

YMCA Retirement Fund as church plans for the purposes of certain provisions of the Internal Revenue Code of 1986, which was referred to the Committee on Ways and Means and in addition the Committee on Education and the Workforce. The bill would impact the Employee Retirement Income Security Act (ERISA) as it applies to certain pension plans within the jurisdiction of the Committee on Education and the Workforce.

I do not intend to delay consideration of H.R. 5365, nor will I object to the scheduling of this bill for consideration in the House of Representatives. However, I do so only with the understanding that this procedural route should not be construed to prejudice the Committee on Education and the Workforce's jurisdictional interest and prerogatives on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to my Committee in the future. Furthermore, should these or similar provisions be considered in a conference with the Senate, I would expect Members of the Committee on Education and the Workforce be appointed to the conference committee on those provisions.

Finally, I would ask that you include a copy of our exchange of letters in the Congressional Record on this bill. If you have questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Sincerely,

JOHN A. BOEHNER,  
*Chairman.*

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
Washington, DC, November 19, 2004.

Hon. JOHN BOEHNER,  
*Chairman, Committee on Education and the Workforce, Washington, DC.*

DEAR CHAIRMAN BOEHNER: Thank you for your letter regarding H.R. 5365, a bill that would treat the YMCA Retirement Fund as a church plan for certain provisions of the Internal Revenue Code of 1986.

I appreciate your agreement to expedite the passage of this legislation although it contains provisions relating to the Employee Retirement Income Security Act of 1974 that are within your Committee's jurisdiction. I acknowledge your decision to forego further action on the bill is based on the understanding that it will not prejudice the Committee on Education and the Workforce with respect to its jurisdictional prerogatives or the appointment of conferees on this or similar legislation.

I appreciate your helping us to move this legislation quickly to the floor. Since the Committee will not report his bill, I will instead include in the CONGRESSIONAL RECORD as copy of our exchange of letters on this matter. Thank you for your assistance and cooperation. We look forward to working with you in the future.

Best regards,

BILL THOMAS,  
*Chairman.*

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

Mr. POMEROY. Mr. Speaker, I yield myself 30 seconds.

I believe each and every one of us in this Chamber appreciates the work of the YMCA and recognizes that the YMCA is more than wonderful facilities. It is the people there. It is the people there that make these such a special part of our communities. If we want to do something that shows our appreciation to these dear people in the YMCA, let us move this legislation.

This removes any shadow of a doubt that their pension plan can continue to function as it has functioned for virtually the entire life of the YMCA associations. This is a good thing to do.

I am pleased to work with the gentleman from Pennsylvania (Mr. ENGLISH), my friend, in moving this legislation forward. Let this be a place where the true spirit of bipartisanship can break out on a worthy goal. Let us support this legislation.

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

Mr. ENGLISH. Mr. Speaker, I yield myself the balance of my time.

I also want to salute the gentleman from North Dakota, who is a valuable ally particularly in dealing with an issue like this that is in a sense relatively straightforward, but deals with the technicalities of the tax law. He has been a great resource to us and to the committee, and it is a privilege for me to be co-sponsoring this legislation with him.

Mr. Speaker, I think that if we look at the history of the YMCA in America, we see the premier faith-based organization that has been providing services to people throughout our communities and providing services that have had an enormous cumulative social impact on America.

One of the essential components to the YMCA and how it operates is its ability to offer this pension program to its employees. The YMCA does not operate on a broad profit margin. So to be able to offer this program with its tax status is critical to the Y's ability to attract the kind of people who are willing to dedicate themselves to the community. And this I believe is a very important piece of legislation to maintain the status quo, to allow the Y to continue to offer not only an excellent pension to its participants and to all of its hard-working employees but also to continue to be able to offer the quality of services in communities throughout America.

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Mr. Speaker, it is a privilege for me to urge my colleagues to gather together on a bipartisan basis to approve this bill.

Mr. BOEHNER. Mr. Speaker, I rise in support of the YMCA Retirement Fund Act, a bill sponsored by Mr. ENGLISH. Strengthening employee pension plans has been a longstanding priority of mine, and I'm pleased to support this common sense reform that will strengthen pension benefits provided through the YMCA Retirement Fund.

This bill will ensure the Young Men's Christian Association's pension plans are treated as church plans under the Internal Revenue Code, and its employees are provided many of the important protections under the Employee Retirement Income Security Act ("ERISA").

The YMCA Retirement Fund has been in existence for more than eighty years, and provides meaningful pension benefits to more than 80,000 participants across the nation. Employees of local YMCA's participate in

these pension plans and enjoy a vesting period of either two or three years. These employees obtain a non-forfeitable right to their pension benefits faster than employees under traditional qualified plans.

