

[INSERT “A” - PREPARED BY LEG. COUNSEL]

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## Purpose and Summary

H.R. 6976, the Protect Our Communities from DUIs Act, introduced by Rep. Barry Moore (R-AL), would create a new ground of inadmissibility for aliens convicted of, or admitting to, driving under the influence of drugs or alcohol. It also codifies a new ground of removability for aliens with driving under the influence (DUI) convictions.

## Background and Need for the Legislation

One person dies in a drunk driving crash every 45 minutes,<sup>1</sup> with 13,384 alcohol-impaired driving fatalities in 2021 alone.<sup>2</sup> In the same year, drunk driving crashes led to 388,136 injuries.<sup>3</sup> Because there is neither a ground of inadmissibility nor a ground of removability related to DUI, criminal aliens can escape accountability for their reckless actions, free to re-offend and endanger communities.

### *The dangers of drunk driving*

Despite drunk driving being illegal in every state and the District of Columbia, individuals who drive drunk continue to kill or injure hundreds of thousands of Americans every year, with alcohol-impaired fatalities increasing by 14 percent from 2020 to 2021.<sup>4</sup> In fact, drunk drivers are involved in 31 percent of all crash deaths in the country, with an average of 10,850 people killed every year in DUI-related crashes from 2012 through 2021.<sup>5</sup> Criminal and illegal aliens are responsible for some of these preventable crashes and deaths.

In October 2022, U.S. Immigration and Customs Enforcement (ICE) announced it had arrested “175 illegal immigrants who had multiple DUI convictions.”<sup>6</sup> In FY 2018, ICE arrested aliens whose criminal histories included 80,730 DUI-related charges and convictions.<sup>7</sup> In FY 2019, ICE nearly matched that number, arresting aliens who accounted for 74,523 DUI charges

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<sup>1</sup> See Centers for Disease Control and Prevention, *Impaired Driving: Get the Facts*, [https://www.cdc.gov/transportationsafety/impaired\\_driving/impaired-driv\\_factsheet.html](https://www.cdc.gov/transportationsafety/impaired_driving/impaired-driv_factsheet.html) (last accessed Jan. 11, 2024).

<sup>2</sup> U.S. DEP’T OF TRANSP., DOT HS 813 435, OVERVIEW OF MOTOR VEHICLE TRAFFIC CRASHES IN 2021, at 15 (Apr. 2023), <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813435>.

<sup>3</sup> Mothers Against Drunk Driving, *Statistic Category: Drunk Driving*, [https://madd.org/statistic\\_type/drunk-driving/](https://madd.org/statistic_type/drunk-driving/) (last accessed Jan. 11, 2024).

<sup>4</sup> U.S. DEP’T OF TRANSP., DOT HS 813 435, OVERVIEW OF MOTOR VEHICLE TRAFFIC CRASHES IN 2021, at 15 (Apr. 2023), <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813435>.

<sup>5</sup> National Highway Transp. Safety Admin., *Drunk Driving*, U.S. DEP’T OF TRANSP., <https://www.nhtsa.gov/risky-driving/drunk-driving> (last accessed Jan. 11, 2024).

<sup>6</sup> Adam Shaw, *ICE arrests over 170 illegal immigrants with multiple DUI convictions as part of national op*, FOX NEWS (Oct. 20, 2022, 5:38 PM), <https://www.foxnews.com/politics/ice-arrests-170-illegal-immigrants-multiple-dui-convictions-part-national-op>.

