

Food Donation Connection

Statement for the Record House Ways and Means Subcommittee on Oversight Joint Hearing on Food Banks and Front-Line Charities: Unprecedented Demand and Unmet Need

Chairman Lewis, Chairman McDermott and distinguished members of the Ways and Means Committee, on behalf of Food Donation Connection, I am submitting written testimony for the Joint Hearing on Food Banks and Front-Line Charities: Unprecedented Demand and Unmet Need. My name is Jim Larson and for the past eleven years I have been involved with Food Donation Connection assisting food service companies in establishing programs to donate their surplus food to local charitable organizations. Thank you for calling attention to the increasing need of food banks and non-profit agencies.

It is no secret that the current economic climate has intensified the needs of aid agencies seeking to feed the nation's hungry. One method that has proven successful in helping to meet this need is the redirection of surplus wholesome food, produced by restaurants and food service companies, to these hunger relief organizations. In 1976, the U.S. Congress encouraged such donations when it enacted Section 170 of the Internal Revenue Code, allowing C-corporations to earn an enhanced tax deduction for donating surplus property, including food. The intent of this law was to provide an incentive to restaurants and food service companies to take the steps necessary to save and donate surplus food to non-profit IRC 501(c)(3) organizations.

Since 1992, Food Donation Connection (FDC) has assisted companies nationwide in establishing programs to donate their surplus food to local hunger relief agencies. FDC's vision is to "let nothing be wasted," and the company has coordinated the donation of over 140 million pounds of wholesome prepared food to help people in need. We currently partner with companies like Yum! Brands (Pizza Hut, KFC, Taco Bell, Long John Silver's, A&W), Darden Restaurants (Red Lobster, Olive Garden, LongHorn, Seasons 52, Bahama Breeze, Capital Grille), The Cheesecake Factory, and Chipotle Mexican Grill to coordinate donations from over 7,000 restaurants to over 3,500 non-profit agencies nationwide.

When Hurricane Katrina devastated the Gulf Coast in late August, 2005, Congress passed KETRA to make it possible for *all* business entities (non-C corporations like S corporations, Partnerships, and Sole Proprietorships) to take the enhanced tax deduction allowed by Section 170(e)(3). The current law has been extended on two occasions through the Pension Protection Act of 2006 and the Emergency Economic Stabilization Act of 2008. The current extension ends this year. While these measures have helped to meet the needs of the hungry, the bi-annual, retroactive tax extender approach makes it difficult for potential food donors to accomplish adequate tax planning.

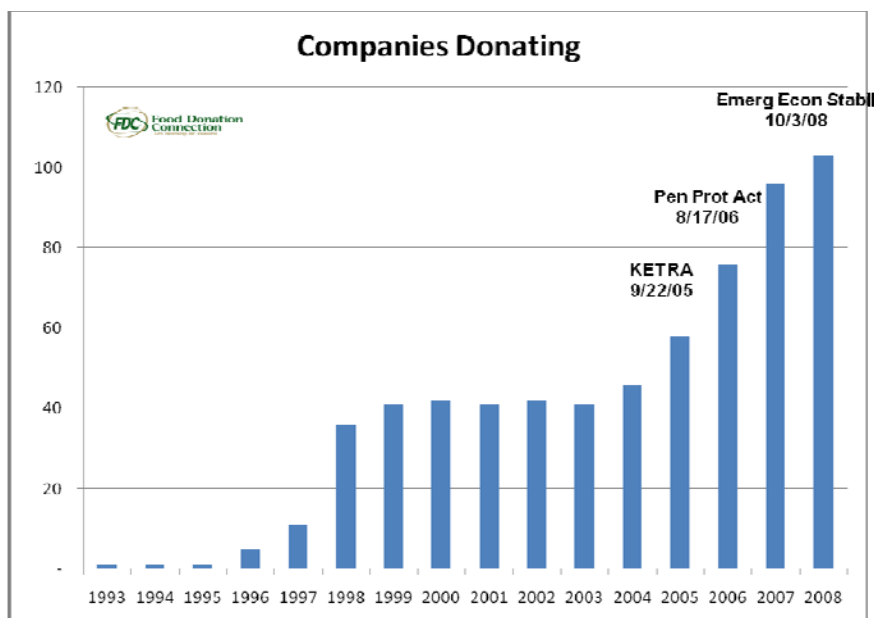
The uncertainty of incentive longevity and lapses in the expansion of the deduction provision increase the difficulty of convincing new non-C corporation business owners to donate. Many

