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House of Representatives

The House met at 10 a.m.

The Reverend Dr. K. Eric Perrin, Cornerstone Presbyterian Church, Columbia, South Carolina, offered the following prayer:

Almighty God, Father of all who love You, this Nation owes You our liberty. Your truth shaped our law. Generation after generation You delivered us from enemies. For Your goodness, receive our thanks.

Now we confront new terrors. Clouds of war rise on the Middle Eastern horizon. We need Your help. Yet in many ways we have forgotten You. We are confused as to who You are. We have difficulty discerning good from evil in our private lives. We are often unjust in our relationships, corrupt in our commerce, self-interested in our pursuit of the Nation's welfare.

Forgive us, Lord. Turn our hearts to seek You, our minds to know You, our wills to serve You. Guide the men and women of this honorable House. Bless the President of these United States. Aid those who defend us. Save us through Your mercy, by the grace of Christ, our Sovereign. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida (Mr. FOLEY) come forward and lead the House in the Pledge of Allegiance.

Mr. FOLEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4628. An act to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4628) ''An Act to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GRAHAM, Mr. LEVIN, Mr. ROCKEFELLER, Mrs. FEINSTEIN, Mr. WYDEN, Mr. DURBIN, Mr. BAYH, Mr. EDWARDS, Ms. MIKULSKI, Mr. SHELBY, Mr. KYL, Mr. INHOFE, Mr. HATCH, Mr. ROBERTS, Mr. DEWINE, Mr. THOMPSON, and Mr. LUGAR, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed without amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 458. Concurrent resolution recognizing and commending Mary Baker Eddy's achievements and the Mary Baker Eddy Library for the Betterment of Humanity.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The gentleman from South Carolina (Mr. WILSON) is recognized for 1 minute; then there will be 15 1-minute speeches on each side.

WELCOMING REVEREND DR. K. ERIC PERRIN

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I am so pleased to welcome Pastor Rick Perrin from the Irmo community of South Carolina as our guest chaplain. Pastor Perrin has been the senior pastor of Cornerstone Presbyterian Church for 11 years. He has been married to Barb Perrin for 30 years, and they have three wonderful sons. Scott Perrin serves with the Secret Service in Georgia; Tim Perrin, who worked for my mentor and predecessor, Floyd Spence; and Chris Perrin, who now works for my colleague, the gentleman from Oklahoma (Mr. WATTS).

Pastor Perrin started the Community Roundtable, a group of leaders who have come together to lead and deal with at-risk youth. He also started the Human Relations Committee to promote harmony with racial and demographic changes in the community.

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Pastor Perrin is the chairman of the World Reform Fellowship which connects churches and ministry organizations around the world to build partnerships. Pastor Perrin has demonstrated consistent leadership over the years, and I count his family as friends.

It is a great honor for all South Carolinians to have Pastor Perrin perform the prayer today in the United States House of Representatives.

THE NEED FOR A HOMELAND SECURITY BILL

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Madam Speaker, I woke up this morning to a lot of noise on my TV set as two prominent Senators were berating the President of the United States, so I tuned in to listen and find out what all the fuss was about.

It turned out there was a concern echoed by the President that there is a national homeland security bill that left this Chamber in July. In July. We had promised the American public action on this critical legislation before the anniversary of the terror attacks in New York, Washington and Pennsylvania on September 11.

So I thought to myself, why would our President, our Commander-in-Chief, be outraged? Why would he be concerned, and why would we hear such volume from the Senate? Well, he is concerned about the life of every American living here in the United States who wants a safe homeland.

We passed our bill. I cannot urge action on the other body, it is prohibited by the rules of the House. But I would at least hope that the American people would speak out loud and clear about the need for a homeland security bill, about the need to protect our national security.

CODE ADAM ACT

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Madam Speaker, I rise today in support of the Code Adam Act. Code Adam is a proven, successful program that has saved lives in the retail environment. It is time to bring that same measure of safety to children in Federal buildings.

Since the Code Adam program began in 1994, it has been a powerful preventive tool against child abductions and lost children in more than 25,000 stores across the Nation. The House and Senate versions of the Code Adam Act would require the implementation of this protocol in all Federal buildings.

Wal-Mart started this fantastic program in the name of Adam Walsh, John and Reve Walsh's son, who was abducted from a mall and murdered in Florida about 20 years ago. Every day I see children walking through the Halls of Congress and in Federal buildings back home in Texas. God forbid, if a child would go missing in one of these buildings, this bill would make sure that a plan was in place to secure that building and find the child before something tragic could occur.

Join me, the gentleman from Puerto Rico and many of our other colleagues in supporting this great piece of legislation.

URGING ACTION ON HOMELAND SECURITY

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Madam Speaker, we are at war. Homeland security legislation passed this body in July, as the gentleman from Florida (Mr. FOLEY) just mentioned, and yet the Senate has not acted.

The President wants the tools that he thinks are necessary to protect every man, woman and child in this country, and yet the Senate has not acted.

He wanted it done before September 11, the anniversary of the tragedy that happened in New York, here in Washington, D.C. and in Pennsylvania, but the Senate has not acted.

It is almost October. We are about to get out of here, and the Senate has not acted.

The other body wants to give the President less authority over national security than any other agency of government, and that is wrong. He needs the tools to protect this country, and yet the Senate has not acted.

Let me just say to the leaders of the Senate who were raising Cain yesterday: Get on the ball, protect America, support our President, and protect all the people who want to be protected in this country. We do not need another attack of terror.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT). Members are to be reminded that they should not characterize inaction or action of the Senate.

ILL-CONCEIVED CUTS IN MEDICARE

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mrs. CAPPS. Madam Speaker, seniors back at home have been waiting for years for Congress to pass a prescription drug benefit as part of Medicare. Each month, many choose between buying medications and paying rent. I am not exaggerating. They are desperate.

To make matters worse, many seniors were told by their doctors this year that they had to go somewhere else for care. This is because an arcane formula arbitrarily cuts the fees Medicare pays physicians. The administration says there was nothing they could do.

Now seniors in my district will be told they cannot get other health care, like a pacemaker or a pint of blood, because Medicare is cutting these rates also. And this time it is not because of some formula. The administration is actually doing this on purpose. This will hurt our already stretched seniors.

This will also get in the way of efforts to prepare for bioterrorism. Hospitals depend upon Medicare to help pay the bills. These cuts will mean our hospitals will be even more strapped for resources and less prepared.

I urge the administration to reject this ill-conceived idea and support our seniors, our doctors and our hospitals.

□ 1015

BANKRUPTCY REFORM BILL UNDERMINED BY TAINTED AMENDMENT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, some proponents of the current bankruptcy reform bill have claimed they want to stop violence. Well, we already know that fines and judgments for violent acts cannot be discharged in bankruptcy, so we have been arguing that the amendment added in conference committee is really out to stop peaceful, nonviolent protestors at abortion clinics.

Well, last week the Senator who wrote the amendment said on MNPR, and I quote, ''They'd pay their fine and go back and stand in front of the clinic again. And they'd pay their fine and go back and stand in front of the clinic again; and they'd pay their fine and go back and stand again. They were taking the law into their own hands; in a peaceful way, but a very serious way, that led us to write the law.''

Well, there we have it, right from the horse's mouth. Peaceful, pro-life protestors are the target of that amendment.

Madam Speaker, the current bill discriminates against pro-life Americans for no other reason than for what they believe. That is not right, not in America; and as much as I want to vote for bankruptcy reform, I cannot support the bill with this harmful language restricting first amendment rights of pro-lifers.

HONORING ALEXANDER LOPEZ FOR HIS APPOINTMENT TO THE CALIFORNIA STATE UNIVERSITY BOARD OF TRUSTEES

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Madam Speaker, I rise today to honor Alexander Lopez of Santa Ana.

Alex, a junior pursuing a Bachelor of Science Business Administration degree at California State University, Fullerton, has been appointed to one of the two student slots on the California State University Board of Trustees.

Student trustees are an important part of the governing body overseeing the 23-campus California State University system. They are responsible for creating policies, for hiring university presidents, and for representing the concerns of over 400,000 students in the California State University system.

I met Alex following a commencement address I gave at Cal State Fullerton this past year. He was all the things we hope our young people will grow to be: bright, ambitious, and compassionate. In addition to serving as the president of the student government, Alex is committed to advocacy for programs that will help low-income and minority students attend college.

I am very proud of Alex for his achievement, and I wish him luck. I also wish we would take note of this and invest in education instead of war.

OVERSIGHT HEARING TO INVESTIGATE HESHAM HEDAYET

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Madam Speaker, as chairman of the Subcommittee on Immigration of the Committee on the Judiciary, I am scheduling an oversight hearing next week on the bizarre case of Hesham Hedayet. He is the Egyptian national who killed two people at the Los Angeles International Airport back on July 4.

After that incident happened, the press reported that this individual had applied for a green card and was denied, and then later, was granted a green card based on the diversity application lottery that we have for visas based on diversity.

Later on, we got so worried about it that I issued a letter to the INS commissioner asking for full access to that Hesham Hedayet file so that we could inquire into it. Madam Speaker, 2½ months later, we still have not received a reply and then, somehow, that became clear to the Attorney General that there were questions about this individual, and the Attorney General has asked the INS to clarify it.

We are going to have an oversight hearing next week to determine answers to all of the inquiries about this matter.

MORE MONEY FOR FIRE PREVENTION

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Madam Speaker, I rise today to talk about an incident that is occurring now in the San Gabriel Valley in California and that is the Williams fire. We just went through a very, very debilitating fire several weeks ago in the same area. Now the Williams fire is continuing to burn there without much success to put it out.

Every day we spend about a million dollars just to try to bring resources to put this out. The problem here, though, is that there is not enough money being put in for preventive measures, and that is when the forest, the national forest is but up against our communities. We have community development areas, we have housing, we have people that are going to be affected.

Madam Speaker, 44 structures have already been burned; and I can tell my colleagues right now that with the conditions in California, the drought, the fact that we do not have enough preventive measures going in to help with containment is a serious problem. We need to put more money into this area, because we cannot afford to lose houses and human life and not even to mention the habitat that will not be replaced. It is important for us to understand that.

Madam Speaker, I ask this House to help by considering providing more support for fire prevention.

HOMELAND SECURITY

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

Mr. REHBERG. Madam Speaker, time is of the essence. With national security on the minds of many Americans, I urge my colleagues to seize the opportunity and pass legislation to create the Department of Homeland Security.

Each day that passes without this coordinating effort is a day that America is vulnerable to the very people who attacked this country on September 11. Creating the Department of Homeland Security will send a resounding message to the world: America is stronger and safer than it was 12 months ago.

I applaud those who have put partisan agendas aside to do what is right for this country. An entire year has passed. Let us get our work done. Let us put an end to the politics and provide Americans with the safety they deserve.

A NOTE OF REMEMBRANCE

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Madam Speaker, I rise this morning with a note of remembrance. Raymond Hall Hayworth, age 98, passed away peacefully yesterday. The last teammate of Ty Cobb has now left his earthly field.

Ray Hayworth wore a major league uniform in parts of 3 decades. His career spanned 13 years in the major leagues, first called up in 1926 to the Tigers.

For purposes of full disclosure, Madam Speaker, I should note that Ray Hayworth was my granddad; and the lessons he taught me, not only about sports, but about life, are lessons far more valuable than I can express on the floor of this House.

Our founders said they moved to secure the blessings of liberty for themselves and their posterity. In much the same way, my grandfather has left a legacy of freedom, as an athlete, as a role model, but, most of all, as a man. I was blessed for having his example to guide me.

SUPPORT H.R. 4600, THE HEALTH ACT

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Madam Speaker, the University of Nevada, Las Vegas, was forced to close its trauma unit after 57 of 58 surgeons quit, citing exposure to costly medical malpractice. In LeHigh, Pennsylvania, one-third of the surgeons quit because of unrelenting problems with medical malpractice. In Wheeling, West Virginia, all of the neurosurgeons have left, so that trauma patients needing brain surgery must be flown to Pittsburgh. And in Philadelphia, the Methodist Hospital stopped delivering babies June 30 because of malpractice insurance costs.

But this House will have an opportunity to do something about that with the passage of H.R. 4600. This will help get health care malpractice premiums in line that will bring some balance, protect the interests of the patients, and restore the doctor-patient relationship.

The objective of H.R. 4600 is to put patients into the emergency room and not get lawyers into the courtroom. I urge my colleagues to support it.

HELP FOR FIGHTING FIRES

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Madam Speaker, over the last several months we have seen the terrible fires that have hit Colorado, Arizona, New Mexico, Oregon, and other parts of the country. We are feeling the impact of the droughts. But now the fires have hit the Los Angeles area, and over the past several weeks we have had what was known as the Curve fire burn over 20,000 acres, and right now, the Williams fire, which started 5 o'clock Sunday afternoon, has hit the Angeles National Forest, the number one most-used national forest, national park in the country. We have had many structures damaged.

I would like to congratulate the President and thank him for the fact that we are going to, through the Federal Emergency Management Agency,

have reimbursement to those who are fighting the fire. I also want to say that our challenge will be dealing with reseeding which, as we face the rains that will hit come this winter, the mudslides can have an even more devastating impact.

Our thoughts and prayers are with those who are on the frontline fighting these fires, and we look forward to a quick resolution.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2215, 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

Mr. DIAZ-BALART. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 552 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 552

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2215) to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mrs. BIGGERT). The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. DIAZ-BALART asked and was given permission to revise and extend his remarks.)

Mr. DIAZ-BALART. Madam Speaker, House Resolution 552 is a standard rule waiving all points of order against the conference report to accompany H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act and against its consideration.

It has been over 20 years since Congress last authorized appropriations for the Department of Justice. This conference report that we are preparing to consider takes the long overdue step of putting our mark on the vital justice programs and funding levels that we have addressed solely through appropriations, since the 96th Congress. This conference report is a product of a careful deliberative bipartisan process. Every member of the conference committee, Republican and Democrat, House and Senate, has signed the conference report.

I believe that all of the conferees, especially the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman, and the gentleman from Michigan (Mr. CONYERS), the ranking member, should be commended for their work.

The conference report establishes fundamental and budgetary administrative authorities that simplify, harmonize, and clarify over 2 decades of statutory authorities. Few times in our national history has it been so important that we update and provide direction to the Department of Justice. The conference report helps the Department of Justice to adjust to the new century and the new challenges facing America. As President Bush has noted, ''We are today a Nation at risk to a new and changing threat.''

The Department of Justice has played and obviously will continue to play a very important, a pivotal role, in securing our Nation against the possibility of terrorist attacks.

Importantly, the conference report also reasserts congressional oversight of the Department. The administration has gone to extraordinary lengths to secure the Nation, while respecting the free and open society which we are privileged to live in.

Nevertheless, Congress is designed to serve as a check on the actions of the executive branch, to oversee the executive branch, that is obviously as fundamental a role for Congress as is legislating; and this conference report reaffirms our oversight responsibility.

This conference report is not by any means limited to the streamlining and strengthening of the Department of Justice's law enforcement responsibility or congressional oversight of its actions.

The conference report provides 94 additional U.S. Attorneys to work with State and local law enforcement to enforce existing Federal laws, firearms laws, for example, especially in and around schools.

□ 1030

The conference report also provides eight new permanent Federal judgeships in the State of Florida. Also in my State and that of the gentleman from Florida (Mr. HASTINGS), it creates a new temporary Federal District Court judgeship for the Southern District to ease the extraordinary burden on our Federal courts.

The conference report provides an increase in funds for the Boys and Girls Club, which will allow them to increase outreach efforts and increase membership throughout the Nation.

I think it is also worth a commendation that the conference report establishes a permanent, separate, and independent Violence Against Women Office in the Department of Justice. The office will be headed by a director who reports directly to the Attorney General and has final authority over all grants and cooperative agreements and contracts awarded by the office.

The conference report contains important provisions regarding drug abuse prevention and treatment, safeguarding the integrity of the criminal justice system, and providing for the enactment of juvenile justice and delinquency prevention legislation.

Madam Speaker, the conference report before us I believe is an extremely important piece of bipartisan legislation that will serve the Nation in innumerable ways.

The conference report, and I believe the rule, obviously, providing for its consideration, deserve our support. Accordingly, I urge all of my colleagues to support this rule and this very important underlying legislation.

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in full support of the conference report for H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act.

As my colleagues know, H.R. 2215 passed the House of Representatives in July, 2001, by a voice vote. I am quite certain that my colleagues will join us today and approve the conference report in an overwhelming way again.

Madam Speaker, while sitting in the Committee on Rules yesterday afternoon, and in reviewing the conference report, I am in true admiration of the bipartisanship that was shown by the committee's chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), and the ranking member, the gentleman from Michigan (Mr. CONYERS). I applaud the bipartisanship that the two of them showed while working on this report, and thank the conferees for their inclusion of many Democratic amendments.

As the House works on a variety of contentious issues in the coming days, I urge my colleagues to heed the bipartisan lessons of the chairman and ranking Democrat of the Committee on the Judiciary.

Many Members of the House were here this morning and spoke about the words that are being slung around on homeland security, and faulting the other body for delays in that regard. I would remind my colleagues that we have not completed the appropriations process, and all of us need to be about that business.

Madam Speaker, H.R. 2215 authorizes funding to the Department of Justice for the current fiscal year and the following one, which begins next Tuesday. In addition to authorizing dollars to the Department for the salaries of the Federal judges, attorneys, and support staff, the report also authorizes funding for many important programs utilized by millions of Americans every year.

As the gentleman from Florida (Mr. DIAZ-BALART) says, he and I are happy to report that the Southern District of Florida will be the recipient of one of the judges authorized under this legislation.

Additionally, H.R. 2215 serves as a commitment to keeping drugs off of our streets and out of our schools. While much of the Nation focuses on the war on terrorism and a possible

war with Iraq, we cannot and should not forget a war that we have been fighting for more than three decades: the war on drugs.

As we seek to stabilize Afghanistan, we cannot and should not forget that prior to and during Taliban rule, Afghanistan was one of the world's largest producers of poppy, an integral ingredient of heroin. Thus, economic stability in this renewed democracy must provide alternate means of income to Afghans who once depended on poppy sales for a living.

Further, we cannot and should not forget that the war on drugs has no definitive end. The dollars authorized in this bill, albeit limited, serve as Congress' continued commitment to fighting the war on drugs. I do, however, urge the authorizing committee to increase spending for this fight in the coming years. In my lifetime in south Florida I have seen hundreds of lives ruined and ended because of drugs. We cannot allow this trend to continue into the 21st century.

Madam Speaker, in addition to authorizing funding for the war on drugs, this legislation also funds the Immigration and Naturalization Service, an agency that my office works with every day. Nearly 30 percent of everything we do in the Fort Lauderdale office deals with immigration.

While Congress continues to address the obvious shortcomings of this poorly funded, understaffed, and overworked agency, the United States remains a Nation created by immigrants. Those who enter our borders legally and pose no threat to our security should be afforded equal opportunity to excel and prosper. They should enjoy the benefits that those of us born here take for granted.

To many, the United States remains a land where the streets are paved with gold. It is those we let in legally, not those we do not, who will help us extend this street of gold to the rest of the world.

Finally, among many things, the conference report also establishes a national Violence Against Women Office. This is a plan that I and many of the Members have supported for years. Domestic violence remains a disgusting reality in our society, and the establishment of this office is a step in the right direction toward protecting women and punishing those who believe violence is an acceptable practice.

Madam Speaker, the Department of Justice should always be America's voice of justice. Though I do not always agree with its policies today, or its practices, I do agree with its charter.

This conference report is a good one, and so is the rule. I urge my colleagues to support both of them.

Additionally, prior to the consideration of the rule, my very good friend, the gentleman from Pennsylvania (Mr. HOLDEN), will make a motion for the previous question. I ask my colleagues to consider his motion, as well.

GENERAL LEAVE

Mr. HASTINGS of Florida. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 552.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. Madam Speaker, I am more than pleased to yield such time as he may consume to my good friend, the gentleman from Pennsylvania (Mr. HOLDEN).

Mr. HOLDEN. Madam Speaker, I thank the gentleman for yielding time to me.

At the conclusion of this debate, I will seek to defeat the previous question on this rule. If the previous question is defeated, I will then offer an amendment to the rule that will instruct the Enrolling Clerk to add to the conference report language to permanently extend Chapter 12 bankruptcy protections for family farmers.

This is not a proposal that should be considered controversial. In fact, this House has voted overwhelmingly three times in the last 18 months to extend these bankruptcy protections for family farmers.

Chapter 12 was enacted in 1986 as a temporary measure to allow family farmers to repay their debts according to a plan under court supervision. It prevents a situation from occurring where a few bad crop years lead to the loss of the family farm.

In the absence of Chapter 12, farmers are forced to file for bankruptcy relief under the Bankruptcy Code's other alternatives, none of which work quite as well for farmers as Chapter 12.

Chapter 11, for example, will require a farmer to sell the family farm to pay the claims of creditors. How can a farmer be expected to come up with the money to pay off his debts without his farm? Chapter 11 is an expensive process that does not accommodate the special needs of farmers.

Since its creation, Chapter 12, family farmer bankruptcy protection, has been renewed regularly by Congress and has never been controversial. In 1997, the National Bankruptcy Review Commission recommended that Chapter 12 be made permanent.

In this Congress, H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001, includes a provision that permanently extends Chapter 12. Just like previous versions of this bill in previous Congresses, H.R. 333 is a bill plagued with controversy and a bill whose passage is an uncertainty, at best.

For 5 years now, family farmers have been held hostage by the contentious debate surrounding the larger bankruptcy issue. For 5 years, they have been made to sit on pins and needles waiting to see if Congress will extend these protections for another 11 months, 4 months, 8 months, or whatever length of time we feel it will take us for the next legislative hurdle on the larger bankruptcy issue.

Madam Speaker, family farmers have waited long enough. The games must stop. Right now, family farmers are making plans to borrow money based on next year's expected harvest in order to be able to buy the seeds needed to plant the crops for that harvest. As these farmers leverage themselves, they need to have the assurance that Chapter 12 family farmer bankruptcy protections are going to be there for them on a long-term basis. Sporadic and temporary extensions do not do the job.

Attaching Chapter 12 bankruptcy protections for family farmers to the Department of Justice authorization conference report will give farmers the kind of protections they desperately need, the kind of protections we have already voted three times in the 107th Congress.

On February 21, 2001, we voted 408 to 2 to retroactively extend Chapter 12 for 11 months. On June 6, 2001, we voted 411 to 1 to extend Chapter 12 for an additional 4 months. Most recently, on April 16 of this year, we voted 407 to 3 to extend Chapter 12 for yet an additional 8 months. So Members can see, extending Chapter 12 by no means is a controversial idea.

Madam Speaker, Chapter 12 is scheduled to expire at the end of this year. If we do nothing today, Members of the House will be home in their districts enjoying the holidays with their families while once again family farmers are put at risk. Let us end this cliffhanger once and for all. Let us give family farmers the assurance of permanent protection they deserve and close this chapter for good.

Members should understand that a no vote will not stop the House from considering and approving this conference report, but it will allow us to extend once and for all, and provide the permanent extension of Chapter 12 family farmer bankruptcy protection that farmers so desperately need. However, a yes vote on the previous question will prevent the House from adding this noncontroversial farmer-friendly provision.

I urge all my colleagues to be consistent with their three earlier votes in this Congress and vote no on the previous question.

Madam Speaker, I ask unanimous consent that the text of this amendment be printed in the RECORD immediately before the vote on the previous question.

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

There was no objection.

Mr. DIAZ-BALART. Madam Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Madam Speaker, I thank my dear friend, the gentleman from Miami, Florida, for yielding me this time.

Madam Speaker, I rise in strong support of both this rule and the Department of Justice conference report. It has been over two decades, 22 years to be precise, since we have actually had a Department of Justice authorization bill. This has been done through the appropriations process in the past.

I believe that if we look at the issues that the Committee on the Judiciary and others involved in this process have been able to address, I believe that it is a very, very good measure.

We have in Southern California tremendous problems with overburdened courts because of drug cases. I am very pleased that the State of California, and specifically southern California, will be benefiting from five new judgeships for southern California, six overall for the State of California. I believe that that will go a long way towards dealing with the challenge that we have of our overburdened court system in California.

Another issue that has an impact on California that is included in this measure, which is not California-specific, however, is the very balanced approach to the H–1B visa program. We know that as we deal with the challenges of the 21st century economy, Madam Speaker, one of the problems that we have had is the inability to get the best expertise possible for our high-tech sector of the economy, and other sectors, quite frankly.

The fact that we have had a bureaucracy dealing with this has been a challenge, but I am pleased that through legislation that we have been able to get through in the past, we have been able to increase the number of H–1B visas. It was the high-skilled workers who have been able to come in and who filled this need so that the United States of America can remain on the cutting edge technologically.

□ 1045

There has been, as I said, a bureaucratic mess that has existed for some. And so in this conference report we see the inclusion of a 1-year period, a grace period which will allow for those who were holding H1B visas to be here to continue their very important work. And so, Madam Speaker, this is a very good rule, it is a very good conference report, and I urge my colleagues to support it.

Mr. HASTINGS of Florida. Madam Speaker, first I would like to offer an apology to my good friend from Florida (Mr. DIAZ-BALART). I indicated to him that we had but one speaker, but that was before two others showed up.

Madam Speaker, I yield 2½ minutes to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Madam Speaker, as a member of the Committee on the Judiciary and the conference committee that produced the underlying bill, I am very pleased with much of the work reflected there. But I do think there is one enormous omission, and I rise to speak to that today.

I urge my colleagues to defeat the previous question on the rule so that we can take immediate action to protect our Nation's family farmers and family fishermen. The gentleman from Pennsylvania (Mr. HOLDEN), the gentleman from Illinois (Mr. PHELPS), the gentleman from Massachusetts (Mr. DELAHUNT), and I have introduced H.R. 5348 to permanently extend Chapter 12 bankruptcy protection. It is long past time for us to do so.

Madam Speaker, it is increasingly evident that we will not see comprehensive bankruptcy reform this session. As in the last 5 years, it has stalled. Whatever one thinks of the merit of that bill, we have broad agreement of making Chapter 12 farmer and fishermen protection permanent as a good idea and good public policy. By defeating the previous question today, we can consider this important question now.

During this current session of Congress, we have extended Chapter 12 bankruptcy three times, most recently as part of the farm bill. It is now due to expire again at the end of this year. The next 2 weeks may be our final chance to renew it before it expires once again, and we should do that today.

Madam Speaker, it is time to stop using our farmers as pawns in the push for bankruptcy reform. It is time to stop pretending that this important protection has in any way helped win support for the comprehensive bankruptcy reform bill. It is time to protect our family farmers.

A farmer who has a dairy farm in Belleville, Wisconsin, in my district contacted me recently about this issue. He has been farming like his dad before him most of his life. He milks 70 cows to make his living. Milk prices have remained low for most of the time he has been in farming. Now milk prices are again reaching historic lows. He simply cannot stay in business because he is losing money every day. He is scared he is going to lose his farm to his creditors and let his whole family down.

Madam Speaker, let us amend this rule right now so we can take up my bill, H.R. 5348, and give all our family farmers and our family fishermen another chance to reorganize their debts and keep their farms or fishing operations in their families. I urge my colleagues to defeat the previous question and support this rule.

Mr. DIAZ-BALART. Madam Speaker, I yield 3 minutes to my good friend, the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, I rise today in support of this rule and adoption of the conference report on H.R. 2215, the Department of Justice Appropriations Authorization Act. I am elated to report that after more than 6 years of working on legislation to reauthorize the Juvenile Justice and Delinquency Prevention Act, we finally have a real opportunity for reauthorization of the act to become a reality.

This conference report includes the language embodied in H.R. 1900, my legislation, which overwhelmingly passed the House 1 year ago on September 20 of last year.

The Office of Juvenile Justice and Delinquency Prevention was created by Congress in 1974 to help communities and States prevent and control delinquency and to improve their juvenile justice systems. This office has not been reauthorized since 1994, although a similar bill has passed the Congress by overwhelming margins twice since then.

The nature and extent of juvenile delinquency has changed considerably since the office was created, and this reauthorization has taken that into account. It is an extraordinarily difficult task to create a juvenile justice system in each of the States and each of the counties that can respond to the very, very different young people in our society who get caught up in the law. But I believe that this bipartisan bill represents good policy.

The bill successfully strikes a balance in dealing with children who grow up and come before the juvenile justice system who are already very vicious and dangerous criminals, and other children who come before the juvenile justice system who are harmless and scared and running away from abuse at home.

The legislation is designed to assist States and local communities to develop strategies to combat juvenile crime through a wide range of prevention and intervention programs. We acknowledge that most successful solutions to juvenile crime are developed at the State and local level of government by those individuals who understand the unique characteristics of youth in their area. By combining the current discretionary programs into prevention block grants to the States and allowing States and local communities discretion in how such funds are used, we allow the local officials to use their own good judgment based on the realities of each situation. We have found a way to provide the additional flexibility that our local officials need, still protect society from dangerous teenagers, while protecting scared kids from overly harsh treatment in our juvenile justice system.

Madam Speaker, I want to thank the gentleman from Virginia (Mr. SCOTT) for joining me in this effort. This is virtually the same legislation that the gentleman and I successfully negotiated on a bipartisan basis last Congress.

Madam Speaker, I also want to thank the chairman of the Committee on Education and the Workforce, the gentleman from Ohio (Mr. BOEHNER); and the ranking member, the gentleman from California (Mr. GEORGE MILLER); the chairman of the Subcommittee on Select Education of the Committee on

Education and the Workforce, the gentleman from Michigan (Mr. HOEKSTRA); and the ranking member, the gentleman from Indiana (Mr. ROEMER), for their valued assistance in guiding the legislation through committee. Finally, a special thank you to the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), and the ranking member, the gentleman from Michigan (Mr. CONYERS), for their willingness to work with us to include this bill in the H.R. 2215 conference report.

Madam Speaker, I also want to thank my legislative director, Judy Borger, who has lived this thing for many, many years and who has done yeoman's work for both committees. I urge all my colleagues to join me in supporting the rule.

Mr. HASTINGS of Florida. Madam Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), my good friend.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Madam Speaker, I want to thank the distinguished gentleman from Florida (Mr. HASTINGS) for his leadership, but as well his yielding me time. I rise to acknowledge the very hard work that was done on this legislation and to suggest that we have made strides. Particularly, let me note that as the ranking member on the Subcommittee on Immigration, Border Security, and Claims of the Committee on the Judiciary, I think the fact that we have kept the H–1B's responsive, those visas, in light of September 11 when many people will equate immigration issues to terrorism, that is not the case. And I think it is important that we allow talented individuals to be able to come into this country and share their talents. And certainly we want to make sure that Americans have the same access to technology and computer knowledge and software knowledge, but it is important to have this talent. So I applaud the legislation, therefore the rule, of this particular initiative because that is in it.

Likewise, let me acknowledge, as my colleague from Pennsylvania (Mr. GREENWOOD) just noted, the consequences for juvenile offenders, a bill that I was very happy to support, that was worked on and co-sponsored by the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Virginia (Mr. SCOTT), came through the Subcommittee on Crime, Terrorism and Homeland Security of the Committee on the Judiciary. And might I say that this is an important statement for our young people, that our young people are not throw-aways, that they can be rehabilitated. And many people will tell you they are our future. I tell you that juveniles, young people today, those young people in middle schools and high schools around America are our today. And it is important to realize that if we incarcerate and lock up a youngster in their teenage years, we are only perpetrating their ways of violence and ill acts. And it is very important that we have these rehabilitative measures, we intervene and it is a very important point.

I would like to acknowledge, as well, the importance of violence against women's office. We stabilized it, if you will, allowed it to be free-standing, and supported it by funding; and I believe that is extremely important.

But I believe, Madam Speaker, that we have some concerns, some more work that could have been done and that is my dilemma today as we come forward. We could have passed 245i that again reinforces family reunification with those who are in this country or seeking to reunite their families who happen to be immigrants. Just this past week I faced a very troubling situation in my own district where nine members of a Palestinian family were about to be deported and not looking at the humanitarian grounds of them having come to this country from a tumultuous region seeking asylum and yet not being able to do so. We were able to provide some remedy for them, and they had a 9-year-old citizen, their daughter who was born in this country; but because she was not of the age of majority, she could not petition for their relief. So we have these problems. We did not do anything in this legislation on that.

We did not fix 1996 immigration laws to keep families together so we do not have these large numbers of individuals being deported to places they have never lived. I believe we should have looked at trying to fix that. And the same thing with the comprehensive immigration bill that I and the gentleman from Michigan (Mr. CONYERS) have authored. It fixes the immigration system in its totality. It recognizes that we must be safe but at the same it fixes some of the major loopholes that we have in our immigration system.

I believe, Madam Speaker, as well we have not done ourselves proud by not including the hate crimes legislation that has 206 sponsors so that we would have to result to a discharge petition to try to get that on the floor of the House. How much more do Members have to say when 206 Members believe that we should get rid of hate crimes and have laws against it, legislation authored by the gentleman from Michigan (Mr. CONYERS); and yet we cannot get that to the floor of the House. This should have been included in this legislation.

I am glad to see that we did not codify the TIPS program, neighbors spying on neighbors. Yes, we believe in the security of this Nation, but I also believe Americans believe in civil liberties. I am glad that that is not in this legislation.

Let me conclude, Madam Speaker, on this point, and that is the civil rights office that I believe certainly there are good intentions there but there are issues of police brutality around this Nation. In fact, in my own district we have some incidents of a Hispanic being shot in the back and the medical examiner declared it was a homicide and no action was taken against any of those involved in this case. Another African American shot in the back, unarmed and no action taken against law enforcement.

I am a supporter of law enforcement, but I am supportive of law. And I believe the civil rights division should be invigorated with funding and they should be utilized for what they are utilized for regardless of whether it is a Republican or Democratic administration.

School desegregation orders. I represent a district that is now trying to get rid of their school desegregation order, and they still have the same violations. The Justice Department should not be engaged in being on the side of a school district that is fighting to get rid of their desegregation order when they are still failing our children.

These problems should be addressed in this legislation and more funding should be given to the civil rights division in order to fix these problems. I believe this is a good piece of legislation, but we could have done more.

Mr. HASTINGS of Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, in closing I will invite the Members' attention to the matter discussed earlier by the gentleman from Pennsylvania (Mr. HOLDEN). Defeating the previous question as proposed by the gentleman will allow us to permanently extend Chapter 12 protection for farmers. The House has already voted on three separate occasions in this Congress to extend these bankruptcy protections for farmers. Sporadic and temporary extensions leave farmers uncertain of their future. Even as they face record drought, and the gentleman from Montana (Mr. REHBERG) from the other side and I have a drought bill that a substantial number of Members have joined on that we consider critical for our Nation's farmers, and when they experience poor harvest in many regions of the country.

In the absence of Chapter 12, farmers are forced to file bankruptcy under much less favorable terms. Permanent extension as proposed by the gentleman from Pennsylvania (Mr. HOLDEN) will ease these pressures. I ask our membership to defeat the previous question.

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

□ 1100

Mr. DIAZ-BALART. Madam Speaker, I want to reiterate my support, strong support for this rule and the underlying legislation. It is very important underlying legislation. It has been over 20 years since we have in effect authorized the needed expenditures of the Department of Justice, and so I urge,

again, support for the rule and the underlying measure.

Mr. PHELPS. Mr. Speaker, I rise today to move to defeat the previous question on H.R. 2215—Department of Justice Authorization Conference Report. I am very disappointed that the permanent extension of Chapter 12 of the Federal Bankruptcy Code was not included in this legislation.

Mr. Speaker, Chapter 12 of the Federal Bankruptcy Code gives farmers much needed bankruptcy protections. This is an issue I have been working on for some time now and was disappointed to see it was not included in this conference report. On April 10th, I offered a motion to Instruct Conferees on the Farm Bill which asked conferees to accept language in the Senate Bill that would make Chapter 12 of the Bankruptcy Code permanent. My motion passed overwhelmingly, but was not included in the final version of the bill.

H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001 includes a permanent extension of Chapter 12, but like its predecessor in previous Congresses, H.R. 333 is a bill whose passage is uncertain. Since 1997, farmers have been told to wait for the Bankruptcy Reform Act to pass and they would be protected forever. For five years, farmers have been waiting for this to happen. Farmers have waited too long and need protection now.

Including a permanent extension of Chapter 12 in the DOJ Authorization Conference Report would have given farmers the kind of family farmer bankruptcy protections, on a permanent basis, that we have already voted for three times this Congress. As farmers harvest their crops for this year, they will soon have to borrow against next year's harvest to plant next year's crops. They need to know that the legal protections Congress enacted in 1986 will be there for them if something goes wrong. Unfortunately, they have seen Congress let Chapter 12 lapse several times in the last five years and, despite repeated promises, no permanent relief is in sight. The inability to plan and know that if the worst happens they can save their family farm . . . especially in these uncertain times . . . is devastating.

I do not think that there is any controversy whatsoever that Chapter 12 works well, that it protects our family farmers who are in distress, that it properly balances the legitimate needs of financially troubled farmers and their creditors, and that it preserves the family farm.

The material previously referred to by Mr. HOLDEN is as follows:

PREVIOUS QUESTION FOR H. RES. 552, H.R. 2215, 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

At the end of the resolution, add the following:

''SEC. 2. Upon adoption of this resolution, the House shall be considered to have adopted a concurrent resolution (H. Con. Res. 488) directing the Clerk of the House to correct the enrollment of H.R. 2215.''

At an appropriate place insert the following (and make such technical and conforming changes as may be appropriate):

SEC. ____. FAMILY FARMERS AND FAMILY FISHERMEN PROTECTION ACT OF 2002.

(a) SHORT TITLE.—This section may be cited as the ''Family Farmers and Family Fishermen Protection Act of 2002''.

(b) PERMANENT REENACTMENT OF CHAPTER 12.

(1) REENACTMENT.—

(A) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), is hereby reenacted, and as here reenacted is amended by this section.

(B) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of the enactment of this Act.

(2) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

(c) DEBT LIMIT INCREASE.—Section 104(b) of title 11, United States Code, is amended by inserting ''101(18),'' after ''sections'' each place it appears.

(d) CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.—

(1) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

''(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

''(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

''(B) the holder of a particular claim agrees to a different treatment of that claim;''.

(2) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by this section is amended by striking ''a State or local governmental unit'' and inserting ''any governmental unit''.

(e) DEFINITION OF FAMILY FARMER.—Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''$1,500,000'' and inserting ''$3,237,000''; and

(B) by striking ''80'' and inserting ''50''; and

(2) in subparagraph (B)(ii)—

(A) by striking ''$1,500,000'' and inserting ''$3,237,000''; and

(B) by striking ''80'' and inserting ''50''.

(f) ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.—Section 101(18)(A) of title 11, United States Code, is amended by striking ''for the taxable year preceding the taxable year'' and inserting the following:

''for—

''(i) the taxable year preceding; or

''(ii) each of the 2d and 3d taxable years preceding;

the taxable year''.

(g) PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(1) CONFIRMATION OF PLAN.—Section 1225(b)(1) of title 11, United States Code, is amended—

(A) in subparagraph (A) by striking ''or'' at the end;

(B) in subparagraph (B) by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(C) the value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor's projected disposable income for such period.''.

(2) MODIFICATION OF PLAN.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

''(d) A plan may not be modified under this section—

''(1) to increase the amount of any payment due before the plan as modified becomes the plan;

''(2) by anyone except the debtor, based on an increase in the debtor's disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor's disposable income for such month; or

''(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.''.

(h) FAMILY FISHERMEN.—

(1)DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(A) by inserting after paragraph (7) the following:

''(7A) 'commercial fishing operation' means—

''(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

''(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);

''(7B) 'commercial fishing vessel' means a vessel used by a family fisherman to carry out a commercial fishing operation;''; and

(B) by inserting after paragraph (19) the following:

''(19A) 'family fisherman' means—

''(A) an individual or individual and spouse engaged in a commercial fishing operation—

''(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

''(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

''(B) a corporation or partnership—

''(i) in which more than 50 percent of the outstanding stock or equity is held by—

''(I) 1 family that conducts the commercial fishing operation; or

''(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

''(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

''(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

''(III) if such corporation issues stock, such stock is not publicly traded;

''(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman

to make payments under a plan under chapter 12 of this title;''.

(2) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting ''or family fisherman'' after ''family farmer''.

(3) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(A) in the chapter heading, by inserting ''**OR FISHERMAN**'' after ''**FAMILY FARMER**'';

(B) in section 1203, by inserting ''or commercial fishing operation'' after ''farm''; and

(C) in section 1206, by striking ''if the property is farmland or farm equipment'' and inserting ''if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)''.

(4) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

''12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income ..... 1201''.

(e) APPLICABILITY.—Nothing in this subsection shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

(i) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

Mr. DIAZ-BALART. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous queston.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HOLDEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution and then on the Speaker's approval of the Journal and on the motion to instruct conferees offered by the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

The vote was taken by electronic device, and there were—yeas 208, nays 199, not voting 25, as follows:

[Roll No. 416]

YEAS—208

Aderholt
Akin
Armey
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—199

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson (IN)
Carson (OK)
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (MS)
Thune
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—25

Bachus
Barcia
Bonior
Callahan
Capuano
Clay
English
Fossella
Hastings (WA)
Hulshof
John
Jones (NC)
Kennedy (RI)
Maloney (NY)
McDermott
Mink
Roukema
Schaffer
Smith (MI)
Stump
Thompson (CA)
Thurman
Whitfield
Wu
Wynn

□ 1126

Messrs. CRAMER, REYES, BARRETT of Wisconsin, TAYLOR of Mississippi, ACKERMAN, BEREUTER, Ms. WOOLSEY, and Ms. ESHOO changed their vote from ''yea'' to ''nay.''

Mr. ISSA and Mr. BILIRAKIS changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCNULTY. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 346, noes 58, not voting 28, as follows:

[Roll No. 417]

AYES—346

Abercrombie
Ackerman
Akin
Allen
Andrews
Armey
Baca
Baker
Baldacci
Ballenger
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter

Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Everett
Farr
Fattah
Ferguson
Flake
Foley
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Holden
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Kelly
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (VA)
Morella
Myrick
Nadler
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pastor
Paul
Payne
Pelosi
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanders
Sandlin
Sawyer
Saxton
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Sullivan
Sununu
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Young (AK)
Young (FL)

NOES—58

Aderholt
Baird
Baldwin
Borski
Brady (PA)
Carson (IN)
Costello
Crane
DeFazio
Doggett
Evans
Filner
Fletcher
Gephardt
Gillmor
Graves
Hastings (FL)
Hilliard
Hinchey
Hoekstra
Holt
Kennedy (MN)
Kucinich
Larsen (WA)
Lewis (GA)
LoBiondo
Markey
McGovern
McNulty
Miller, George
Moore
Moran (KS)
Neal
Oberstar
Obey
Olver
Pallone
Pascrell
Peterson (MN)
Platts
Ramstad
Sabo
Sanchez
Schakowsky
Slaughter
Strickland
Stupak
Sweeney
Taylor (MS)
Thompson (MS)
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Weller
Wicker

NOT VOTING—28

Bachus
Barcia
Bonior
Callahan
Capuano
Clay
English
Fossella
Hastings (WA)
Hulshof
Hunter
John
Jones (NC)
Keller
Kennedy (RI)
Maloney (NY)
McDermott
Mink
Murtha
Roukema
Schaffer
Smith (MI)
Stump
Thompson (CA)
Thurman
Whitfield
Wu
Wynn

□ 1137

So the Journal was approved.

The result of the vote was announced as above recorded.

MOTION TO INSTRUCT CONFEREES ON H.R. 3295, HELP AMERICA VOTE ACT OF 2001

The SPEAKER pro tempore (Mrs. BIGGERT). The unfinished business is the question on the motion to instruct conferees on H.R. 3295.

The Clerk will redesignate the motion.

The Clerk redesignated the motion.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 385, nays 16, not voting 31, as follows:

[Roll No. 418]

YEAS—385

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Baird
Baker
Baldacci
Ballenger
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Foley
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo

Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thune
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey

NAYS—16

Barr
Bonilla
Collins
Culberson
Duncan
Flake
Goode
Hostettler
Kerns
Miller, Jeff
Myrick
Norwood
Paul
Thornberry
Toomey
Young (AK)

NOT VOTING—31

Bachus
Baldwin
Barcia
Bonior
Callahan
Capuano
Clay
English
Fletcher
Fossella
Hastings (WA)
Hulshof
Hunter
John
Jones (NC)
Kennedy (RI)
Larson (CT)
Maloney (NY)
McCrery
McDermott
Mink
Murtha
Roukema
Schaffer
Stump
Thompson (CA)
Thurman
Whitfield
Wu
Wynn
Young (FL)

□ 1147

Mr. DUNCAN changed his vote from ''yea'' to ''nay.''

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. BALDWIN. Mr. Speaker, I was absent during rollcall vote No. 418. However, if I would have been present on the Johnson of Texas Motion to Instruct Election Reform Conferees, I would have voted, ''yea.''

PERSONAL EXPLANATION

Mr. JONES of North Carolina. Mr. Speaker, on rollcall Nos. 416, 417, and 418, I was unavoidably detained. Had I been present, I would have voted ''aye'' on Nos. 416 and 417, and ''nay'' on No. 418.

HELP EFFICIENT, ACCESSIBLE, LOW COST, TIMELY HEALTH CARE ACT OF 2002

Mr. REYNOLDS. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 553 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 553

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 4600) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system. The bill shall be considered as read for amendment. In lieu of the amendments recommended by the Committees on the Judiciary and on Energy and Commerce now printed in the bill, the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mrs. BIGGERT). The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

(Mr. REYNOLDS asked and was given permission to revise and extend his remarks.)

Mr. REYNOLDS. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, House Resolution 553 is a closed rule providing for the consideration of H.R. 4600, the Help Efficient, Accessible, Low Cost, Timely Health Care Act of 2002, more commonly known as the HEALTH Act. The rule waives all points of order against consideration of the bill and provides one motion to recommit, with or without instructions.

Madam Speaker, when it comes to health care, there is nothing more hallowed than the quality of patient care and the integrity of patient choice. However, there is an unfortunate and rising trend in our country that is not only threatening patient care and choice, but is obstructing the way in which doctors and other providers administer that care, and it is collectively costing patients, their families, doctors and taxpayers billions of dollars every year.

In recent years, medical liability insurance premiums have soared to the highest rates since the mid-1980s. These devastating increases have forced health care professionals to limit services, relocate their practices, or retire early. Meanwhile, affordability and availability of insurance is in grave jeopardy, and, in the end, patients are the ones shortchanged.

One might assume that the generous lawsuit judgment awards and settlements would bode well for injured patients seeking redress. However, studies show that most injured patients receive little or no compensation at all. Alarmingly, there is clear evidence indicating that skyrocketing medical liability premiums are a direct result of increases in both lawsuit awards and litigation expenses, and, according to a study compiled by the United States Department of Health and Human Services, excessive litigation is impeding efforts to improve the quality of care and raising the cost of health care that all Americans pay.

By placing modest limits on unreasonable awards for economic damages, an estimated $60 billion to $108 billion, that is $60 billion to $108 billion, could be saved in health care costs each year. Reclaiming this money would lower premiums for doctors and patients, allowing millions of Americans the opportunity to obtain affordable health insurance. Currently, runaway litigation expenses are getting in the way.

Take into consideration my home State of New York. In most instances New York physicians are paying the highest medical liability premiums in the country and are likely to pay at least 20 percent more in premiums over the next year alone. My region of the State is especially feeling the impact.

''The number of doctors leaving Erie last year doubled from the previous year, a trend that continues to 2002,'' wrote Donald Copley, M.D., an officer of the Erie County Medical Society in the Business First of Buffalo newspaper. The Medical Society of New York says the trend of physicians leaving New York State or retiring early is happening all across the State.

When exorbitant litigation goes unchecked, as it has, premiums escalate, leaving doctors either unable to afford insurance or unable to provide a variety of services, thereby leaving Americans at risk of not being able to find a doctor.

Madam Speaker, this is completely unacceptable.

The legislation before us today will halt the exodus of providers from the health care industry, stabilize premiums, limit staggering attorney fees, and, above all, improve patient access to care.

The HEALTH Act is modeled after legislation adopted by a Democratic legislature and a Democratic Governor in the State of California over 27 years ago. Since that time, insurance premiums in the rest of the country have increased over 500 percent, while California's has only risen 167 percent.

California's insurance market has stabilized, increasing patient access to care and saving more than $1 billion per year in liability premiums. Equally important, California doctors are not leaving the State.

In scaling this model into a national standard, the sponsors of the HEALTH Act included a critical component, state flexibility. The HEALTH Act respects States rights by allowing States that already have damages caps, whether larger or smaller than those provided in the HEALTH Act, to retain such caps.

Madam Speaker, right now this crisis is affecting every State in its own way, but the Nation as a whole is suffering.

President Bush has said that the lawsuit industry is devastating the practice of medicine. Let us not pass up our opportunity to step up to the plate. Doctors should not be afraid to practice medicine and patients should not be afraid of losing their doctor.

I urge my colleagues to support this rule and the underlying legislation.

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank my friend the gentleman from New York (Mr. REYNOLDS) for yielding me time.

Madam Speaker, I rise today in strong opposition to the closed rule for H.R. 4600. This is an extremely complex piece of legislation and certainly one that requires a full and open debate. The closed rule denies us a much-needed opportunity to discuss its pros and cons.

To start, I have received, as I am sure other Members have, a number of phone calls from physicians in the district that I am privileged to serve urging me to support this legislation. Most of them expressed their readiness to close their doors because of the high premiums they currently pay for malpractice insurance and erroneously, in my judgment, believe that H.R. 4600 will relieve them of high malpractice insurance premiums.

There is no question that medical liability insurance rates are out of control and doctors, as well as other health care providers, often abandon high-risk patients for fear of being sued. However, what many, if not all, of the physicians who have called my office fail to realize is that H.R. 4600 will not lower doctors' premiums.

Despite a wide consensus, skyrocketing premiums are not due to bad politics. Hiked premiums are the result of insurers' failed profits on their market investments. When insurance companies began to make sound investments with the insured's money, and when our friends on the other side of the aisle allow an open rule so sensible amendments from Democrats and Republicans can be heard, then and only then will premiums be lowered.

The fact is, this bill would restrict the amount of money that malpractice insurance companies will have to pay. But nowhere in this legislation, and I invite my colleagues on the other side to point to the place, nowhere in this legislation are any of these savings going to be passed along to physicians.

Had this been an open rule, we could offer amendments similar to that of my colleague the gentleman from Massachusetts (Mr. MARKEY) that would require savings realized by the insurers as a result of the $250,000 cap be passed on to health care providers in the form of lower premiums. There are other Members who are going to speak here that had this been an open rule, their amendments would have been included as well.

Medical malpractice is the fifth leading cause of death in the United States, where an estimated 98,000 people die annually in United States hospitals because of negligent medical errors. The medical malpractice system is important because it compensates victims injured by negligence, deters future medical misconduct, punishes those who cause injury and death through negligence and removes and informs the public of harmful products and practices.

While a $250,000 cap on punitive and non-economic damages may suffice for the men and women on the other side of the aisle, my constituents and all Americans deserve more. This is a one-size-fits-all bureaucratic approach that objectifies victims and the uniqueness of their suffering.

I told the story yesterday of my grandmother's death. In the ''halcyon'' days of segregation, when she died at the hands of a physician, we could not sue for the reason we were black. That is not the issue here. But I can tell you this, there was no price that anybody could have put on my grandmother, and there is no price that anybody can put on your sister or your brother, whether you are a doctor or a lawyer or an insurer.

□ 1200

This bill sends a clear and distinct message that lawmakers are more concerned with abating insurance companies' malpractice problems instead of reducing the pain and suffering of the American people.

Let us call this bill what it really is, and that is another poor attempt by my friends on the other side to give financial breaks to their corporate friends. One would think that they would learn from previous incidents of corporate mishaps; but I guess, Madam Speaker, some things never change.

Madam Speaker, H.R. 4600 is a health care immunity act that benefits insurance companies, HMOs, manufacturers and distributors of defective products and pharmaceutical companies, not physicians. It is a tort reform effort of the worst kind. Stunting the judicial process by disallowing the public to litigate unrestricted malpractice suits is not only biased, but it is un-American. I am in strong opposition to this measure. I urge a ''no'' vote on the rule and the underlying bill.

Madam Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Madam Speaker, I yield myself such time as I may consume.

Nothing in the HEALTH act denies injured plaintiffs the ability to obtain adequate redress, including compensation for 100 percent of their economic losses, their medical costs, their lost wages, their future lost wages, rehabilitation costs, and any other economic out-of-pocket loss suffered as a result of a health care injury. Ceilings on noneconomic damages limit only the inherently unquantifiable element damages, such as those awarded for pain and suffering, loss of enjoyment, and other intangible items. When we look at health care, the reality is, and CBO estimates, that under this bill premiums of medical malpractice ultimately will be on an average of 25 to 30 percent below what they would be under current law. It is time for action.

Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. COX).

Mr. COX. Madam Speaker, I want to thank the gentleman from New York for yielding me this time.

He is exactly right. What we are talking about doing here is making sure that all of us who have agreed to pay the cost of this system through the insurance system, we all pay for it; that is where the money comes from, to make sure that we all agree that we will pay for unlimited compensation for people who are the victims of medical malpractice, that we will pay for 100 percent of any imaginable cost, 100 percent of all medical costs, 100 percent of lost wages, 100 percent of lost future earnings, 100 percent of any rehabilitation costs; obviously, 100 percent of any medical expenses, doctors, nurses, hospitals, prescription drugs, nursing home care, assisted living, whatever it is, 100 percent of all of these things.

But what we are trying to do is save the patients from a system right now that is falling down all around them. Doctors are getting out of practice; whole hospitals are shutting down, OB-GYNs are not delivering babies any more. People are not getting care. There is a crisis in this country. We had extraordinary testimony before the Committee on Energy and Commerce. We heard that in Nevada, for example, southern Nevada is without a trauma center right now; and it is directly attributable to this malpractice crisis. We want to do what we have done in California. The law has worked, as the gentleman from New York described.

On June 30 of this year, Methodist Hospital in south Philadelphia, which has been delivering babies since 1892, closed its doors because of this crisis. They are not going to be delivering babies any more. Women need health care; men need health care. We need doctors, we need care, we need treatment. The Congressional Budget Office, as the gentleman from New York pointed out, said that if we pass this bill, we will have $14 billion more available to help our hospitals, available for health care, available to keep the cost of health care down so more people will have insurance. That is what this is all about. The only people who will suffer if this bill is passed are those in their enormous mansions right now that are skimming the top in the gold-plated tort system by faking more than all of the costs that I described for themselves.

In California, what has happened, our premiums, of course, they have gone up; they have gone up 140 percent, but at the same time, the rest of the country has gone up over 5 percent, so we have a system that is much more under control. People are healthier in California. In lawsuits, plaintiffs are getting a greater share of the recoveries in California than they are in other States. And they are getting the recoveries faster. There is no question that the HEALTH act is good for everyone, for patients, for doctors, for the whole health care system, for hospitals, for

nurses, for everyone that has come to this Congress.

Madam Speaker, I urge the enactment of this rule and passage of the legislation.

Mr. HASTINGS of Florida. Madam Speaker, I am very pleased and privileged to yield 2½ minutes to the gentleman from Pennsylvania (Mr. HOEFFEL), my good friend.

Mr. HOEFFEL. Madam Speaker, I thank the gentleman for yielding me this time and for his leadership on this issue.

The doctors in my district in Montgomery County, Pennsylvania, and all in the Philadelphia area, face a financial crisis, the same as many doctors around the country, as we have heard here today. This bill will not solve their crisis. This bill does not reflect a comprehensive effort to solve the medical malpractice crisis that we face in southeastern Pennsylvania and across many parts of this country. Nobody wants a compromise. Nobody wants to come together in a reasonable way to find a middle ground. That has happened at various State levels, but it is not happening here in Washington. It is not happening because the Washington representatives of the doctors do not want to compromise; the Washington representatives of the lawyers do not want to compromise. The Committee on Rules has brought forward a closed rule so the House of Representatives cannot be involved in working our will.

If we were to make a good-faith effort to address medical malpractice around the country, we would fundamentally have to address insurance industry reform, and that bill is completely silent on that issue. Frankly, we need to partially lift the antitrust exemption that the insurance industry has enjoyed for 55 years, that allows them to collude, to engage in anticompetitive practices. Those are the problems that are driving up medical malpractice insurance rates, in addition to their losses in the stock market that the gentleman from Florida (Mr. HASTINGS) has already described.

We need to give the Attorney General the ability to regulate national insurance companies because the States are not doing it, and we are not, we are not having these anticompetitive practices investigated and resolved. If we are going to make a good-faith effort regarding caps which are, by their nature, inflexible and arbitrary, we need to add judicial discretion, at a minimum, to any cap, so that a court can make a judgment that could allow an award to reflect what the jury has found in that particular case, not what this body chooses to impose here in Washington as an inflexible one-size-fits-all.

Madam Speaker, this bill does not resolve the problem. We are failing here today. I ask for a negative vote on the rule and against the bill.

Mr. REYNOLDS. Madam Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Madam Speaker, I rise today in support of the rule and the bill. We have a medical malpractice crisis in America and especially in my home State of Illinois. I am particularly worried about malpractice rates for obstetricians and gynecologists who are leaving the practice of medicine, rather than ensure the delivery of healthy babies.