<sup>7</sup> U.S. Immigr. and Customs Enf’t, Fiscal Year 2018 ICE Enforcement and Removal Operations Report, at 4, <https://www.ice.gov/doclib/about/offices/ero/pdf/eroFY2018Report.pdf>.

and convictions.<sup>8</sup> Because of Democrats’ lax immigration enforcement, in FY 2022, that number plummeted to 26,238, meaning that more illegal aliens with DUI-related charges and convictions are free to reoffend in American communities.<sup>9</sup> In FY 2023, the number of DUI-related ICE arrests continued to be lower than during the Trump Administration, with ICE arresting aliens whose criminal histories accounted for only 43,044 DUI-related charges and convictions—barely half the FY 2018 number and more than 30,000 fewer than in FY 2019.<sup>10</sup>

The effects of illegal alien drunk driving are felt far from the open southwest border: In September 2023, an illegal alien “slammed into a[] [New York City Police Department] squad car and three other vehicles” and then “bit off a piece of a police sergeant’s finger while in a holding cell.”<sup>11</sup> Police eventually charged the man with driving while intoxicated and “driving while apparently impaired.”<sup>12</sup> Just two months ago in Missouri, an illegal alien from Honduras was sentenced to 10 years in prison “for driving drunk at 100 mph” and killing another driver.<sup>13</sup> In Montana, an illegal alien was arrested for driving the wrong way on an interstate,<sup>14</sup> apparently the second such drunk driving incident by an illegal alien on the same interstate within two weeks.<sup>15</sup> In Colorado in December 2023, an illegal alien from El Salvador<sup>16</sup> allegedly drove drunk and killed a 46-year-old woman and her 16-year-old son when he drove his truck up to 100 mph and ran into the victims’ vehicle, causing it to crash into a tree.<sup>17</sup> Despite having five previous DUI-related convictions, “[a] Boulder County judge sentenced [the illegal alien] to

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<sup>8</sup> U.S. Immigr. and Customs Enf’t, *Enf’t and Removal Operations Report, Fiscal Year 2019*, at 14, <https://www.ice.gov/sites/default/files/documents/Document/2019/eroReportFY2019.pdf>.

<sup>9</sup> U.S. Immigr. and Customs Enf’t, *ICE Annual Report, Fiscal Year 2022*, at 8 (Dec. 30, 2022), <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2022.pdf>.

<sup>10</sup> *Compare* U.S. Immigr. and Customs Enf’t, *ICE Annual Report, Fiscal Year 2023*, at 14 (Dec. 29, 2023), <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2023.pdf>, *with* U.S. Immigr. and Customs Enf’t, *Fiscal Year 2018 ICE Enforcement and Removal Operations Report*, at 4, <https://www.ice.gov/doclib/about/offices/ero/pdf/eroFY2018Report.pdf>, *and* U.S. Immigr. and Customs Enf’t, *Enf’t and Removal Operations Report, Fiscal Year 2019*, at 14, <https://www.ice.gov/sites/default/files/documents/Document/2019/eroReportFY2019.pdf>.

<sup>11</sup> Michael Ruiz, *Illegal immigrant bites off police sergeant's finger after DUI bust: sources*, FOX NEWS (Sept. 25, 2023, 10:03 AM), <https://www.foxnews.com/us/illegal-immigrant-bites-off-police-sergeants-finger-after-dui-bust-sources>.

<sup>12</sup> *Id.*

<sup>13</sup> Steve Pokin, *Undocumented driver gets 10 years for being drunk and racing down Glenstone at 100 mph, killing a man*, SPRINGFIELD DAILY CITIZEN (Nov. 18, 2023), <https://sgfcitizen.org/government/crime/undocumented-driver-gets-10-years-for-being-drunk-and-racing-down-glenstone-at-100-mph-killing-a-man/>.

<sup>14</sup> *Second wrong-way driver on interstate within two weeks arrested in Bozeman*, KBZK (Dec. 5, 2023, 1:25 PM), <https://www.kbzk.com/news/crime-courts/second-wrong-way-driver-on-interstate-within-two-weeks-arrested-in-bozeman>.

<sup>15</sup> Aaron Flint, *Illegal Aliens Wrong Way Drunk Driving in Bozeman on Interstate*, KMMS (Dec. 5, 2023), <https://kmmsam.com/ixp/990/p/illegal-aliens-wrong-way-drunk-driving-in-bozeman-on-interstate/>.