things compete for the attention of business managers, and as an unfortunate result, wholesome food continues to be thrown away at many restaurants. What is needed is a permanent expansion of Section 170(e)(3) to all food industry businesses. FDC supports the “Good Samaritan Tax Legislation,” House Bill 3227 and Senate Bill 1313, which would provide a permanent tax law to allow for greater long term tax planning by food donors. For example, the language included in the Extension and Expansion of the Charitable Deduction for Contributions of Food Inventory Act (House Bill 3227), provides a simplified calculation of the deduction for all business taxpayers and codifies an important tax court ruling regarding valuation determinations for food donations. FDC is working with Feeding America (formerly America’s Second Harvest), the National Restaurant Association, and food donors to build awareness and encourage passage of these important bills. Specifically, this legislation would do three things:

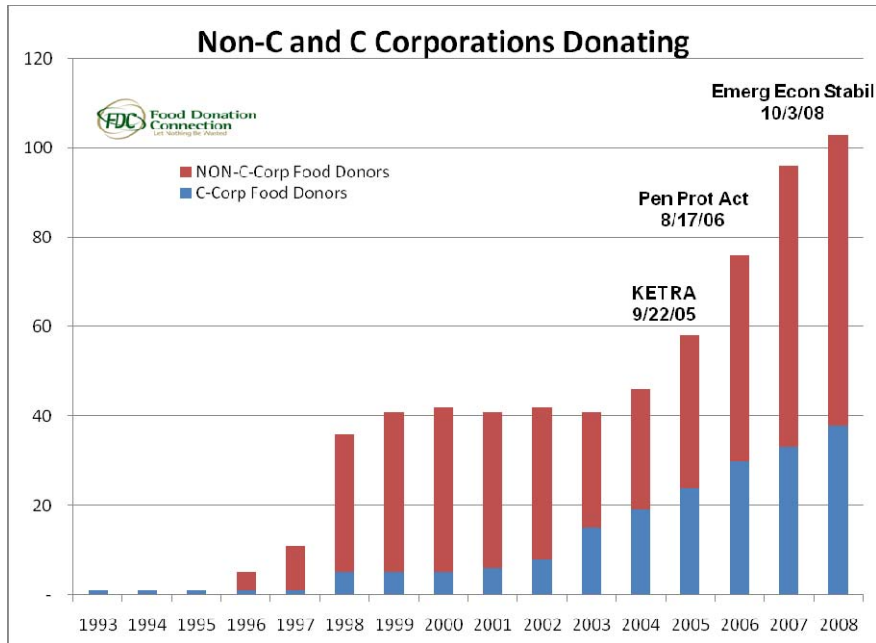
- Maintain the current law provision to allow *any trade or business* to apply the enhanced deduction for contributions of inventory;
- Define the enhanced deduction as *full fair market value*, with the total deduction limited to *two times cost*; and
- Codify the definition of *fair market value* as the price at the time of the contribution without regard to internal standards or lack of market.

FDC is uniquely positioned to examine the impact of expanding Section 170(e)(3) to all business taxpayers in the restaurant industry. We have found that donating prepared food in a local community is an attractive option for businesses and it has an immediate impact on the lives of the less fortunate. However, without a permanent incentive for donating, many non-C corporations will likely cease donating food.

