home builders. Across all industries in 2005, NAHB estimates that building an average housing unit generates a total of 3.47 jobs, for an average single family unit [and] 1.29 jobs, for an average multifamily unit. In addition, home building provides a further spending stimulus to the economy as new home buyers typically purchase items such as furniture and appliances." (Emrath, Paul; "Home Building's Direct Impact on the U.S. Economy," NAHB, August 8, 2005)*

Despite the considerable evidence, Democrats are moving forward with these anti-arbitration bills. If enacted, they will do little if anything to protect the rights of consumers. But they will increase costs to employers and small businesses, lead to more frivolous claims, and kill more family-wage jobs in the U.S.

## **JEOPARDIZING EMPLOYEE BENEFITS & ENDANGERING NEW JOB CREATION**

Both Republicans and Democrats alike support providing meaningful, practical information to employees about their retirement security, including 401(k)s and pension plans. That's why President Bush and Congress enacted the bipartisan *Pension Protection Act* in 2006 to strengthen disclosure and give workers and retirees more information about the status of their pension plans. Unfortunately, Democratic leaders are now proposing legislation – the *401(k) Fair Disclosure for Retirement Security Act* (H.R. 3185) – which would expose employers and small businesses to junk lawsuits that would increase their costs, jeopardize employee benefits, and endanger their ability to expand their businesses and create new jobs.

Specifically, the Democrats' bill would, for the very first time, require employers to provide employees with a specific type of investment vehicle – a market-based index fund – in their 401(k) that is “likely to meet retirement income needs at adequate levels of contribution.” What does the ill-defined “likely to meet retirement income needs” mean? It means that employers must select a retirement investment for employees that ensure a pre-determined retirement outcome without any liability protections in place should the investment ultimately not meet specific targets. Therefore, if the employer or small business gets it wrong 30 years from now, they could be exposed to potentially frivolous lawsuits on an epic scale. This type of ill-conceived plan jeopardizes the willingness of employers to offer quality benefits to their employees, significantly drives up costs for businesses, and needlessly exposes them to job-crippling junk lawsuits.

In testimony given to the House Committee on Education & Labor on October 4, 2007, organizations representing the benefit plans of millions of American workers spoke out against the bill. The American Benefits Council, the American Council of Life Insurers, and the Investment Company Institute warned Congress against imposing “unnecessary burdens and cost” on the benefit plans upon which American workers are counting for their retirement (Spencer's Benefit Report, “Benefits Groups Urge Congress Not To Impose ‘Unnecessary Burdens’ In 401(k) Plan Fee Disclosure,” October 17, 2007). As the organizations told the Democrat-controlled panel:

*“The role of section 401(k) plans in providing retirement security has grown tremendously over the last 25 years and is continuing to grow. In that light, legislative and regulatory actions with respect to such plans similarly take on an increased importance. Applicable legislation and regulations should ensure that these plans function in such a way as to help participants achieve retirement security. At the same time, we all must bear in mind that unnecessary burdens and cost imposed on these plans will slow their growth and reduce participants' benefits, thus undermining the very purpose of the plans.”*

The U.S. Chamber of Commerce, which also submitted testimony for the October 24 hearing, warned that lawsuit-friendly pension legislation will have a negative impact on workers'

job benefits. “[P]lan sponsors may begin to feel that they need to choose the least expensive investment option in order to avoid litigation claims,” the Chamber noted.

A benefits lawyer for a major U.S. employer was more blunt in testimony given days later before the House Committee on Ways & Means on behalf of the ERISA Industry Committee, the Society for Human Resource Management, the National Association of Manufacturers, the U.S. Chamber of Commerce and the Profit Sharing/401/K Council of America:

*“In testimony before the House Ways and Means Committee on Oct. 30, Lew Minsky, senior attorney for the Florida Power and Light Co. . . said that ‘major employers are concerned that missteps on fee disclosure could inadvertently damage the defined-contribution retirement system and threaten the retirement security of millions of workers.’”*