<sup>16</sup> Jennie Taer, *EXCLUSIVE: Illegal Immigrant Deported Four Times Charged With Killing Colorado Mother, Son In DUI Crash*, DAILY CALLER (Jan. 8, 2024, 1:42 PM), <https://dailycaller.com/2024/01/08/illegal-immigrant-deported-four-times-charged-killing-colorado-mother-son-dui-crash/>.

<sup>17</sup> Janet Oravetz, *Man arrested in crash that killed mom, son had multiple prior DUI offenses*, 9NEWS (Dec. 21, 2023, 9:44 AM), <https://www.9news.com/article/news/crime/man-charged-broomfield-double-fatal-crash/73-flf67f6e-18ac-4610-b66d-80183d1d2a56>.

probation, community service[,] and work release” on December 8, 2023, in relation to two of those convictions, just four days before the crash that killed the mother and son.<sup>18</sup>

### ***Democrat excuses for illegal aliens with DUI convictions***

Despite these statistics and examples, Democrats have downplayed drunk driving by illegal aliens. For instance, at a Committee business meeting in September 2021, Democrats voted down a series of Republican amendments that would have made certain aliens ineligible for lawful permanent residence if they had one, two, or even 10 or more DUI convictions.<sup>19</sup> During that markup, Rep. Jerry Nadler, then-chairman of the Committee, excused criminal aliens’ drunk driving convictions, stating, “[W]hether someone has 2, or 6, or 10, or 20 convictions of DUI 30 years ago, someone can change.”<sup>20</sup> He added, “You may have any number of convictions for DUI because you are a drunk, because you are an alcoholic, but you also may cease to be an alcoholic.”<sup>21</sup> In January 2020, then-presidential candidate Joe Biden asserted that ICE should not arrest aliens with drunk driving convictions because, “[y]ou only arrest for the purpose of dealing with a felony that’s committed, and I don’t count drunk driving as a felony.”<sup>22</sup> In fact, candidate Biden called for ICE officers to be fired if they arrested aliens without felony convictions, which could include those with DUIs.<sup>23</sup>

### ***Current immigration law treatment of DUI convictions***

Although illegal aliens are routinely arrested for, charged with, and convicted of DUI and DUI-related crimes, U.S. immigration law does not state explicitly that driving while intoxicated or impaired is a ground of inadmissibility or removability.<sup>24</sup> Instead, aliens charged with or convicted of such crimes may rarely be found inadmissible or removable due to having been convicted of a crime that constitutes either an aggravated felony or a crime involving moral turpitude (CIMT).<sup>25</sup> Determining whether an offense is an aggravated felony or a CIMT,

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<sup>18</sup> Shaun Boyd, *Colorado man charged in DUI crash that killed Broomfield mother and son sentenced in 2 other DUI cases 4 days earlier*, CBS NEWS (Dec. 22, 2023, 7:55 PM), <https://www.cbsnews.com/colorado/news/colorado-man-charged-dui-crash-killed-broomfield-mother-son-sentenced-2-other-dui-cases-4-days-earlier/>.

<sup>19</sup> See Amendments #8, #9, and #10 (offered by Rep. Mike Johnson) to the Amendment in the Nature of a Substitute to Committee Print 117-2, Markup of Legislative Proposals to Comply with the Reconciliation Directive Included in Section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022 (S. Con. Res. 14), H. Comm. on the Judiciary, 117th Cong. (Sept. 13, 2021), available at <https://www.congress.gov/event/117th-congress/house-event/114040?s=3&r=60>.

<sup>20</sup> Markup of Legislative Proposals to Comply with the Reconciliation Directive Included in Section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022 (S. Con. Res. 14), H. Comm. on the Judiciary, 117th Cong. (statement of Rep. Jerrold Nadler).