I spoke with Dr. Gina Wehramann, an Evanston OB-GYN, who reported that after malpractice payments were paid, she made just $35,000. Her office manager makes $90,000. She is leaving the practice of medicine to become a pharmacist where she can triple her income. She reports that OB-GYNs are leaving the field of medicine in Illinois in dozens and women in northern Illinois will find it hard to receive sufficient care for the delivery of their babies. Dr. Wehramann reported that 85 percent of OB-GYNs in northern Illinois are sued for malpractice. The plaintiffs' bar tells us that 85 percent of OB-GYNs in my State are bad doctors.

All of this adds up to a war on women by the plaintiffs' bar. The plaintiffs' bar killed contraceptive development in our country, with no vote in the Congress and no Presidential decision. European women have many more safe and effective options than Americans, but the plaintiffs' bar does not care. They believe that 85 percent of all OB-GYNs are bad doctors and must be sued out of existence.

The American Association of Neurological Surgeons recently designated 25 States as crisis States, including my home State of Illinois. A constituent of mine, Dr. Jay Alexander, recently told me that his group of 17 cardiologists paid $250,000 in premiums last year, but the bill this year is $800,000. The stories are not limited to physicians. In 2001, Lake Forest Hospital paid $734,000 in malpractice coverage, but that cost will go up to $1.5 million this year. These costs deprive patients of health care at Lake Forest Hospital, and Lake Forest Hospital delivers more babies than any other hospital in Lake County, Illinois; but they will soon have to deny care to these women because of these costs.

With the passage of H.R. 4600 we will end the plaintiffs' bar's war on women. Without this bill, we will continue to see greater distances for deliveries, fewer screening services, and less training for women's health and health care.

Madam Speaker, we must restore the doctor-patient relationship. Today we have a genuine opportunity to pass this legislation and make sure that the women of Illinois and every other State have access to obstetric care.

I urge passage for the bill, and I applaud the gentleman for bringing it to the floor.

Mr. HASTINGS of Florida. Madam Speaker, I yield myself 15 seconds.

No reflection on my young colleague from Illinois, but as a 40-year lawyer and one involved in the process, I find it difficult to believe that I participated in something dealing with the elimination of contraception, because I protected the rights of women who were victims. My belief is it is the right-to-life group that had as much to do with the elimination of contraception.

Madam Speaker, I am pleased to yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL), my distinguished friend and colleague.

Mr. PASCRELL. Madam Speaker, I rise to speak against this unfair rule and against this flawed legislation.

It is really unfortunate that the rule will not allow any amendments to improve the bill. My primary concern is that nowhere in H.R. 4600 does it limit health care lawsuits to just medical malpractice. In fact, health care lawsuits applies to any health care liability claim, quote unquote.

H.R. 4600 would undermine the 11 States of the Union, including my State of New Jersey, that hold HMOs accountable. We arrived at that in a very bipartisan way. It would decimate what we have done in New Jersey, what we have worked so hard to do. In my memory, if my memory serves me correctly, last summer, a majority in this Congress, on both sides of the aisle, voted to hold HMOs accountable when they make medical decisions that kill or permanently maim patients.

So we are on the floor today doing the exact opposite of what most of us supported just last summer. In looking at what happened in California, I have heard that mentioned a few times this afternoon, H.R. 4600 probably would not accomplish its goal of reducing premium costs or increasing the availability of medical malpractice insurance, either. Premiums in California rose 190 percent in the 12 years following the enactment of their claim limitation bill. In its present form, H.R. 4600 is not good for patients, and it does not work.

□ 1215

So I ask that we vote against H.R. 4600. Let us focus on real solutions, such as making the Patients' Bill of Rights law. It is good to be back on domestic issues.

Mr. REYNOLDS. Madam Speaker, I yield 3½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Madam Speaker, I thank the gentleman for yielding time to me.

If we are out there talking to our constituents, if we keep in touch with the medical communities, not just the doctors but the hospitals, the little home health agencies, and if we listen, we will know that our Nation is galloping toward a health care crisis of dimensions we have never faced before, a crisis of cost and a crisis of access.

There are whole States in America where a woman cannot find an obstetrician who will take a high-risk pregnancy. If we talk to the specialty surgeons, many will not take the high-

risk cases. Very quietly, access to sophisticated, high-risk care is declining in America. That is the unique strength of the American medical system and it is becoming inaccessible to more and more Americans.

Just in going about my rounds, a five-town area is losing its ENT practice. ENT is a relatively low pickup specialty. Their liability premiums last year were only $22,000. Next year they are going to be closer to $50,000. There are not enough hours in the day for these physicians to see enough patients to pay the increase in those premiums. They are being forced to leave practice.

I had a meeting at a senior citizen center in Brookfield, Connecticut. A gentleman came in and sat all through the senior citizens' questions, and then rose to say that in fact he could not stay in practice after 14 years invested in education and training. He was leaving in 2 years because there were not enough hours in the day for him to see enough patients to pay a $150,000 malpractice premium over this year's $100,000.

My home hospital, in a small little urban community, has all the uncompensated care costs and all the difficulties urban hospitals face: this year, $300,000 malpractice premiums; next year, $1 million. We cannot close our eyes. If this House and our Senate can send a malpractice reform bill to the President, we will lower premiums.

The evidence has been given from California. In California, OB–GYN premiums across the board on average are $43,000; nationally, $107,000. How can doctors continue, how can hospitals continue, without pushing costs up tremendously when their premiums are going to double and triple?

One practice in Waterbury, in the last 7 years the doctors have taken a 50 percent pay cut. Why? Because they are paying their people more, they are investing in technology and medical supplies. They are doing all the right things to provide quality care, to their people. This is in Waterbury, Connecticut. They are doing all the right things. Their own pay has gone down 50 percent.

We in this House were unable to protect them from a 5 percent cut last year, and the Senate is refusing to act, to protect them from another 5% cut this next year. We must protect them from extraordinary malpractice increases that will reduce their ability to provide care to the women of the Waterbury region.

Madam Speaker, this is not something Members can close their eyes to. It does not do any good to say on a grand scale that we have to reform our insurance laws; this is today. It is today women cannot find obstetricians to cover high-risk pregnancies. It is today doctors are being forced to retire by our failure to provide common sense malpractice reform legislation!

Mr. HASTINGS in Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I still point out to the gentlewoman that there is nowhere in this bill that says that insurance premiums are going to go down as a result of this. We could have passed the measure of the gentleman from Massachusetts (Mr. MARKEY) and would have accomplished that.

Madam Speaker, I yield 1½ minutes to my good friend, the distinguished gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I rise in opposition to the rule and the bill. I had hoped to offer amendments, as did others, that are not being allowed to improve this legislation and deal realistically with this problem.

Even if we believe the preemption of the laws of the 50 States with tort reform, something the Republicans, of course, the States rights party, does not normally believe in, would resolve this problem, we have to question, why is the pharmaceutical industry in this bill? Are they buying malpractice insurance? No. This is an incredible gift to the pharmaceutical industry.

Why is the HMO industry in this bill? Why are the nursing homes in this bill? Guess what? It is all about campaign fundraising on that side of the aisle. They know this bill is so radical, and is not a solution. It is not going anywhere in the Senate, but they want to bring it up today with no amendments and no attempt to really resolve this.

No savings are required to be passed on to the doctors in their premiums. In fact, the insurers never promised that tort reform would achieve specific premium savings. That is the American Insurance Association. That is a quote from them.

The premiums are excessive. Are they excessive because of a cyclical change in settlements? No. We have had four crises in 20 years. Guess what, there have not been four up-and-down cycles in settlements in lawsuits and malpractice; there have been four cycles in the investment losses of the insurance industry, bad underwriting, and bad accounting on their practice.

This is another corporate bailout by the Republicans, plain and simple. This is not going to help my docs. My docs really want a solution. They are desperate. Some of them are even biting on this stuff they are shoveling out. They are going to do nothing to resolve this problem long-term in this country.

Mr. REYNOLDS. Madam Speaker, I yield 2½ minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Madam Speaker, I thank the gentleman from New York for yielding time to me.

Madam Speaker, the vast majority of physicians across this country are highly qualified medical doctors who look out for the best interests of their doctors. My husband has been in the practice of medicine in a sole practice for over 30 years. My son now is in his second year of medical school, and I know this insurance problem intimately.

The very principle that governs the medical profession is the concept of ''do no harm.'' So what does it say about our society when one of the greatest preoccupations for physicians these days is fear of being sued? In fact, a survey conducted by the organization known as Common Good found that 87 percent of physicians now fear potential medical malpractice lawsuits more than they did when they started their careers, 87 percent.

Health care costs are drastically inflated when doctors order tests that they feel are truly not medically necessary, but they have to order those tests in case a lawsuit should be brought against them. What they want is to do the right thing by their patient healthwise and pocketbook-wise.

We are not talking about limiting economic damages, we are talking about limiting punitive damages. The median medical liability award jumped 43 percent in 1 year, from $700,000 in 1999 to $1 million in the year 2000. This is having a critical effect on health care in many States, many of the lower-populated States, such as Nevada, Oregon, and my home State of Wyoming.

Wyoming goes far beyond what is traditionally known as a rural State. The vast majority of Wyoming has the designation of ''frontier,'' which means there are fewer than 6 people per square mile. Wyoming's population is sparse, with roughly 490,000 spread out over 100,000 square miles. Providers are few and far between, and health care facilities are very limited.

Madam Speaker, what it means when excessive malpractice litigation takes hold is professional liability insurance skyrockets and physicians scramble for coverage. There are only two companies in the State of Wyoming that provide coverage. What happens is the doctors close their doors and have to go to other places to find a job.

This is a travesty of twofold dimensions: Wyoming loses a good physician; but even worse, patients in frontier Wyoming lose access to vital primary care. That is unacceptable to me. I urge everyone to support this rule and support this legislation for physicians and patients alike.

Mr. HASTINGS of Florida. Madam Speaker, I am privileged to yield 3 minutes to my good friend, the gentlewoman from Nevada (Ms. BERKLEY), who has a considerable amount of experience in her State, as I do in mine, with this problem.

Ms. BERKLEY. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I rise in strong opposition to the closed rule for H.R. 4600. Nevada's health care crisis reached alarming proportions this past year. Malpractice insurance premiums jumped as much as $150,000 a year for many of our doctors. At least 150 Nevada doctors closed their practices, and

1 in 10 obstetricians have stopped delivering babies. Others are limiting their practices.

Pregnant women find it difficult to get care. Our largest emergency center closed temporarily when huge malpractice rates forced doctors out the door. So, Madam Speaker, I know firsthand the problems caused by runaway insurance rates, but H.R. 4600 is not the answer.

Let me tell the Members how this harms this Nation's health care. It caps noneconomic damages in the aggregate, barring punitive damages even in the most gross acts of malpractice. It caps noneconomic damages in a way that hits low-income Americans the hardest.

There is no provision for enhancing patient safety. Judicial discretion of egregious circumstances does not exist, or streamlining our court cases. This bill wipes out all of the hard work that Nevada's legislature and its carefully-crafted solution and legislation would solve.

The State of Nevada has passed a reform plan that is a far better starting point than H.R. 4600. This measure, signed by the Governor last month, is a product of hard negotiations and compromise, hard work by the medical and the legal and the insurance professionals. It passed a bipartisan legislature unanimously.

I find it very interesting that many of my colleagues on the other side of the aisle keep talking about Nevada's health care crisis. Not one of them will stand with me and suggest that Nevada's health care solution might be an answer to the problem.

The Nevada plan holds both doctors and lawyers accountable while setting limits on noneconomic damages. It allows judges discretion to make higher awards in the most egregious cases of malpractice. It does not let medical products manufacturers or HMOs or the pharmaceutical companies off the hook.

Madam Speaker, in an unwise rush to vote on H.R. 4600, my amendment that brings the Nevada plan to the floor was denied. My husband is a physician. I know firsthand the crisis facing the medical profession. I live with it every day. This Congress has an obligation to help ease the crisis so doctors can continue to treat their patients.

This legislation is so extreme it has no chance, no chance of passing and getting to the President's desk for signature. While this Congress is playing games with medical malpractice problems, the problem only gets worse, and this legislation will do nothing, absolutely nothing, to help because it will never be passed. This is an election year ploy, and it is shameful in its transparency. I am embarrassed. I am embarrassed for the United States Congress. I am embarrassed for the other side of the aisle.

Mr. REYNOLDS. Madam Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Madam Speaker, I thank the gentleman from New York for yielding time to me.

Madam Speaker, I have been involved in legislative issues for 25 years at the State and in Congress. Most of the time, my number one issue has been health care. I chaired health at the State for 10 years. I believe this is the greatest health care crisis facing my State, Pennsylvania, and this country that we will see.

Let me give a little Pennsylvania information. Pennsylvania hospital malpractice premiums in the last 12 months have increased an aggregate of 220 percent. One-third of the hospitals have increased over 300 percent.

Forty percent of the hospitals in Pennsylvania have closed or curtailed services; number one, OB–GYN; number two, trauma, when people are the most seriously ill or traveling further and further; three, neurosurgery and other surgical specialties.

Half of the hospitals in Pennsylvania cannot recruit a physician and are losing the physicians that they have. Fifty percent of teaching programs are finding out that almost all of their students are leaving Pennsylvania. Three-fourths of hospital physicians were denied coverage from an insurance company, and the only reason in Pennsylvania they have coverage is because we have a high-risk pool, at outrageous prices.

Thirty-two rural hospitals in my district, the most rural part of Pennsylvania, had to form their own insurance company because no one would insure them. Eighteen additional hospitals in Pennsylvania are forming their own insurance company. These people have no idea where this is going to take them and what their long-term risks are.

Hospital coverage alone for medical malpractice in Pennsylvania is in excess of one-half billion dollars and rising daily. That does not include physician costs, it does not include nursing homes and health agencies. That is over half a billion dollars that does not treat a patient.

□ 1230

The worst part of the crisis is OB-GYNs and the poorest of American women are going to be denied; those who cannot travel long distances are going to be denied prenatal care, and we will pay for that decades ahead. Any struggling rural hospital that loses their surgeons or OB-GYNs will soon close.

Let me tell my colleagues what they have not heard about this morning. The real opposition to this bill. It limits trial lawyers' rewards. That is what the opposition to this bill is about. But let us see if it is fair. Fifty percent of a $50,000 reward they can still get. That is pretty good pay; 33 1/3 percent of the next $50,000. So that is 42 percent on a $100,000 claim. I think that is pretty good pay. Twenty-five percent on the next half a million. So on a $600,000 claim, they get 28 percent reward. Pretty good pay. Fifteen percent on anything thereafter. So a million dollar reward, they will still make 23 percent that will not go to the victim. I think that is darn good pay.

If we do not address this issue in this country, we are going to be doing the biggest disservice to those who need health care because it will not be available in rural areas, and they are not even a high-risk area. It will not be available in urban areas. I am told the Philadelphia sports teams are having to leave Philadelphia for orthopedic care. A tragedy. Let us fix it.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3 minutes to my good friend and thoughtful legislator, the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank my friend and colleague from the Committee on Rules for yielding me this time.

I am going to try to keep the volume down and talk about what is in this bill. There is no question, my colleagues, that we have a problem in the country. No Member of Congress can say that the status quo is all right. It is not okay for those that are coming into this world not to have the best services of a doctor, of an OB–GYN, of pediatricians; nor is it fair for those who are in the autumn of their lives not to have the right kind of medical assistance.

I think there is unanimity in recognizing what the problem is and that we should be unified in how we resolve this. As a Californian, I know what the MICRA law is. For those who do not know what it stands for, it is the Medical Injury Compensation Reform Act. It has been on the books in California for more than a quarter of a century. Democrats put it into place. Democratic Governors have not repealed it. Republican legislators, Democratic Governors, regardless of what that combination has been, for those who take shots at lawyers and Democrats, a Democratic legislature, and for over a quarter of a century, they have kept this law in place.

In the Congress we have looked at MICRA; and the general consensus has been that MICRA is good, MICRA works. To the gentleman and my friend from Pennsylvania (Mr. GREENWOOD), I told him I will not only be a cosponsor, I will be an original cosponsor of MICRA. This is not MICRA. MICRA places a $250,000 cap on economic damages and malpractice cases. This bill does that as well, and I think that is right. But it also does on product liability cases against drug and medical device manufacturers. How can any Member say to their constituents that that is all right, that they have no recourse? This is not about lawyers. This is about injured patients. We have to stand next to them as well.

The gentlewoman from Connecticut said do not close your eyes; do not close your eyes to that part of the bill.

This bill is overburdensome. It is not MICRA, no matter how they advertise it to be such. It does not honor the people we represent. It should be rejected. It is a closed rule because it is closed thinking. I urge a ''no'' vote.

Mr. REYNOLDS. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the rule on H.R. 4600. Malpractice lawsuits are spiraling out of control. Too many doctors are settling cases even though they have not committed a medical error, and good doctors are ordering excessive tests and procedures and treatments out of fear.

These were the primary issues a panel of experts highlighted at a medical forum I hosted last month in my congressional district. The experts said these issues, or cracks in our medical system, are driving physicians and hospitals out of business.

Are some malpractice lawsuits necessary? Absolutely. Patients must have access to justice and restitution. But it is wrong when excessive costs of malpractice suits and excessive costs of malpractice insurance drive out health care providers.

Mr. Speaker, Congress had the opportunity to fix the malpractice system last summer, but we failed to do so. The good news is that we have another chance today to take the big step towards preserving the long-term viability of the medical system in Illinois and around the country. I urge my colleagues to support the rule on H.R. 4600.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to my very good friend, the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in opposition to the rule and the underlying bill. This legislation, H.R. 4600, says if we cap lawsuit damages, everything will be okay; but in this bill, once again, the majority party has gone way too far. In this area, as they have in so many other areas, the right to sue is being attacked as the root of all evil and stopping Americans from having access and their day in court. It is not the magic cure-all as the majority party would make it out to be. In fact, when we eliminate and take away the incentive to behave or to be sued, we eliminate deterrence.

And we have gone too far. This is not just malpractice. This is product liability. This is nursing home care. It is all rolled into this one big bill. I understand and I sympathize with those doctors facing huge premiums, but this bill is not the answer they are seeking. We went to offer an amendment, the antitrust, to take the antitrust exemption that insurance companies enjoy so they cannot jack up those premiums 200, 300 percent.

They can because they can all get together. They are not subject to monopoly laws and anti-trust laws. And of course we were denied because this is a closed rule.

Also we heard the gentlewoman from California (Ms. ESHOO) say that if you think that this bill is the answer to the malpractice problem, we need to look no further than California, which has a law in place for the last 26 years and this bill is claimed to be done and modeled after that California law. California medical malpractice insurance problems have not disappeared because of the law they passed 26 years ago. They still have it. It did not work.

The focus should not be just this simplistic answer of putting a cap on lawsuits and everything would be okay.

In Michigan we did this 10 years ago. Many of the provisions of this bill were in Michigan's bill passed in the early 90's. Michigan is now considered one of the States, once again, in medical malpractice crisis because the premiums have risen so much. If caps do not work, it is time we look at this crisis from a new focus, a new set of eyes; and what we have to do is start looking at why and look for ways to prevent malpractice.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just disagree with my friend, the gentleman from Michigan (Mr. STUPAK). One cannot argue with the facts that in California the premiums in the last 27 years have gone up 167 percent. The rest of the country is 500 percent. Doctors are not leaving California like they are in New York, and we have heard testimony from other States like Pennsylvania. So the reality is there is a result based on the acts of that Democratic legislature and Governor 27 years ago. And in addition, we know the CBO in scoring this says that this legislation versus the current law as it is today would reduce the premiums paid by 25 to 30 percent for medical malpractice.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, since the last speaker brought up Michigan, I thought I would bring it up. Even with our caps in Michigan, our premiums for our doctors are higher than those States without caps. If California has gone up 167 percent in the last few years and the rest of country has gone up 500 percent for malpractice premiums, is it not time we took away the anti-trust exemption for the insurance companies so they cannot go up 500 percent when the rate of inflation is 2 or 3 percent? Why are they going up 500 percent? It is not the lawsuits. It is the stock market, the Enrons and all the other things.

When St. Paul pulls $1.5 billion out of their reserves, they have to make it up someway, and they make it up on the backs of doctors.

Mr. HASTINGS of Florida. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Florida (Mr. HASTINGS) has 10 minutes remaining. The gentleman from New York (Mr. REYNOLDS) has 6½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, if we talk about malpractice, we ought to talk about malpractice. If this bill passes, there is no commitment from any insurance company to actually reduce rates. There are some provision in here that have nothing to do with malpractice rates.

The previous speaker mentioned attorneys' fees and how reducing attorneys' fees will reduce attorneys' fees. It did not have anything to do with malpractice insurance. He said if you have a $1 million settlement, that if you limit lawyers' fees to 23 percent that will do some good. He did not say that the malpractice carrier will pay a million dollars. If it is a one-third fee, they will pay a million dollars. If it is no fee, they will pay a million dollars. This does not have anything to do with malpractice.

We ought to focus on the malpractice problem, not just gratuitously hurt the innocent victims of malpractice.

Mr. REYNOLDS. Mr. Speaker, we have heard from a lot of lawyers today and a few business people. I would like to now have an opportunity to hear from a medical doctor educated in the University of Buffalo and then moved to Florida.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

(Mr. WELDON of Florida asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of this rule and the underlying bill. I just want to touch on a very, very important issue and that is defensive medicine, the incorrect costs of liability on the practice of medicine in the United States. Now, I practiced medicine for 15 years prior to being elected. I still see patients once a month. I practice defensive medicine. I know it is real.

I want to share with my colleagues who think this is not a Federal issue. A study was done, it was published in the Journal of Economics in May of 1996, looking at the impact of the California tort reforms on health care costs and specifically they looked in the Medicare plan. And they discovered that there was a 5 to 9 percent reduction in health care costs brought about in the Medicare plan in the State of California attributable to the caps on noneconomic damages and less defensive medicine.

This is an excellent study, and I would encourage all of my colleagues

to read it. What this study also looked at was morbidity and mortality. They said it is not enough to just look at a decline in health care charges, but was it having an adverse effect on patients; were there more complications; were there more deaths. And lo and behold there were not. The researchers out of Stanford University, it is an excellent study published by Kessler and McClellan, they extrapolated this data and concluded that defensive medicine, because of liability, costs us $50 billion a year.

How can that be? I can tell you the patients came in my office. I thought they had this; I would order that test. And then I would say to myself, What if they have something else? What if they have this or that? What if they sue me? So I would start ordering the additional tests to prevent myself from being sued.

Mr. Speaker, I encourage my colleagues to support this rule and support the underlying bill. It is a Federal issue.

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DO DOCTORS PRACTICE DEFENSIVE MEDICINE?

[By Daniel Kessler; Mark McClellan]

''Defensive medicine'' is a potentially serious social problem: if fear of liability drives health care providers to administer treatments that do not have worthwhile medical benefits, then the current liability system may generate inefficiencies much larger than the cost of compensating malpractice claimants. To obtain direct empirical evidence on this question, we analyze the effects of malpractice liability reforms using data on all elderly Medicare beneficiaries treated for serious heart disease in 1984, 1987, and 1990. We find that malpractice reforms that directly reduce provider liability pressure lead to reductions of 5 to 9 percent in medical expenditures without substantial effects on mortality or medical complications. We conclude that liability reforms can reduce defensive medical practices.

INTRODUCTION

The medical malpractice liability system has two principal roles: providing redress to individuals who suffer negligent injuries, and creating incentives for doctors to provide appropriately careful treatment to their patients [Bell 1984]. Malpractice law seeks to accomplish these goals by penalizing physicians whose negligence causes an adverse patient health outcome, and using these penalties to compensate the injured patients [Danzon 1985]. Considerable evidence indicates that the current malpractice system is neither sensitive nor specific in providing compensation. For example, the Harvard Medical Practice Study [1990] found that sixteen times as many patients suffered an injury from negligent medical care as received compensation in New York State in 1984. In any event, the cost of compensating malpractice claimants is not an important source of medical expenditure growth: compensation paid and the costs of administering that compensation through the legal system account for less than 1 percent of expenditures [OTA 1993].

The effects of the malpractice system on physician behavior, in contrast, may have much more substantial effects on health care costs and outcomes, even though virtually all physicians are fully insured against the financial costs of malpractice such as damages and legal defense expenses. Physicians may employ costly precautionary treatments in order to avoid nonfinancial penalties such as fear or reputational harm, decreased self-esteem from adverse publicity, and the time and unpleasantness of defending a claim [Charles, Pyskoty, and Nelson 1988; Weiler et al. 1993].

On the one hand, these penalties for malpractice may deter doctors and other providers from putting patients as excessive risk of adverse health outcomes. On the other hand, these penalties may also drive physicians to be too careful—to administer precautionary treatments with minimal expected medical benefit out of fear of legal liability—and thus to practice ''defensive medicine.'' Many physicians and policy-makers have argued that the incentive costs of the malpractice system, due to extra tests and procedures ordered in response to the perceived threat of a medical malpractice claim, may account for a substantial portion of the explosive growth in health care costs [Reynolds, Rizzo, and Gonzalez 1987; OTA 1993, 1994]. The practice of defensive medicine may even have adverse effects on patient health outcomes, if liability induces providers either to administer harmful treatments or to forgo risky but beneficial ones. For these reasons, defensive medicine is a crucial policy concern [Sloan, Mergenhagen, and Bovbjerg 1989].

Despite this policy importance, there is virtually no direct evidence on the existence and magnitude of defensive medical practices. Such evidence is essential for determining appropriate tort liability policy. In this paper we seek to provide such direct evidence on the prevalence of defensive medicine by examining the link between medical malpractice tort law, treatment intensity, and patient outcomes. We use longitudinal data on all elderly Medicare recipients hospitalized for treatment of a new heart attack (acute myocardial infarction, or AMI) or of new ischemic heart disease (IHD) in 1984, 1987, and 1990, matched with information on tort laws from the state in which the patient was treated. We study the effect of tort law reforms on total hospital expenditures on the patient in the year after AMI or IHD to measure intensity of treatment. We also model the effect of tort law reforms on important patient outcomes. We estimate the effect of reforms on a serious adverse outcome that is common in our study population: mortality within one year of occurrence of the cardiac illness. We also estimate the effect of tort reforms on two other common adverse outcomes related to a patient's quality of life; whether the patient experienced a subsequent AMI or heart failure requiring hospitalization in the year following the initial illness.

To the extent that reductions in medical malpractice tort liability lead to reductions in intensity but not with increases in adverse health outcomes, medical care for these health problems is defensive; that is doctors supply a socially excessive level of care due to malpractice liability pressures. Put another way, tort reforms that reduce liability also reduce inefficiency in the medical care delivery system to the extent that they reduce health expenditures which do not provide commensurate benefits. We assess the magnitude of defensive treatment behavior by calculating the cost of an additional year of life or an additional year of cardiac health achieved through treatment intensity induced by specific aspects of the liability system. If liability-induced precaution results in low expenditures per year of life saved relative to generally accepted costs per year of life saved of other medical treatments, then the existing liability system provides incentives for efficient care. But if liability-induced precaution results in high expenditures per year of life saved, then the liability system provides incentives for socially excessive care. Because the precision with which we measure the consequences of reforms is critical, we include all U.S. elderly patients with heart diseases in 1984, 1987, and 1990 in our analysis.

Section I of the paper discusses the theoretical ambiguity of the impact of the current liability system on efficiency in health care. For this reason, liability policy should be guided by empirical evidence on its consequences for ''due care'' in medical practice. Section II reviews the previous empirical literature. Although the existing evidence on the effectiveness of alternative liability rules has provided considerable insights, direct evidence on the crucial effects of the tort system on physician behavior is virtually nonexistent. Section III presents our econometric models of the effects of liability rules on treatment decisions, costs, and patient outcomes, and formally describes the test for defensive medicine used in the paper. We identify liability effects by comparing trends in treatment choice, costs, and outcomes in states adopting various liability reforms to trends in those that did not. We also review a number of approaches to enriching the model, assisting in the evaluation of its statistical validity and providing further insights into the tort reform effects. Section IV discusses the details of our data, and motivates our analysis of elderly Medicare beneficiaries for purposes of assessing the costs of defensive medicine. Section V presents the empirical results. Section VI discusses implications for policy, and Section VII concludes.

I. Malpractice liability and efficient precaution in health care

In general, malpractice claims are adjudicated in state courts according to state laws. These laws require three elements for a successful claim. First, the claimant must show that the patient actually suffered an adverse event. Second, a successful malpractice claimant must establish that the provider caused the event: the claimant must attribute the injury to the action or inaction of the provider, as opposed to nature. Third, a successful claimant must show that the provider was negligent. Stated simply, this entails showing that the provider took less care than that which is customarily practiced by the average member of the profession in good standing, given the circumstances of the doctor and the patient [Keeton et al. 1984]. Collectively, this three-part test of the validity of a malpractice claim is known as the ''negligence rule.''