*“He said the disclosure requirements could lead to ‘litigation fishing expeditions’ that could ‘do great damage to the 401(k) system’ and that the proposed rules ‘would dramatically increase the administrative costs paid by plan participants while overwhelming them with information that is of little practical value as they make the decision to participate in the 401(k) plan and the decision of which investment option to select.’” (Stephen Barlas, “Fee-Disclosure Bills Cause Concern,” Human Resource Executive Online, November 6, 2007)*

Experts note that encouraging unnecessary lawsuits in the employee benefit system will ultimately have only one effect: it will discourage employers from offering generous benefit packages to their workers, or force them to hire fewer workers in the first place, destroying American jobs.

## **EMPOWERING TRIAL LAWYERS IN THE NAME OF SHAREHOLDERS**

Earlier this year, the Democrat-controlled House passed legislation – the *Shareholder Vote on Executive Compensation Act* (H.R. 1257) – to mandate that shareholders of public companies approve or disapprove of a company’s executive compensation plans, even though companies can voluntarily provide this vote today. Experts note the bill, which is now awaiting action in the Democrat-controlled Senate, could lead to billions in frivolous claims against public companies, undermine their global competitiveness, and hamstring their ability to create family-wage jobs for more Americans.

The case against this job-killing bill starts with a single premise: a board may be fearful of its company’s most activist shareholders and – in turn – could substitute the judgment of the shareholder they think most likely to sue for their own personal gain. Indeed, if a hypothetical board did reject the will of the shareholders, lawsuits would inevitably follow, and courts could consider a board’s decision to disregard the vote of shareholders as evidence of the board’s failure to satisfy its obligations under current law. Subjecting this and other potential decisions

to shareholder approval, observers argue, would politicize an employer's decision-making process, stifle company growth and job creation, and reduce returns for shareholders.

The Frank bill was criticized by two experts writing in the May 24, 2007 edition of the New York Law Journal who noted the harmful economic effect it will likely have once enacted:

*"In March 2007, U.S. [Rep.] Barney Frank [D-MA] introduced legislation that would require stockholder advisory votes on executive compensation packages. [Rep.] Frank's bill also would require that stockholders approve any compensation arrangements entered into in connection with business combination transactions. . ."*

*"Stockholder activists, in their constant quest for greater stockholder involvement in the key decisions taken in the life of a company, run the risk of destroying the effectiveness of the board. Moreover, the specific interventions that are the subject of recent stockholder proposals are becoming less justified as more companies move toward a majority-voting standard in the election of directors. Stockholder activists have been emboldened by the success in recent years of initiatives such as majority voting and the dismantling of takeover defenses. They would be wise, in our view, to let the current round of reforms play out rather than attempting to accelerate the pace of reform still further. Public company boards that are elected by and answerable to stockholders long have done the work that has made the U.S. capital markets prosper, and market participants should make sure that the consequences of recent, significant changes to public company governance structures are clear before implementing additional changes that could possibly do irreparable harm to a fundamentally sound and successful system." ("Shareholder Activists Risk Destroying Board Effectiveness," David A. Katz and Laura A. McIntosh, *New York Law Journal*, May 24, 2007)*

House Republicans, led by Rep. Tom Feeney (R-FL), offered a motion-to-recommit proposal during floor consideration of the Frank bill to ensure that the shareholder vote was non-binding and make clear that no court may consider the board of directors' refusal to follow the shareholder advisory vote as a breach of obligations under the law. In other words, the board of directors may continue to use its best judgment when making its decisions free from the fear of bogus lawsuits that serve the interests of trial lawyers, and not job-creating employers. The Democratic Majority rejected this proposal, however, favoring a pro-lawsuit approach that threatens economic growth and jobs.

In the end, the real beneficiaries of the Democrats' bill will be trial lawyers racing to the courthouse. The losers will be American employers, investors, and ultimately, American workers.