<sup>21</sup> *Id.*

<sup>22</sup> Tobias Hoonhout, *Biden Says Only Felons Should Be Deported And He Doesn’t ‘Count Drunk Driving as a Felony’*, NATIONAL REVIEW (Jan. 21, 2020, 12:46 PM), <https://www.nationalreview.com/news/biden-says-only-felons-should-be-deported-and-he-doesnt-count-drunk-driving-as-a-felony/>.

<sup>23</sup> *Id.*

<sup>24</sup> See generally INA §§ 212(a), 237(a).

<sup>25</sup> See INA § 237(a)(2)(A) (specifying removable offenses such as crimes involving moral turpitude and aggravated felonies); see also *Matter of Lopez-Meza*, 22 I. & N. Dec. 1188, 1195 (BIA 1999) (holding that an Arizona

however, often involves complicated legal analysis that can produce absurd results. In one instance, for example, a federal judge observed that the process, known as the categorical approach, presented “a single legal question about a single conviction,” yet the analysis “spawned, over eleven years and counting: four decisions by the [Board of Immigration Appeals], four decisions by three different immigration judges, approximately six rounds of briefing, and a split opinion by [a federal] court.”<sup>26</sup> In addition, the Board of Immigration Appeals has held that a “simple DUI offense” is *not* a crime involving moral turpitude.<sup>27</sup> Even worse, some far-left prosecutors may ensure that illegal aliens are never convicted of DUI-related crimes in the first place, which makes it even more important that aliens can be held responsible for their criminal actions if they admit to, but are not convicted of, driving under the influence.

American communities should not have to wait until an alien kills or seriously injures someone in a drunk driving accident before that alien can be removed from the United States. In fact, according to Mothers Against Drunk Driving, “most [drunk driving] offenders drive drunk at least 80 times before they are arrested.”<sup>28</sup> Additionally, a 2014 article detailed how “[m]ore than one-third of individuals who are convicted of driving under the influence [] are repeat offenders.”<sup>29</sup>

By specifically enumerating driving while intoxicated or impaired by alcohol or drugs as both a ground of inadmissibility and a ground of removability, H.R. 6976 ensures that aliens who endanger communities can be removed from the United States. In doing so, H.R. 6976 gives authorities another tool to protect Americans from dangerous criminal aliens and prevents families from suffering unimaginable losses from DUI-related crashes.

## Hearings

For the purposes of clause 3(c)(6)(A) of House rule XIII, the following hearing was used to develop H.R. 6976: “The Consequences of Criminal Aliens on U.S. Communities,” a hearing held on July 13, 2023, before the Subcommittee on Immigration Integrity, Security, and Enforcement of the Committee on the Judiciary. The Subcommittee heard testimony from the following witnesses:

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conviction for aggravated DUI could constitute a crime involving moral turpitude because it required “that the offender was ‘knowingly’ driving with a suspended, canceled, revoked, or refused license”); *but see Leocal v. Ashcroft*, 543 U.S. 1, 9-10 (2004) (holding that a Florida DUI conviction was not an aggravated felony for immigration purposes).

<sup>26</sup> *Valdez v. Garland*, 28 F.4th 72, 85 (9th Cir. 2022) (Graber, J., concurring in part and dissenting in part).

<sup>27</sup> *See Matter of Lopez-Meza*, 22 I. & N. Dec. at 7.

<sup>28</sup> Press Release, Mothers Against Drunk Driving, MADD Projects Drunk Driving Deaths May Surge 40% This Labor Day Weekend (Aug. 31, 2023), <https://madd.org/press-release/madd-projects-drunk-driving-deaths-may-surge-40-this-labor-day-week/>.

<sup>29</sup> Melissa A. Miller & Mark T. Fillmore, *Cognitive and Behavioral Preoccupation with Alcohol in Recidivist DUI Offenders*, 75(6) J. STUD. ALCOHOL DRUGS 1018-22 (Nov. 2014), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4211330/>.