In addition to patient compensation, the principal role of the liability system is to induce doctors to take the optimal level of precaution against patient injury. However, a negligence rule may lead doctors to take socially insufficient precaution, such that the marginal social benefit of precaution would be greater than the marginal social cost. Or, it may lead doctors to take socially excessive precaution, that is, to practice defensive medicine, such that the marginal social benefit of precaution would be less than the marginal social cost [Farber and White 1991]. The negligence rule may not generate socially optimal behavior in health care because the private incentives for precaution facing doctors and patients differ from the social incentives. First, the costs of accidents borne by the physician differ from the social costs of accidents. Because malpractice insurance is not strongly experience rated [Sloan 1990], physicians bear little of the costs of patient injuries from malpractice. However, physicians bear significant uninsured expenses in response to a malpractice claim, such as the value of time

and emotional energy spent on legal defense [OTA 1993, p. 7]. Second, patients and physicians bear little of the costs of medical care associated with physician precaution in any particular case because most health care is financed through health insurance. Generally, insured expenses for drugs, diagnostic tests, and other services performed for precautionary purposes are much larger than the uninsured costs of the physician's own effort. Third, physicians bear substantial costs of accidents only when patients file claims, and patients may not file a malpractice claim in response to every negligent medical injury [Harvard Medical Practice Study 1990].

The direction and extent of the divergence between the privately and socially optimal levels of precaution depends in part on states' legal environments. Although the basic framework of the negligence rule applies to most medical malpractice claims in the United States, individual states have modified their tort law to either expand or limit malpractice liability along various dimensions over the past 30 years. For example, several states have imposed caps on malpractice damages such that recoverable losses are limited to a fixed dollar amount, such as $250,000. These modifications to the basic negligence rule can affect both the costs to physicians and the benefit to patients from a given malpractice claim or lawsuit, and thereby also affect the frequency and average settlement amount (''severity'') of claims. We use the term malpractice pressure to describe the extent to which a state's legal environment provides high benefits to plaintiffs or high costs to physicians or both. (Malpractice pressure can be multidimensional.)

If the legal environment creates little malpractice pressure and externalized costs of medical treatment are small, then the privately optimal care choice may be below the social optimum. In this case, low benefits from filing malpractice claims and lawsuits reduce nonpecuniary costs of accidents for physicians, who may then take less care than the low cost of diagnostic tests, for example, would warrant. However, if the legal environment creates substantial malpractice pressure and externalized costs of treatment are large, then the privately optimal care choice may be above the social optimum: privately chosen care decisions will be defensive. For example, increasing technological intensity (with a reduced share of physician effort costs relative to total medical care costs) and increasing generosity of tort compensation of medical injury would lead to relatively more defensive medical practice.

Incentives to practice defensively may be intensified if judges and juries impose liability with error. For example, the fact that health care providers' precautionary behavior may be ex post difficult to verify may give them the incentive to take too much care [Cooler and Ulen 1986; Craswell and Calfee 1986]. Excessive care results from the all-or-nothing nature of the liability decision: small increases in precaution above the optimal level may result in large decreases in expected liability.

Because privately optimal behavior under the basic negligence rule may result in medical treatment that has marginal social benefits either greater or less than the marginal social costs, the level of malpractice pressure that provides appropriate incentives is an empirical question. In theory, marginal changes to the negligence rule can either improve or reduce efficiency, depending on their effects on precautionary behavior, total health care costs, and adverse health outcomes. Previous studies have analyzed effects of legal reforms on measures of malpractice pressure, such as the level of compensation paid malpractice claimants. To address the potentially much larger behavioral consequences of malpractice pressure, we study the impact of changes in the legal environment on health care expenditures to measure the marginal social cost of treatment induced by the liability system, and the impact of law changes on adverse health events to measure the marginal social benefit of law-induced treatment. As a result, we can provide direct evidence on the efficiency of a baseline malpractice system and, if it is inefficient, identify efficiency-improving reforms.

II. Previous empirical literature

The previous empirical literature is consistent with the hypothesis that providers practice defensive medicine, although it does not provide direct evidence on the existence or magnitude of the problem. One arm of the literature uses surveys of physicians to assess whether doctors practice defensive medicine [Reynolds, Rizzo, and Gonzalez 1987; Moser and Musaccio 1991; OTA 1994]. Such physician surveys measure the cost of defensive medicine only through further untestable assumptions about the relationship between survey responses, actual treatment behavior, and patient outcomes. Although surveys indicate that doctors believe that they practice defensively, surveys only provide information about what treatments doctors say that they would administer in a hypothetical situation: they do not measure behavior in real situations.

Another body of work uses clinical studies of the effectiveness of intensive treatment [Leveno et al. 1986; Shy et al. 1990]. These studies find that certain intensive treatments which are generally thought to be used defensively have an insignificant impact on health outcomes. Similarly, clinical evaluations of malpractice control policies at specific hospitals have found that intensive treatments thought to serve a defensive purpose are ''overused'' by physicians [Master et al. 1987]. However, this work does not directly answer the policy question of interest: does intensive treatment administered out of fear of malpractice claims have any effect on patient outcomes? Few medical technologies in general use have been known to be ineffective in all applications, and the average effect of a procedure in a population may be quite different from its effect at the margin in, for example, the additional patients who receive it because of more stringent liability rules [McClellan 1995]. Evaluating malpractice liability reforms requires evidence on the effectiveness of intensive treatment in the ''marginal'' patients.

A third, well-developed arm of the literature estimates the effects of changes in the legal environment on measures of the compensation paid and the frequency of malpractice claims. Danzon [1982, 1986] and Sloan, Mergenhagen, and Bovbjerg [1989] find that tort reforms that cap physicians' liability at some maximum level or require awards in malpractice cases to be offset by the amount of compensation received by patients from collateral sources reduce payments per claim. Danzon [1986] also finds that collateral-source-rule reforms and statute-of-limitations reductions reduce claim frequency. Based on data from malpractice insurance markets, Zuckerman, Bovbjerg, and Sloan [1990] and Barker [1992] reach similar conclusions: Zuckerman, Bovbjerg, and Sloan find that caps on damages and statute-of-limitations reductions reduce malpractice premiums, and Barker finds that caps on damages increase profitability.

Despite significant variety in data and methods, this literature contains an important unified message about the types of legal reforms that affect physicians' incentives. The two reforms most commonly found to reduce payments to and the frequency of claims, caps on damages and collateral-source-rule reforms, share a common property: they directly reduce expected malpractice awards. Caps on damages truncate the distribution of awards; mandatory collateral-source offsets shift down its mean. Other malpractice reforms that only affect malpractice awards indirectly, such as reforms imposing mandatory periodic payments (which require damages in certain cases to be disbursed in the form of an annuity that pays out over time) or statute-of-limitations reductions, have had a less discernible impact on liability and hence on malpractice pressure.

However, estimates of the impact of reforms on frequency and severity from these analyses are only the first step toward answering the policy question of interest: do doctors practice defensive medicine? Taken alone, they only provide evidence of the effects of legal reforms on doctors' incentives; they do not provide evidence of the effects of legal reforms on doctors' behavior. Identifying the existence of defensive treatment practices and the extent of inefficient precaution due to legal liability requires a comparison of the response of costs of precaution and the response of losses from adverse events to changes in the legal environment.

A number of studies have sought to investigate physicians' behavioral response to malpractice pressure. These studies generally have analyzed the costs of defensive medicine by relating physicians' actual exposure to malpractice claims to clinical practices and patient outcomes [Rock 1988; Harvard Medical Practice Study 1990; Localio et al. 1993; Baldwin et al. 1995]. Rock, Localio et al., and the Harvard Medical Practice Study find results consistent with defensive medicine; Baldwin et al. do not. However, concerns about unobserved heterogeneity across providers and across small geographic areas qualify the results of all of these studies. The studies used frequency of claims or magnitude of insurance premiums at the level of individual doctors, hospitals, or areas within a single state over a limited time period to measure malpractice pressure. Because malpractice laws within a state at a given time are constant, the measures of malpractice pressure used in these studies arose not from laws but from primarily unobserved factors at the level of individual providers or small areas, creating a potentially serious problem of selection bias. For example, the claims frequency or insurance premiums of a particular provider or area may be relatively high because the provider is relatively low quality, because the patients are particularly sick (and hence prone to adverse outcomes), because the patients had more ''taste'' for medical interventions (and hence are more likely to disagree with their provider about management decisions), or because of many other factors. The sources of the variation in legal environment are unclear and probably multifactorial. All of these factors are extremely difficult to capture fully in observational data sets and could lead to an apparent but noncausal association between measured malpractice pressure and treatment decisions or outcomes.

Thus, while previous analyses have provided a range of insights about the malpractice liability system, they have not provided direct empirical evidence on how malpractice reforms would actually affect physician behavior, medical costs, and health outcomes.

III. Econometric modes

Our statistical methods seek to measure the effects of changes in an identifiable

source of variation in malpractice pressure influencing medical decision making—state tort laws—that is not related to unobserved heterogeneity across patients and providers. We compare time trends across reforming and nonreforming states during a seven-year period in inpatient hospital expenditures, and in outcome measures including all-cause cardiacmortality as well as the occurrence of cardiac complications directed related to quality of life. We model average expenditures and outcomes as essentially nonparametric functions of patient demographic characteristics, state legal and political characteristics, and state- and time-fixed effects. We model the effects of state tort law changes as differences in time trends before and after the tort law changes. We test for the existence and magnitude of defensive medicine based on the relationship of the law-change effects on medical expenditures and health outcomes.

While this strategy fundamentally involves differences-in-differences between reforming and nonreforming states to identify effects, we modify conventional differences-in-differences estimation strategies in several ways. First, as noted above, our models include few restrictive parametric or distributional assumptions about functional forms for expenditures or health outcomes. Second, we do not only model reforms as simple one-time shifts. Malpractice reforms might have more complex, longer term effects on medical practices for a number of reasons. Law changes may not have instantaneous effects because it may take time for lawyers, physicians, and patients to learn about their consequences for liability, and then to re-establish equilibrium practices. Law changes may affect not only the static climate of medical decision making, but also the climate for further medical interventions by reducing pressure for technological intensity growth. Thus, the long-term consequences of reforms may be different from their short-term effects. By using a panel data set including a seven-year panel, our modeling framework permits a more robust analysis of differences in time trends before and after adoption.

We use a panel-data framework with observations on successive cohorts of heart disease patients for estimating the prevalence of defensive medicine. In state s=1, S during year t=1, T, our observational units consist of individual T=1, [N.sub.st] who are hospitalized with new occurrences of particular illnesses such as a heart attack. Each patient has observable characteristics [X.sub.ist], which we describe as a fully interacted set of binary variables, as well as many unobservable characteristics that also influence both treatment decisions and outcomes. The individual receives treatment of aggregate intensity [R.sub.ist], where R donates total hospital expenditures in the year after the health event. The patient has a health outcome [O.sub.ist], possibly affected by the intensity of treatment received, where a higher value denotes a more adverse outcome (O is binary in our models).

We define state tort systems in effect at the time of each individual's health event based on the existence of two categories of reforms from a maximum-liability regime: direct and indirect malpractice reforms. Previous studies, summarized in Section II, found differences between these types of reforms on claims behavior and malpractice insurance premiums (Section IV below discusses our reform classification in detail). We denote the existence of direct reforms in state s at time t using two binary variables [L.sub.mst]: [L.sub.1st] = 1 if state s has adopted a direct reform at time t, and [L.sub.2st] = 1 if state s has adopted an indirect reform at time t. [L.sub.st] = [[L.sub.1st][L.sub.2st]] is thus a two-dimensional binary vector describing the existence of malpractice reforms.

We first estimate linear models of average expenditure and outcome effects using these individual-level variables. The expenditure models are of the form, (1) [R.sub.ist] = [[theta].sub.t] + [[alpha].sub.s] + [X.sub.ist][beta] + [W.sub.st][gamma] + [L.sub.st][[phi].sub.m] + [V.sub.ist], where [[theta].sub.t] is a time-fixed effect, [[alpha].sub.s] is a state-fixed effect, [W.sub.st] is a vector of variables described below which summarize the legal-political environment of the state over time, [beta] and [gamma] are vectors of the corresponding average-effect estimates for the demographic controls and additional state-time controls, [[phi].sub.m] is the two-dimensional average effect of malpractice reforms on growth rate, and [v.sub.ist] is a mean-zero independently distributed error term with E([v.sub.ist] [pipe] [X.sub.ist], [L.sub.st],[W.sub.st]) = 0. Because legal reforms may affect both the level and the growth rate of expenditures, we estimate different baseline time trends [[theta].sub.t] for states adopting reforms before 1985 (which were generally adopted before 1980) and non-adopting states. Our data set includes essentially all elderly patients hospitalized with the heart diseases of interest for the years of our study, so that our results describe the actual average differences in trends associated with malpractice reforms in the U.S. elderly population. We report standard errors for inferences about average differences that might arise in potential populations (e.g., elderly patients with these health problems in other years). Our model assumes that patients grouped at the level of state and time have similar distributions of unobservable characteristics that influence medical treatments and health outcomes. Assuming that malpractice laws affect malpractice pressure, but do not directly affect patient expenditures or outcomes, then the coefficients [phi] identify the average effects of changes in malpractice pressure resulting from malpractice reforms.

To distinguish short-term and long-term effects of legal reforms, we estimated less restrictive models of the average effects of legal reforms that utilize the long duration of our panel. These ''dynamic'' models estimate separate growth rate effects [[phi].sub.md] based on time-since-adoption: (2) [Mathematical Expression Omitted] where we include separate short-term average effects [[phi].sub.m0] and long-term average effects [[phi].sub.m1]. We estimate the short-term effect of the law (within two years of adoption) [[phi].sub.m0] by setting [d.sub.st0] = 1 for 1985–1987 adopters in 1987 and 1988–1990 adopters in 1990, and we estimate the long-term effect (three to five years since adoption) by setting [d.sub.st] = 1 for 1985–1987 adopters in 1990.

The estimated average effects [[phi].sub.md]d in these models form the basis for tests of the effects of malpractice reforms on health care expenditures and outcomes, and thus for tests of the existence and magnitude of defensive medicine. In all of these models, there is evidence of defensive medicine if, for direct or indirect reforms m, [[phi].sub.md] < 0 in our models of medical expenditures and [[phi].sub.md] = 0 in our models of health outcomes. In other words, if a state law reform is associated with a reduction in the growth rate of medical expenditures and does not adversely affect the growth rate of adverse heath outcomes through its impact on treatment decisions, then malpractice pressure is too high from the perspective of social welfare, and defensive medicine exists. More generally, defensive medicine exists if the effect of malpractice reforms on expenditures is ''large'' relative to the effect on health outcomes. Thus, in the results that follow, we test both whether expenditure and outcome effects of reforms differ substantially from zero, as well as the ratio of expenditure to outcome effects.

The power of the test for defensive medicine depends on the statistical precision of the estimated effects of law reforms on outcomes. Consequently, we evaluate the confidence intervals surrounding our estimates of outcome efforts carefully. It is not feasible to collect information on all health outcomes that may matter to some degree to individual patients. Instead, our tests focus on important health outcomes, including mortality and significant cardiac complications, which are reliably observed in our study population. Because the cardiac complications we consider reflect the two principal ways in which poorly treated heart disease would affect quality of life (e.g., through further heart attacks or through impaired cardiac function), estimates of effects on these health outcomes along with mortality would presumably capture any important health consequences of malpractice reforms.

We estimated additional specifications of our models to test whether reform adoption is not in fact correlated with unobserved trends in malpractice pressures or patient characteristics across the state-time groups. One set of specification tests was based on the inclusion of random effects for state-time interactions. To account for any geographically correlated variations in costs or expenditures over time, we included Huber-White [1980] standard error corrections for zip code-time error correlations. We also tested whether our estimated standard errors were sensitive to Huber-White corrections for state-time error correlations.

Another set of specification tests involved evaluating a range of variables [W.sub.st] summarizing the political and regulatory environment in each state at each point in time, to test whether various factors that might influence reform adoption influence our estimates of reform effects on either expenditure or health outcomes. Since the main cause of the tort reforms that are the focus of our study was nationwide crisis in all lines of commercial casualty insurance, it is unlikely that endogeneity of reforms is a serious problem [Priest 1987; Rabin 1988]. However, Campbell Kessler, and Shepherd [1996] show that the concentration of physicians and lawyers in a state and measures of states' political environment are correlated with liability reforms, and Danzon [1982] shows that the concentration of lawyers in a state is correlated with both the compensation paid to malpractice claims and the enactment of reforms. Consequently, we control for the political party of each state's governor, the majority political party of each house of each state's legislature, and lawyers per capita in all of the regressions, and we tested the sensitivity of our results to these controls.

A third set of specification tests relied on other tort reforms enacted in the 1980s which should have had a minimal impact on malpractice liability cases in the elderly during the time frame of our study. However, these reforms might be correlated with relevant malpractice reforms if, for example, general concerns about liability pressures in all industries led to broad legal reforms. If such reforms were correlated with included reforms, then our estimates might overstate the impact of the malpractice law reforms that we analyze.

Along these lines, we investigate the validity of our assumption of no omitted variable bias by estimating the impact of reforms to

states' statuses of limitations. Statutes of limitations are most relevant in situations involving latent injuries. Malpractice arising out of AMI in the elderly would involve an injury of which the adverse consequences would appear before any statute of limitations would exclude an injured patient. Nonetheless, statutes of limitations are the potentially most important reform not included in our study (23 states shortened their statutes of limitations between 1985 and 1990, and Danzon [1986] finds that shorter statutes of limitations reduced claims frequency). If our models are correctly specified, then statute-of-limitations reforms sohuld have no effect on the treatment intensity and outcome decisions that we analyze. If omitted variable bias is a problem, however, statute-of-limitations reforms may show a significant estimated effect.

Finally, because all of our specifications control for fixed differences across states, they do not allow us to estimate differences in the baseline levels of intensive treatment and adverse health outcomes. Thus, we also estimate additional versions of all of our models with region effects only, to explore baseline differences in treatment rates, costs, and outcomes across legal regimes.

IV. Data

The data used in our analysis come from two principal sources. Our information on the characteristics, expenditures, and outcomes for elderly Medicare beneficaries with heart disease are derived from comprehensive longtiudinal claims data for the vast majority of elderly Medicare beneficaries who were admitted to a hospital with a new primary diagnosis (no admission with either health problem in the preceding year) of either acute myocardial infraction (AMI) or ischemic heart disease (IHD) in 1984, 1987, and 1990. Data on patient demographic characteristics were obtained from the Health Care Financing Administration HISKEW enrollment files, with death dates based on death reports validated by the Social Security Administration. Measures of total one-year hospital expenditures were obtained by adding up all reimbursement to acute-care hospitals (including copayments and deductible not paid by Medicare) from insurance claims for all hospitalizations in the year following each patient's initial admission for AMI or IHD. Measures of the occurrence of cardiac complications were obtained by abstracting data on the principal diagnosis for all subsequent admissions (not counting transfers) in the year following the patient's initial admission. Cardiac complications included re-hospitalizations within one year of the initial event with a primary diagnosis (principal cause of hospitalization) of either subsequent AMI or heart failure. Treatment of IHD and AMI patients is intended to prevent subsequent AMIs if possible, and the occurrence of heart failure requiring hospitalization is evidence that the damage to the patient's heart from ischemic disease has serious functional consequencies. The programming rules used in the data set creation process and sample exclusion criteria were virtually identical to those reported in McClellan and Newhouse [1995, 1996].

We analyze cardiac disease patients because the choice of a particular set of diagnoses permits detailed exploration of the health and treatment consequences of policy reforms. Cardiac disease and its complications are the leading cause of medical expenditures and mortality in the United States. A majority of AMIs and IHD hospitalizations occurs in hte elderly, and both mortality and subsequent cardiac complications are relatively common occurrences in this population. Thus, this condition provides both a relatively homogeneous set of patients and outcomes (to analyze the presence of defensive medicine with reasonable clinical detail), and medical expenditures are large enough and the relevant adverse outcomes common enough that the test for defensive medicine can be a precise one. Furthermore, because AMI is essentially a severe form of the same underlying illness as is IHD, we can assess whether reforms affect more or less severe cases of a health problem differently by comparing AMI with IHD patients.

In addition, cardiovascular illness is likely to be sensitive to defensive medical practices. In a ranking of illnesses by the frequency of and payments to the malpractice claims that they generate. AMI is the third most prevalent and costly, behind only malignant breast cancer and brain-damaged infants [PIAA 1993]. AMI is also disinctive because of the severity of medical injury associated with malpractice claims: conditional on a claim, patients with AMI suffer injury that rates 8.2 on the National Association of Insurance Commissioners nine-point severity scale, the second-highest severity rating of any malpractice-claim-generating health problem [PIAA]. Cardiovascular illnesses and associated procedures also include 7 of the 40 most prevalent and costly malpractice-claim-generating health problems [PIAA].

We focus on elderly patients in part because no comparable longitudinal microdata exist for nonelderly U.S. patient populations. However, there are other advantages to concentrating on this population. Several studies have documented that claims rates are lower in the elderly than in the nonelderly population, presumably because losses from severe injuries would be smaller given the patients' shorter expected survival [Weller et al. 1993]. This hypothesis suggests that physicians are least likely to practice defensively for elderly patients. Thus, treatment decisions and expenditures in this population would be the least sensitive to legal reforms. Similarly, relatively low baseline incentives for defensive practices and the relatively high frequency of adverse outcomes in the elderly imply that this population can provide the most sensitive tests for adverse health effects of reforms. These considerations suggest that analysis of elderly patients provides a lower bound on the costs of defensive medicine. In any event, trends in practice patterns over time have been similar for elderly and nonelderly patients (e.g., intensity of treatment has increased dramatically and survival rates have improved for both groups [National Center for Health Statistics 1994]). Thus, we would expect the findings for this population to be qualitatively similar to results for the nonelderly, if such a longitudinal empirical analysis were possible.

Table I describes the elderly population with AMI and IHD from the years of our study. Between 1984 and 1990 the elderly AMI population aged slightly, and the share of males in the IHD population increased slightly, but the characteristics of AMI and IHD patients were otherwise relatively stable. The number of AMI patients in an annual cohort declined slightly (from 233,000 to 221,000), while the number of IHD patients increased (from 357,000 to 423,000). Changes in real hospital expenditures in the year following the AMI or IHD event were dramatic. For example, one-year average hospital expenditures for AMI patients rose from $10,880 in 1984 to $13,140 in 1990 (in constant 1991 dollars), a real growth rate of around 4 percent per year. These expenditure trends are primarily attributable to changes in intensity. Because of Medicare's ''prospective'' hospital payment system, reimbursement given treatment choice for Medicare patients actually declined during this period. This growth in expenditures and treatment intensity was associated with significant mortality reductions, from 39.9 percent to 35.3 percent for AMI patients (with the bulk of the reduction coming after 1987) and from 13.5 percent to 10.8 percent for IHD patients (with the bulk coming before 1987). However, the AMI survival improvements—but not the IHD improvements—were associated with corresponding increases in recurrent AMIs and in heart failure complications. This underscores that the role of changes in intensity versus other factors—as well as any role of changes in liability—is difficult to identify directly in all of these trends.

Second, building on prior efforts to collect information on state malpractice laws (e.g., Sloan, Mergenhagen, and Bovbjerg [1989]), we have compiled a comprehensive database on reforms to state liability laws and state malpractice-control policies that contain information on several types of legal reforms from 1969 to 1992(8). The legal regime indicator variables are defined such that the level of liability imposed on defendants in the baseline is at a hypothetical maximum.

Eight characteristics of state malpractice law, representing divergences from the baseline legal regime, are summarized in Table IIA. We divide these eight reforms into two groups of four reforms each: reforms that directly reduce malpractice awards and reform that only reduce awards indirectly. ''Direct'' reforms include reforms that truncate the upper tail of the distribution of awards, such as caps on damages and the abolition of punitive damages, and reforms that shift down the mean of the distribution, such as collateral-source-rule reform and abolition of mandatory prejudgment interest. ''Indirect'' reforms include other reforms that have been hypothesized to reduce malpractice pressure but only affect awards indirectly, for instance, through restricting the range of contracts that can be enforced between plaintiffs and contingency-fee attorneys. As discussed in Section II above, we chose this division because the previous empirical literature generally found the impact of direct reforms to be larger than the impact of indirect reforms on physicians' incentives through their effect on the compensation paid and the frequency of malpractice claims. Each of the observations in the Medicare data set was matched with a set of two tort law variables that indicated the presence or absence of direct or indirect malpractice reforms at the item of their initial hospitalization.

Table IIB contains the effective date for the adoption of direct and indirect reforms for each of the 50 states. The table shows that a number of states have implemented legal reforms at different times. For example, 13 states never adopted any direct reforms, 23 states adopted direct reforms between 1985 and 1990, and 18 states adopted direct reforms 1984 or earlier (adoptions plus nonadoptions exceed 50 because some states adopted both before and after 1985). Similarly, 16 state never adopted any indirect reforms, 23 states adopted indirect reforms between 1985 and 1990, and 18 states adopted indirect reforms 1984 or earlier. Adoption of direct and indirect reforms is not strongly related: sixteen states that never adopted reforms of one type have adopted reforms of the other.

V. Empirical results

Table III previews our basic difference-in-difference (DD) analysis by reporting unadjusted conditional means for expenditures and mortality for four patient groups, based on the timing of malpractice reforms. Expenditure levels in 1984 (our base year) were slightly higher in states passing reforms between 1985–1987 and lower in states passing reforms between 1988–1990. Baseline

mortality rates were slightly lower for AMI and higher for IHD in the 1985–1987 reform states, and conversely for the 1988–1990 reform states. Thus, overall, reform states looked very similar to nonreform states in terms of baseline expenditures and outcomes. States with earlier reforms (pre-1985) had slightly higher base year expenditures but similar base year mortality rates. The table shows that expenditure growth in reform states was smaller than in nonreform states during the study years. Altogether, growth was 2 to 6 percent slower in the reform compared with the nonreform states for AMI, and trend differences were slightly greater for IHD. Although mortality trends differed somewhat across the state groups, mortality trends on average were quite similar for reform and nonreform states. These simple comparisons do not account for any differences in trends in patient characteristics across the state groups, do not account for any effects of other correlated reforms, and do not readily permit analysis of dynamic malpractice reform effects. Nonetheless, they anticipate the principal estimation results that follow.

Table IV presents standard DD estimates of the effects of tort reforms between 1985 and 1990 on average expenditures and outcomes for AMI, that is, no dynamic reform effects are included. In this and subsequent models, we include fully interacted demographic effects—for patient age (65–69, 70–74, 75–79, 80–89, 90–99), gender, black or nonblack race, and urban or rural residence—and controls for contemporaneous political and regulatory changes described previously. For each of the four outcomes—one-year hospital expenditures, mortality, and AMI and CHF readmissions—two sets of models are reported. The first set includes complete state and year fixed effects. The second set, intended to illustrate the average differences of states that had adopted reforms before our study began as well as the sensitivity of the results to a more complete fixed-effect specification, includes only time and census region effects. As described in Section II, both specifications are linear, the dependent variable in the expenditure models is logged, all coefficient estimates are multiplied by 100 and so can be interpreted as average effects in percent (for expenditure models) or percentage points (for outcomes models), and the standard errors are corrected for heteroskedasticity and grouping at the state/zip-code level.

The estimates of average expenditure growth rates in both specifications are substantial showing an increase in real expenditures of over 21 percent between 1984 and 1990. The estimated DD effects show that expenditures declined by 5.3 percent in states that adopted direct reforms relative to nonreforming states. The corresponding DD estimate of the effect of indirect reforms, 1.8 percent, is positive but small; these reforms do not appear to have a substantial effect on expenditures. In the region-effect models, the estimated DD reform effects are slightly larger but qualitatively similar States that adopted reforms prior to our study period had 1984–1990 growth rates in expenditures that were slightly larger, by around 3 percent. The region-effect model shows that these states as a group also had slightly higher expenditure levels in 1984. Because these states generally adopted reforms at least five years before our panel began, our results suggest that direct reforms do not result in relatively slower expenditure growth more than five years after adoption. However, lack of a pre-adoption baseline for and adoption-time heterogeneity among the early-adopting states, as well as the sensitivity of the early-adopter/nonadopter differential growth rates to alternative specifications (as discussed below), complicates interpreting estimates of differential early-adopter/nonadopter growth rates as a long-term effect. In any event, in no case would the differential 1984–1990 expenditure growth rate between adopters and nonadopters offset the difference-indifference ''levels'' effect. In total, malpractice reforms always result in a decline in cost growth at least 10 percent.

The remaining columns of Table IV describe the corresponding DD estimates of reform effects on AMI outcomes. Mortality rates declined, but readmission rates with cardiac complications increased during this time period, confirming the results of Table I. Outcome trends were very similar in reform and nonreform states: the cumulative difference in mortality and cardiac complication trends was around 0.1 percentage points. These small estimated mortality differences are not only insignificantly different from zero, they are estimated rather precisely as well. For example, the upper 95 percent confidence limit for the effect of direct reforms on one-year mortality trends between 1984 and 1990 is 0.64 percentage points. Coupled with the estimated expenditure effect, the expenditure effect, the expenditure/benefit ratio for a higher pressure liability regime is over $500,000 per additional one-year AMI survivor in 1991 dollars.