### **PUTTING THE INTERESTS OF TRIAL LAWYERS BEFORE U.S. SECURITY & JOBS**

Republicans have criticized what they call a dangerous pattern of behavior by congressional Democrats when it comes to national security matters. In more than one

instance, however, this pattern of behavior has implications not just for America's national security, but for Americans' job security as well. Legislation introduced by Democratic leaders to update the Foreign Intelligence Surveillance Act (FISA) has been opposed by Republicans because it fails to close the terrorist loophole in our nation's intelligence laws and weakens our national security. But it also includes troubling provisions that protect the trial lawyers' lobby and undermine U.S. job creation.

The Democrats' FISA bill denies liability protections for third parties such as American employers which may have assisted the government in preventing terrorist attacks in the wake of 9/11. At the same time, the flawed legislation contains no provision for such third parties to challenge FISA Court orders directing them to cooperate. In short, the message from Democrats to third parties that assist in protecting the homeland from attack is: "You will help, and you will do so at your own risk even if it puts your business and your employees' jobs at stake."

A former commissioner of the Federal Communications Commission (FCC), Harold Furchtgott-Roth, recently penned an op-ed for the *New York Sun* concerning the negative impact the Democrats' lawsuit-friendly FISA bill is likely to have on investment and job growth in the United States if enacted as written ("'Indemnification' Could Send Investors Abroad," *New York Sun*, November 7, 2007):

*"FISA is a law designed to enable our federal government to track down foreign wrongdoers who would harm Americans and destroy our government. But FISA in court proceedings today is being turned on its head to intimidate companies whose only crime was helping our government."*

*"Our courts are fair and just and the best in the world, but they are ill suited to handle cases in which evidence and even theories are shrouded in highly classified materials. Merely to discuss publicly the specific actions taken under FISA may be unlawful."*

*"Moreover, their accusers seek to punish the telecommunications companies not for wrongs they directly committed for corporate gain but for the wrongs committed by the government — supposedly improperly collecting and handling customer information. Assigning private parties the responsibility for the behavior of the government violates every tenet of civil liberty. Wrongdoers are exculpated; the innocent punished."*

*"Surely, in a rational world, civil liberties groups would rally to the defense of telecommunications companies. But in our world, it is civil liberties groups, such as the American Civil Liberties Union and the Electronic Frontier Foundation, that are among the accusers. Some of the lawsuits target just the federal government for allegedly mishandling FISA. But other lawsuits include the telecommunications companies, perhaps as hostages to gain leverage on the federal government to change FISA practices. Tomorrow's hostages could be banks, airlines, or anyone else. . ."*

*"Congress is reviewing FISA and has an opportunity to clean up the mess. Understanding that neither FISA nor our national security structure can operate without the full cooperation of private companies, [Congressional Democrats] are offering immunity."*

*"Why should any company need immunity from being sued? Only a narrow set of companies — those that cooperated with the federal government after being assured of the lawfulness under FISA by the federal government — need protection. Indeed, it would be easy to imagine a situation in which the federal government, after it assures a private party of the lawfulness of an action, assumes all legal responsibility for such action. Under this scenario, aggrieved parties under FISA could continue to sue the federal government, as they do today."*

*"But [Democrats] believe that any form of immunity is wrong. Senator Dodd has even threatened to filibuster any FISA bill offering immunity. Is there a compromise position? 'Indemnification' for telecommunications companies, first mentioned in recent weeks by [Democratic] Senators Specter and Reid, is a supposed middle ground. But federal indemnification may be the worst of all possible outcomes."*

*"Even under FISA indemnification, telecommunications companies would defend themselves in court against findings of liability because such liability may have far-reaching effects on related litigation not subject to federal indemnification. Such indemnification would likely not cover subsequent litigation addressing the management and judgment of the company. These companies could suffer a long series of court battles even under indemnification. Indemnification would create perverse incentives if a telecommunications company were found liable. The company would have no incentive to object to large damages and penalties. Further, knowing that taxpayers would pay any damages and penalties, some courts and juries might inadvertently be more inclined to find liability in the first instance. Plaintiffs, most of whom claim little interest in financial rewards, might receive kingly ransoms, all at the taxpayer's expense. . ."*

*"Some investors will watch [Congress]. If [Congress] adopts indemnification, investors will conclude that there must be a better industry — and perhaps country — for investments."*

This is nothing new for Democratic leaders. They strongly supported the cause of trial lawyers and blocked liability protections for third parties when Republicans successfully pressed for enactment of FISA legislation, the *Protect America Act*, in August 2007. The *Wall Street Journal* recently editorialized on the issue:

*"Democrats blocked any retroactive liability protection for companies that thought they were doing their patriotic duty by cooperating with the National Security Agency after 9/11. The goal here isn't merely to open another rich target for the tort bar. It is to use lawsuits to raise the costs for private actors of cooperating with the executive branch."*

*Even if they lose at the ballot box or in Congress, these antiwar activists still might be able to hamstring the executive via the courts."*

The failure to protect third parties puts American employers at risk and endangers the jobs of their employees. Unfortunately, however, as of December 2007, the issue remains unresolved by the 110th Congress. In contrast to the Democrats' pro-lawsuit agenda, Republicans are working to protect from frivolous lawsuits private parties who lawfully cooperate with the U.S. government to keep Americans safe, as well as the thousands of American jobs that are threatened if these employers aren't rightfully protected.

### **REPORT A POTENTIAL TERRORIST, GET SUED: THE DEMOCRATS' "FLYING IMAMS" DEBACLE**

Another instance of misguided congressional policy with consequences for both national security and American jobs occurred last spring, when Democratic leaders attempted to kill legislation sought by Republicans aimed at shielding innocent employers, employees, and others who report potential terrorist activity aboard various forms of public transportation from frivolous lawsuits.

On March 27, House Republicans responded to widespread public outrage about last November's infamous "Flying Imams" incident aboard a U.S. Airways flight from Minneapolis to Phoenix, in which six Islamic leaders were removed after worried passengers observed them acting suspiciously. The passengers and crew involved in the incident were later sued, in a highly publicized case. Concerned about this incident and the holes it exposed in American law, Homeland Security Committee Ranking Republican Peter King (R-NY) and Rep. Steve Pearce (R-NM) offered a proposal to shield innocent employers, employees, and passengers who report potential terrorist activity aboard various forms of public transportation.

Instead of working with Republicans to enact this common-sense measure, Democratic leaders responded by attempting to kill it, voting against the proposal and urging their members to do the same. Even though a majority of House Democrats voted against the initiative, House Republicans spearheaded passage the measure by a vote of [304-121](#).

But Democratic leaders weren't done. The [Washington Times](#) reported that Democratic leaders tried to kill it again by removing the lawsuit protections from the 9/11 conference report. An editorial in the [New York Post](#) commented on the move:

*"Unwilling – and unable – to oppose the measure in broad daylight, the Democratic leadership did everything it could to kill it behind closed doors – in the conference committee charged with reconciling the House and Senate versions of the bill."*

Democratic leaders were so dedicated to their pro-lawsuit agenda that they chose to put a premium on safeguarding the rights of the trial lawyers' lobby instead of supporting common-sense protections for heroic Americans who report potential terrorist activity to the proper

authorities. Just as important, their approach would lead to more frivolous lawsuits, increased costs for employers, small businesses, and their employees, and potentially cost thousands of jobs in the transportation industry. Despite opposition from Democratic leaders, the persistence of Republicans like King and Pearce finally paid off, and the protections against frivolous lawsuits are now law.

## PART V: JOB-KILLING REGULATIONS & MANDATES

According to the Center for Responsive Politics, Washington labor bosses – struggling to combat declining union membership in the United States – gave nearly \$60 million in hard-dollar political action committee (PAC) contributions to Democratic candidates in the last election cycle, with tens of millions more for “get out the vote” efforts to aid the Democratic Party at the state and local level. The American Federation of State, County and Municipal Employees (AFSCME) gave \$2,340,170 to Democrats in 2006, and only \$27,000 to Republicans. The International Brotherhood of Electrical Workers (IBEW) gave \$3,147,161 to Democrats, and \$81,850 to Republicans. Of the top 20 major donors to all political campaigns in 2006, more than half (12) were Washington-based labor unions, and all gave overwhelmingly to Democrats.

The massive injection of big money was linked, and not subtly, to labor bosses' increasingly desperate effort to pass job-killing laws protecting their ability to deny jobs to workers who refuse to join a union, a trend that has increased dramatically among American workers in recent years.

Immediately after the 2006 election, nationwide editions of the *Business Journal* reported:

*“Labor unions poured more money than ever into this year's elections and finally got what they wanted: Democratic control of Congress. . .”*

*“The AFL-CIO spent \$40 million on this year's elections, and it claims voters from union households accounted for more than 80 percent of the Democrats' total margin in congressional races.”*

*“It was money well-spent,’ [AFL-CIO President John] Sweeney says.”*

Washington labor bosses are reportedly promising an even larger infusion of cash and political muscle on behalf of the Democrat-controlled Congress and the Democratic presidential candidate in 2008. “Like the 10-million-member AFL-CIO, the 1.9-million-member SEIU [Service Employees International Union] says it is planning the ‘biggest mobilization’ in the U.S. labor movement's history ahead of the 2008 elections,” *Reuters* recently reported (“U.S. unions ready to push new laws if Democrats win big,” Nick Carey, *Reuters*, November 4, 2007). “If the Democrats hold both houses of the U.S. Congress and take the White House in the 2008 elections, America's struggling unions plan to trade their political support for a raft of labor-friendly bills,” *Reuters* also reported. The report stands in sharp contrast with the rhetoric of House Speaker Nancy Pelosi (D-CA), who has often stated that congressional Democrats have “broken the link between lobbyists and legislation.”

The link between labor lobbyists and legislation promoted by the Democrat-controlled Congress has manifested itself in the form of job-killing regulations and mandates from Washington. The Majority has repeatedly advanced Big Labor-backed bills that tighten

Washington regulations and mandates on small businesses and other key job providers – regulations that strangle the American economy and kill jobs in the process.

Indeed, Big Labor has played a key role in shaping the agenda of the 110th Congress – and largely by insisting on overbroad legislation aimed at crafting and protecting overburdening federal regulatory schemes.

In contrast, Republicans have taken a more cooperative approach to federal regulation – one that fosters a relationship of trust and respect between government agencies and the industries they are charged with regulating. President Bush said it best in a 2002 report to Congress on the state of small businesses and regulations impacting them:

*“We should regulate only where there is a real need, fully justified through rigorous cost-benefit analysis and clear legal authority. And when government must regulate, it must adopt common sense approaches. Regulations work best when agencies anticipate and analyze the effects of their proposals on small firms.”*

Unfortunately, the current Congress does not share that same vision. Following are just some of the examples – some grand in scale and some seemingly minor – of the pro-excessive mandate, anti-jobs agenda put forth by House Democrats in the 110th Congress.

### **EXPANDING DAVIS-BACON WAGE MANDATES THAT STIFLE JOB GROWTH**

Signed into law in 1931, the Davis-Bacon Act has inflated labor rates for workers on government projects for more than three-quarters of a century. And in true “death by a thousand cuts” fashion, the House this year advanced a number of measures to expand the controversial federal wage mandate on employers throughout the country, risking scores of jobs in the process.

Specifically, the Davis-Bacon Act requires that each federal government contract worth over \$2,000 for the construction, alteration, or repair of public buildings or public works include minimum wages for workers that are no less than the locally prevailing wages paid on similar projects (as determined by the Secretary of Labor). Prevailing wages are often based upon union-negotiated wages and generally exceed the average wage in the area. The following bills have passed the House containing new Davis-Bacon mandates:

- H.R. 720, the Water Quality Financing Act. The bill passed the House on March 9, 2007.
- H.R. 2638, the Department of Homeland Security Appropriations Act. The bill passed the House on June 15, 2007.
- H.R. 2419, the Farm, Nutrition, and Bioenergy Act. The bill passed the House on July 27, 2007.

## DEATH BY A THOUSAND CUTS: DEMOCRATS' WAR ON AMERICAN JOBS

- H.R. 3221, the New Direction for Energy Independence, National Security, and Consumer Protection Act. The bill passed the House on August 4, 2007.
- H.R. 3246, the Regional Economic and Infrastructure Development Act. The bill passed the House on October 4, 2007.
- H.R. 2095, the Federal Railroad Safety Improvement Act. The bill passed on October 17, 2007.
- H.R. 3224, the Dam Rehabilitation and Repair Act. The bill passed the House on October 29, 2007.

By inflating labor rates, Davis-Bacon wages increase the costs of federal projects by as much as 15 percent – costs which get passed on to the taxpayers – and force private companies to do hundreds of millions of dollars of excess administrative work each year. As a result, companies are often forced into an impossible decision: pay the administrative costs to comply with the onerous Davis-Bacon regulations or use the resources to create jobs and expand benefits.

Notably, the costly and time-consuming requirements of Davis-Bacon bias government contracting against small (often minority- or female-owned) businesses that simply do not have the resources to comply. As a result, large, unionized companies are more often awarded government contracts – even for small projects – underscoring the fact that, once again, Davis-Bacon regulations kill jobs and stifle job creation.

### **UNBALANCED MINIMUM WAGE MANDATE WILL KILL 1.6 MILLION AMERICAN JOBS**

The Democrat-controlled House has signaled a willingness to impose job-killing minimum wage mandates on employers without providing corresponding protections for small businesses, which account for the majority of new jobs created each year by the U.S. economy. A minimum wage increase was signed into law by President George W. Bush during the summer of 2007 that included small business relief to help small businesses absorb the blow from the new government wage mandate. But the Democrat-controlled House originally sought to send the minimum wage hike to the President without the small business protections. And a number of congressional Democrats have signaled a desire to pass another mandatory minimum wage increase in the near future.

On January 10, 2007, the House passed H.R. 2, the Fair Minimum Wage Act, to raise the federal minimum wage without providing small businesses any protection from the new mandate – and, thus, hindering their ability to provide and create new jobs. Rep. Howard P. “Buck” McKeon (R-CA), Ranking Member of the House Education & Labor Committee, underscored the importance of considering the interests of small businesses during the House debate of H.R. 2, noting:

*"Small businesses are the backbone of our economy. They create two-thirds of the nation's new jobs. And they represent 98 percent of the new businesses in the United States. Small businesses and their workers are counting on Congress to consider how any minimum wage proposal would impact them."*

Rep. McKeon's plea was ignored by the Democratic Majority in the House, which passed a minimum wage mandate on employers devoid of any relief for small businesses. Only after the Senate passed a minimum wage bill that included small business protection did the House consent to small business relief.

Studies confirm that a minimum wage mandate lacking small business relief would saddle small businesses and their workers with a substantial burden and hurt precisely those it intends to help. For example, the Congressional Budget Office (CBO) estimates a minimum wage increase would impose a \$5 billion to \$7 billion unfunded mandate on those small businesses. As a result, according to the Hoover Institution, 20 percent of the nation's minimum wage workforce (about 1.6 million workers) could lose their jobs under an unbalanced minimum wage increase. In fact, according to a study reviewed by a Federal Reserve economist, as many as one million workers in the restaurant industry alone could lose their jobs as a result of a minimum wage increase – underscoring the job-killing nature of an unbalanced minimum wage hike.

### **WEAKENING FEDERAL JOB TRAINING PROGRAMS THROUGH "GREEN JOBS" INITIATIVE**

In past Congresses, the Republican-led House voted consistently to streamline and consolidate Workforce Investment Act (WIA)-governed federal job training programs that provide job seekers the best possible services available. The House acted in this way because program overlap and duplication within WIA has contributed to a confusing patchwork of services at the state and local level, squandering resources and reducing the funding available for job training and related services.