- Donald Rosenberg, Founder, Advocates for Victims of Illegal Alien Crime;
- Bradley Schoenleben, Senior Deputy District Attorney, Orange County, California, District Attorney's Office;
- John Fabbriatore, Former Field Office Director, U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations; and
- Ramon Batista, Police Chief, Santa Monica, California.

The hearing addressed liberal jurisdictions' harboring of criminal aliens and the Biden Administration's lax policies that allow criminal aliens to remain in the United States indefinitely.

### **Committee Consideration**

On January 18, 2024, the Committee met in open session and ordered the bill, H.R. 6976, favorably reported with an amendment in the nature of a substitute, by a roll call vote of 13-10, a quorum being present.

### **Committee Votes**

In compliance with clause 3(b) of House rule XIII, the following roll call votes occurred during the Committee's consideration of H.R. 6976:

1. Vote on Amendment #1 to the H.R. 6976 ANS, offered by Ms. Jayapal of Washington—failed 8 ayes to 14 nays.
2. Vote on favorably reporting H.R. 6976, as amended—passed 13 ayes to 10 nays.

## COMMITTEE ON THE JUDICIARY

Date: 1/18/29

118<sup>th</sup> CONGRESS

25-19

## ROLL CALL

Vote on: Jayapal Amndt (#1) to HR 6976 ANS

Roll Call #: 8

REPUBLICANS	AYE	NO	PRESENT	DEMOCRATS	AYE	NO	PRESENT
MR. JORDAN (OH) <i>Chairman</i>		✓		MR. NADLER (NY) <i>Ranking Member</i>	✓		
MR. ISSA (CA)		✓		MS. LOFGREN (CA)			
MR. BUCK (CO)				MS. JACKSON LEE (TX)			
MR. GAETZ (FL)		✓		MR. COHEN (TN)			
MR. BIGGS (AZ)		✓		MR. JOHNSON (GA)	✓		
MR. McCLINTOCK (CA)		✓		MR. SCHIFF (CA)			
MR. TIFFANY (WI)		✓		MR. SWALWELL (CA)			
MR. MASSIE (KY)				MR. LIEU (CA)			
MR. ROY (TX)				MS. JAYAPAL (WA)	✓		
MR. BISHOP (NC)		✓		MR. CORREA (CA)	✓		
MS. SPARTZ (IN)				MS. SCANLON (PA)			
MR. FITZGERALD (WI)				MR. NEGUSE (CO)			
MR. BENTZ (OR)		✓		MS. McBATH (GA)	✓		
MR. CLINE (VA)				MS. DEAN (PA)			
MR. ARMSTRONG (ND)				MS. ESCOBAR (TX)	✓		
MR. GOODEN (TX)				MS. ROSS (NC)			
MR. VAN DREW (NJ)		✓		MS. BUSH (MO)			
MR. NEHLS (TX)		✓		MR. IVEY (MD)	✓		
MR. MOORE (AL)		✓		MS. BALINT (VT)	✓		
MR. KILEY (CA)		✓					
MS. HAGEMAN (WY)							
MR. MORAN (TX)		✓					
MS. LEE (FL)							
MR. HUNT (TX)							
MR. FRY (SC)		✓					

Roll Call Totals:

Ayes: 8

Nays: 14

Present: X

Passed: \_\_\_\_\_

Failed: \_\_\_\_\_



## ROLL CALL

Vote on:

Final passage of HR 6976, as amended

Roll Call #:

9

REPUBLICANS	AYE	NO	PRESENT	DEMOCRATS	AYE	NO	PRESENT
MR. JORDAN (OH) <i>Chairman</i>				MR. NADLER (NY) <i>Ranking Member</i>		✓	
MR. ISSA (CA)	✓			MS. LOFGREN (CA)			
MR. BUCK (CO)				MS. JACKSON LEE (TX)		✓	
MR. GAETZ (FL)	✓			MR. COHEN (TN)			
MR. BIGGS (AZ)	✓			MR. JOHNSON (GA)		✓	
MR. McCLINTOCK (CA)	✓			MR. SCHIFF (CA)			
MR. TIFFANY (WI)	✓			MR. SWALWELL (CA)			
MR. MASSIE (KY)				MR. LIEU (CA)			
MR. ROY (TX)				MS. JAYAPAL (WA)		✓	
MR. BISHOP (NC)				MR. CORREA (CA)		✓	
MS. SPARTZ (IN)				MS. SCANLON (PA)			
MR. FITZGERALD (WI)				MR. NEGUSE (CO)		✓	
MR. BENTZ (OR)	✓			MS. McBATH (GA)		✓	
MR. CLINE (VA)	✓			MS. DEAN (PA)			
MR. ARMSTRONG (ND)				MS. ESCOBAR (TX)		✓	
MR. GOODEN (TX)				MS. ROSS (NC)			
MR. VAN DREW (NJ)	✓			MS. BUSH (MO)			
MR. NEHLS (TX)	✓			MR. IVEY (MD)		✓	
MR. MOORE (AL)	✓			MS. BALINT (VT)		✓	
MR. KILEY (CA)	✓						
MS. HAGEMAN (WY)							
MR. MORAN (TX)	✓						
MS. LEE (FL)							
MR. HUNT (TX)							
MR. FRY (SC)	✓						

Roll Call Totals:

Ayes:

13

Nays:

10

Present:

Passed:

X

Failed:

## **Committee Oversight Findings**

In compliance with clause 3(c)(1) of House rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## **New Budget Authority and Tax Expenditures**

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974* and with respect to the requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has requested but not received a cost estimate for this bill from the Director of the Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Chairman of the Committee shall cause such estimate and statement to be printed in the *Congressional Record* upon its receipt by the Committee.

## **Congressional Budget Office Cost Estimate**

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the *Congressional Budget Act of 1974* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

## **Committee Estimate of Budgetary Effects**

With respect to the requirements of clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the *Congressional Budget Act of 1974*.

## **Duplication of Federal Programs**

Pursuant to clause 3(c)(5) of House rule XIII, no provision of H.R. 6976 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program.

## **Performance Goals and Objectives**

The Committee states that pursuant to clause 3(c)(4) of House rule XIII, H.R. 6976

creates a new ground of inadmissibility for aliens convicted of, or admitting to, driving under the influence of drugs or alcohol, and a new ground of removability for aliens with driving under the influence (DUI) convictions.

### **Advisory on Earmarks**

In accordance with clause 9 of House rule XXI, H.R. 6976 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clauses 9(d), 9(e), or 9(f) of House Rule XXI.

### **Federal Mandates Statement**

An estimate of federal mandates prepared by the Director of the Congressional Budget office pursuant to section 423 of the *Unfunded Mandates Reform Act* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

### **Advisory Committee Statement**

No advisory committees within the meaning of section 5(b) of the *Federal Advisory Committee Act* were created by this legislation.

### **Applicability to Legislative Branch**

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the *Congressional Accountability Act* (Pub. L. 104-1).

### **Section-by-Section Analysis**

*Sec. 1. Short Title:* The “Protect Our Communities from DUIs Act.”

*Sec. 2. Inadmissibility and Deportability Related to Driving While Intoxicated or Impaired:* This section creates a ground of inadmissibility for aliens who have been convicted of, admit to, or admit to committing acts that constitute the essential elements of any offense involving driving while intoxicated or impaired. The section also creates a ground of removability for aliens convicted of such offenses.

### **Changes in Existing Law Made by the Bill, as Reported**

[INSERT “C” – PREPARED BY LEG. COUNSEL]

## **Minority Views**

[INSERT “D” – MINORITY VIEWS]