Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Jordan
Kanjorski
Kaptur
Keller
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Scalise
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tancredo
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wittman (VA)
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—17

Brown, Corrine
Carter
Castor
Cramer
Crenshaw
Delahunt
Fossella
Frank (MA)
Gillibrand
Kagen
Kennedy
McDermott
Rush
Speier
Tiahrt
Wexler
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded there are 2 minutes remaining in this vote.

□ 1823

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, we just finished a vote several minutes ago on the override of the farm bill, except that the override vote occurred on a bill that had never been considered by the House or the Senate, since the bill that we voted to override apparently is missing one title of the bill—or the conference report—that passed the House and the Senate. I am concerned about the procedures, the process, and the constitutionality of what we've just done.

I would like to ask the majority leader if he can help myself and the other Members understand just what are we dealing with here.

Mr. HOYER. Mr. Speaker, will my friend yield?

Mr. BOEHNER. I would be happy to yield.

Mr. HOYER. Mr. Speaker, clearly, what we are dealing with is an unfortunate situation. The unfortunate situation is that apparently—and again I just learned about this about an hour and a half ago when Mr. PETERSON, the chairman of the committee, told me he and Mr. GOODLATTE were discussing this problem and how to proceed. Apparently what happened is title III, which I understand is not very controversial, but in any event, title III came up on the screen for the printing on the parchment that is sent to the President, but, unfortunately, for whatever reasons, it was not printed out and it was not caught in the proofing of that. Apparently, as well, the White House did not catch the fact that the bill was not inclusive of title III.

Frankly, I have not looked at the bill to see whether there's a title I, II, and then goes to IV, which would have been self-evident that there was a missing title.

In any event, without having researched it or talked to anybody about precedents, what has happened is that the House and the Senate passed in exactly the same form that which was vetoed by the President. Now, we passed more than that, but that which we have just voted on was passed in both Houses in exactly the form we just voted on.

The vote, therefore, superficially, off the top of my head, without having researched this, is that what we have done is we have passed that which we originally passed through the House and the Senate and sent to the President, notwithstanding the President's veto, and something that we did also pass, which was incorporated in that bill, was neither vetoed nor signed by the President because, unfortunately, as a result of a clerical error, it was not included in the bill.

I, in discussions with Mr. PETERSON, understand that he and Mr. GOODLATTE were in discussion on this issue when they first learned of it, and I don't know how long they knew about it before I found out about it; that, as I thought, their agreement would be that we would pass, subsequent to passing the initial bill, the title III either by unanimous consent or under the suspension calendar.

I don't know the conversations that occurred between Mr. PETERSON and Mr. GOODLATTE. Mr. PETERSON is on the floor, I know. I don't know exactly where he is. But it was his understanding that that would be an acceptable way to proceed. That was where I thought it to be.

Mr. BOEHNER. Reclaiming my time, we may have transported to the President a portion of the bill that passed the House and Senate, but we did not send to the President, apparently, the farm bill conference report as passed by the House and the Senate.

I think what's of grave concern to me is, yes, I understand that mistakes do happen in this process, but before the consideration of the override debate and vote, we were aware of the problem. And I just think that in deference to all Members, we could have waited before consideration of the override so that all the Members would understand just what we're dealing with and the problems that are contained therein. I just think that in the rush to move this override vote, we don't know what precedents of the House we may have stepped on and what constitutional problems that we may have. I would remind my colleague that there was a very small mistake made in the Deficit Reduction Act several years ago that's been the subject of a lawsuit and privileged resolutions and moral outrage from some of my friends on the other side of the aisle, which, frankly, the Deficit Reduction Act error pales in comparison to what we have here.

So I would ask my colleague, I think we need to get to the bottom of what happened.

□ 1830

I don't know that the override that we just cast—we voted to override a bill that had never been considered by the House or the Senate, and I don't know how that is constitutional.

I would be happy to yield to my friend.

Mr. HOYER. Well, as I said, everything that we voted on was passed by the House and the Senate in exactly the same form. Obviously, I agree with your premise that the bill as passed out of Congress was not the exact same bill because of the deletion of title III,

apparently by error. Title III, as I understand, is not particularly controversial. I understand that from the discussion between Mr. GOODLATTE and Mr. PETERSON.

So a mistake was made. A deletion was made. The President and the White House did not catch it. We didn't catch it. The President vetoed a bill. The bill that he vetoed, he sent back here. We have now said notwithstanding the veto, we believe the provisions that we both passed should in fact become law.