On August 4, 2007, the House passed H.R. 3221, the New Direction for Energy Independence, National Security, and Consumer Protection Act – a measure that not only included new, job-endangering Davis-Bacon mandates, but one that also included a new "Green Jobs" program that further complicates the structure of federal job training programs.

The Green Jobs program would establish new training programs specifically for jobs related to energy conservation. However, the program is highly duplicative in nature, with the U.S. Department of Labor pointing out that the workforce investment system is currently addressing the needs of the energy industry through: the WIA formula programs; the High-Growth Job Training Initiative; the Community-Based Job Training Initiative; and the Workforce Innovation in Regional Economic Development – or WIRED – initiative. As a result, the Green Jobs program would amount to little more than additional red tape, bureaucracy, and hurdles for job-seekers.

Additionally, Ranking Member on the House Education & Labor Committee, Rep. Howard P. "Buck" McKeon (R-CA), highlighted some significant flaws in the Green Jobs program that Members were not provided adequate information on before the House approved the broader energy bill on August 4, 2007:

*"Members should know the rationale for giving non-violent criminals priority for training under the 'Green Jobs' bill. Members also should know why the Majority chose to circumvent the successful one-stop program and, instead, insist that training for 'Green Jobs' be provided through an entirely new and separate line of programs. Likewise, Members should know why labor unions are given special treatment under this bill, when the local workforce investment boards and the business community – those who actually provide jobs – are left out in the cold."*

*"And finally, Members should also have the opportunity to ask why we've singled out energy-related jobs for this new, special treatment. Our nation needs more nurses, more skilled auto workers, and more workers in a variety of other fields mired in heavy global competition. While I certainly agree with efforts to increase energy conservation and support jobs that place a premium on it, why does this legislation single-out 'Green Jobs' and 'Green Jobs' alone?"*

Indeed, largely at the behest of Big Labor, the Green Jobs program is destined to further complicate federal job training programs – making life even more difficult for Americans who find themselves out of work and in need of assistance.

### **UNDERMINING JOB PROVIDERS THROUGH UNDEMOCRATIC "CARD CHECK" SCHEME**

On March 1, 2007, the House passed H.R. 800, the cleverly-titled Employee Free Choice Act, which would expose workers' private votes in workplace unionization elections – through a practice commonly referred to as "card checks" – and make them completely public. Such mandatory card checks can strip workers of the right to choose – freely and privately – whether to unionize, and card checks notoriously leave workers open to coercion, pressure, and outright intimidation and threats. A vote on H.R. 800 was the top priority for organized labor in the new Congress.

Following the vote, Rep. Howard P. "Buck" McKeon (R-CA), Ranking Member on the House Education & Labor Committee, highlighted the fact that the bill was a boon to Big Labor and would undermine basic workplace rights for American workers:

*"Today, after months of anticipation since last November's election, we finally saw Big Labor's Big Payoff, and it's the American workers who are truly paying the price. Workers deserve to cast unionization ballots in their workplace without the threat of intimidation and coercion. But the so-called 'Employee Free Choice Act' undermines that*

*right and makes workers' votes public to everyone, from employers and co-workers to union organizers and union bosses. That's not free choice – not in this country anyway."*

Card check is not just an affront on democracy; it also is an affront on jobs generally. Giving union bosses an unfair advantage in workplace elections – at the expense of workers and their employers – erodes trust in the workplace, leads to a less friendly economy in which to do business, and provides an incentive for employers to seek other alternatives, such as moving their operations overseas. Indeed, the Majority's war on jobs is taken to a new level by those who back a card check – war on privacy in the workplace.

### **EXCESSIVE PORT SECURITY MANDATE THREATENS MORE THAN 356,000 U.S. JOBS**

Responding to concerns about inadequate security at U.S. ports in the wake of the 9/11 attacks, the Republican-led Congress and President Bush cooperated to enact the SAFE Port Act in 2006. Because of this legislation, six pilot sites were established that scanned 100 percent of U.S.-bound containers for nuclear material through radiation and imaging scans.