I'm pleased today to support this bill to ensure the YMCA Retirement Fund may continue providing these important pension benefits to its employees, many of whom will now also benefit from the important protections provided under ERISA.

Under the bill, the pension plans in the Fund may commingle assets for investment purposes. While there may be certain restrictions on this practice under the Internal Revenue Code, it is important to note that it is not a per se violation to commingle assets under ERISA, provided that the plan and its fiduciaries maintain appropriate records. Therefore, the language should not suggest that other qualified pension plans under ERISA cannot engage in this widely accepted practice.

If the YMCA Retirement Fund's status as a church plan under the Internal Revenue Code is not clarified for this narrow purpose, the Fund may not have the ability to continue to provide the same generous pension benefits to its participants, most of whom are modestly paid.

Finally, Mr. Speaker, I would note that while this legislation will solve a problem for the more than 80,000 Americans involved with the YMCA pension plan, the laws that govern all American worker pensions will remain outdated and in desperate need of reform and repair. The failure to update these laws has resulted in a very real threat that taxpayers will be forced to pay for a multi-billion bailout of the Pension Benefit Guaranty Corporation, which protects workers' retirement benefits when their companies fail. It's absolutely critical that we act in a bipartisan manner in the weeks and months ahead to enact comprehensive, broad-based reforms that will modernize our nation's pension laws and restore security for workers and taxpayers. This is a top priority for me and the members of our committee, and I know it is for Chairman THOMAS and the members of the Ways and Means Committee as well.

I want to thank Chairman THOMAS and the bill's sponsor, Mr. ENGLISH, for their cooperation in bringing this bill to the House floor today. I'm hopeful that we can build on this important legislation, and continue our efforts to craft a solution that will protect the retirement security of all our nation's workers in the same serious and thoughtful manner that produced the bill we're considering today.

I urge my colleagues to support this bill.

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

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Pennsylvania (Mr. ENGLISH) that the House suspend the rules and pass the bill, H.R. 5365.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ENGLISH. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5365, the bill just passed.

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

There was no objection.

#### COMMERCIAL SPACE LAUNCH AMENDMENTS ACT OF 2004

Mr. ROHRBACHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5382) to promote the development of the emerging commercial human space flight industry, and for other purposes.

The Clerk read as follows:

H.R. 5382

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Space Launch Amendments Act of 2004".

#### SEC. 2. AMENDMENTS.

(a) FINDINGS AND PURPOSES.—Section 70101 of title 49, United States Code, is amended—

(1) in subsection (a)(3), by inserting "human space flight," after "microgravity research,";

(2) in subsection (a)(4)—

(A) by striking "satellite"; and

(B) by striking "services now available from" and inserting "capabilities of";

(3) in subsection (a)(8), by striking "and" at the end;

(4) in subsection (a)(9), by striking the period and inserting a semicolon;

(5) by adding at the end of subsection (a) the following new paragraphs:

"(10) the goal of safely opening space to the American people and their private commercial, scientific, and cultural enterprises should guide Federal space investments, policies, and regulations;

"(11) private industry has begun to develop commercial launch vehicles capable of carrying human beings into space and greater private investment in these efforts will stimulate the Nation's commercial space transportation industry as a whole;

"(12) space transportation is inherently risky, and the future of the commercial human space flight industry will depend on its ability to continually improve its safety performance;

"(13) a critical area of responsibility for the Department of Transportation is to regulate the operations and safety of the emerging commercial human space flight industry;

"(14) the public interest is served by creating a clear legal, regulatory, and safety regime for commercial human space flight; and

"(15) the regulatory standards governing human space flight must evolve as the industry matures so that regulations neither stifle technology development nor expose crew or space flight participants to avoidable risks as the public comes to expect greater safety for crew and space flight participants from the industry.";

(6) in subsection (b)(2)—

(A) by striking "and" at the end of subparagraph (A);

(B) by inserting "and" after the semicolon in subparagraph (B); and

(C) by adding at the end the following new subparagraph:

"(C) promoting the continuous improvement of the safety of launch vehicles designed to carry humans, including through the issuance of regulations, to the extent permitted by this chapter;" and

(7) in subsection (b)(3), by striking "issue and transfer" and inserting "issue permits and commercial licenses and transfer".