Even a ration based on the upperbound mortality estimate translates into hospital expenditures of over $100,000 per additional AMI survivor to one year. The estimates in the corresponding region-effect models are very similar. Indirect reforms were also associated with estimated mortality effects that were very close to zero. Results for outcomes related to quality of life, that is, rehospitalizations with either recurrent AMI or heart failure, also showed no consequential effects of reforms. In this case, the point estimates (upper bound of the 95 percent confidence interval) for the estimated effected of direct reforms were −0.18 (0.21) percentage points for AMI recurrence and −0.07 (0.28) percentage points for the occurrence of heart failure. Again, compared with the estimated expenditure effects, these differences are not substantial.

Table V presents estimated effects of malpractice reforms on IHD expenditures and outcomes, with results qualitatively similar to those just described for AMI. IHD expenditure also grew rapidly between 1984 and 1990. Direct reform led to somewhat larger expenditure reductions for IHD (9.0 percent) and indirect reforms were again associated with relatively smaller increases in expenditures (3.4 percent). The effects of reform on IHD outcomes are again very small: the effect of direct reforms on mortality rates was an average difference of −0.19 percentage points (95 percent upper confidence limit of 0.10), and the effects on subsequent occurrence of AMI or heart failure hospitalizations were no larger. Estimates from the models with region effects were very similar. Thus, directly liability reforms appear to have relatively larger effect on IHD expenditures, without substantial consequences for health outcomes.

As we noted in Section III, the simple average effects of liability reforms estimated in the DD specifications of Tables IV and V may not capture the dynamic effects of reforms. Table VI presents results form model specifications that estimate reform effects less restrictively. In these specifications we use our seven-year panel to estimate short-term and long-term effects of direct and indirect reforms on expenditures and outcomes, to determine whether the ''shift'' effect implied by the DD specification is adequate. The models retain our state and time fixed effects.

We find the same general patterns as in the simple DD models, but somewhat larger effects of malpractice reforms three to five years after adoption compared with the short-term effects. In particular, Table VI shows that direct reforms lead to short-term reductions in AMI expenditures of approximately 4.0 percent within two years of adoption, and that the reduction grows to approximately 5.8 percent three to five years after adoption. This specification also shows that the positive association between indirect reforms and expenditures noted in Table IV is a short-term phenomenon: the long-term effect on expenditures is approximately zero.

As in Table IV, both direct and indirect reforms have trivial effects on mortality and readmissions with complications, both soon and later after adoption. For example, the average difference in mortality trends between direct-reform and nonreform states is −0.22 percentage points (not significant) within two years of adoption, with a 95 percent upper confidence limit of 0.39 percentage points. At three to five years the estimated effect is 0.12 percentage points (not significant) with a 95 percent upper confidence limit of 0.75 percentage points. These points estimates translate into very high expenditures per reduction in adverse AMI outcomes.

The results for the corresponding model of IHD effects over time are presented in the right half of Table VI. Direct reforms are associated with a 7.1 percent reduction in expenditures by two years after adoption (standard error 0.5) and an 8.9 percent reduction by five years after (standard error 0.5). In contrast, mortality tends for states with direct reforms do not differ significantly by two years (point estimate of −0.15 percentage points, 95 percent upper confidence limit 0.18) or five years after adoption (point estimate −0.11 percentage points, 95 percent upper confidence limit 0.22). Direct reforms also have no significant or substantial effects on cardiac complications, either immediately or later. Indirect reforms are again associated with small positive effects on expenditure growth (3.1 percent within two years), but these effects decline over time to a relative trivial level (1.4 percent at three to five years). Indirect reforms are also associated with slightly lower mortality rates and slightly higher rates of cardiac complications, but the size of these effects is very small (e.g., the upper limit of the 95 percent confidence interval around the estimated effect of indirect reforms three to five years after adoption is 0.47 percentage points for AMI recurrence and 0.29 percentage points for heart failure occurrence). Thus, the pattern of reform effects for IHD is again qualitatively similar to that for AMI, with direct reforms having a somewhat larger effect on expenditures.

Taken together, the estimates in Tables IV through VI consistently show that the adoption of direct malpractice reforms between 1984 and 1990 led to substantial relative reductions in hospital expenditures during this period—accumulating to a reduction of more than 5 percent for AMI and 9 percent for IHD by five years after reform adoption—and that these expenditure effects were not associated with any consequential effects on mortality or on the rates of significant cardiac complications.

We estimated a variety of other models to explore the robustness of our principal results. We tested the sensitivity of our results to alternative assumptions about the excludability of state/time interactions. One set of tests reestimated the models with random state/time effects to determine whether correlated outcomes at the level of state/time interactions might affect our conclusions. Our estimated effects of reforms did not differ substantially or significantly with these

methods. Using the model presented in Tables IV and V, the estimated difference-indifference effect of direct reforms on expenditures for AMI patients, controlling for random state/time effects, is −4.9 percent (standard error 2.1), and for indirect reforms, the estimated effect is −0.6 percent (standard error 2.0). The estimated DD effect of direct reforms on mortality for AMI patients, controlling for random state/time effects, is 0.15 percentage points (standard error 0.32) and for indirect reforms, the estimated effect is −0.19 percentage points (standard error 0.32). We obtained similar results for IHD patients: direct reforms showed a negative and statistically significant effect on expenditures with an insubstantial and precisely estimated effect on mortality, and indirect reforms showed no substantial effect on either expenditures or mortality. Estimated differential 1984–1990 expenditure growth rates between early-adopters and nonadopters were insignificant in the random effects specification. For AMI patients the differential growth rate for early adopters of direct reforms is 0.61 percent (standard error 3.1). For early adopters of indirect reforms the differential growth rate is 0.61 percent (standard error 2.3). For IHD patients the differential growth rate for early adopters of direct reforms is −1.9 percent (standard error is 3.0). For early adopters of indirect reforms the differential growth rate is −3.2 percent (standard error is 2.2). Another related diagnostic involved estimating the models with Huber-White [1980] corrections for state/time grouped errors instead of corrections for zipcode/ time grouped errors. Standard errors corrected for state/ time grouping were somewhat larger than those corrected for zipcode/ time grouping but smaller than those obtained under the random effects specification.

Although they did have a statistically significant influence on expenditures in some models, the broad set of political and regulatory environment controls that we used did not change our results substantially. Using the models presented in Tables IV and V but excluding controls for the regulatory and legal environment, the estimated DD effect of direct reforms on expenditures for AMI patients −9.1 percent (standard error is 0.44). For indirect reforms the estimated DD effect is 3.3 percent (standard error is 0.40). In addition, the difference in 1984–1990 growth rates between early-reforming and nonreforming states changes sign from positive to negative for enacting direct reforms before 1985 (Table IV: 3.1 percent with legal environment controls, −3.1 percent without them). The difference in growth rates for states enacting indirect reforms before 1985 remains about the same (Table IV: 2.8 percent with legal environment controls, 3.5 percent without them). These two specification checks, taken together, underscore the points made by Tables IV and V. Direct reforms reduce expenditure growth without increasing mortality, indirect reforms have no substantial effect on either expenditures or mortality, and differential 1984–1990 expenditure growth rates for early-adopting states are not robust estimates of the long-term impact of reforms.

Finally, we reestimated the models in Tables IV and V including controls for statute-of-limitations reforms. Statute-of-limitation reforms have a very small positive effect on expenditures and no effect on mortality, which is consistent with their classification as an indirect reform. Using the models presented in Tables IV and V, statute-of-limitations reforms are associated with a 0.96 percent increase in expenditures for AMI patients (standard error is 0.46), and a 0.003 percentage point increase in mortality (standard error is 0.28). Inclusion of statute-of-limitation reforms did not substantially alter the estimated DD effect of either direct or indirect reforms: for AMI patients the estimated effect of direct reforms went from −5.3 percent (Table IV) to −5.5 percent, and the estimated effect of indirect reforms remained constant at 1.8 percent (Table IV).

To explore the sources of our estimated reform effects more completely, we estimated additional specifications that analyzed effects on use of intensive cardiac procedures such as cardia catheterization, that used alternative specifications of time-since-adoption and calendar-year effects, and that estimated the effects of each type of tort reform separately (see Table IIA). These specifications produced results consistent with the simpler specifications reported here for both AMI and IHD. Specifically, reforms with a determinate, negative direct impact on liability led to substantially slower expenditure growth, somewhat less growth in the use of intensive procedures (but smaller effects than would explain the expenditure differences, suggesting less intensive treatments were also affected), and no consequential effects on mortality.

VI. Policy implications

We have developed evidence on the existence and magnitude of ''defensive'' medical practices by studying the consequences of reforms limiting legal liability on health care expenditures and outcomes for heart disease in the elderly. These results provide a critical extension to the existing empirical literature on the effects of malpractice reforms. Previous studies have found significant effects of direct reforms on the frequency of and payments to malpractice claims. Because the actual costs of malpractice litigation comprise a very small portion of total health care expenditures, however, these litigation effects have only a limited impact on health care expenditure growth. To provide a more complete assessment of malpractice reforms, we have studied their consequences for actual health care expenditures and health outcomes. Our study is the first to use exogenous variation in tort laws not related to potential idiosyncrasies of providers or small geographic areas to assess the behavioral effects of malpractice pressure. Thus, our analysis fills a crucial empirical gap in evaluating the U.S. malpractice liability system, because the effects of malpractice law on physician behavior are both a principal justification for current liability rules and potentially important for understanding medical expenditure growth.

Our analysis indicates that reforms that directly limit liability—caps on damage awards, abolition of punitive damages, abolition of mandatory prejudgment interest, and collateral-source-rule reforms—reduce hospital expenditures by 5 to 9 percent within three to five years of adoption, with the full effects of reforms requiring several years to appear. The effects are somewhat smaller for actual heart attacks than for a relatively less severe form of heart disease (IHD), for which more patients may have ''marginal'' indications for treatment. In contrast, reforms that limit liability only indirectly—caps on contingency fees, mandatory periodic payments, joint-and-several liability reform, and patient compensation funds—are not associated with substantial effects on either expenditures or outcomes, at least by several years after adoption. Neither type of reforms led to any consequential differences in mortality or the occurrence of serious complications. As we described previously, the estimated expenditure/benefit ratio associated with direct reforms is over $500,000 per additional one-year survivor, with comparable ratios for recurrent AMIs and heart failure. Even the 95 percent confidence bounds for outcome effects are generally under one percentage point, translating into over $100,000 per additional one-year survivor. While it is possible that malpractice reforms have had effects on other outcomes valued by patients, this possibility must be weighed against the absence of any substantial effects on mortality or the principal cardiac complications that are correlated with quality of life. Thus, at the current level of malpractice pressure, liability rules that are more generous in terms of award limits are a very costly approach to improving health care outcomes.

Approximately 40 percent of patients with cardiac disease were affected by direct reforms between 1984 and 1990. Based on simulations using our effect estimates, we conclude that if reforms directly limiting malpractice liability had been applied throughout the United States during this period, expenditures on cardiac disease would have been around $450 million per year lower for each of the first two years after adoption and close to $600 million per year lower for each of years three through five after adoption, compared with nonadoption of direct reforms.

While our panel is relatively lengthy for a DD study, it is to long enough to allow us to reach equally certain conclusions about the long-term effects of malpractice reforms on medical expenditure growth and trends in health outcomes. Plausible static effects of virtually all outcomes. Plausible static effects of virtually all policy factors cannot explain more than a fraction of expenditure growth in recent decades [Newhouse 1992], and we have also documented that outcome trends may be quite important. Whether policy changes such as malpractice reforms influence these long-term trends through effects on the environment of technological change in health care is critical issue. Do reforms have implications for trends in expenditures and outcomes long after they are adopted, or do the trend effects diminish over time? Preliminary evidence on the question from early-adopted (pre-1985, mostly pre-1980) reforms suggest that long-term expenditure growth is not slower in states that adopt direct reforms. On the other hand, subsequent growth does not appear to offset the expenditure reductions that occur in the years following adoption. Moreover, we found no evidence that direct reforms adopted from 1985–1990 had smaller effects in states that had also adopted direct reforms earlier, suggesting that dynamic malpractice policies may produce more favorable long-term expenditure/benefit trends. In any event, our conclusions about long-term effects are speculative at this point, given the absence of baseline data on expenditures and outcome trends in reform states. Follow-up evaluations of longer term effects of malpractice reforms should be possible within a few years, and might help confirm whether liability reforms have any truly lasting consequences for expenditure growth or trends in health outcomes.

Hospital expenditures on treating elderly heart disease patients are substantial—over $8 billion per year in 1991—but they comprise only a fraction of total expenditures on health care. If our results are generalizable to medical expenditures outside the hospital, to other illnesses, and to younger patients, then direct reforms could lead to expenditure reductions of well over $50 billion per year without serious adverse consequences for health outcomes. We hope to address the generalizability of our results more extensively in future research. More detailed studies using both malpractice claims information and patient expenditure and outcome information, linking the analysis of the two

policy justifications for a malpractice liability system, should be particularly informative. Such studies could provide more direct evidence on how liability rules translate into effects on particular kinds of physician decisions with implications for medical expenditures but not outcomes. Thus, they may provide more specific guidance on which specific liability reforms—including ''nontraditional'' reforms such as no-fault insurance and mandatory administrative reviews—will have the greatest impact on defensive practices without substantial consequences for health outcomes.

Our evidence on the effects of direct malpractice reforms suggests that doctors do practice defensive medicine. Given the limited relationship between malpractice claims and medical injuries documented in previous research, perhaps our findings that less malpractice liability does not have significant adverse consequences for patient outcomes but does affect expenditures are not surprising. To our knowledge, however, this is the first direct empirical quantification of the costs of defensive medicine.

VII. Conclusion

We have demonstrated that malpractice liability reforms that directly limit awards and hence benefits from filing lawsuits lead to substantial reductions in medical expenditure growth in the treatment of cardiac illness in the elderly with no appreciable consequences for important health outcomes, including mortality and common complications. We conclude that treatment of elderly patients with hear disease does involve ''defensive'' medical practices, and that limited reductions in liability can reduce these costly practices. (*) We would like to thank Randall Bovbjerg, David Genesove, Jerry Hausman Paul Joskow, Lawrence Katz, W. Page Keeton, Gary King, A. Mitchell Polinsky George Shepherd, Frank Sloan, seminar participants at Northwestern University, the University of Michigan and the National Bureau of Economic Research, and two anonymous referees for advice, assistance, and helpful comments. Jeffrey Geppert and Mohan Ramanujan provided excellent research assistance. Funding from the National Institute of Aging, Harvard/MIT Research Training Group in Positive Political Economy, and the John M. Olin Foundation is greatly appreciated. All errors are our own. Reforms requiring collateral-source offset revoke the common-law default rule which states that the defendant must bear the full cost of the injury suffered by the plaintiff, even if the plaintiff were compensated for all or part of the cost by an independent or ''collateral'' source. Under the common-law default rule defendants liable for medical malpractice always bear the cost of treating a patient for medical injuries resulting from the malpractice even if the treatment were financed by the patient's own health insurance. Either the plaintiff enjoys double recovery (the plaintiff recovers from the defendant and his own health insurance for medical expenses attributable to the injury) or the defendant reimburses the plaintiff's (subrogee) health insurer, depending on the plaintiff's insurance contract and state or federal law. However, some states have enacted reforms that specify that total damages payable in a malpractice tort are to be reduced by all or part of the value of collateral source payments. Estimates of the impact of reforms on claim severity vary over time and across studies. Based on 1975–1978 data, Danzon [1982, p. 30] reports that states enacting caps on damages had 19 percent lower awards, and states enacting mandatory collateral source offsets had 50 percent lower awards. Based on 1975–1984 data, Danzon [1986, p. 26] reports that states enacting caps had 23 percent lower awards, and states enacting collateral source offsets had 11 to 18 percent lower awards. Based on 1975–1978 and 1984 data, Sloan, Mergenhagen and Bovbjerg [1989] find that caps reduced awards by 38 to 39 percent, and collateral-source offsets reduced awards by 21 percent. Again, because all elderly patients with serious heart disease during the years of our study are included, this consideration applies only to extending the results to other patient populations. Of course, if such state-time specific effects exist, there is no reason to expect that they would be normally distributed. Normality assumptions in error structures generally have not performed well in models of health expenditures and outcomes. However, incorporating such random effects permits us to explore the robustness of our estimation methods to possible state-time specific shifts. According to Danzon [1982, 1986], urbanization is a highly significant determinant both of claim payments to and the frequency of claims and of the enactment of tort reforms. We control for urbanization at the individual level, as discussed below. Although we did not include controls for the number of physicians per capita in the reported results because of concerns regarding the exogeneity of that variable, results conditional on physician density are virtually identical. We include both a current and a one-year-lagged effect to account for the possibility that past political environments influence current law. Data on lawyers per capita for 1980, 1985, and 1988 are from the American Bar Foundation [1985, 1991]. Intervening years are calculated by linear interpolation. Our data set is partially derived from Campbell, Kessler, and Shepherd [1966]. The baseline is defined as the ''negligence rule'' without any of the liability-reducing reforms studied here and with mandatory prejudgment. That is, (.063*$13,140)/.0064[nearly equal to]$108,000 using the 95 percent upper bound of the estimated mortality effect and (.053*$13,140)/.007[nearly equal to]$1,000,000 using the actual DD estimate. Both of these ratios are very large, the difference in absolute magnitude of the two estimates results from the denominator being very close to zero. Because we were concerned that reforms might affect the rate of IHD hospitalization as well as outcomes among patients hospitalized, we estimated models analogous to the specifications reported using population hospitalization rates with IHD as the dependent variable. We found no significant or substantial effects of either direct or indirect reforms on IHD hospitalization rates. Models with region effects only, analogous to the right halves of Tables IV and V, again showed very similar effect estimates. We also estimate separate time-trend effects for early-reform (pre-1984) states. This approach may permit the development of some evidence on ''longterm'' effects of reforms on intensity growth rates. As noted previously we find no evidence for such effects. Of course, our lack of a pre-adoption baseline for the early-adopting states precludes DD identification and makes the long-term conclusion more speculative. A follow-up study using more recent expenditure and outcome data would provide more convincing evidence on effects beyond five years. In contrast to AMI, the slower rate of expenditure growth between 1984 and 1990 for early-reform states (see Table V) suggests that reforms may have longer term effects on slowing IHD expenditure growth.

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Note.—Tables were not reproducible in the RECORD.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, West Virginia's health care system and the health care system of many States are facing many challenges. But medical liability insurance has caused a mass exodus of doctors from my State of West Virginia.

I live in Charleston, West Virginia, our capital city. We have one of the largest medical facilities in our State, the Charleston Area Medical Center, which was downgraded from a level one trauma center to a level three trauma center because we could not provide the 24 hour, 7-day-a-week emergency care.

Mr. Speaker, I challenge anybody to tell me about living in a capital city of any State in this Nation and you have to be air lifted out of your capital city, out of the largest medical facilities in your State if you have multiple injuries.

□ 1245

That is a sad story, but I can tell my colleagues what is going to be a sadder story if we do not fix this problem.

Last week, a young boy 6 years old had a pen lodged in his windpipe. His parents rushed him to the emergency room. What happened, the emergency physician had to call all around to find somebody to treat him. Did they find anybody? No. He drives 3 hours to Cincinnati, Ohio, to find a specialist that can help this young man. What if he could not endure a 3-hour car ride?

I challenge my colleagues, a tragedy is in the making. The perfect storm is created because of the high cost of medical liability insurance, and our doctors across the Nation and most especially in West Virginia are suffering, and the access and the quality care that we deserve as Americans is going to suffer as well.

Without this Federal legislation, the exodus of our health care providers from the practice of medicine will continue, and patients will find it increasingly difficult to find the care. I urge all of my colleagues to recognize this critical and growing problem and to pass H.R. 4600. It will go a long way to helping the health care system in our State and our Nation rise and stay at the level that we expect.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the balance of our time, and I probably will not take it all.

I do ask a question, if this bill is supposed to be the end all, be all, then will someone please explain to me what would have been wrong with accepting the amendments that were very thoughtful, that were offered by Members of the House of Representatives, most of whom were Democrats? No, they did not get that opportunity.

I do not know whether the gentleman from New York (Mr. REYNOLDS) cares to indulge in this particular colloquy or any other Republican or any Member of the House of Representatives. I ask my colleague from New York when he closes to point to the place in this legislation where savings are going to be passed to physicians.

Let me give my colleagues what may not appear to be an exacting analogy. We pass a significant number of subsidies for farmers in the United States of America and I support those. We supported subsidies, for example, for the sugar industry and for wheat, but nowhere after those subsidies where sugar went down or wheat went down did we see Corn Flakes or candy go down. The consumer gets slapped every time, it does appear.

Let me set the record straight. This is modeled on California, and we have more Members from California in this House of Representatives than from any other State in the Nation. We had the gentlewoman from California (Ms. ESHOO) come down here to talk about California. Let me tell my colleagues what they are not saying about MICRA, it is referred to.

The California experience is perhaps in many respects the most telling fact having to do with this legislation since it is modeled on California. In 1975, California enacted into law the Medical Injury Compensation Reform Act, and this is the act after which many of the provisions of H.R. 4600 are modeled after, including caps on noneconomic damages, collateral source offsets and limitation on attorney's fees. Despite these reforms in California, premiums for medical malpractice in California grew more quickly between 1991 and 2000 than in the Nation, 3½ percent versus 1.9 percent respectively, and between 1975 and 1993, California's health care costs rose 343 percent, almost double the rate of inflation.

Not only does the evidence show that California's tort reform has failed to lower premiums for physicians, it also shows that California's insurance companies are reaping excessive profits in the aftermath of tort reform. In 1997, California's insurers earned more than $763 million, yet paid out less than $300 million to claims.

Mr. Speaker, the gentleman from Massachusetts (Mr. MARKEY) offered an amendment yesterday that would direct insurers to use any savings received as a result of H.R. 4600 to reduce the premiums they charge their health care providers. If within 2 years of that enactment, his legislation called for insurers not realizing cost savings, then the provisions of H.R. 4600 relating to liability lawsuits and liability claims would not apply to any lawsuits and claims against providers insured by the insurance companies. That was defeated in the Committee on Rules by 2 to 8 and never will see the light of day here, a measure that would have given an opportunity for physicians to receive the benefits that would be saved.

I want to harken back to 1993 when my colleagues on the other side of the aisle very skillfully built an infrastructure on radio and all I could hear, I was a new Member of Congress, all I could hear was the Democrats are having closed rules. People that did not even know what a rule was were calling in to the talk shows and saying those Democrats are horrible about closed rules. So little did I know that time would pass and I would become a member of the Committee on Rules, and what I am experiencing and what we experienced here today is a closed rule. If it was bad in 1993, it is bad in 2002.

What closed rules have done and what they are doing is stopping the gentleman from Michigan (Mr. STUPAK), who we heard from, the gentlewoman from California (Ms. ESHOO), the gentleman from Pennsylvania (Mr. HOEFFEL) and the gentleman from New Jersey (Mr. PASCRELL). Very thoughtful amendments, that if this body worked its will could have gone about the business of attending to.

I am a lawyer for 40 years and I am proud of that, and what I learned in law school in torts, written by some of the more brilliant persons in the world, including those founders in England that gave us this great judicial system that we have, and that is that that process of punitive damages is embedded in our laws to make sure that people do not act grossly negligent.

That said, most physicians, most health care providers are honest. There is nothing that is going to stop the bad physician from being bad in this particular measure, and punitive damages are what alerts the entire profession that they need to be careful. It is just that simple. I invite my colleague from New York to show me where the insurance companies are going to pass on to the physicians any savings and where H.R. 4600 does anything to lower insurance premiums.

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

Mr. REYNOLDS. Mr. Speaker, I yield myself the remainder of my time.

I thank the gentleman from Florida for some of his opportunity to share with passion his views on this legislation.

First, both the Committee on the Judiciary, which passed the legislation out by voice vote, and the Committee on Energy and Commerce have had ample debate on this legislation before it came to the Committee on Rules and now on to the floor for consideration of by the entire body.

Two Stanford University economists have conducted two extensive studies using national data on Medicare populations and concluded that patients from States that adopted direct medical care litigation reforms, and I will say that again for my Florida colleague, that the study which adopted and concluded that patients from States that adopted direct medical care litigation reforms, such as limits on damage awards, incur significantly lower hospital costs while suffering no increase in adverse health outcomes associated with the illness for which they were treated.

Mr. Speaker, in public opinion, by a survey conducted by Wirthlin Worldwide for Health Care Liability Alliance, 71 percent of Americans agree that the main reason health care costs are rising is because of medical liability lawsuits; 78 percent of Americans say they are concerned about the access to care being affected because doctors are leaving the practices due to rising liability costs; 73 percent of Americans support reasonable limits on awards for pain and suffering in medical liability lawsuits; and more than 76 percent of Americans favor a law limiting the percentage on contingent fees paid by the patient.

This legislation is intended to control escalation in lawsuit damage awards and slow the rising costs of medical malpractice insurance. The HEALTH Act would benefit patients because it will award injured patients unlimited economic damages. It will award injured patients noneconomic damages up to $250,000. It will award injured patients punitive damages of up to two times economic damages of $250,000 or whatever is higher. It establishes a fair share rule that allocates damage awards fairly and in proportion to a party's degree of fault, and it establishes a sliding scale of attorney's contingent fees, therefore maximizing the recovery for patients. It allows States the flexibility to establish or maintain their own laws on damage awards, whether higher or lower than those provided for in this bill.

I hear my time is expiring. I urge a yes vote on the rule and on the underlying legislation, a yes vote for patients and families all across America.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 221, nays 197, not voting 14, as follows:

[Roll No. 419]

YEAS—221

Aderholt
Akin
Armey
Baker
Ballenger
Barcia
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—197

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—14

Bachus
Barr
Bonior
Buyer
Callahan
Maloney (NY)
McDermott
Meek (FL)
Mink
Paul
Roukema
Stump
Thompson (CA)
Thurman

□ 1321

Mrs. JONES of Ohio changed her vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 553, I call up the bill (H.R. 4600) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to House Resolution 553, the bill is considered read for amendment.

The text of H.R. 4600 is as follows:

H.R. 4600

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 ''Help Efficient, Accessible, Low Cost, Timely Health Care (HEALTH) Act of 2002''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this Act to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of ''defensive medicine'' and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals; and

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

SEC. 3. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

A health care lawsuit may be commenced no later than 3 years after the date of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years, except that in the case of an alleged injury sustained by a minor before the age of 6, a health care lawsuit may be commenced by or on behalf of the minor until the later of 3 years from the date of injury, or the date on which the minor attains the age of 8.

SEC. 4. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, the full amount of a claimant's economic loss may be fully recovered without limitation.

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of noneconomic damages recovered may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—In any health care lawsuit, an award for future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of $250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed $250,000, the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 5. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) 40 percent of the first $50,000 recovered by the claimant(s).

(2) 33⅓ percent of the next $50,000 recovered by the claimant(s).

(3) 25 percent of the next $500,000 recovered by the claimant(s).

(4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—The limitations in this section shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section.

SEC. 6. ADDITIONAL HEALTH BENEFITS.

In any health care lawsuit, any party may introduce evidence of collateral source benefits. If a party elects to introduce such evidence, any opposing party may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the opposing party to secure the right to such collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit. This section shall apply to any health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder.

SEC. 7. PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability.

If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages awarded in a health care lawsuit may be up to as much as two times the amount of economic damages awarded or $250,000, whichever is greater. The jury shall not be informed of this limitation.

(c) NO CIVIL MONETARY PENALTIES FOR PRODUCTS THAT COMPLY WITH FDA STANDARDS.—

(1) IN GENERAL.—No punitive damages may be awarded against the manufacturer or distributor of a medical product based on a claim that such product caused the claimant's harm where—

(A)(i) such medical product was subject to premarket approval or clearance by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such medical product which caused the claimant's harm or the adequacy of the packaging or labeling of such medical product; and

(ii) such medical product was so approved or cleared; or

(B) such medical product is generally recognized among qualified experts as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable Food and Drug Administration regulations, including without limitation those related to packaging and labeling.

(2) LIABILITY OF HEALTH CARE PROVIDERS.—A health care provider who prescribes a drug or device (including blood products) approved by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such drug or device and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or product seller of such drug or device.

(3) PACKAGING.—In a health care lawsuit for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the trier of fact by clear and convincing evidence to be substantially out of compliance with such regulations.

(4) EXCEPTION.—Paragraph (1) shall not apply in any health care lawsuit in which—

(A) a person, before or after premarket approval or clearance of such medical product, knowingly misrepresented to or withheld from the Food and Drug Administration information that is required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and is causally related to the harm which the claimant allegedly suffered; or

(B) a person made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval or clearance of such medical product.

SEC. 8. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this Act.

SEC. 9. DEFINITIONS.

In this Act:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term ''alternative dispute resolution system'' or ''ADR'' means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term ''claimant'' means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term ''collateral source benefits'' means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) COMPENSATORY DAMAGES.—The term ''compensatory damages'' means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term ''compensatory damages'' includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term ''contingent fee'' includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term ''economic damages'' means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE LAWSUIT.—The term ''health care lawsuit'' means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(8) HEALTH CARE LIABILITY ACTION.—The term ''health care liability action'' means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) HEALTH CARE LIABILITY CLAIM.—The term ''health care liability claim'' means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) HEALTH CARE ORGANIZATION.—The term ''health care organization'' means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) HEALTH CARE PROVIDER.—The term ''health care provider'' means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) HEALTH CARE GOODS OR SERVICES.—The term ''health care goods or services'' means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(13) MALICIOUS INTENT TO INJURE.—The term ''malicious intent to injure'' means intentionally causing or attempting to cause

physical injury other than providing health care goods or services.

(14) MEDICAL PRODUCT.—The term ''medical product'' means a drug or device intended for humans, and the terms ''drug'' and ''device'' have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321), respectively, including any component or raw material used therein, but excluding health care services.

(15) NONECONOMIC DAMAGES.—The term ''noneconomic damages'' means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(17) RECOVERY.—The term ''recovery'' means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 10. EFFECT ON OTHER LAWS.

(a) VACCINE INJURY.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this Act does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this Act in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this Act or otherwise applicable law (as determined under this Act) will apply to such aspect of such action.

(b) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this Act shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

SEC. 11. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this Act preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this Act. The provisions governing health care lawsuits set forth in this Act supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this Act; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) PROTECTION OF STATES' RIGHTS.—Any issue that is not governed by any provision of law established by or under this Act (including State standards of negligence) shall be governed by otherwise applicable State or Federal law. This Act does not preempt or supersede any law that imposes greater protections (such as a shorter statute of limitations) for health care providers and health care organizations from liability, loss, or damages than those provided by this Act.

(c) STATE FLEXIBILITY.—No provision of this Act shall be construed to preempt—

(1) any State statutory limit (whether enacted before, on, or after the date of the enactment of this Act) on the amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, whether or not such State limit permits the recovery of a specific dollar amount of damages that is greater or lesser than is provided for under this Act, notwithstanding section 4(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

SEC. 12. APPLICABILITY; EFFECTIVE DATE.

This Act shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

The SPEAKER pro tempore. In lieu of the amendments recommended by the Committee on the Judiciary and the Committee on Energy and Commerce, the amendment in the nature of a substitute printed in House Report 107–697 is adopted.

The text of the amendment in the nature of a substitute printed in House Report 107–697 is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2002''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this Act to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of ''defensive medicine'' and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals;

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

SEC. 3. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

The time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following:

(1) Upon proof of fraud;

(2) Intentional concealment; or

(3) The presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

Actions by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury or prior to the minor's 8th birthday, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

SEC. 4. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, the full amount of a claimant's economic loss may be fully recovered without limitation.

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of noneconomic damages recovered may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—In any health care lawsuit, an award for future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of $250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed $250,000, the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 5. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) 40 percent of the first $50,000 recovered by the claimant(s).

(2) 33⅓ percent of the next $50,000 recovered by the claimant(s).

(3) 25 percent of the next $500,000 recovered by the claimant(s).

(4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—The limitations in this section shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section.

SEC. 6. ADDITIONAL HEALTH BENEFITS.

In any health care lawsuit, any party may introduce evidence of collateral source benefits. If a party elects to introduce such evidence, any opposing party may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the opposing party to secure the right to such collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit. This section shall apply to any health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder. This section shall not apply to section 1862(b) (42 U.S.C. 1395y(b)) or section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) of the Social Security Act.

SEC. 7. PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability. If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages awarded in a health care lawsuit may be up to as much as two times the amount of economic damages awarded or $250,000, whichever is greater. The jury shall not be informed of this limitation.

(c) NO CIVIL MONETARY PENALTIES FOR PRODUCTS THAT COMPLY WITH FDA STANDARDS.—

(1) IN GENERAL.—No punitive damages may be awarded against the manufacturer or distributor of a medical product based on a claim that such product caused the claimant's harm where—

(A)(i) such medical product was subject to premarket approval or clearance by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such medical product which caused the claimant's harm or the adequacy of the packaging or labeling of such medical product; and

(ii) such medical product was so approved or cleared; or

(B) such medical product is generally recognized among qualified experts as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable Food and Drug Administration regulations, including without limitation those related to packaging and labeling, unless the Food and Drug Administration has determined that such medical product was not manufactured or distributed in substantial compliance with applicable Food and Drug Administration statutes and regulations.

(2) LIABILITY OF HEALTH CARE PROVIDERS.—A health care provider who prescribes a drug or device (including blood products) approved by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such drug or device and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or product seller of such drug or device.

(3) PACKAGING.—In a health care lawsuit for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the trier of fact by clear and convincing evidence to be substantially out of compliance with such regulations.

(4) EXCEPTION.—Paragraph (1) shall not apply in any health care lawsuit in which—

(A) a person, before or after premarket approval or clearance of such medical product, knowingly misrepresented to or withheld from the Food and Drug Administration information that is required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and is causally related to the harm which the claimant allegedly suffered; or

(B) a person made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval or clearance of such medical product.

SEC. 8. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this Act.

SEC. 9. DEFINITIONS.

In this Act:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term ''alternative dispute resolution system'' or ''ADR'' means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term ''claimant'' means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out

of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term ''collateral source benefits'' means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) COMPENSATORY DAMAGES.—The term ''compensatory damages'' means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term ''compensatory damages'' includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term ''contingent fee'' includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term ''economic damages'' means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE LAWSUIT.—The term ''health care lawsuit'' means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(8) HEALTH CARE LIABILITY ACTION.—The term ''health care liability action'' means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) HEALTH CARE LIABILITY CLAIM.—The term ''health care liability claim'' means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) HEALTH CARE ORGANIZATION.—The term ''health care organization'' means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) HEALTH CARE PROVIDER.—The term ''health care provider'' means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) HEALTH CARE GOODS OR SERVICES.—The term ''health care goods or services'' means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(13) MALICIOUS INTENT TO INJURE.—The term ''malicious intent to injure'' means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) MEDICAL PRODUCT.—The term ''medical product'' means a drug or device intended for humans, and the terms ''drug'' and ''device'' have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321), respectively, including any component or raw material used therein, but excluding health care services.

(15) NONECONOMIC DAMAGES.—The term ''noneconomic damages'' means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(17) RECOVERY.—The term ''recovery'' means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 10. EFFECT ON OTHER LAWS.

(a) VACCINE INJURY.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this Act does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this Act in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this Act or otherwise applicable law (as determined under this Act) will apply to such aspect of such action.

(b) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this Act shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

SEC. 11. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this Act preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this Act. The provisions governing health care lawsuits set forth in this Act supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this Act; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) PROTECTION OF STATES' RIGHTS.—Any issue that is not governed by any provision of law established by or under this Act (including State standards of negligence) shall be governed by otherwise applicable State or Federal law. This Act does not preempt or supersede any law that imposes greater protections (such as a shorter statute of limitations) for health care providers and health care organizations from liability, loss, or damages than those provided by this Act.

(c) STATE FLEXIBILITY.—No provision of this Act shall be construed to preempt—

(1) any State statutory limit (whether enacted before, on, or after the date of the enactment of this Act) on the amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, whether or not such State limit permits the recovery of a specific dollar amount of damages that is greater or lesser than is provided for under this Act, notwithstanding section 4(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

SEC. 12. APPLICABILITY; EFFECTIVE DATE.

This Act shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

SEC. 13. SENSE OF CONGRESS.

It is the sense of Congress that a health insurer should be liable for damages for harm caused when it makes a decision as to what care is medically necessary and appropriate.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes and the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Ohio (Mr. BROWN) each will control 10 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the bill, H.R. 4600, currently under consideration.

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

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a national insurance crisis is ruining the Nation's essential health care system. Medical professional liability insurance rates have soared, causing many insurers to either drop coverage or raise premiums to unaffordable levels. Doctors and other health care providers are being forced to abandon patients and practices, particularly in high-risk specialties such as emergency medicine and obstetrics and gynecology. This trend has had a particularly negative impact upon women, low-income neighborhoods and rural areas, and in medical schools large and small.

When California faced a similar crisis over 25 years ago, Democratic Governor Jerry Brown, following the recommendation of the gentleman from California (Mr. WAXMAN), then chairman of the California Assembly's Select Committee on Medical Malpractice, enacted the Medical Injury Compensation Reform Act, known as MICRA.

MICRA's reforms include a $250,000 cap on noneconomic damages, limits on the contingency fees lawyers can charge, and provisions that prevent double recoveries. According to the Los Angeles Times, ''Because of the 1975 tort reform, doctors in California are largely unaffected by increasing insurance rates. But the situation is dire in other States.'' Exhaustive research by two Stanford University economists has confirmed that direct medical care litigation reforms, including caps on noneconomic damage awards, generally reduce malpractice claims rates, insurance premiums and other stresses upon doctors that may impair the quality of medical care.

The HEALTH Act includes MICRA's reforms, while also creating a fair share rule by which defendants are only liable for the percentage of damages for which they are at fault. Additionally, H.R. 4600 sets reasonable guidelines, but not caps, on punitive damage awards. Under this legislation, a punitive damage award cannot exceed the greater of $250,000, or two times the amount of economic damages that are awarded.

The HEALTH Act will accomplish reform without limiting compensation for 100 percent, or all of plaintiffs' economic losses, meaning any loss which can be quantified and to which a receipt can be attached. These include their medical costs, lost wages, future lost wages, rehabilitation costs, and any other economic out-of-pocket loss suffered as a result of a health care injury.

Additionally, although this legislation places a cap on noneconomic damages, it also allows deserving victims to keep more of their jury awards by limiting the percentage that lawyers can take. This is accomplished according to a sliding scale that caps legal fees down to 15 percent of awards exceeding $600,000. Without such reforms, lawyers can take their standard one-third to 40 percent cut from whatever victims recover. Enactment of this bill will allow victims to keep roughly 75 percent of awards under $600,000 and 85 percent of awards over that amount. Under the HEALTH Act, the larger the demonstrable, real-life economic damages are, the more the victims will get to keep.

A recent survey conducted for the bipartisan legal reform organization Common Good, whose board of advisers includes former Clinton administration Deputy Attorney General Eric Holder and former Democratic Senator Paul Simon of Illinois, reveals the dire need for regulating the current medical tort system in America. According to the survey, which was conducted by the reputable Harris organization:

First, more than three-fourths of physicians feel that concern about malpractice litigation has hurt their ability to provide quality care in recent years; second, 79 percent of physicians report that fear of malpractice claims causes them to order more tests than they would based only on the professional judgment of what is medically needed.

As former Democrat Senator and Presidential candidate George McGovern and former Republican Senator Alan Simpson have written, ''Legal fear drives doctors to prescribe medications and order tests, even invasive procedures, that they feel are unnecessary. Reputable studies estimate that this defensive medicine squanders $50 billion a year. The Common Good survey also asked physicians the following question: Generally speak, how much do you think that fear of liability discourages medical professionals from openly discussing and thinking of ways to reduce medical errors?

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An astonishing 59 percent of physicians replied ''a lot.''

Americans want to see their friends and loved ones receive the best and most accessible health care available, but, with greater and greater frequency, doctors are not there to deliver it because they have been priced out of the healing profession by unaffordable professional liability insurance rates.

Sound policy does not favor supporting one person's abstract ability to sue a doctor for unlimited and unquantifiable damages when doing so means that health care will become less accessible and less affordable to all Americans, particularly to women, to the poor and to those who live in rural areas.

The American Bar Association estimates that there are 1 million lawyers in the United States, but all of us, all 287 million Americans, are patients, and as patients and for patients, I urge my colleagues to support the HEALTH Act.

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

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I begin by commending the gentleman from Florida (Mr. HASTINGS) for conducting a very important and substantive debate on the rule governing this measure that is before us.

Now, let us begin with the fact that this medical malpractice reform bill, except for the fact that there are no caps on attorneys, is the same bill, amendment, brought forward by the gentleman from California (Chairman THOMAS) to the Patients' Bill of Rights last July, and it was turned down, for good reason.

The next thing I should point out is that there is a serious constitutional problem that the American Bar Association has written to me and members of the committee about, a letter that I have for those who still have that reverence for that document, that I am sure we all do.

Now, there has been constant reference to the Medical Injury Compensation Reform Act of 1975 in California. May I point out to all of those who assume that it has been enormously successful that the Consumers Federation of America in their report, which reinforces another California report, makes two points: That the per capita health expenditures in California have exceeded the national average every year between 1975 and 1993 by an average of at least 9 percent per year; and that the California health care costs have continued to skyrocket at a rate faster than inflation since the

passing of the Medical Injury Compensation Reform Act.

Inflation, as measured by the Consumer Price Index, rose 186 percent between 1975 and 1993, yet California's health care costs grew by 343 percent during the same period. Moreover, California's health care costs have grown at almost twice the rate of inflation since 1985.

Now, the problem with this bill is that rather than help doctors and victims, this bill really does a great favor to insurance companies, HMOs and the manufacturers of defective medical products and the pharmaceuticals, as usual.

In addition, it also is clear that a legislative solution focused on limiting victims' rights available under our State tort system will do little other than increase the incidence of medical malpractice, already the third leading cause of preventible deaths in the United States of America.

Finally, you should be aware that the drug companies have somehow gotten into this, as well as the producers of the infamous Dalcon Shield, the Cooper 7 IUD, high absorbancy Tampons, linked to toxic shock syndrome, and silicon gel implants, all of whom would have completely avoided billions of dollars that they have paid out in damages had this bill been law.

So, Mr. Speaker, I refer you finally to the Consumers Union Report, which points out in detail all of the basic things that have been reviewed here.

Please let us stick to our guns. This is too important a thing to let something as blatantly political go through in the name of helping the victims of medical malpractice in this country.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from Michigan (Mr. CONYERS) I think was in error when he was saying that all of these people would have avoided billions and billions of dollars of liability. The fact is that this bill does not limit liability for proven economic damages, such as lost wages, lost future wages, rehab expenses, medical expenses and the like by one penny for anybody. The economic damages that are suffered are unlimited under this legislation. What it does limit is noneconomic damages that cannot be quantified.

What the gentleman from Michigan says is that we all should pay more in doctors' fees and the taxpayers should pay more in Medicare expenses simply because we do not want to limit noneconomic damages for maybe one plaintiff or a couple of plaintiffs.

So here is something where the interests of a few completely wipe away the interests of the greater good, particularly those people in rural areas that are looking for OB–GYNs.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

(Mr. GEKAS asked and was given permission to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me time.

We on the Committee on the Judiciary have been wrestling with this issue for many years and have had many different proposals cross our desks on this very same theme. What brings us to the floor now is that when we were first considering it the problems were terrible. Now the problems are more than terrible, almost unbearable.

Every day in Pennsylvania, just like in your home States, you hear anecdotes about the giving up of a practice by a physician or the constriction of services to be rendered at a hospital or actually the closing of a hospital, all due to the rising cost of insurance premiums and the awards granted on behalf of plaintiffs across the board.

What is so good about the plan we have in front of us is, as the gentleman from Wisconsin was able to articulate, that this puts no caps at all on the economic damages. As a matter of fact, the testimony that we had from the Californians who testified as to the system that is extant in their State was that even though health care costs are rising and that they must consider that in the awards that are granted in California, the rising health care costs, even though they go up, are going up incrementally, and the cap on the noneconomic damages remains the same, thus preserving the very root of this kind of legislation. It is to allow physicians and hospitals to remain in place across the spectrum of medical services. Why? Because their economic damages of their own, caused by the high insurance premiums and high awards visited against them, would be retarded by this legislation. It would not cure the matter, but it would retard their financial difficulties.

If we can retard their financial difficulties, we give them reason to stay in place, to leave their practice thriving in a particular sector in my State and in yours. It would allow hospitals to be able to budget in such a way, with the shrinking cost of insurance that we hope that this brings about, to be able to extend services or remain in place over a long period of time, where otherwise, with the high costs now seen across the Nation, they are incapable of maintaining their own level of services. So this is the time to bring about a great reform.

I remember in 1995 we were on the floor with a different version of this bill and many of us thought we had a great chance of passing it. But, for one reason or another, it did not occur. All I do now is repeat that that was then when the situation was very bad; today it is much worse, and we have a chance to strike a blow at this emergency right now.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield to my friend from Massachusetts, I think we ought to make sure we are all talking about the same bill.

On page 5 of this bill we eliminate the doctrine of joint and several liability, meaning that if one person does not have enough money, then nobody else is responsible for them paying for the damages.

Number two, the statute of limitations is reduced to 3 years, and that is on page 3. What that means then is if a person with AIDS discovers it in 6 years, they just missed out, because the statute of limitations would now be 3 years.

For my friend from Pennsylvania's information, this bill does cap noneconomic and punitive damages.

Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY), from the Committee on Energy and Commerce.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me time.

So the Republicans say that they have identified a big problem: Insurance premiums for physicians are skyrocketing, and we have to do something about it.

What is their solution? Just what the insurance companies ordered for a solution: A cap on noneconomic damages at $250,000; pain and suffering, all that, $250,000. The juries are not even told that the limit is $250,000, so they could come back with a $1 million verdict, but only $250,000 to the victim.

But their bill does not say that the savings goes to physicians. No. They have all the money go to the insurance company executives.

Now, last night I made a request to the Republicans that I be allowed to make an amendment that says that any amount of money that a jury renders above $250,000, let us say $1 million, that the court would then give that money over to a court-appointed trustee and the court-appointed trustee would then ensure that the insurance premiums for the physicians inside that area would be lowered.

The Republicans prohibited that from coming out here because that would guarantee that the physicians would be the beneficiaries, not the insurance industry. And what is the problem? Well, the insurance company executives have a fiduciary relationship to their shareholders, to their wives, to their children, to maximize profits for themselves. That is a legal responsibility.

If we are going to pass this bill and limit the ability for victims to recover, then the only justification should be that physicians' premiums go down, and that is the one big missing link in the Republican bill. There is no requirement that the insurance companies lower the premiums for doctors, and that is what the Democrats are trying to do, to help the patients, to help the doctors. And what is the Republican Party doing once again? They are bringing out the agenda of the insurance industry.

If we have learned anything from the accounting practices across this country, it is that it is impossible to know where those savings would have gone.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). The Chair would appreciate it if Members would recognize the gavel.

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Mr. SENSENBRENNER. Mr. Speaker, I yield myself 2 minutes.

The gentleman from Massachusetts (Mr. MARKEY) thunders away about the Republican solution to the problem of escalating medical liability insurance premiums. He is entitled to his opinion. But the Democrats have no solution at all. They would like to continue the present system. They would like to see these rates skyrocket. They would like to see physicians close their practices or go into other specialties. They would like to see OB-GYNs be priced out of the market. They would like to see clinics in rural areas closed, and they would like to see the affordability and the accessibility of health care to poor people shrink.

I figured out how much the patient ends up having to pay. In the State of Mississippi, an OB-GYN can be charged as much as $110,000 a year this year for professional liability insurance, based upon 2,000 billable hours per year. Based upon 2,000 billable hours per year, a half an hour visit to that OB-GYN, the first $27.50 of whatever that doctor charges the patient goes for that patient's share of the doctor's professional liability insurance premium, and everything else that the doctor charges ends up being used to pay the doctor's other expenses as well as to allow the doctor to take some money home to support himself or herself and their families. So all of these costs end up getting passed on to the patients, and if you want to complain about the high cost of health insurance, the way to start doing something about it is to pass this bill so that doctors do not have to pay through the nose for professional liability insurance.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART).

(Ms. HART asked and was given permission to revise and extend her remarks.)

Ms. HART. Mr. Speaker, I rise in support of the legislation. Many of my colleagues today have made claims that this bill is bad, as we just heard, that this is just what the insurance companies order. Actually, if my colleagues will look at this map, they will see it is actually just what the doctors ordered.

The States in red, my home State of Pennsylvania, are the States where we are in a crisis. Doctors are leaving my State in droves, leaving patients with nowhere to go for health care. Those in opposition say they dislike caps on damages and limits on lawyers' contingency fees. Let us start with that cap on damages. It is a $250,000 cap, and it is on punitive damages. It has nothing to do with the actual recovery that the injured plaintiff is due. It is the additional damages that are being limited.

Let us talk about the limit on lawyer contingency fees. The lawyer who actually suffered no injury at all is being limited on how much in fees he can take from that plaintiff's award. That is the award that is due to the plaintiff because of the actual injury. The bill helps the injured person retain more of the award that she is due. The lawyer would be limited to, listen, 40 percent of the first $50,000; one-third of the second $50,000; one-fourth of the next $500,000; and 15 percent of any amount over $600,000. Do the math. The lawyer gets plenty of money under this plan. I do not believe we will have a shortage of lawyers taking on cases as a result of this; but if we do not get this, we will continue to have a shortage of doctors who are willing to take on patients. Without this rule, we will continue the mass exodus in these States in red, and the States that are not in red are soon to follow.

This past weekend I visited with a physician friend of mine. Both she and her husband are practicing medicine in my home State of Pennsylvania. She gave me the bad news of her firsthand experience and how she and her husband are interviewing out of State to practice medicine out of State because they can no longer afford the insurance that they need to be able to continue to practice to provide good service to their patients.

In Pennsylvania over the last 4 years, rates have increased 125 percent, according to the ''Medical Liability Monitor.'' The American Medical Association has statistics that are similar. If we do not pass this HEALTH act, we are saying to the people of America we are not concerned about their health. I believe that we are, and I believe that the majority of us will support the HEALTH act, a wonderful bill by the gentleman from Pennsylvania (Mr. GREENWOOD) and a bill that we should all support to make sure that our constituents get the health care they need.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me this time.

We are going to see many crocodile tears shed this afternoon on behalf of physicians and their high premiums. But the Republicans refuse to allow the Democrats to make an amendment that ensures that all of the savings that come from the limits on how much a patient can recover goes to lower insurance premiums. They refuse to allow us to even make the amendment because they are going to allow the insurance industry to pocket this money. That is what this time is all about. It is about the insurance companies, not about the physicians. We support the physicians.

Mr. CONYERS. Mr. Speaker, I am sorry I corrected the other side in connection with their understanding of their bill which may have brought about an overreaction about what Democrats do not want to happen to the health system in America. I apologize for that.

Mr. Speaker, I yield 2 minutes to our very distinguished colleague, the gentleman from North Carolina (Mr. WATT), on the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, I have to say with respect to all my colleagues that I think we have lost sight of what this is all about. When we start debating the merits or demerits of this bill, we miss the point. The point is that in North Carolina if I walk into a physician's office, all of that treatment takes place right there in North Carolina, and historically the tort law and medical negligence law has been determined State by State; and were I in the State legislature of North Carolina, all of this discussion that we are having would probably be a very appropriate debate.

But for people who came to Congress saying that they believed in States' rights and the federalist form of government that we have, this debate is totally misplaced. It would be like us saying, well, we are very dissatisfied with schools all across the country; therefore, we are going to federalize the whole education system in America. That is what this debate reminds me of.

My Republican colleagues, in 1995, told me that they believed in States' rights. And ever since then, they have been trying to federalize the standards on everything that has traditionally been done at the State level, and this is just another one of those examples.

When I raise this point, nobody seems to care. Well, my Constitution says that unless there is some interstate commerce connection, and I have not seen any medical practice take place across State lines since I have been going to doctors; unless there is some kind of Federal nexus here, why are we debating tort reform here, rather than having the gentlewoman from Pennsylvania (Ms. HART) go back and tell her State legislators that they need to address this problem? If they are losing doctors in Pennsylvania, then they ought to address the problem in Pennsylvania and solve the problem there, not federalize the issue.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to H.R. 4600, a bill to protect doctors, other health care providers, drug companies, and manufacturers of medical devices from the consequences of their own negligence. It reduces compensation for severely injured people in order to save money for negligent providers and their insurers.

This is a congressional power grab to take over tort law from the States. Many States, including Maine, have

held down malpractice premiums without stripping compensation from severely injured plaintiffs. Maine requires a review of malpractice claims by an independent panel within 90 days of the plaintiff's filing a claim. I served on two of those panels before I left the practice of law, and the result is more cases are settled early without an arbitrary cap on damages.

I believe that we here in the Congress should deal with our issues and leave the State law issues to the States. We do not need to take over State legislative responsibility.

We are now in the fourth week since the August recess, and not one single appropriations bill that we ought to be dealing with has come to the floor of this House; instead, we are spending our time dealing with matters more appropriate for State legislators.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, I would just like to tell my colleagues about a woman, I will call her Jane, and she is a citizen of the State of Washington. She went in for a routine test, a mammography, a biopsy was done, she was diagnosed as having breast cancer. She had a double radical mastectomy because of that diagnosis. She then developed a blood clot that went into her bowel and she required her bowel to be removed. She then developed another blood clot that caused gangrene in her leg, and they had to cut off her leg.

Some time later, a subsequent review, a quality control assurance review, found that the diagnosis was inaccurate. The pathology report was flat dead wrong. She never had cancer, she never had anything that required significant surgery. She is a woman without breasts, without a bowel, and without a leg due to a failure, either of a physician or of a medical device, both of which would be affected by this legislation.

Now, I do not know what is just to do in Jane's situation, but I do know this: the first people that should be making that decision are 12 of her peer citizens sitting in a jury box looking at the evidence, the second should be the State legislature, and the last should be the U.S. Congress. We should reject this legislation.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. NADLER), one of our ranking members of the Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, this bill is a cruel attempt to protect insurance companies by trampling the rights of consumers.

We are told today the bill is necessary to drive down insurance rates because juries award too much money to plaintiffs. But that is a diversion from the real problem, which is very simple: mismanagement by the insurance companies. Insurance companies make their money by investing the premiums they collect in the stock market. When the market is strong, they keep premiums artificially low, because they can make plenty of money in the markets. When the market turns sour, they must dramatically increase premiums to cover their costs. It is a predictable cycle, and that is why once about every 10 years when the market goes south, we hear of a great crisis which is then blamed on out-of-control lawsuits and the consumer has to get it in the neck.

Mr. Speaker, lawsuits account for the same minuscule fraction of health care costs as they always have. Studies have shown the average jury award has not changed at all in the last decade, so why the sudden crisis? Because the market is in a tailspin and the insurance companies need to recoup their losses because they kept the rates too low during the good years. But why should injured patients pay to bail out the failed management of these companies? And who seriously believes that premiums will go down if this bill is passed?

As Debora Ballen, executive vice president of the American Insurance Association said, ''Insurers never promised that tort reform would achieve specific premium savings,'' just savings to their bottom line, I guess. And, of course, the Republican Committee on Rules refused to allow an amendment on the floor that would say that they have to pass on the savings to the doctors, to the consumers.

□ 1400

In pursuit of this giant bailout, what we have here is a breathtaking assault on the rights of consumers and patients. Take the $250,000 cap on noneconomic damages, a figure that might have been reasonable in 1975 when the MICRA law was passed in California; it is woefully inadequate today. The equivalent today would be $1.5 million.

Again, the Republican Committee on Rules refused to allow an amendment to even say, okay, $250,000, we will put in an inflation amount to adjust it, so it does not decrease to nothing with inflation. If we maintain this cap now, it will be impossible for consumers to hold doctors accountable for malpractice in the future.

Not content merely to cap malpractice suits, this bill also guts, guts State HMO laws, protects big drug companies and medical product manufacturers, makes punitive damages almost impossible to assess, and places an unreasonable statute of limitations on injured patients.

Mr. Speaker, we should not be misled by the bill's supporters. Do not believe for a second that insurance rates will go down as a result of this bill. This cruel bill should be seen for what it is: another gift from the Republican majority to the big insurance companies at the expense of patients, consumers, and, I might add, doctors.

This irresponsible bill should be disapproved.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, we are here because of patients. Patients are not getting care. Trauma centers are closing. Emergency rooms are closing. OB–GYNs are leaving their practice. Women are without health care. That is why we are here.

On June 30 of this year, Methodist Hospital in south Philadelphia, which had been delivering babies since 1892, closed its doors. They closed their maternity ward and they stopped delivering babies. This is going on all over the country.

In Nevada, in all of southern Nevada, now, there is no trauma center. Southern Nevada's only trauma center closed its doors in July. Las Vegas is now the only city of its size without any care for such people in these circumstances. Our intention is to ensure that no more patients are denied the care they deserve.

We have heard there was a Democratic amendment that should have been made in order that would have ensured that savings from this bill, which the Congressional Budget Office estimates at $14 billion, $14 billion more available to go into health care, into hospitals, into Medicare givebacks, into quality of care, that we should have had this amendment that guaranteed that savings went to doctors.

Somebody should ask whether the doctors supported that amendment, because they did not. The way this amendment was written, the premiums would still have been high because the awards still would have had to be paid, this time to a trustee instead of to the trial lawyers, but the premiums would not have come down. That is why doctors did not support the amendment.