Now the gentleman is correct, which is self-evident, and I can't disagree with your proposition that the bill was not in exactly the same form, and as I indicated at the beginning, because I only learned about this about an hour and a half ago, these are off-of-the-top-of-my-head opinions, and are probably worth that much.

Mr. BOEHNER. Reclaiming my time, in terms of how this problem gets fixed, is there some consideration for how we fix this error?

Mr. HOYER. Yes.

Will the gentlemen yield?

Mr. BOEHNER. I would be happy to yield.

Mr. HOYER. We hope to have, again, as result of discussions between Mr. PETERSON and Mr. GOODLATTE, either by unanimous consent, which may not be possible, or under suspension because, again, I understand from Mr. PETERSON that title III is not a controversial title. Clearly, title I was controversial. Other titles were controversial. But if that is the case, then we can pass this by suspension tomorrow with suspension authority and send that to the Senate and hopefully they will then in turn send that to the President that title which has not yet been enacted or, frankly, acted on by the President, would either be signed by him or vetoed by him and we would consider it in that context.

Mr. DREIER. Will the gentleman yield?

Mr. BOEHNER. Let me yield to the gentleman from California.

Mr. DREIER. I thank the distinguished Republican leader for yielding. As the leader has said, this is a circumstance that does bring to mind the Deficit Reduction Act controversy which created a huge stir in this place and one with which we are still trying to contend.

I just heard that the Rules Committee was scheduled to reconvene at 6:30 this evening to report out the Duncan Hunter Defense Authorization bill, and I have been told that there's going to be some attempt made in the Rules Committee to deal with this issue in that rule. That's the word that we have been hearing over here.

I thank my friend for yielding. If he would yield to the distinguished majority leader, I would like to have us enlightened on the prospect of this.

Mr. HOYER. Will the gentleman yield?

Mr. BOEHNER. I would be happy to yield.

Mr. HOYER. The only thing, as I understand it, would be to make tomorrow a suspension day. It's not a suspension day. So we would have to make it a suspension day.

Mr. BOEHNER. If I could yield to my colleague from Missouri.

Mr. BLUNT. I appreciate the gentleman yielding.

I don't think, as I listen to this conversation and see it develop today, if we pass this section that the President hasn't seen, and the Senate passes the section that the President hasn't seen, and he either signs or vetoes it, that would be the only bill that the House actually passed that the President sees on this topic. It is clear if you look at the line-item veto case, it was clear in that case that the President can't selectively veto things in a part of a House bill.

Again, think through this with me, if you will. The only thing the President will have seen that the House and Senate both passed as it stands would be this last portion.

The concept that we can start sending bills over piecemeal because the House had passed this part of it is a flawed concept. Who knows what the House would pass if it didn't get a chance to pass the full bill each time. We would have passed the tax extenders today, unanimously, if it hadn't had the portion on it on new tax increases. We would have all voted for that part of the tax extenders bill. It wouldn't have changed that part of the bill. In fact, if we had only sent the President that part of the tax extenders bill, he would have signed it. But he probably won't sign it with this additional thing.

When we had the Deficit Reduction Act, which, believe me, I remember in vivid detail, vivid detail; we had a bill that we sent to the Senate, the Senate clerk made a change in it and sent it to the Senate floor. Nobody in the Senate who voted on the bill knew that it had been changed, so it had no impact on the Senate vote.

The Senate clerk got it back, realized that her change was inaccurate, sent it back to us just like we had sent it over to them. We voted on it again and sent it to the President, and didn't know until the signing ceremony that this had ever occurred. We didn't know until the signing ceremony that this had ever occurred. There was no action on the House at all with any knowledge any of this had ever occurred. In fact, none of it even occurred on the House side.

At that time, the minority leader stood up and said:

''Whereas, although the Senate Enrolling Clerk mistakenly changed critical numbers that had major financial significance, leadership deliberately chose to ignore that notification and instead allowed the House to vote on an incorrect version of this legislation.''

Not true, by the way.

''Whereas, the effect of these actions raises serious constitutional questions and jeopardizes the legal status of this legislation.

''Resolved, that the Committee on Standards of Official Conduct shall begin an immediate investigation into the abuse of power surrounding the accuracy of the process and enrollment.''

The Speaker of the House, my friends, certified to the President that we were sending him a bill exactly as we had passed it. We now understand that clearly was not an accurate certification of what the House has done, and we are about to go down a path that might have the only action really taken by the House that the President sees in totality, this last segment of the bill. Why we would have moved forward, knowing all those facts before we moved forward, is a mystery to me.

Mr. BOEHNER. I would be happy to yield to the majority leader.