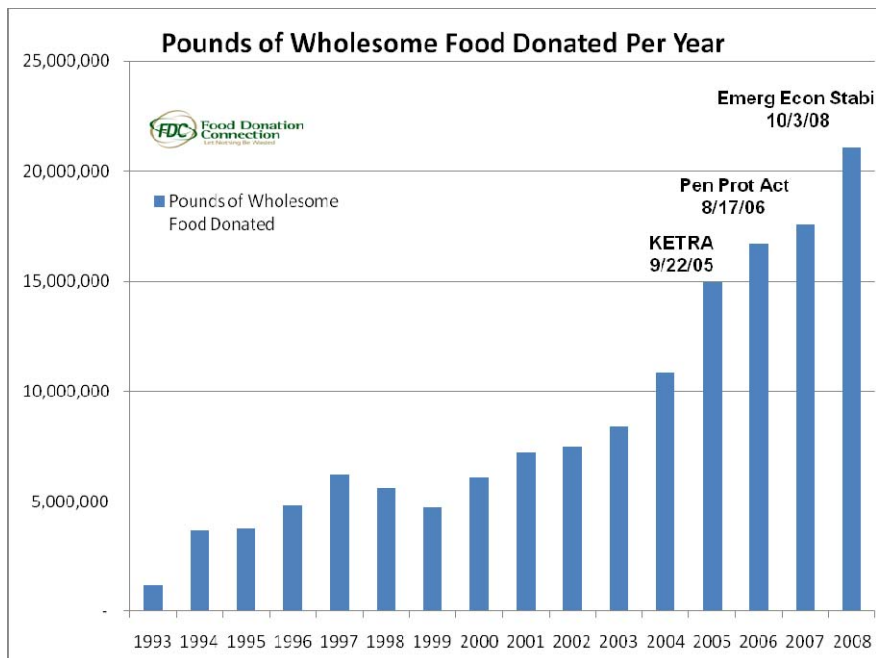
The following charts illustrate the impact of expanding Section 70(e)(3).



The first chart, **Companies Donating**, shows the increase in the number of companies donating surplus food from 1993 to 2008. (Please note that the sale of Pizza Hut corporate stores to franchise companies is responsible for the increase in the number of total companies donating in 1998 and 1999).



The second chart, **Non-C and C Corporations Donating**, illustrates the sale of the Pizza Hut stores to non-C corporation franchisees in the late 1990's. The franchisees continued to donate for a few years, but the amount of food donated declined as the non-C corporation companies were ineligible for Section 170(e)(3) deductions.



The third chart, **Pounds Donated**, graphically illustrates this drop in donations, resulting in a lack of significant gains between 1998 and 2004.

All three charts illustrate the growth in donations from companies involved in FDC's Harvest Program as a result of the expansion of Section 170(e)(3) in 2005 after KETRA and subsequent extensions.

An example of the trend for non-C corporations to stop donating can be seen in the experience of the long-donating C-corporation, Pizza Hut, Inc. Pizza Hut was the industry pioneer in launching wholesome surplus food donations in its company restaurants in 1992. However, Pizza Hut, Inc. over the past several years has divested itself of many of its restaurants by selling them to franchisees. Yum! Brands is now over 90% franchised, and these franchisees are

typically non-C corporations. As a result, the franchisees will once again not be eligible for the enhanced tax deduction when current law expires.

This case provides an illustration of the potential impact resulting from a permanent extension of Section 170(e)(3). A number of Pizza Hut and KFC franchisees have told FDC that they would donate if the tax benefit for non-C corporations is made permanent. As a result of a permanent tax law 2,508 Pizza Hut and KFC restaurants in 43 states would become eligible for the enhanced deduction for donating food. These 2,508 restaurants would donate over 6 million pounds of food annually. These restaurants are operated by 65 different franchised groups and represent a broad spectrum of communities across 315 congressional districts. (Please see the complete list and the projected pounds of food that would be donated by these restaurants in the Appendix A).

In closing, please consider the following, typical comment from one of FDC's recipient hunger relief agencies, concerning the impact of prepared food donations. Stephanie Paine, Director of Food Service for the San Diego Rescue Mission in San Diego writes:

..The donations of pizza from Pizza Hut and chicken wings, rice, mashed potatoes, corn on the cob and macaroni & cheese from KFC have increased the nutritional value of the food we had available and the men, women and children that receive these meals have been so grateful to have more variety in the weekly menus. We collect enough of the Pizza Hut and KFC items to serve three meals a week! And we serve 500 people at each meal. That is 1500 free meals that would otherwise be thrown away if these restaurants didn't donate to our organization...