Somebody made the claim that the Dalkon shield case, bringing up the old horribles of the past, that damages would not have been awarded in that case had this bill been law. That is completely false. In 1976 Congress changed the law, post-Dalkon shield, to require pre-market approval for devices. The House and Senate reports on that legislation specifically mentioned Dalkon shield as something that would have been kept off the market if we had had pre-market approval in the law.

What this bill says is if a device has been approved by the FDA, then there will not be punitive damages; in other words, if people comply with the premarket approval requirements, why should the lawyers be able to claim that there was some kind of willful, egregious, and so on kind of injury committed.

In California, we have had this system a long time. I have heard some people say that California's premiums have gone up faster than inflation. Of

course they have, they have gone up 150 percent since this law has gone on the books. But at the same time, we have to tell the whole story, malpractice premiums in the rest of the country have gone up 500 percent. This has saved a great deal of money for us in California.

Medical liability insurance premiums in constant dollars have actually fallen in California by more than 40 percent, and injured patients are receiving compensation more quickly in California than in the United States as a whole. Injured patients receive a larger share of the awards.

This is all about patients; it is all about making sure that their doctors can serve them. That is why doctors support this bill. That is why patients support this bill. It is why it is high time that we pass this bill.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to my friend, the gentleman from California (Mr. COX), I say, please check the punitive damages that the Dalkon shield Cooper 7 IUD, the hundreds of millions that they would have not had to pay had this bill been in effect.

Mr. Speaker, I yield 2 minutes to my friend, the distinguished gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, someone needs to stand up for American physicians. Somebody needs to stand up for the American health care system.

What is the problem? Malpractice premiums have skyrocketed. What is the answer proposed by our friends on the other side? It is H.R. 4600. Let us make no mistake about it, H.R. 4600 is a hoax, it is a sham, and our friends know it. It is a sham on the American medical establishment by the insurance carriers, who want to limit their exposure but will not commit to reducing premiums.

Please read the bill. H.R. 4600 limits the amount that carriers pay for legitimate claims, but it has absolutely no provision requiring reducing premiums; none, zero, zilch, nada, nothing, and they know it. It is a scam.

In fact, Mr. Speaker, in States that have enacted caps, in States that have enacted caps, the malpractice premiums are higher than in States that have no caps. But the carriers do not want to tell us that. Why? That is because their interests are in conflict with the medical community.

I want to ask a question: Do the words ''Patients' Bill of Rights'' ring a familiar note? What causes the problems? It is not physicians, it is not patients, it is not even the lawyers they are talking about; the problem is the market. St. Paul recently, in announcing it was exiting the market, said they paid too much in claims; but, oh, yes, they forgot to mention they lost $108 million in Enron. Every time the market goes down, they claim a medical liability crisis. How convenient is that?

The truth is that the carriers are asking doctors, hospitals, and patients to pay for their bad investment decisions. It is as simple as that. They know it. We have asked the insurance carriers to put in this bill a requirement to reduce premiums. They will not do it. They will not talk about it. That is because they know they are going to raise the premiums. It is a scam on the entire system.

There are a lot of other problems. At least 31 States have found portions of this bill to be unconstitutional. It does limit economic damages because it gets rid of joint and several liability. They know that. They know it limits economic damages.

Let us just get right back to it. It boils down to this point: It helps the insurance carriers; it does nothing for the physicians and nothing for the patients, and they know it.

Mr. CONYERS. Mr. Speaker, I yield the balance of my time to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE) to concluded the debate on our side of the aisle.

The SPEAKER pro tempore (Mr. GUTKNECHT). The gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 2 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Michigan (Mr. CONYERS), the ranking member, for yielding time to me.

Mr. Speaker, time is short for an important step for America, and that is, of course, something that probably we have not debated on this floor. We do not make light of the horrific tragedy of 9/11, but what it caused Americans to do is to reinforce their commitment to our values. Part of that is the judiciary system, which allows Americans to go into a courthouse and address their grievances, away from violence and intimidation.

It is interesting that we would come in that backdrop to begin to tell Americans that they cannot go into the courthouse when they have been injured and begin to find relief. Why we are promoting this kind of bill that denies and equalizes justice for all Americans I cannot give an answer.

Many people criticize lawyers. I remember Shakespeare saying, the first thing you should do is to kill all the lawyers. I am one, but I serve the American people as a Representative for the 18th Congressional District in Texas.

Mr. Speaker, let me tell the Members, I supported reform in the State of Texas. I believe the President of the United States supported it. But can Members imagine that the legislation that we have on the floor today goes overboard, goes way beyond the idea of allowing poor people to get into the courthouse and lawyers to represent them when tragedy has befallen them.

For example, a 50-year-old woman who earned about $12,500 annually settled her malpractice claim during trial for $12 million because her surgeon had impaired her spine; a spear, if you will, went through her spine. With this particular health act, she would be severely limited by the $250,000 cap, a woman who makes $12,500.

Let me tell the Members why this is bogus, Mr. Speaker, with respect to the idea that this bill will help prevent hospitals from closing and doctors' offices from closing.

I am their friend. We cannot survive without a medical profession. Doctors will tell us that they are being shut down because of these premiums. They are not angry at lawyers, they are being made to be angry at lawyers.

When we had this bill in Texas, the premium went up from $26,000 to $45,000. This is a bogus bill and we should vote it down because it denies the American people the opportunity to get into the courthouse. This is a bill against poor people.

Mr. Speaker, I oppose H.R. 4600, the so-called ''HEALTH'' Act of 2002. I do this with somewhat mixed emotions, because I agree with the bill's stated purpose: to Help get Efficient Accessible Low Cost Timely Health care to all Americans. I agree that one of the obstacles to accessible low cost health care is the outrageous liability insurance premiums charged to health care providers. I also feel that some approaches to litigation contribute to the cost of our Nation's health care by encouraging professionals to use tests, procedures, and treatments that may not be necessary. I agree with supporters of this bill that high malpractice insurance premiums charged by insurance companies have led some physicians to abandon high-risk specialties and patients.

Unfortunately, H.R. 4600 does not address any of these problems. The bill does not discourage lawsuits. This bill does not decrease liability insurance premiums, the real problem. The bill does place a cap on noneconomic damage awards, but there is no reason to think that limiting awards to suffering people with legitimate claims will translate into decreased premiums for providers.

In California, where tort reform has been the strictest and has had almost three decades to work, premiums are still 8 percent higher than premiums in States without noneconomic damage caps. Medical malpractice insurers in California pay out less than 50 cents in claims on every dollar they bring in through premiums. Obviously tort reform is lining the coffers of insurance companies and not getting to doctors or their patients.

It is surprising that supporters of this bill are presenting it as a means to decrease premiums, when those in the know, such as the executive vice president of the American Insurance Association, and American Tort Reform Association president, both have stated that limitations like those in this bill will not necessarily decrease premiums.

I am also confused about where this arbitrary cutoff of $250,000 for noneconomic damages comes from. It happens to be the same number used in similar legislation passed 27 years ago in California, with no adjustment for inflation or changes in costs of living. Due to skyrocketing health care costs, $250,000 will only get an injured person about $40,000 worth of care.

The bill does not cap economic damages—which is good news for those with high incomes. Rich people will be able to stay rich

and perhaps that is appropriate. But what about mothers who work at home raising their children, or the elderly on fixed incomes? They will not be able to claim large economic damages due to losses in income. If they are crippled or blinded by a negligent HMO, or pharmaceuticals company, they may get their $250,000—but maybe they will receive 8 or 9 thousand dollars per year. That is a pittance for someone working through the tough times after a catastrophic injury.

Perhaps that would be a fair sacrifice if the funds would go to our hospitals or public health clinics, but to increase revenues of insurance companies? I say no.

Furthermore, since we do not have a bill before us today that would limit liability insurance, or would decrease the number of frivolous lawsuits, perhaps we should leave it to the States to decide how to address these issues. California is not the only State in the Union that is working to tackle these problems; Texas has worked to solve this problem and has put forward a better solution. H.R. 4600 would override such local efforts and compromise the rights of States, and probably not help improve the health of a single American, except maybe a few insurance company CEOs.

I encourage my colleagues to vote against H.R. 4600.

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

The SPEAKER pro tempore. The gentleman from Wisconsin is recognized for 1 minute.

Mr. SENSENBRENNER. Mr. Speaker, the gentlewoman from Texas (Ms. JACKSON-LEE) is dead wrong. This bill will not close the courthouse to anybody who has a legitimate claim. It does not restrict anybody's right to sue. What it does do is it puts some sense in the compensation. It puts some sense in the compensation in a manner that allows affordable and accessible health care to be available nationwide. We will not be pricing doctors out of their practice by high professional liability insurance premiums. We will not force maternity wards and trauma centers to close their doors for the same reason.

The time has come to put some sense in this system. California did that. They do not have a crisis there because their State legislature did that. We now have to step up to the plate and work for the patients, particularly in the States that are listed in red and in yellow on the map that was referred to by the gentlewoman from Pennsylvania (Ms. HART).

Pass the bill.

The SPEAKER pro tempore. All time for the Committee on the Judiciary has expired.

The gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Ohio (Mr. BROWN) each will control 10 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Speaker, I yield myself 2¼ minutes.

Mr. Speaker, as usually happens at this time in the debate, the rhetoric gets hotter and we tend to find ourselves at our most cynical attitudes. But let us see if we can do a little better than that in the next 20 minutes.

The fact of the matter is that we do not accuse the Democratic Party of being the lackeys of the trial lawyers, and they should not accuse us of being the lackeys of the health care industry. But what we all should care about is our constituents. We should care about the pregnant woman, we should care about an individual harmed in an automobile accident, we should care about their access to health care.

Also, we should care about them if they cannot find a doctor. We should care about them if the trauma center is closed and cannot save their lives. We should care about them if they are injured by a doctor. It is not either/or.

We have a crisis in this country right now. It is nearly countrywide. The crisis is that the cost of medical malpractice insurance has skyrocketed to the point where obstetricians cannot deliver babies anymore, where neurosurgeons are leaving trauma centers, where trauma centers are closing their doors. We are very close, if we are not there already, to Americans dying because they cannot get emergency care and the quality of our health care system deteriorating across-the-board.

There is a solution. There is a solution here that enables us to care about our constituents when they are struggling to find care or emergency care, and care about them when they are hurt by a physician and they have a legitimate claim. That has been modeled in California.

I have heard my constituents argue erroneously that capping noneconomic damages will not affect premium rates. That is dead wrong. Let us settle that. There is the chart. The source here is the National Association of Insurance Commissioners.

This chart tells the whole story. While California's rates have stayed flat for the last 25 years, the rest of the country's rates have soared. This is the solution. We all ought to work on it together, get it over to the Senate, and save America's health care system.

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

□ 1415

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I support medical malpractice reform but I oppose this bill. H.R. 4600 lays the blame for rising medical malpractice premiums solely on individuals whom a court and jury determine have been injured by medical malpractice. Apparently Congress knows better than judges, juries and patients; but we do not know better than insurers.

This bill does not have a single provision acknowledging the insurance industry's accountability for skyrocketing premiums. Insurers have tripled their investment in the stock market over the past 10 years. Of course, now they are trying to recoup their losses.

Democrats have tried to negotiate with the majority to even look at this issue. But the majority rejected every attempt to force the insurance industry to assume any responsibility for its dramatic premium increases. There are avenues we could take to stabilize medical malpractice premiums, loss ratio requirements, reinsurance pools, transparency to help us see exactly why insurers are raising their rates. But no, in this billing the insurance industry is held harmless. It is the patients' fault.

California has the most stringent liability caps in the country. Premiums are higher in California than the average for the rest of the country. Premiums have grown faster in California than the average for the rest of the country. Still somehow the solution to the medical malpractice crisis is to cap jury awards. And by the way, to cap them in a way that promises wealthier patients larger rewards than other patients. This bill apparently says those who are more wealthy suffer more than those who are not.

H.R. 4600 will also shield HMOs that fail to provide the needed care. It would shield drug companies whose medicine has toxic side effects. It would shield manufacturers of defective medical equipment. In this bill, businesses are never at fault. Patients are greedy. Jurors are misguided. It is the patients' fault. That is the problem.

At a time when the public is calling for greater corporate accountability, this bill turns on the public itself and holds injured patients, not the insurance industry, accountable. I ask for a ''no'' vote.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce.

Mr. TAUZIN. Mr. Speaker, I rise in strong support of the bill and on behalf of the Committee on Energy and Commerce recommend it to my colleagues in the House.

When injured patients in this country have to wait on average 5 years before a medical injury case is complete, our system is failing. When an injured patient loses up to 58 percent of the awards to attorneys and the courts, something is wrong. And when 60 percent of malpractice claims against doctors are dropped or dismissed, you can imagine the unnecessary costs to the system that all of us pay into.

Now, I want to do something we do not do around here enough. I want to admit to being wrong once in my life. I was in the legislature of Louisiana. I voted wrong. I voted against these reforms as a young State legislator. They were passed over my objections and they worked.

Doctors and hospitals in Mississippi are streaming into Louisiana because they do not have those protections in

Mississippi and people in Mississippi are losing access to quality health care. Let me tell you, I do not care whether you have insurance or not. You can have all the insurance in the world; if there is no doctor to serve you, if there is no emergency room to go to, if there is no hospital to take care of you, you are in trouble. This bill makes sure we have doctors and hospitals and emergency rooms in America.

Mr. Speaker, I rise in strong support of H.R. 4600, legislation to ensure that patients have access to high quality health care.

When injured patients have to wait, on average, 5 years before a medical injury case is complete, our judicial system has failed. When injured patients lose 58 percent of their compensation to attorneys and the courts, our judicial system has failed. When 60 percent of malpractice claims against doctors are dropped or dismissed, but the fear of litigation still forces doctors with 25 years or more of experience to retire early, our judicial system has failed.

What my home State has in place and what California have benefited from for over 27 years are commonsense guidelines for health care lawsuits. These guidelines ensure that injured patients receive greater compensation and that frivolous lawsuits—that extort health care professionals and drive doctors from the practice of medicine—are limited.

The reforms in this bill will work. According to the Congressional Budget Office, ''H.R. 4600 would lower the cost of malpractice insurance for physicians, hospitals, and other health care providers and organizations. That reduction in insurance costs would, in turn lead to lower charges for health care services and procedures, and ultimately, to a decrease in rates for health insurance premiums.'' Even better, ''CBO estimates that, under this bill, premiums for medical malpractice insurance ultimately would be an average of 25 percent to 30 percent below what they would be under current law.''

That means that Congress really has an opportunity to pass legislation that will have a direct impact on patient access to care. With these reforms, patients will have greater access to health insurance. With these reforms, doctors will stay in business and not be forced to move to another State, or even worse, drop a specialty practice altogether. With these reforms, patients will have greater access to providers so they will actually receive ''health care.''

The issue at hand today is fundamental to all of the deliberations we make with regard to health care policy. We all recognize that health care costs money, and that high health care costs are a barrier to health care. But, even if a patient has health insurance, what is that insurance coverage worth if there are few doctors available to treat you?

This bill before us will have a tremendous impact on patients' lives. I encourage all of my colleagues, on both sides of the aisle, to support the legislation.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to my colleague, the gentlewoman from northeast Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I would like to thank my colleague for yielding me time.

You know what, I am really tired of people not telling the truth on the floor of the House. Hospitals are not going to stay open any longer because of this bill. People are not going to get any better health care because of this bill.

What is going to give them better health care is if this Congress will go ahead and give people universal health care. The fact is that H.R. 4600 introduced under the guise of fixing the problem of rising costs of malpractice insurance does not say anywhere that insurance companies will be required to reduce premiums. Nowhere does it assure that any savings that the insurance companies get will be passed along to the doctors.

The shame of it all is it is taking away the ability of judges who served, like me, the ability to determine when punitive damages ought to be awarded. It is taking away the ability of people who are injured to have the ability to bring their claim in court. The reality is that this bill does none of the things that have been claimed by the other side.

Now, the hospitals are going to be open in Cleveland, Detroit, New York as a result of this; and nobody is going to get better health care. I say to my colleagues vote against this legislation. It does nothing to help our patients.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, unlimited liability is an unacceptable drain on our health care system today. It is about access to care. It is about unruly costs from defensive medicine. We have got to make a change before it begins to truly affect our patients any more than it already has.

Now, I understand that people who have been injured by medical malpractice deserve redress. I also know people on the other side of the issue believe you can never match a value to a human life. But when is it enough? Is it enough when a sick patient cannot find a doctor because too many doctors have closed down their practices over rising malpractice premiums? Is it enough when an emergency trauma center closes its doors? Is it enough when nurses and support personnel in that trauma center are put out of work, Mr. Speaker?

There has got to be a figure out there somewhere that is enough. Saying that no figure is enough and that we can never place a limit, some reasonable limits on noneconomic awards, is to condemn the American patients to lesser care as this reckless liability system takes its toll on our health care system today.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. WAXMAN), my friend on the committee.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, 1 minute. There is not a lot I can say in 1 minute, but let me say the following: the Republicans seem to think that Washington has all the answers right here, and we ought to take it away from the States to make their own decisions, and I think that is a wrong approach.

They would impose a bill to be in place for all of this country when there are a lot of differences and a lot of different approaches to issues like tort liabilities, licensures of professionals and how to handle those matters. But supporters of this bill claim it is modeled after the California Medical Injury Compensation Reform Act, but the liability limits in this bill go far beyond medical malpractice. They extend to any lawsuits relating to any health care or medical product including the manufacturers and distributors of drugs and medical devices. This is far beyond the liability limits adopted in California or, as far as I am aware, any other State. So I oppose this bill.

I know that they are trying to do something about the medical malpractice problem, but I do not think it answers the problem; and I think it makes it one-size-fits-all, and it is not the best approach.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on Health of the Committee on Energy and Commerce.

(Mr. BILIRAKIS asked and was given permission to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, today I rise in strong support of H.R. 4600, the HEALTH act. Since other speakers, Mr. Speaker, have effectively described the extent of our problem and the need for a solution, I want to emphasize one feature of the bill that is very important to me, and this is actually somewhat in response to what the gentleman from California (Mr. WAXMAN) has just shared with us.

While H.R. 4600 does cap noneconomic damages, which I believe will help bring stability and predictability to the medical liability insurance market, it also does protect States' rights, since any State cap on noneconomic punitive damages, up or down, will supersede the Federal limits. And that is why I feel this bill strikes the right balance between the need for Federal action and the States' traditional role of the primary regulator of insurance markets.

Mr. Speaker, I believe I can stabilize our out-of-control medical liability system without harming the ability of patients to recover adequate compensation when they have been harmed. We can do this by passing H.R. 4600 today.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Pennsylvania (Mr. DOYLE).

(Mr. DOYLE asked and was given permission to revise and extend his remarks.)

Mr. DOYLE. Mr. Speaker, I rise in opposition to H.R. 4600. We do have a problem with physicians and hospitals paying too much for malpractice insurance, but H.R. 4600 is not the answer. The cap on H.R. 4600 is based on a 1975 California law that when adjusted for inflation would have a value of slightly more than $40,000 today. This 1975 base cap penalizes the most vulnerable victims of medical malpractice: children, homemakers, the elderly and minorities, society members who have limited incomes and thus will benefit less from future economic earnings.

Nearly 12 percent of Americans currently live in poverty and would depend on noneconomic damages to live on if injured.

In my home State of Pennsylvania the people have decided against caps by including a prohibition on caps in our State constitution. Like them, I do not believe a cap on damages will do anything to reduce insurance premiums or ensure the quality of health care. But I realize the issue of a cap is a good starting point for discussion. Members like myself want to compromise and work on real solutions for the problems. Let us vote against this bill and start to work on a compromise that truly will reduce premiums.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, I am pleased to announce that the chairman of the Senate Finance Committee has just endorsed the Medicare provision for low-reimbursement States like Iowa that we passed in our House prescription drug bill.

What does that have to do with this bill? Well, Iowa ranks dead last on Medicare reimbursements. When we have increased premiums for malpractice and our physicians and other practitioners are already dead last in terms of Medicare reimbursements, the increase in the malpractice premiums means that many patients may not have a doctor in the State of Iowa. What is the situation in Iowa? Well, when St. Paul went out of business, some physicians in Iowa were able to pick up coverage from Wisconsin; but it would be my prediction that in the next 12 to 18 months, unless there is some fix in terms of the malpractice premium situation, Iowa is going to be facing the same type of crisis that many of the States that have been talked about already today will be facing. So these are two inter-related issues. I am very pleased to support this bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GUTKNECHT). The Chair would admonish all Members that references to legislative positions of Senators must be confined to their factual sponsorship of bills, resolutions or amendments.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in strong opposition to H.R. 4600. At first blush this bill sounds great. That is why some medical groups are supporting it. We definitely need to do something about skyrocketing malpractice costs that are driving good doctors out of their offices and away from their patients, but this is not the way.

As a physician myself, I have thought about this bill until I realized it exempted manufacturers of drugs, products and HMOs from liability. Once again, the doctors are the only ones liable. Everyone else, those who put the products in our hands, those who dictate what we do, would be off the hook.

This bill does nothing to guarantee that medical malpractice premiums will actually be reduced. In California, which the Republicans cite, doctors' premiums have grown 3.5 percent from 1991 to 2000 compared with the national increase of 1.9 percent. This is not the kind of tort reform we need. This is a terrible bill, and I urge my colleagues to oppose it.

The SPEAKER pro tempore. The Chair would advise that the gentleman from Pennsylvania (Mr. GREENWOOD) has 3–3/4 minutes remaining. The gentleman from Ohio (Mr. BROWN) has 4 minutes remaining.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I rise in support of H.R. 4600 because it strikes an appropriate balance between the needs of patients who have been harmed to seek redress and the needs of all patients to have access to health care.

I note my colleague from the Committee on Energy and Commerce, the gentleman from Massachusetts (Mr. MARKEY), was concerned about whether premiums would go down or not. I would welcome him to read the Congressional Budget Office's report that was ordered by the Committee on the Judiciary. CBO estimates that under this bill premiums for medical malpractice ultimately would go down on an average of 25 to 30 percent. So I would welcome the gentleman to read that.

I also particularly support section 11 that provides flexibility to the States. I think that is smart to do that. Indiana has a very good law that has been in place for over 3 decades. It is comprehensive medical malpractice reform. The system works well. It has a medical review panel.

□ 1430

It also limits recovery from lawyers. The total recovery is capped. Attorney's fees are capped. We have a compensation fund managed by the State, and injured patients receive compensation in a timely fashion. I would like to thank the chairman for permitting this flexibility in the bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, I thank the chairman and ranking member, soon to be chairman, my friend, for yielding me the time.

There is a malpractice insurance crisis in our country. The woman who delivered my two daughters no longer delivers babies these days because of that crisis, and I understand it. I also understand the way to end that problem is not to enact the greatest transfer of income in history from victims of medical malpractice to insurance companies, and that is what this underlying legislation does.

What it says is that people who have been the victims of medical mistake, medical malpractice and medical error will see an arbitrary ceiling on what they can recover when something has happened to them. What the bill does not say is that the savings that would no doubt accrue to the benefit of insurance companies must accrue to the benefit of the physicians who paid in malpractice premiums.

The iron rule of insurance law in America is when insurance companies get the money they keep it. They do not share it with the doctors. They do not share it with the patients. They keep it. This is an insurance company relief act at a time when our physicians and patients need relief.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I rise in support of this act. In my home State we now have a crisis. Our legislature cannot reach agreement. It cannot enforce or enact any type of boundary or set of limits that will give us some protection and stability and predictability and certainty for our medical community. We have acute shortages of nurses, of OB/GYNs, of neurosurgeons. Our trauma care, if there is a car accident, this is becoming a matter of life and death in Mississippi.

We needed to do something here so that we can help in Medicare and Medicaid and for our veterans so that we can help have the nursing and the physician professions stay in business and stay in a very noble calling to heal the sick and to make well those who are hurt and injured.

If we do not do this, we will see health care in places like Mississippi diminish. It will not be affordable. It will not be accessible. I know from personal experience.

My mother just had open heart surgery. My sister just had her eighth child. On one day we had new life in our family. On the next day my mother got a new heart. We must have the medical care and we need this act to contain the costs and to keep those who heal in business.

Mr. BROWN of Ohio. Mr. Speaker, how much time is remaining and who actually is going to close?

The SPEAKER pro tempore (Mr. GUTKNECHT). The gentleman from Ohio (Mr. BROWN) has 3 minutes remaining and the gentleman from Pennsylvania (Mr. GREENWOOD) has 1–3/4 minutes remaining. The gentleman from Pennsylvania will close.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky (Mr. FLETCHER).

Mr. FLETCHER. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. GREENWOOD) for the work he has done on this. What this bill is really about, it is about affordable, accessible, available and quality health care. Whatever else is said really makes very little difference if we cannot have health care access in all of America.

Some are saying this may limit the particular damages individuals injured may get, but in fact, the truth of this bill, the damages that a patient incurs are not limited in this bill, and it has proved very effective. The economic damages are unlimited. The punitive damages are up to twice the economic damages, which makes those unlimited virtually.

Let me say this. I do not begrudge personal lawyers having seven digit incomes. That is not the issue here. The issue is the siphoning of money out of the health care system that goes somewhere else, money that could be used to deliver health care.

The other issue is accessibility. There are some in rural America, if we do not pass legislation like this, either on the Federal level in many States, that are going to have to drive an extra mile to get looked at. That means that a patient is going to be injured, a child is going to be lost or another individual will not receive the health care.

I think it is imperative that we pass this legislation. I want to thank the leadership on this.

Mr. BROWN of Ohio. Mr. Speaker, I yield our final 3 minutes to the gentlewoman from Colorado (Ms. DEGETTE), who has been a leader for patient's rights.

Ms. DEGETTE. Mr. Speaker, as a former State legislator, I am continually amazed how this Congress seems to think that we are the 'super' State legislature and that we should solve all the problems that we in our cynicism do not think the States can solve. The truth is regulation of medicine is a State issue and regulation of medical malpractice is a State issue. Every State has a malpractice statute, and right now the majority of the States are reviewing those statutes to see if they are adequately addressing this issue. I think we should leave it up to the States, and that is one reason I oppose this bad, bad bill.

I know there is a malpractice insurance crisis in this country. I talk to my doctors just like everybody else, but I want to ask my colleagues this, why should the patients suffer twice because we want to reward the insurance companies? The patients are being asked to sacrifice their rights under this legislation. The doctors are still going to have to pay high insurance premiums because nothing in this legislation stops the insurance companies from continuing to rack up the rates, and the ones that are going to suffer are the patients.

In California, they have had a statute for many, many years. The malpractice insurance rates are higher than the States that do not have these kind of caps, and why? We are putting no limitations on these out-of-control insurance rates. In the meantime, here is what this terrible bill does to the patients, to people who are actually injured by medical malpractice.

The first one is the $250,000 cap on noneconomic damages. As I said in committee, I think people misunderstand what noneconomic damages are. They are not punitive damages. They are very real damages that patients suffer. They are things like loss of a leg, disfigurement, pain and suffering and the loss of fertility. Under common law, noneconomic damages would not be capped, but when we cap them at $250,000, victims who do not work outside the home like women, children, others with very low economic damages will not be able to be adequately compensated.

There is a case in Colorado where a child fell on a stick and his doctor did not adequately diagnose it, and that child, if he were limited to $250,000, his mother had to quit her job. He has been limited to a wheelchair. His chance to succeed as a citizen in our society is gone, and we are not going to adequately compensate him for that all because the insurance companies want to charge excessive rates. That is wrong. That is wrong for that kid, that is wrong for his family, and that is wrong for every single patient who suffers at the hands of malpractice.

The second problem with this bill, well, there are many problems, but the second I want to talk about is the elimination of joint and several liability. Under common law, defendants are jointly and severally liable. When we eliminate it, victims will not receive compensation.

Please defeat this bad bill.

Mr. GREENWOOD. Mr. Speaker, the previous speaker and most of the opponents of this bill have acknowledged that we have a crisis, a crisis that has to be resolved, and unfortunately, they have not articulated an alternative to our proposal, only their criticisms of it.

The fact of the matter is that this bill tips the scales back so that they are in balance. This bill allows 100 percent of economic damages, millions and millions of dollars of damages available to plaintiffs for their health care and their lost wages and many, many other economic damages. It puts a cap as a floor of $250,000 for noneconomic, noncalculable economic damages and allows every State in the union that wants to raise that to wherever they see fit.

This is the opportunity now to decide whether this House will stand up to the crisis and solve it or turn its head and let it fester for another 20 years.

Mr. CHAMBLISS. Mr. Speaker, the American Medical Association has declared Georgia one of twelve states with a medical malpractice crisis. About four in every ten hospitals in Georgia are now facing liability insurance premiums that have increased by more than 50 percent, and one of every four of those facilities has been hit hard with increases that exceed 200 percent. The St. Paul Company was the second largest health care underwriter in Georgia. When it ceased writing medical malpractice insurance policies last December, around 42,000 physicians nationwide had to scramble for coverage and protection. Some still have not found new insurance. Radiologists, OB/GYN specialists, and surgeons are among the groups hardest hit by these rising rates.