The pilot programs were intended to enable the Department of Homeland Security to evaluate the results of the pilot prior to enacting a permanent program. Unfortunately, the Democrat-controlled 110th Congress ignored this pilot project, mandating that 100 percent of all U.S.-bound cargo be scanned by 2012 – “an action done without considering the results of the SAFE Port Act pilot or comparing the costs and security benefits of such a mandate,” according to Republicans on the House Committee on Homeland Security. “The decision to ignore results of the pilot program sparked outrage from U.S. allied governments and key maritime transportation stakeholders,” Committee Republicans note. “In addition, there is significant concern about the cost of this initiative on the economy and the American worker.”

The estimated costs of implementing 100 percent screening of containers at ports are difficult to understate. According to a Congressional Budget Office (CBO) report (“Economic Costs of Disruptions in Container Shipments”), the cost of a cargo container increases for each day that is delayed. In 2004, the value of goods imported by way of containers totaled \$423 billion. When the CBO formula for calculating the added cost of delays in container storage are factored in, the cost of the Democratic mandate is about \$3.25 billion just for a single day of delay. “If we estimate that 100 percent screening would result in an average delay of five days for a container when it arrives at port, we see an additional cost of \$20 billion,” Committee Republicans note with concern.

This statistic is even more troubling when viewed in terms of its likely effect on American jobs. In a study by the Bureau of Labor Statistics in 2002, the estimated average American's salary is \$36,764, and the total cost to employers per employee is, on average, \$47,719. Using this data, House Republican staff estimates that the cost of a single day of delay due to the Democrats' excessive cargo screening mandate is a potential loss of 71,261 jobs. The cost of a five-day delay, due to the loss of a projected \$20 billion, is 356,305 jobs.

## SUMMARY

An undeclared war is being waged against American jobs by the 110th Congress. To finance its agenda of government expansion, the Democratic Majority in Congress has disregarded both the anxieties of working families and the counsel of economic analysts, raising taxes on families and small businesses and increasing wasteful spending at a time when U.S. job growth may be particularly vulnerable to misguided policy decisions made by Washington politicians. And to maintain its grip on power, the Democratic Majority has passed bills promoting job-killing mandates, regulations, lawsuits, and litigation to appease powerful special-interest political allies such as Washington labor bosses and the trial lawyer lobby.

The Democrat-controlled U.S. House of Representatives voted to enact more than \$200 billion in new taxes during the first 11 months of 2007, with many of the tax increases endangering American jobs and targeting working families and job-creating small business owners. At the same time, it passed significant increases in both entitlement and discretionary spending, resulting in an expansion of government at the expense of working families and employers throughout the country; passed new mandates and regulations on employers of all sizes, hampering job creation and threatening existing jobs; and advanced a host of bills opening the door to new lawsuits and litigation against both workers and employers, further endangering American jobs.

The threat facing American jobs is likely to increase during the Second Session of the 110th Congress, as Democratic leaders attempt to quell growing dissatisfaction with their performance among their party's liberal base by pressing for even larger increases in spending. Spending on entitlements, new programs, and pork-barrel earmarks will continue to increase – as will bills promoting new job-killing mandates and lawsuits against employers – as the Democratic Majority seeks to cement its authority during a presidential election year. And the increased spending is likely to prompt Democratic leaders to seek further tax increases on families and employers on top of those advanced during the First Session.

While the challenges facing the American people are inevitable, the war on American jobs being waged by Congress is not. As the Democratic Majority has revealed its agenda over the course of the past year, congressional Republicans have focused on a sustained internal effort to reconnect with the Republican Party's traditional principles of fiscal responsibility and reform. Important differences between the two parties' agendas, blurred at times in recent years, are once again coming into focus as the Democratic Majority faces the responsibility of governing and is no longer able to hide within the comfort zone of misleading rhetoric. For small business owners and stressed-out American families struggling with the rising cost of living, the consequences of a Democratic Majority are becoming increasingly clear. Republicans, by contrast, are developing an alternative vision based on freedom, security, and restored trust between the American people and their elected leaders. The future of America's economy, and that of future generations, will be shaped by the critical decisions made in the months ahead.