As you consider the best ways to help end hunger throughout the United States of America, please remember that food donation programs provide free, prepared food to non-profit organizations in local communities, resulting in an immediate impact on the lives of the less fortunate. Surplus food donations re-direct wholesome food – otherwise destined for a landfill – to the stomachs of the hungry. Passage of House Bill 3227 and Senate Bill 1313 would fulfill the original intent of the Section 170(e)(3) legislation by allowing non-C corporations to take advantage of a charitable deduction for their contributions of food inventory to the needy. Surely this is part of a win-win solution to the troubling problem of hunger in our nation.

Thank you for your efforts to make a difference in the lives of thousands of people by passing this important legislation.

Sincerely,

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Appendix A: Potential Restaurant Donations by District

State	District	Representative	Restaurants	Total Annual Pounds
AL	03	Mike Rogers	2	3,962
AL	05	Parker Griffith	3	10,467
AR	01	Marion Berry	15	50,073
AR	02	Vic Snyder	14	48,092
AR	03	John Boozman	6	23,196
AR	04	Mike Ross	6	16,410
AZ	01	Ann Kirkpatrick	5	9,905
AZ	03	John Shadegg	2	3,962
AZ	06	Jeff Flake	1	1,981
AZ	07	Raul Grijalva	10	19,810
AZ	08	Gabrielle Giffords	15	29,715
CA	17	Sam Farr	5	21,215
CA	21	Devin Nunes	6	11,886
CA	22	Kevin McCarthy	2	6,224
CA	23	Lois Capps	4	7,924
CA	24	Elton Gallegly	6	14,148
CA	25	Buck McKeon	12	23,772
CA	26	David Dreier	10	24,334
CA	27	Brad Sherman	13	37,063
CA	28	Howard Berman	14	36,782
CA	29	Adam Schiff	14	34,520
CA	30	Henry Waxman	11	30,839
CA	31	Xavier Becerra	10	24,334
CA	32	Judy Chu	10	22,072
CA	33	Diane Watson	13	34,801
CA	34	Lucille Roybal-Allard	13	30,277
CA	35	Maxine Waters	13	30,277
CA	36	Jane Harman	13	30,277
CA	37	Laura Richardson	10	19,810
CA	38	Grace Napolitano	14	34,520
CA	39	Linda Sanchez	10	24,334
CA	40	Edward Royce	16	33,958
CA	41	Jerry Lewis	14	29,996
CA	42	Gary Miller	12	30,558
CA	43	Joe Baca	13	25,753
CA	44	Ken Calvert	13	28,015
CA	45	Mary Bono Mack	13	30,277
CA	46	Dana Rohrabacher	9	20,091
CA	47	Loretta Sanchez	13	25,753
CA	48	John Campbell	13	30,277
CA	49	Darrell Issa	7	16,129
CO	03	John Salazar	17	47,249
CO	04	Betsy Markey	2	3,962
CO	05	Doug Lamborn	17	35,939
CT	05	Christopher Murphy	1	1,981
DC	00	Eleanor Norton	7	13,867
DE	00	Michael Castle	1	4,243
FL	04	Ander Crenshaw	3	5,943
FL	05	Ginny Brown-Waite	3	5,943
FL	06	Cliff Stearns	1	1,981
FL	07	John Mica	2	6,224
FL	08	Alan Grayson	3	10,467