(b) DEFINITIONS.—Section 70102 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (2) through (17) as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (12), (13), (14), (15), (16), (18), (21), and (22), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

"(2) 'crew' means any employee of a licensee or transferee, or of a contractor or subcontractor of a licensee or transferee, who performs activities in the course of that employment directly relating to the launch, reentry, or other operation of or in a launch vehicle or reentry vehicle that carries human beings.";

(3) in paragraph (4), as so redesignated by paragraph (1) of this subsection, by inserting "; crew, or space flight participant" after "any payload";

(4) in paragraph (6)(A), as so redesignated by paragraph (1) of this subsection, by striking "and payload" and inserting "; payload, crew (including crew training), or space flight participant";

(5) in paragraph (8)(A), as so redesignated by paragraph (1) of this subsection, by inserting "or human beings" after "place a payload";

(6) by inserting after paragraph (10), as so redesignated by paragraph (1) of this subsection, the following new paragraph:

"(11) except in section 70104(c), 'permit' means an experimental permit issued under section 70105a.";

(7) in paragraph (13), as so redesignated by paragraph (1) of this subsection, by inserting "crew, or space flight participants," after "and its payload,";

(8) in paragraph (14)(A), as so redesignated by paragraph (1) of this subsection, by striking "and its payload" inserting "and payload, crew (including crew training), or space flight participant";

(9) by inserting after paragraph (16), as so redesignated by paragraph (1) of this subsection, the following new paragraph:

"(17) 'space flight participant' means an individual, who is not crew, carried within a launch vehicle or reentry vehicle.";

(10) by inserting after paragraph (18), as so redesignated by paragraph (1) of this subsection, the following new paragraphs:

"(19) unless and until regulations take effect under section 70120(c)(2), 'suborbital rocket' means a vehicle, rocket-propelled in whole or in part, intended for flight on a suborbital trajectory, and the thrust of which is greater than its lift for the majority of the rocket-powered portion of its ascent.

"(20) 'suborbital trajectory' means the intentional flight path of a launch vehicle, reentry vehicle, or any portion thereof, whose vacuum instantaneous impact point does not leave the surface of the Earth.";

(11) in paragraph (21), as so redesignated by paragraph (1) of this subsection—

(A) by striking "or" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(C) by adding at the end the following new subparagraph:

"(E) crew or space flight participants.".

(c) COMMERCIAL HUMAN SPACE FLIGHT.—(1) Section 70103(b)(1) of title 49, United States Code, is amended by inserting ", including those involving space flight participants" after "private sector".

(2) Section 70103 of title 49, United States Code, is amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) SAFETY.—In carrying out the responsibilities under subsection (b), the Secretary shall encourage, facilitate, and promote the continuous improvement of the safety of launch vehicles designed to carry humans, and the Secretary may, consistent with this chapter, promulgate regulations to carry out this subsection.".

(3) Section 70104(a) of title 49, United States Code, is amended—

(A) by striking "License Requirement.—A license issued or transferred under this chapter" and inserting "Requirement.—A license issued or transferred under this chapter, or a permit,"; and

(B) by inserting after paragraph (4) the following: "Notwithstanding this subsection, a permit shall not authorize a person to operate a launch site or reentry site.".

(4) Section 70104(b) of title 49, United States Code, is amended by inserting "or permit" after "holder of a license".

(5) Section 70104 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(d) SINGLE LICENSE OR PERMIT.—The Secretary of Transportation shall ensure that only 1 license or permit is required from the Department of Transportation to conduct activities involving crew or space flight participants, including launch and reentry, for which a license or permit is required under this chapter. The Secretary shall ensure that all Department of Transportation regulations relevant to the licensed or permitted activity are satisfied.".

(6) Section 70105(a) of title 49, United States Code, is amended—

(A) in paragraph (1), by striking "a license is not issued" and inserting "the Secretary has not taken action on a license application"; and

(B) in paragraph (2), by inserting "(including approval procedures for the purpose of protecting the health and safety of crews and space flight participants, to the extent permitted by subsections (b) and (c))" after "or personnel".

(7) Section 70105(b)(1) of title 49, United States Code, is amended by inserting "or permit" after "for a license".

(8) Section 70105(b)(2)(B) of title 49, United States Code, is amended by striking "an additional requirement necessary to protect" and inserting "any additional requirement necessary to protect".

(9) Section 70105(b)(2)(C) of title 49, United States Code, is amended—

(A) by inserting "or permit" after "for a license"; and

(B) by striking "and" at the end thereof.

(10) Section 70105(b)(2) of title 49, United States Code, is amended by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following new subparagraph:

"(D) additional license requirements, for a launch vehicle carrying a human being for compensation or hire, necessary to protect the health and safety of crew or space flight participants, only if such requirements are imposed pursuant to final regulations issued in accordance with subsection (c); and".

(11) Section 70105(b)(2)(E) of title 49, United States Code, as so redesignated by paragraph (1) of this subsection, is amended by inserting "or permit" after "for a license".

(12) Section 70105(b)(3) of title 49, United States Code, is amended by adding at the end the following: "The Secretary may not grant a waiver under this paragraph that would permit the launch or reentry of a launch vehicle or a reentry vehicle without a license or permit if a human being will be on board.".

(13) Section 70105(b) of title 49, United States Code, is amended by adding at the end the following new paragraphs: