carefully examine our ongoing commitment in Iraq while not losing sight of those priorities that need to be met here at home. Our budget will reflect the values and needs of working Rhode Islanders. I will fight to properly fund SCHIP so that Rite Care can continue to support our state's most vulnerable patients, and I will fight the drastic proposed physician payment cuts under Medicare so that we do not jeopardize the health and well-being of our Nation's seniors.

Working to put our Nation back on solid financial footing will take time and dedication, and I am up to the challenge. I will fight for a fair budget that benefits all Americans. I look forward to advocating for all Rhode Islanders in the coming months.

INTRODUCTION OF THE REIT INVESTMENT DIVERSIFICATION AND EMPOWERMENT ACT

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, February 16, 2007

Mr. CROWLEY. Madam Speaker, along with my good friends and colleagues, Representatives CANTOR, POMEROY and REYNOLDS, I introduce the REIT Investment Diversification and Empowerment Act, RIDEA. This legislation will continue the tradition of Congress to periodically review and amend the tax rules governing REITs to ensure that they are able to operate within the competitive norms of the marketplace. In an effort to keep REITs competitive, this bill addresses several issues tied to REIT investment diversification and empowerment. The legislation would make several minor, but important, changes in the REIT tax rules to permit REITs on behalf of their shareholders to continue to compete with other real estate companies in international and domestic markets.

In 1960, Congress created the REIT rules to allow average investors to obtain the benefits of owning large-scale, income producing real estate such as shopping malls, apartment communities and office buildings. REITs are typically publicly traded companies that pass through their earnings to individual shareholders. The vision of Congress has come to fruition: The equity market capitalization of REITs as of December 31, 2006 was $438 billion—up from only $1.4 billion at the end of 1971. Investment professionals such as Burton Malkiel of Princeton University, Jeremy Siegel of the Wharton School at the University of Pennsylvania and David Swensen, the manager of the Yale Endowment, have recommended that individual investors should maintain a discrete allocation of REITs as part of a diversified portfolio to maximize performance while lowering investment risk.

Commercial real estate plays an essential part in the national economy, producing about 6 percent of the gross domestic product according to the Federal Reserve Board. REITs have grown to be an essential component of the real estate marketplace and provided investment opportunities for everyone to invest in where we work, live and shop. REITs own all types of income producing real estate, from community shopping centers to landmarks such as Roosevelt Field on Long Island, Tyson's Comer in Virginia, and Queens Plaza, in my home borough of Queens, NY.

REITs are subject to a number of rules to ensure their primary focus is commercial real estate activities. At least 75 percent of a REIT's assets must be comprised of rental real estate, mortgages, cash items and government securities. A REIT also must satisfy two income tests. First, at least 75 percent of a REIT's annual gross income must consist of real property rents, mortgage interest, gain from the sale of a real estate asset and certain other real estate-related sources. Second, at least 95 percent of a REIT's annual gross income must be derived from the income items from the above 75 percent test plus other "passive income" sources such as dividends and any type of interest.

For over three decades, the IRS has recognized that real estate investments abroad qualify as "good assets" and generate "good income" under the REIT tax rules. With that said, the treatment of foreign currency gains directly attributable to overseas real estate investment is not altogether clear, but its correct characterization is becoming increasingly important as REITs continue investing in the most attractive marketplaces for their shareholders. Similarly, as more and more countries begin to authorize REIT-like approaches to real estate investment, it is important that U.S. tax rules allow U.S. REITs to invest in these businesses without negatively affecting their own REIT status.

I do not believe this bill is controversial. The three previous changes to the REIT rules made over the past decade have been sponsored by many Members on both sides of the aisle, and we expect that RIDEA will follow in these bipartisan footsteps. It is also important to note that this bill is endorsed by the National Association of Real Estate Investment Trusts and the Real Estate Roundtable.

Madam Speaker, this is an opportunity for us to provide REITs the flexibility needed to remain competitive and to make other minor, but important, changes to the REIT rules. I urge my colleagues on both sides of the aisle to join me in supporting these changes.

Madam Speaker, I ask unanimous consent that the text of the bill and a detailed summary of its provisions be printed in the RECORD.

The REIT Investment Diversification and Empowerment Act ("RIDEA") includes five titles: Title I—Foreign Currency and Other Qualified Activities, Title II—Taxable REIT Subsidiaries, Title III—Dealer Sales, Title IV—Health Care REITs, and Title V—Foreign REITs.

As the REIT market develops and as REITs continue to expand their overseas investments, the issue of the correct characterization of foreign currency gains, and other types of non-specified income and assets, has become even more important. Title I would in effect codify existing law concerning the income derived, and assets held, by REITs in connection with their REIT-permissible activities outside of the U.S.

Specifically, Title I would treat as qualified REIT income foreign currency gains derived with respect to its business of investing in "real estate assets" outside of the U.S. Today REITs can achieve approximately the same results by establishing a "subsidiary REIT" in each currency zone in which it operates and securing a private letter ruling from the IRS. RIDEA would allow a REIT to obtain the same result by operating a qualified business unit that satisfies the 75 percent income and asset tests.

Title I also would provide the IRS with authority to determine whether certain types of foreign currency gains were qualifying income, as well as to provide that certain items of income not specifically listed in the REIT gross income provisions should not be taken into account in computing a REIT's gross income.

Under current law, even if a REIT were to earn a substantial amount of certain types of income that are not specified in the gross income baskets, the REIT could jeopardize its REIT status—even though these types of income may be directly attributable to the REIT's business of owning and operating commercial real estate. Examples include amounts attributable to recoveries in settlement of litigation and "break up fees" attributable to a failure to consummate a merger. The IRS has issued private letter rulings to taxpayers holding that the particular type of income should be considered either qualifying income or should be ignored for purposes of the REIT rules.

Under this provision, I would expect that the IRS would conclude, for example, that dividend-like items of income such as Subpart F income and income produced by holding stock of a passive foreign investment company either are considered qualified income for purposes of the REIT income tests are not taken into account for purposes of these tests.

Furthermore, Title I would conform the current REIT hedging rule to also apply to foreign currency gains, apply those rules for purposes of both REIT gross income tests and would make conforming changes to other REIT provisions reflecting foreign currency gains.

Title II would increase the limit on taxable REIT subsidiaries, TRS, securities from 20 percent to 25 percent, as originally contemplated in the REIT Modernization Act of 1999. The rationale for a 25 percent limit on TRSs remains the same today. The dividing line for testing a concentration on commercial real estate in the REIT rules has long been set at 25 percent, and even the mutual fund rule uses a 25 percent test. It is not too often that an industry requests Congress to increase the amount of income it can earn to a double level of taxation.

Title III updates the rules that require a REIT to be a long-term investor in real estate. A REIT is subject to a 100 percent tax on net income from sales of property in the ordinary course of business—"prohibited transactions" or "dealer sales". In 1976, Congress recognized the need for a bright line safe harbor for determining whether a REIT's property sale constituted a prohibited transaction. Congress further liberalized these rules in 1978 and 1986 to better comport with industry practice and to simplify a REIT's ability to sell long-term investment property without fear of being taxed at a 100 percent rate. The current safe harbor exceptions for rental property and timber provide that a sale may avoid being classified as a prohibited transaction if it meets several requirements, including that the REIT own the property for at least 4 years and that each year it sell either less than seven properties or 10 percent of its portfolio, as measured by tax basis.

Largely because commercial real estate is increasingly recognized as a separate asset class that provides substantial diversification and performance benefits for retirement savings, the real estate market has achieved greater levels of liquidity than ever before. This increased liquidity has provided real estate owners who have invested for the long term with more and more opportunities to maximize value by selling assets sooner than originally expected. REITs that rely on the safe harbor have been precluded from selling some of their investment assets because of the current 4-year requirement.

The safe harbor is intended to provide a clear dividing line between a REIT acting as an investor rather than a dealer. However, the 4-year requirement is arbitrary and not consistent with other Code provisions that define whether property is held for long term investments, e.g., the 1-year holding period to determine long-term capital gains treatment for individuals, and the 2-year holding period to distinguish whether the sale of a home is taxable because it is held for investment purposes. A 2-year holding period better reflects current economic realities.

In addition, the 10 percent limit that is now based on tax basis negatively impacts companies that are the least likely to have engaged in ''dealer'' activity. The most established REITs have typically held their properties the longest, resulting in low adjusted bases due to depreciation or amortization deductions. Thus, the aggregate bases of all the REITs properties will be relatively much lower for purposes of the safe harbor exception than for a REIT that routinely turns over its properties every 4 years. Accordingly, the REIT that holds its properties for the longer term is penalized.

In 1999, Congress adopted a provision that utilizes fair market value rules for purposes of calculating personal property rents associated with the rental of real property. The measurement change in Title III to the 10 percent test from tax basis to fair value is fully consistent with this 1999 provision.

Title IV parallels the treatment under the REIT rules of health care facilities to lodging facilities. Payments made from a subsidiary owned by a REIT to that REIT usually are not considered qualified income for REIT purposes. Congress in 1999 carved out an exception under which a REIT may establish a TRS that can lease lodging facilities from a REIT holding a controlling interest, with the payments to the REIT considered good ''rents'' under the REIT rules. Under these rules, a TRS is not allowed to operate or manage lodging or health care facilities; instead an independent contractor must do so.

When this change was made in 1999, health care operators did not object to bearing the risks associated with being liable as a long-term lessee. Recently, many operators of health care assets such as assisted living facilities have indicated that they would rather be independent operators of the facilities and instead rely on a REIT to bear all real estate-related financial risks. Most health care REITs now believe that the TRS restriction is interfering with their ability to manage their operations in the most efficient manner.

Title IV would allow a REIT's TRS to lease health care facilities from its controlling REIT so long as the facilities are operated and managed by an independent contractor. It also clarifies that a TRS's mere possession of a license which, for example, is sometimes required for State purposes, is not considered the operation or management of the facilities.

Governments around the world have recognized the success of REITs in the United States as creating ''liquid real estate'' for the first time in history. More than 20 countries have adopted REIT legislation, with the United Kingdom making the leap on January 1 and Germany expected to follow suit later this year. Although the Tax Code treats stock in a U.S. REIT as a qualified asset that generates qualifying income, current law does not afford the same treatment to the stock of non-U.S. REITs.

Instead of investing abroad either directly or in a joint venture, a U.S. REIT might want to invest through a REIT organized in that country. However, a company could lose its status as a U.S. REIT if it owns more than 10 percent of a foreign REIT's securities, even though the foreign company is the equivalent of a U.S. REIT. A U.S. REIT should have the flexibility in deciding what form its overseas real estate investment should take.

Title V would allow a U.S. REIT to acquire securities in a foreign REIT so long as that REIT has the same core attributes as a U.S. REIT. The Treasury Department would have the responsibility to analyze the foreign laws and rules to determine if the REITs organized in a particular country meet this test, much as it does in determining whether entities organized abroad are ''per se'' corporations under the ''check the box'' entity classification rules. In making these determinations, the Secretary should take into account whether the laws, stock market requirements, or market preferences in a country imbue listed foreign REITs with these characteristics: (1) At least 75 percent of the company's assets must be invested in real estate assets; (2) the foreign REIT either receives a dividends paid deduction or is exempt from corporate level tax; and (3) the foreign REIT is required to distribute at least 85 percent of its taxable income to shareholders on an annual basis.

Madam Speaker, I am pleased to introduce this bipartisan legislation.

SUPPORT COMPREHENSIVE IMMIGRATION REFORM

HON. GABRIELLE GIFFORDS

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 16, 2007

Ms. GIFFORDS. Madam Speaker, I rise today to express my support for some provisions of President Bush's FY08 budget request regarding illegal immigration.

His plan includes hiring 3,000 new Border Patrol agents, improving technology and infrastructure along the border, and helping end the failed ''catch and release'' policy. The President's proposal also offers assistance to State and local law enforcement agencies.

My district in Southern Arizona continues to bear the burden of our Nation's failed immigration policy, especially in our schools, hospitals, and law enforcement agencies. The President's ideas will, to some degree, help alleviate this crisis.

However, these policies must be a part of a comprehensive immigration reform plan to effectively secure the border and stop illegal immigration.

We not only need better border security and more support for border patrol agents, but also employer sanctions for those knowingly hiring illegal immigrants and a guest worker program. Most importantly, we need fair compensation for border communities struggling with the costs of illegal immigration.

I applaud the President for reaching out to Congress on this issue, and I look forward to working with the administration and Republicans and Democrats in Congress to pass comprehensive immigration reform.

HONORING ALAMEDA COUNTY LIBRARY PROGRAM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 16, 2007

Mr. STARK. Madam Speaker, I rise today to pay tribute to the Alameda County Library. The Library's Write to Read Youth Literacy program at Juvenile Hall in San Leandro, CA, was honored on January 22, 2007 at a White House Ceremony in conjunction with the 2006 Coming Up Taller Awards. The Library's 8-year effort to help incarcerated youths read and write won a $10,000 Federal grant, the Coming Up Taller award, and plaudits at the White House Ceremony.

The Coming Up Taller Awards recognize and support outstanding community arts and humanities programs that celebrate the creativity of America's young people, and provide them with new learning opportunities and a chance to contribute to their communities. The awards also highlight the contributions that historians, scholars, librarians, and visual and performing arts make to families and communities by mentoring children.

The Alameda County Library's Write to Read Youth Literacy program at Juvenile Hall has introduced the joy of reading to more than 4,000 incarcerated youths. Founded in 1999, Write to Read motivates and inspires young people housed in the Alameda County Juvenile Hall to strengthen their reading skills and make meaningful connections to authors and books that can positively influence the choices they make in their own lives.

Offered 3 days a week, the Write to Read program enables youths to take books to their rooms, meet with authors, and engage in tutoring and book discussions.

Alameda County Librarian Jean Hofacket was present at the White House ceremony to receive the library award along with Amy Cheney, juvenile hall librarian, and Hannah Kefala of Alameda, a former juvenile hall resident who now attends Chabot College in Hayward.

Ms. Kefala said meeting authors through the program helped her learn ''my human rights'' and gave her pointers ''on how to improve my future.'' Her comments are a testament to the success of the Alameda County Library's Write to Read Youth Literacy program at Juvenile Hall.

I join the community in applauding the Alameda County Library's success and contributions to make a positive difference in the lives of youth incarcerated at the Juvenile Hall.