FL	09	Gus Bilirakis	4	16,972
FL	10	Bill Young	7	29,701
FL	11	Kathy Castor	11	46,673
FL	12	Adam Putnam	7	29,701
FL	13	Vern Buchanan	2	8,486
FL	15	Bill Posey	8	29,420
FL	16	Tom Rooney	7	18,391
FL	17	Kendrick Meek	4	16,972
FL	18	Ileana Ros-Lehtinen	3	12,729
FL	19	Robert Wexler	4	7,924
FL	20	Debbie Wasserman Schultz	1	4,243
FL	21	Lincoln Diaz-Balart	2	8,486
FL	22	Ron Klein	10	31,120
FL	23	Alcee Hastings	4	12,448
FL	24	Suzanne Kosmas	2	8,486
FL	25	Mario Diaz-Balart	1	4,243
GA	01	Jack Kingston	4	14,710
GA	02	Sanford Bishop	2	3,962
GA	03	Lynn Westmoreland	2	3,962
GA	04	Henry Johnson	8	15,848
GA	05	John Lewis	10	19,810
GA	06	Thomas Price	2	3,962
GA	08	Jim Marshall	13	37,063
GA	09	Nathan Deal	11	21,791
GA	10	Paul Broun	3	5,943
GA	11	Phil Gingrey	7	13,867
GA	12	John Barrow	3	8,205
GA	13	David Scott	8	15,848
IA	01	Bruce Braley	7	20,653
IA	02	Dave Loebsack	2	3,962
IA	04	Tom Latham	6	16,410
IA	05	Steve King	13	37,063
IL	01	Bobby Rush	6	25,458
IL	02	Jesse Jackson	3	12,729
IL	03	Dan Lipinski	2	8,486
IL	04	Luis Gutierrez	3	12,729
IL	07	Danny Davis	5	21,215
IL	12	Jerry Costello	1	1,878
IL	15	Timothy Johnson	3	5,634
IL	16	Donald Manzullo	1	1,981
IL	17	Phil Hare	8	24,896
IL	18	Aaron Schock	2	3,962
IL	19	John Shimkus	4	7,512
IN	01	Peter Visclosky	1	1,981
IN	02	Joe Donnelly	4	7,924
IN	04	Steve Buyer	8	15,848
IN	05	Dan Burton	16	33,958
IN	06	Mike Pence	12	23,772
IN	07	Andre Carson	16	31,696
IN	08	Brad Ellsworth	8	15,848
IN	09	Baron Hill	12	23,772
KS	01	Jerry Moran	25	49,525
KS	02	Lynn Jenkins	13	25,753
KS	03	Dennis Moore	12	48,654

KS	04	Todd Tiaht	39	77,259
KY	01	Ed Whitfield	14	27,734
KY	02	Brett Guthrie	11	21,791
KY	03	John Yarmuth	16	31,696
KY	04	Geoff Davis	3	5,943
KY	05	Harold Rogers	8	15,230
KY	06	Ben Chandler	3	5,943
LA	01	Steve Scalise	8	33,944
LA	02	Joseph Cao	6	25,458
LA	03	Charlie Melancon	4	10,186
LA	05	Rodney Alexander	3	5,943
LA	06	Bill Cassidy	6	25,458
LA	07	Charles Boustany	14	27,734
MA	01	John Olver	1	1,981
MA	03	James McGovern	1	1,981
MA	05	Niki Tsongas	2	3,962
MA	06	John Tierney	1	1,981
MA	07	Edward Markey	3	5,943
MA	08	Michael Capuano	1	1,981
MA	09	Stephen Lynch	1	1,981
MA	10	William Delahunt	1	1,981
MD	01	Frank Kratovil	7	27,439
MD	02	Dutch Ruppersberger	6	25,458
MD	03	John Sarbanes	4	16,972
MD	04	Donna Edwards	14	29,996
MD	05	Steny Hoyer	25	60,835
MD	06	Roscoe Bartlett	14	29,996
MD	07	Elijah Cummings	1	4,243
MD	08	Chris Van Hollen	14	27,734
MI	01	Bart Stupak	8	20,372
MI	02	Peter Hoekstra	2	3,962
MI	03	Vernon Ehlers	16	31,696
MI	04	Dave Camp	6	18,672
MI	05	Dale Kildee	11	44,411
MI	06	Fred Upton	6	11,886
MI	07	Mark Schauer	13	34,801
MI	08	Mike Rogers	5	16,691
MI	09	Gary Peters	13	41,587
MI	10	Candice Miller	8	18,110
MI	11	Thaddeus McCotter	13	37,063
MI	12	Sander Levin	11	24,053
MI	13	Carolyn Kilpatrick	14	52,616
MI	14	John Conyers	20	73,550
MI	15	John Dingell	12	32,820
MN	01	Tim Walz	6	11,886
MN	02	John Kline	12	23,772
MN	03	Erik Paulsen	7	13,867
MN	04	Betty McCollum	5	9,905
MN	05	Keith Ellison	11	21,791
MN	06	Michele Bachmann	9	22,353
MN	07	Collin Peterson	6	11,886
MN	08	James Oberstar	8	15,848
MO	02	Todd Akin	8	15,848
MO	04	Ike Skelton	15	29,715
MO	05	Emanuel Cleaver	7	29,701

MO	06	Sam Graves	7	16,129
MO	07	Roy Blunt	1	1,981
MO	09	Blaine Luetkemeyer	10	19,810
MS	01	Travis Childers	9	38,187
MS	02	Bennie Thompson	8	33,944
MS	03	Gregg Harper	9	38,187
MS	04	Gene Taylor	16	67,888
MT	00	Dennis Rehberg	22	43,582
NC	01	George Butterfield	11	21,585
NC	02	Bob Etheridge	6	18,569
NC	03	Walter Jones	10	19,810
NC	04	David Price	19	64,062
NC	05	Virginia Foxx	13	38,810
NC	06	Howard Coble	10	40,168
NC	07	Mike McIntyre	5	9,905
NC	08	Larry Kissell	13	25,753
NC	09	Sue Myrick	17	33,677
NC	10	Patrick McHenry	8	15,436
NC	11	Heath Shuler	17	32,338
NC	12	Melvin Watt	11	30,839
NC	13	Brad Miller	22	76,791
ND	00	Earl Pomeroy	4	16,972
NE	01	Jeff Fortenberry	15	36,501
NE	02	Lee Terry	23	68,183
NE	03	Adrian Smith	12	23,772
NJ	05	Scott Garrett	7	20,653
NJ	06	Frank Pallone	2	6,224
NJ	07	Leonard Lance	7	20,653
NJ	08	Bill Pascrell	5	9,905
NJ	09	Steven Rothman	8	27,158
NJ	10	Donald Payne	8	24,896
NJ	11	Rodney Frelinghuysen	10	31,120
NJ	12	Rush Holt	1	4,243
NJ	13	Albio Sires	8	31,682
NM	01	Martin Heinrich	13	25,753
NM	02	Harry Teague	12	23,772
NM	03	Ben Lujan	14	27,734
NY	01	Timothy Bishop	2	3,962
NY	02	Steve Israel	1	1,981
NY	03	Peter King	1	1,981
NY	04	Carolyn McCarthy	3	5,943
NY	05	Gary Ackerman	3	5,943
NY	06	Gregory Meeks	2	3,962
NY	07	Joseph Crowley	2	6,224
NY	09	Anthony Weiner	3	5,943
NY	10	Ed Towns	1	1,981
NY	12	Nydia Velazquez	1	1,981
NY	13	Michael McMahon	3	12,729
NY	14	Carolyn Maloney	1	1,981
NY	16	Jose Serrano	6	25,458
NY	17	Eliot Engel	3	10,467
NY	18	Nita Lowey	3	8,205
NY	19	John Hall	3	5,943
NY	20	Scott Murphy	10	19,810
NY	21	Paul Tonko	3	5,943

NY	22	Maurice Hinchey	4	7,924
NY	23	William Owens	12	30,558
NY	24	Michael Arcuri	8	29,420
NY	25	Dan Maffei	7	29,701
NY	26	Chris Lee	4	7,924
NY	27	Brian Higgins	8	15,848
NY	28	Louise Slaughter	3	5,943
NY	29	Eric Massa	7	13,867
OH	02	Jean Schmidt	3	5,943
OH	03	Michael Turner	4	14,710
OH	04	Jim Jordan	5	12,167
OH	06	Charles Wilson	6	11,886
OH	07	Steve Austria	9	20,091
OH	08	John Boehner	3	8,205
OH	09	Marcy Kaptur	2	3,962
OH	10	Dennis Kucinich	11	46,673
OH	11	Marcia Fudge	13	55,159
OH	12	Patrick Tiberi	14	27,734
OH	13	Betty Sutton	15	36,501
OH	14	Steven LaTourette	22	54,892
OH	15	Mary Jo Kilroy	14	27,734
OH	16	John Boccieri	17	33,677
OH	17	Timothy Ryan	16	31,696
OH	18	Zachary Space	8	15,848
OK	01	John Sullivan	2	3,962
OK	02	Dan Boren	1	1,981
OK	03	Frank Lucas	15	29,715
OK	04	Tom Cole	15	29,715
OR	04	Peter DeFazio	9	17,829
OR	05	Kurt Schrader	5	9,905
PA	03	Kathy Dahlkemper	3	5,943
PA	04	Jason Altmire	11	21,791
PA	05	Glenn Thompson	9	17,829
PA	06	Jim Gerlach	1	4,243
PA	09	Bill Shuster	2	8,486
PA	10	Christopher Carney	1	1,981
PA	12	John Murtha	7	13,867
PA	13	Allyson Schwartz	1	4,243
PA	14	Michael Doyle	12	23,772
PA	16	Joseph Pitts	13	34,801
PA	17	Tim Holden	11	30,839
PA	18	Tim Murphy	17	33,677
PA	19	Todd Platts	20	62,240
SC	01	Henry Brown	27	53,487
SC	02	Joe Wilson	11	21,791
SC	03	Gresham Barrett	14	49,942
SC	04	Bob Inglis	7	15,511
SC	05	John Spratt	13	30,174
SC	06	James Clyburn	8	15,848
SD	00	Stephanie Herseth Sandin	3	12,729
TN	02	John Duncan	16	31,696
TN	03	Zach Wamp	18	35,658
TN	04	Lincoln Davis	9	17,726
TN	05	Jim Cooper	1	4,243
TN	06	Bart Gordon	5	9,905

TN	07	Marsha Blackburn	5	18,953
TX	04	Ralph Hall	1	1,981
TX	06	Joe Barton	3	5,943
TX	10	Michael McCaul	1	4,243
TX	11	Michael Conaway	11	21,791
TX	12	Kay Granger	5	9,905
TX	13	Mac Thornberry	18	35,658
TX	17	Chet Edwards	3	5,943
TX	19	Randy Neugebauer	4	7,924
TX	22	Pete Olson	1	4,243
TX	23	Ciro Rodriguez	2	3,962
TX	26	Michael Burgess	1	1,981
TX	31	John Carter	1	1,981
UT	01	Rob Bishop	16	31,696
UT	02	Jim Matheson	11	21,791
UT	03	Jason Chaffetz	14	27,734
VA	01	Robert Wittman	6	14,148
VA	02	Glenn Nye	1	1,981
VA	04	Randy Forbes	5	9,390
VA	05	Tom Perriello	4	9,877
VA	06	Bob Goodlatte	5	16,691
VA	07	Eric Cantor	3	8,205
VA	08	James Moran	12	23,772
VA	09	Rick Boucher	9	19,267
VA	10	Frank Wolf	18	35,658
VA	11	Gene Connolly	14	27,734
WA	01	Jay Inslee	10	19,810
WA	02	Rick Larsen	7	13,867
WA	03	Brian Baird	2	3,962
WA	06	Norman Dicks	8	15,848
WA	07	Jim McDermott	8	15,848
WA	08	Dave Reichert	9	17,829
WA	09	Adam Smith	13	25,753
WI	01	Paul Ryan	4	7,924
WI	02	Tammy Baldwin	1	1,981
WI	03	Ron Kind	7	13,867
WI	04	Gwen Moore	2	3,962
WI	05	James Sensenbrenner	4	7,924
WI	06	Thomas Petri	2	3,962
WI	07	David Obey	4	7,924
WI	08	Steven Kagen	3	5,943
WV	02	Shelley Capito	4	10,186
WV	03	Nick Rahall	2	3,756
WY	00	Cynthia Lummis	10	19,810
		Totals	2,508	6,280,807