Mr. HOYER. I am looking for the exact date, but the farm bill expires tomorrow, and we have to extend the farm bill or go back to the 1949 extension.

Again, I would say to my friend I am operating with some concerns about the questions that are raised. But, again, I say, first of all, what happened in the Deficit Reduction Act is that the bill that was sent to the President, the provisions were never passed by the Senate.

Every provision that was sent to the President was sent to the President after overwhelming votes from the House, overwhelming votes from the Senate in exactly the same position. Title III was passed by the Senate and the House, and inadvertently left out.

In the Deficit Reduction Act, figures were changed in the bill subsequent to passing the Senate and never passed by the House. So I would suggest that the analogy between the two is not apt. In addition, there was no bipartisan discussion on that change.

In this case, Mr. PETERSON and Mr. GOODLATTE are both on the floor. I didn't participate in those conversations. But I was informed by Mr. PETERSON, because I said, have you talked to Mr. GOODLATTE about this. He said he had. There had been significant discussions about that. There was concern about getting the farm bill passed because of the expiration of the existing authorization.

As a result of those discussions, my personal thought was there was bipartisan agreement that we could proceed this way. We did proceed that way. I don't think I can amplify my response more than that.

Mr. BLUNT. Would the gentleman yield?

Mr. BOEHNER. I would be happy to yield.

Mr. BLUNT. I thank the gentleman for his response. We may have a significant debate over whatever standards we were held to, that people are no longer held to. I will say that in that case, nobody in the House ever knew that any changes had been made, and it was alleged that somehow we were

going to be subject to Ethics Committee investigations.

I would say in this case that my principal concern would be that the sections of the farm bill that have gone to the President, since they were not part of an entire bill, could be subject to all kinds of future litigation. I do know in the litigation that the minority initiated in February, 2006, 2 years and millions of taxpayer dollars later, we finally ended that litigation at the court of appeals level with the court of appeals deciding that if the Speaker and the President pro tempore certified that this is what both bodies passed, it was what both bodies passed.

Here, we're moving forward with both bodies admitting that what this President has seen is not what both bodies passed. This idea that just because a portion of the bill has passed in a bigger bill means that the House was for that portion of the bill, that the Senate was for that portion of the bill, I don't think would stand any reasonable test of a way for us to move forward, and I think this bill does become subject to all kind of challenges from outside this building as well as perhaps from inside.

Mr. BOEHNER. I would just add, what has happened here raises serious constitutional questions, very serious. I don't know how we can proceed with the override as it occurred, nor do I think we should proceed with some attempt to fix it until such time as we all understand what happened, what are the precedents of the House, and how do we move forward.

As a result, I really believe that there ought to be a motion, I may make the motion, to vacate the vote that has occurred until we all understand better about what it is that we are dealing with.

Mr. HOYER. Will the gentleman yield?

Mr. BOEHNER. I would be happy to yield.

Mr. HOYER. My suggestion will be that we have another vote. We are going to have some other business coming. We discussed this briefly in the hallway. My suggestion is before we make any motions, that we take the time, your leadership and our leadership, let's sit down and discuss this and then we can come back and do whatever each decides to do.

Mr. DREIER. Would the gentleman yield?

Mr. BOEHNER. I would be happy to yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding.

I would just like to raise one other point that should be part of those discussions. If I could remind our colleagues, one of the items that was debated vigorously during consideration of the farm bill happened to be the issue of the baseline numbers that were used. We are poised at this moment to bring up a budget resolution which will raise a question as to exactly what baseline level is used and what pay-fors might be out there. So I think that we have some very serious questions that are raised.

My friend from Arizona (Mr. SHADEGG) just reminded us again that for us to conclude, as the distinguished Republican whip has said, that this bill somehow would have passed identically in the exact same form is a real stretch. For that reason, I think that we have lots of questions that need to be addressed before we do proceed.

I thank my friend for yielding.

□ 1845

Mr. HASTINGS of Florida. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. Does the gentleman from Ohio yield for that purpose?

Mr. BOEHNER. I yield back the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will continue.

There was no objection.

DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITY AUTHORIZATION AND LEASE ACT OF 2008

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 5856, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and pass the bill, H.R. 5856.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 0, not voting 18, as follows:

[Roll No. 349]

YEAS—416

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Altmire
Andrews
Arcuri
Baca
Bachmann
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castle
Cazayoux
Chabot
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Fallin
Farr
Fattah
Ferguson
Filner
Flake
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
Latta
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Scalise
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tancredo
Tanner
Tauscher
Taylor
Terry
Thompson (CA)