Many of Georgia's 178 hospitals already are struggling financially from staffing shortages and financial pressures. Some hospitals in Georgia will either have to look at closing or offer fewer services to patients who are in desperate need of care. The problems in Georgia highlight a national challenge for both hospitals and physicians. Physicians are threatening to relocate or retire in the wake of dramatic increases in malpractice insurance premiums. Patients cannot afford to lose care because doctors cannot afford premiums. This is outrageous and a sad commentary on the state of our health care system.

Litigation costs have premiums which are forcing doctors to scale back services, retire early, and reduce care to the poor. Like physicians, hospitals are having a difficult time finding medical malpractice insurance because with the skyrocketing cost of litigation several providers have ceased writing coverage altogether.

I would like to share some examples to demonstrate the severity of this problem in Georgia:

There is an 80 bed hospital in Alma, Georgia, which is in the 8th Congressional district, that was forced to take out a bank loan to cover a medical malpractice insurance premium that more than tripled in one year (rising from $118,000 to $396,000). Memorial Hospital and Manor in Bainbridge, Georgia was faced with a staggering 600 percent increase on its existing policy (increasing from $140,000 to $970,000).

According to WebMD Medical News, Dr. Sand Reed in Thomasville, Georgia, an OB/GYN, said her medical malpractice insurance increased 30 percent just this year. She is considering giving up delivering babies. She should not be forced to make these choices and her patients will suffer when they lose her expertise and experience in this area.

According to the Atlanta Journal Constitution, Ty Cobb Health, a consortium of three rural Northeast Georgia Hospitals and nursing homes, received a bill by fax this summer just 24 hours before a check was due. Not only did the insurance company increase his deductible ten fold, but the premium jumped from $553,000 to $3.15 million—a 469 percent increase. They eventually got an extension but can no longer plan for expansions or renovations of their emergency room.

In Fitzgerald, Georgia, Dr. Jim Luckie, has quit delivering babies because his premium

was so high. His liability insurance expired in April and it took him six weeks to get a new policy. When his insurance premium more than doubled, the family practitioner decided to discontinue the OB portion of his medical practice.

Dr. Edmund Wright, also of Fitzgerald, is a family practitioner who performed Caesarean sections and has had to give up that part of his practice. His premiums quadrupled to $80,000 this year and would have been $110,000 had he continued the surgical delivery procedure, which insurance companies consider ''high risk.''

In 2000, Georgia physicians paid more than $92 million to cover injury awards. That amount was 11th highest in the nation despite Georgia ranking 38th in total number of physicians in the U.S. It's clear Georgia is in a medical malpractice crisis.

Substantial medical malpractice reform is critical. The current system is destroying the doctor-patient relationship. I have talked extensively with the members and leadership of the Medical Association of Georgia, and have met with hospital and physician groups, as well as with patients and it is clear that we need to reform our current system for the sake of our patients, physicians, and hospitals. We need a system that allows any patient the right to pursue any cause where injury is the result of negligence. At the same time, we need a system that provides reasonable protection to hospitals and physicians.

Without the important reforms included in H.R. 4600, physicians and hospitals will continue to struggle to keep their doors open. I urge my colleagues to fight for all who deserve and need quality, affordable healthcare and to vote for this important legislation.

Mr. PAUL. Mr. Speaker, as an OB–GYN with over 30 years in private practice, I understand better than perhaps any other member of Congress the burden imposed on both medical practitioners and patients by excessive malpractice judgments and the corresponding explosion in malpractice insurance premiums. Malpractice insurance has skyrocketed to the point where doctors are unable to practice in some areas or see certain types of patients because they cannot afford the insurance premiums. This crisis has particularly hit my area of practice, leaving some pregnant woman unable to find a qualified obstetrician in their city. Therefore, I am pleased to see Congress address this problem.

However this bill raises several question of constitutionality, as well as whether it treats those victimized by large corporations and medical devices fairly. In addition, it places de facto price controls on the amounts injured parties can receive in a lawsuit and rewrites every contingency fee contract in the country. Yet, among all the new assumptions of federal power, this bill does nothing to address the power of insurance companies over the medical profession. Thus, even if the reforms of H.R. 4600 become law, there will be nothing to stop the insurance companies from continuing to charge exorbitant rates.

Of course, I am not suggesting Congress place price controls on the insurance industry. Instead, Congress should reexamine those federal laws such as ERISA and the HMO Act of 1973, which have allowed insurers to achieve such a prominent role in the medical profession. As I will detail below, Congress should also take steps to encourage contractual means of resolving malpractice disputes. Such an approach may not be beneficial to the insurance companies or the trial lawyers, but will certainly benefit the patients and physicians which both sides in this debate claim to represent.

H.R. 4600 does contain some positive elements. For example, the language limiting joint and several liability to the percentage of damage someone actually caused, is a reform I have long championed. However, Mr. Speaker, H.R. 4600 exceeds Congress' constitutional authority by preempting state law. Congressional dissatisfaction with the malpractice laws in some states provides no justification for Congress to impose uniform standards on all 50 states. The 10th amendment does not authorize federal action in areas otherwise reserved to the states simply because some members of Congress are unhappy with the way the states have handled the problem. Furthermore, Mr. Speaker, by imposing uniform laws on the states, Congress is preventing the states from creating innovative solutions to the malpractice problems.

The current governor of my own state of Texas has introduced a far reaching medical litigation reform plan that the Texas state legislature will consider in January. However, if H.R. 4600 becomes law, Texans will be deprived of the opportunity to address the malpractice crisis in the way that meets their needs. Ironically, H.R. 4600 actually increases the risk of frivolous litigation in Texas by lengthening the statute of limitations and changing the definition of comparative negligence.

I am also disturbed by the language that limits liability for those harmed by FDA-approved products. This language, in effect, establishes FDA approval as the gold standard for measuring the safety and soundness of medical devices. However, if FDA approval guaranteed safety, then the FDA would not regularly issue recalls of approved products later found to endanger human health and/or safety.

Mr. Speaker, H.R. 4600 also punishes victims of government mandates by limiting the ability of those who have suffered adverse reactions from vaccines to collect damages. Many of those affected by these provisions are children forced by federal mandates to receive vaccines. Oftentimes, parents reluctantly submit to these mandates in order to ensure their children can attend public school. H.R. 4600 rubs salt in the wounds of those parents whose children may have been harmed by government policies forcing children to receive unsafe vaccines.

Rather than further expanding unconstitutional mandates and harming those with a legitimate claim to collect compensation, Congress should be looking for ways to encourage physicians and patients to resolve questions of liability via private, binding contracts. The root cause of the malpractice crisis (and all of the problems with the health care system) is the shift away from treating the doctor-patient relationship as a contractual one to viewing it as one governed by regulations imposed by insurance company functionaries, politicians, government bureaucrats, and trial lawyers. There is not reason who questions of the assessment of liability and compensation cannot be determined by a private contractual agreement between physicians and patients.

I am working on legislation to provide tax incentives to individuals who agree to purchase malpractice insurance, which will automatically provide coverage for any injuries sustained in treatment. This will insure that those harmed by spiraling medical errors receive timely and full compensation. My plan spares both patients and doctors the costs of a lengthy, drawn-out trial and respects Congress' constitutional limitations.

Congress could also help physicians lower insurance rates by passing legislation that removes the antitrust restrictions preventing physicians from forming professional organizations for the purpose of negotiating contracts with insurance companies and HMOs. These laws give insurance companies and HMOs, who are often protected from excessive malpractice claims by ERISA, the ability to force doctors to sign contracts exposing them to excessive insurance premiums and limiting their exercise of professional judgment. The lack of a level playing field also enables insurance companies to raise premiums at will. In fact, it seems odd that malpractice premiums have skyrocketed at a time when insurance companies need to find other sources of revenue to compensate for their recent losses in the stock market.

In conclusion, Mr. Speaker, while I support the efforts of the sponsors of H.R. 4600 to address the crisis in health care caused by excessive malpractice litigation and insurance premiums, I cannot support this bill. H.R. 4600 exceeds Congress' constitutional limitations and denies full compensation to those harmed by the unintentional effects of federal vaccine mandates. Instead of furthering unconstitutional authority, my colleagues should focus on addressing the root causes of the malpractice crisis by supporting efforts to restore the primacy of contract to the doctor-patient relationships.

Mr. DELAY. Mr. Speaker, we're facing a growing crisis in our health care system.

In a number of states, there's a continuing exodus of doctors and talented specialists that's drawing down the quality of health care available to many Americans.

The reason for it is simple. The plaintiff's bar has been working for years and years to undermine, weaken, and strip-away the legal protections for practicing physicians.

Their reckless pursuit of ever-growing legal judgments is placing affordable insurance coverage out of reach for doctors in far too many states.

The raw greed motivating plaintiff's lawyers is driving good doctors out of states like Florida, Illinois, New York, North Carolina, Ohio, Pennsylvania, Texas, and West Virginia, to pick only a few.

These states are in crisis. And if anyone doubts if, they can test my assertion by trying to schedule an appointment with a neurosurgeon in one of these states. You'd better not need help in a hurry.

Doctors are confronting an awful choice: Abandon the communities and patients they trained to heal or be broken over the unacceptable costs of rising medical insurance premiums.

All of this raises a dangerous question. The medical liability insurance crisis creates liabilities for us beyond the practical problems of routine care.

What happens in states with over-burdened medical systems if there's a terror attack that produces mass casualties? What happens to the people when doctors have been driven across the border to neighboring states?

Mr. Speaker, we need real common-sense reforms and we need them today. The HEALTH Act delivers that relief and I ask Members to support it.

Mr. KNOLLENBERG. Mr. Speaker, we must act now to address the malpractice insurance crisis facing our nation. Medical providers across the country are turning away new patients or simply closing their doors because they can no longer afford the skyrocketing malpractice insurance premiums. This is particularly true in high-risk specialties such as obstetrics/gynecology and emergency medicine.

An American Hospital Association survey released this June found that more than 1,300 health care institutions have been affected by increasing malpractice costs. It further reported that 20 percent of the association's 5,000 member hospitals and other health care organizations had cut back on services and 6 percent had eliminated some units.

And the AMA today designated 19 states as ''Medical Liability Crisis State.'' Fortunately, my home state of Michigan is not on that list, but if things continue as they are, all of our home states will be on that list.

This is unacceptable. Patients do not have time to wait for care or travel long distances to find a provider when they are in emergency situations. We cannot allow people to die because emergency rooms cannot afford to insure the necessary specialists. Women should also be able to receive prenatal care without worrying that their doctors might not be able to continue providing care throughout their entire pregnancy.

Moreover, fear of litigation leads many doctors to prescribe medicines and order tests that they feel are unnecessary. Studies estimate that this defensive medicine costs billions of dollars a year, enough to provide medical care to millions of uninsured Americans.

I believe we must work to eliminate medical errors and patients should be able to seek redress when medical mistakes are made but our health care system should serve patients, not lawyers. I have strong concerns with any endless, frivolous, and costly personal injury-like litigation. Today's system is skewed toward enterprising plaintiff's attorneys but the focus should be toward expanding health care access.

The causes of the liability crisis are complex but legislation we are considering today is a significant step in ensuring health care providers will be able to continue serving patients. The HEALTH Act would help stabilize liability premiums as well as help patients get awards and settlements faster and ensure that patients, not lawyers, receive the majority of the awards.

This is common-sense legislation modeled after California's twenty-five year-old, highly successful litigation reforms. I encourage my colleagues to support this bill because Americans do not have the time to wait for assurance that health care practitioners can maintain their practices and continue to serve patients.

Mr. BLUMENAUER. Mr. Speaker, it is clear that a crisis exists relating to the costs of medical malpractice liability insurance premiums. This bill is no a solution, and I will not vote for it. The problem deserves an effective solution based on a real causal evaluation, which this bill lacks. Even insurers and their lobbyists reject the notion that tort reform would achieve any specific premium reduction.

I am particularly concerned that the model for this bill, California's Medical Injury Compensation Reform Act (MICRA), does not appear to have made any improvement at all in the battle against high malpractice insurance premiums. MICRA included a $250,000 cap on non-economic damages as well as arbitration and attorney fee provisions, yet doctors still pay premiums that are higher than the national average.

Furthermore, the caps on damages in this bill are arbitrary, and based on a scale established in 1975. In Oregon, the Supreme Court has repeatedly ruled that even looser caps are a clear violation of state law, and Oregon voters have resisted efforts to change this. This bill would overturn their decisions, as well as patients' rights laws in 11 other states.

Since Congress is very unlikely to enact this tort reform, we ought to look into the effect that poor investments, the legislative framework, and other insurance industry-side elements might have in this crisis. Until we achieve a greater level of transparency in the accounting practices of insurers who hold the strings to these premiums, we will be unable to truly provide the relief that the medical system needs. I am committed to working with all parties to solve the malpractice premium crisis.

Ms. GRANGER. Mr. Speaker, today in my district, doctors are being forced out of practice because of the skyrocketing cost of medical malpractice insurance. In fact, a very close friend of mine who his a practicing in physician in Fort Worth, doctor Susan Blue, has recently been notified that her insurance carrier will terminate her policy on December first of this year. Since 1990, doctor Blue has had nine malpractice claims filed against her. However, most of the claims were frivolous and without merit, and her insurance company only paid out on one of these claims. And in that instance, $5,000 was paid to simply avoid spending tens of thousands of dollars in defense.

Unfortunately, because doctor Blue has been unable to find malpractice insurance, she may be forced to retire in December—after 29 years of practicing quality medicine.

I wish I could say that doctor Blue's story is an isolated incident. But we all know it's not. Every Member of Congress here today has a doctor Blue in their district. Every Mmember of Congress has experienced doctors that are, right now, deciding whether or not to retire because of the high cost of malpractice insurance. As a nation, we cannot afford to lose one more doctor.

With one less doctor, patients wait longer, diseases progress further, and health insurance costs continue to spin out of control.

Let's hold on to the skilled community physicians and ensure patients have the doctor choice that they deserve and desire.

Today I will be voting for doctors like Susan Blue, and I will support common sense malpractice reform. I will be supporting H.R. 4600.

Mr. EHRLICH. Mr. Speaker, I am pleased that the House today is debating public policy options to help contain the growth of medical care costs in our nation. Patients across the country continue to see increases in their insurance premiums and health costs, and it is critical for Congress to find solutions to make health care more affordable for physicians to practice and patients to access.

Proponents of H.R. 4600, The Help Efficient, Accessible, Low Cost, Timely Health Care (HEALTH) Act, argue that this bill, which would create national tort reform, would contain or lower medical malpractice insurance costs for physicians and by extension lower health costs for consumers. I understand the many arguments in favor of this legislation, including the need to limit excessive medical insurance costs which physicians face in many states and often pass on to their patients. Also, like my fellow House members, I too feel a need to help my constituents back home.

I agree that our society has become excessively litigious and that reasonable tort reform can be enacted to reduce medical malpractice insurance premiums, keep doctors in areas of medical need, and help patients. Supporters of this legislation argue that many states are incapable of enacting tort reform because of the restrictions of their state constitutions or other barriers. Supporters also argue that a federal remedy is reasonable because this bill allows for state limits on damages to supersede the federal caps. I understand that the majority of my party, our leadership, and the President support this bill.

I believe, however, the proper venue for this debate should not be the U.S. Congress but rather the many state legislatures whose constitutions forbid tort reform or where there is no political will to limit damages from medical malpractice. This is a state matter—not a federal one.

States can and do enact reasonable, successful tort reform. In Maryland, for example, our tort reform law has generally worked well. As a state delegate who served on the Judiciary Committee in Annapolis and as a Member of Congress, I strongly support Maryland's tort law, which differs significantly from H.R. 4600 on a number of important matters, including caps on noneconomic damages, attorneys' fees caps, statutes of limitation on claims, and joint and several liability. One of the notable features of the Maryland law is the cap on noneconomic damages at $620,000 this year, with a built-in adjuster for inflation of $15,000 annually. I believe this cap allows for working-class victims of medical malpractice to reap reasonable damages. Creating an inflation adjuster allows for the removal of politics from tort laws which would otherwise call for frequent political intervention to update damage caps or risk the erosion of their value to compensated victims.

Mr. Speaker, I opposed similar caps on damages during the Patients Bill of Rights debate on the floor of the House in 2001 because I have come to the conclusion that states can regulate tort reform best—if they only choose to do so. I understand that many states have experienced problems with increasing costs of medical liability insurance for physicians. I respectfully believe, however, that the proper area for that debate is not in

Washington, DC but in state capitals where tort systems clearly need to be addressed and regulated as they have been in the past.

Accordingly, I oppose H.R. 4600.

Mr. HAYES. Mr. Speaker, I rise today in strong support of H.R. 4600, the Health Act.

Skyrocketing insurance premiums are debilitating our nation's health care delivery system.

In April I visited hospitals in the 8th District of North Carolina to talk about workforce issues such as the nursing shortage. At every stop, the number one concern of these talented health professionals was resoundingly the dramatically escalating cost of liability insurance.

Last year, NorthEast Medical in Concord, North Carolina paid approximately $600,000 for professional liability/general liability insurance for the hospital. This year they will pay approximately $1.7–1.9 million for the same coverage. They have one of the best loss rates in North Carolina. Other hospitals that aren't so fortunate are paying even more.

Scoltland Memorial, a rural hospital with only 124 acute beds, 50 bed nursing home, and minimal claims history, has seen an increase of over $545,000 this year with most of their insurance quotes over $1 million. Many of the potential insurers left in the industry are not willing to cover nursing homes or only at an even greater premium.

First Health Richmond, another rural hospital, paid $836,810 in 2001 for liability premiums. But this past year, they paid over $2 million! This hospital submitted 14 requests for bids, and only one company was even able to offer a quote. Lack of competitive insurers means even higher costs for our hospitals.

However, the problem is not isolated to hospitals.

Many obstetricians/gynecologists have stopped delivering babies. Physicians are retiring or moving because they no longer can afford to serve their communities or are simply unable to even purchase insurance. Annual increases in malpractice insurance for doctors of 30–70 percent are common today.

Just this month, three sub-specialist groups have informed Union Regional Medical Center in Union County, North Carolina that they will have to discontinue serving the hospital's patients because of huge increases in liability coverage, or threats from their carrier of such.

Smaller community hospitals, like most of those in my district need these sub-specialists from our larger cities such as Charlotte and Fayetteville. Their availability adds to the quality of health services available in our communities.

In 1994, the average medical malpractice jury award was $1.14 million. In 2000, just 6 short years, the average award rose to $3.4 million.

We must reign in run-away jury verdicts and the greed of trial lawyers who search for deep pockets. Taxpayers and seniors are the leading victims of a systemic trial lawyer-driven litigation explosion that siphons federal dollars out of the nation's healthcare system, threatens seniors' access to quality health care, and costs taxpayers billions of dollars. The system is broken, and we need to fix it.

Without federal legislation, the exodus of providers from the practice of medicine will continue, and patients will find it increasingly difficult to obtain needed health care.

This crisis is a threat for all Americans. We must safeguard patients' access to care through common sense reforms. Vote ''yes'' on H.R. 4600.

Mr. STARK. Mr. Speaker, I rise in strong opposition to H.R. 4600, legislation that would undermine the right of patients and their families to seek appropriate compensation and penalties when they, or a loved one, are harmed or even killed by an incompetent health care provider.

At best, this bill is a wrong-headed approach to the problem of rising malpractice health insurance costs. At worst, it is a bill designed to protect bad doctors and other health care providers from being held accountable for their actions. Under any scenario, the bill is harmful to consumers and should be defeated.

The Republican Leadership has once again brought us a bill that favors their special interests at the expense of quality health care. Doctors, hospitals, HMOs, health insurance companies, nursing homes, and other health care providers would all love to see their liability risk reduced. This bill meets that need. Unfortunately, it does so solely on the backs of America's patients.

Supporters of this bill would have you believe that medical malpractice lawsuits are driving health care costs through the roof. In fact, for every $100 spent on medical care in 2000, only 56 cents could be attributed to medical malpractice costs—that's one half of one percent. So, supporters are spreading false hope that reducing the cost of medical malpractice would reduce the cost of health care in our country by any measurable amount. It won't.

What supporters of this bill do not want you to understand is how bad this bill would be for consumers. The provisions of this bill would prohibit juries and courts from providing awards they believe are appropriate relative to the harm done.

H.R. 4600 caps non-economic damages. By setting an arbitrary cap on this portion of an award, the table is tilted against seniors, women, children, and people with disabilities. Medical malpractice awards break down into several categories. Economic damages are awarded based on how one's future income is impacted by the harm caused by medical malpractice. There are no caps on this part of the award. But by capping non-economic damages, this bill would result in someone, without tremendous earning potential—a housewife or a senior for example—finding their award much lower than that of a young, successful businessman for identical injuries. Is that fair? I don't think so.

The limits on punitive damages are severe. Punitive damages are seldom awarded in malpractice cases, but their threat is an important deterrent. And, in cases of reckless conduct that cause severe harm, it is irresponsible to forbid such awards.

The bill prohibits the requirement of a lump sum payment to an injured party which allows the defendants to continue to reap interest benefits while holding the award. And, this prohibition on lump sum awards could mean that injured victims who can no longer work do not have the funds available to meet their needs. Why should the decision of how to award the penalty be taken from the court which is in the best position to make that determination since they know the details of the particular case?

Republicans claim to be advocates for states rights. Yet, this bill directly overrides the abilities of states to create and enforce medical malpractice laws that meet the needs of their residents.

The issue of rising malpractice insurance costs is a very legitimate concern for America's health care providers. I would happily work with colleagues to develop legislation to help change that. For example, we could look at better ways of spreading the risk of medical malpractice insurance across a wider spectrum of doctors. Another option that has been discussed is to experience rate malpractice insurance so that providers' premiums better reflect their own professional experience. These are just a few examples of steps that could be taken. But, the important difference between those proposals and the one before us today is that those changes don't harm patients.

Medical malpractice costs are an easy target. My Republican colleagues like to simplify it as a fight between America's doctors and our nation's trial lawyers. That is a false portrayal. Our medical malpractice system is a vital consumer protection. The bill before us drastically weakens the effectiveness of our nation's medical malpractice laws. I urge my colleagues to join me in voting against this wrong-headed and harmful approach to reducing the cost of malpractice premiums. It's the wrong solution for America's patients and their families.

Mr. SMITH of Michigan. Mr. Speaker, a national insurance crisis is ravaging the nation's essential health care system Medical professional liability insurance rates have skyrocketed, causing major insurers to drop coverage or raise premiums to unaffordable levels.

Doctors and other health care providers have been forced to abandon patients and practices, particularly in high-risk specialties such as emergency medicine, neurology, and obstetrics and gynecology. Low-income neighborhoods and rural areas are being particularly hard hit.

H.R. 4600 is, modeled after California's quarter-century old and highly successful health care litigation reforms (MICRA). MICRA was signed into law by Governor Jerry Brown, and has proved immensely successful in increasing access to affordable medical care. Overall, according to data of the National Association of Insurance Commissioners, the rate of increase in medical professional liability premiums in California since MICRA was enacted in 1976 has been a very modest 167 percent, whereas the rest of the United States have experienced a 505 percent rate of increase.

Economists have concluded that direct medical care litigation reforms—including caps on non-economic damage awards—generally reduce the growth of malpractice claims rates and insurance premiums, and reduce other stresses on doctors that may impair the quality of medical care.

By incorporating MICRA's time-tested reforms at the Federal level, the HEALTH Act will make medical malpractice insurance affordable again, encourage health care practitioners to maintain their practices, and reduce health care costs for patients. MICRA remains the only proven legislative solution to the current crisis, yet many state courts in states other than California have nullified legislative reforms. Congressional action is required.

The current, unregulated medical tort system can force doctors to practice defensive

medicine. It also discourages improvements in the delivery of medical care by deterring doctors from freely discussing errors or potential errors due to a fear of litigation. The HEALTH Act will also save billions of dollars a year in taxpayer dollars by significantly reducing the incidence of wasteful defensive medicine in federally-funded programs.

Mr. MORAN of Virginia. Mr. Speaker, I rise today in support of H.R. 4600 which safeguards patients' access to medical care by implementing common sense reforms.

Skyrocketing liability insurance has forced some physicians, hospitals, and other health care providers to cut back or end practicing medicine. Our best and brightest doctors are curtailing their medical practice or leaving the profession altogether because of the ballooning cost of medical malpractice insurance caused by an onslaught of frivolous, yet damaging, lawsuits.

At the most basic level, this is an access to care issue. As the former ranking member of the D.C. Appropriations Subcommittee, I saw first-hand the lack of access to decent health care for the disadvantaged and under-served population.

The District of Columbia is the only state or territory that has not made any changes to its civil liability system resulting in D.C. ranking number one in the country in terms of the average size of payments that juries award in malpractice suits.

One of the nation's premier pediatric hospitals located in the District of Columbia, Children's Hospital, over the last two years has had the total cost for malpractice insurance increase by 200 percent for less coverage. That is an additional $3 million a year going to insurance costs instead of going to treat sick patients. Howard University Hospital has been its malpractice insurance increase by 300 percent this year alone.

An Anacostia, OB–GYNs are terminating their practice because of the astronomical cost of medical malpractice insurance. Women are being denied access to critical prenatal care, gynecological services, and preventative treatment.

Congress must pass this common-sense legislation and put a stop to the costs of the runaway litigation system paid by all Americans, I urge my colleagues to vote in favor of this legislation.

Mr. PITTS. Mr. Speaker, in the Commonwealth of Pennsylvania, we have a crisis on our hands. Last year, there were more than $1.2 billion in medical malpractice suit payouts. That's a thousand dollars for every man, woman, and child in the Keystone State. That's a huge drain on our economy. Worse than that, it's hurting patients.

In my Congressional district, one hospital recently closed its trauma center and another canceled plans to build a center city clinic to serve the poor. A third hospital is about to close its maternity ward and fourth hospital nearby is on the verge of cutting back on emergency room services.

Why? Because they can't find medical malpractice insurance.

Insurance companies literally can't charge enough for their policies to stay in business, so they're leaving the Commonwealth. And that means doctors and hospitals can't get insurance. Doctors are leaving the profession or leaving the state.

One doctor in my district says there were thirty companies offering malpractice policies when he started his practice 30 years ago. Now there is only one, and he's not sure they'll give him a policy.

This is a crisis, Mr. Speaker. And Pennsylvania is not the only state in the Union that's in trouble.

It's time for Congress to act. And we need to act now.

I urge my colleagues to pass this bill.

Mr. DINGELL. Mr. Speaker, like many of my colleagues here today, I am concerned about the rising cost of malpractice insurance. It is a very real problem for doctors and patients and something we should address. But, I have serious reservations about this bill, H.R. 4600. And the closed rule under which it is being considered is an outrage—confirming that this bill is a political ploy that will not help doctors and patients.

High insurance rates have left doctors with few options. Those who can afford it will pay the increased costs, but those who cannot will either be forced to assume significant personal liability, leave high risk specialities, or leave the profession altogether. But, this legislation doesn't guarantee any reduction or abatement in increases that doctors are facing for their malpractice premiums. Instead, it focuses on drastic reforms of the judicial system that extend beyond malpractice, hurt injured consumers' access to redress, and provide a windfall to insurance companies.

What has caused the increase in malpractice premiums is not easily identified. Many factors completely unrelated to jury verdicts and the civil justice system affect insurance rates: pricing of malpractice insurance; practices of accounting for income and expenses while planning for downturns; investment choices. Yet, this legislation addresses none of these issues. In fact, neither of the two Committees of jurisdiction ever explored these issues and their relation to malpractice premiums. Instead, we are voting today on a bill that won't do anything to lower doctors' premiums but will disproportionately hurt women, low-income families, and seniors.

The legislation severely restricts non-economic damage awards. Yet, evidence shows no relation between caps and lower malpractice premiums. Four out of the top five most expensive states for medical malpractice premiums cap damages in medical malpractice cases. Michigan doctors pay far above the national average for medical malpractice insurance, in spite of Michigan's $280,000 cap on non-economic damages. Such limits sever only to enrich insurance companies at the expense of the most vulnerable, women, children, the elderly and low income families.

The legislation also sets a nearly impossible standard for awarding punitive damages and then limits such damages based on the level of economic loss, again unfairly penalizing those with lower earnings. An egregious act that severely injures or disfigures Ken Lay, former CEO of Enron, could be punished more severely than if that same act had hurt a child, a stay-at-home mother, or an elderly woman in a nursing home.

The legislation also goes well beyond the realm of medical malpractice and provides immunity from punitive damages to manufacturers of drugs and devices that are approved or cleared by the Food and Drug Administration (FDA) as well as those that are not FDA approved but are ''generally recognized as safe and effective.'' This is like arguing that because someone drives at the speed limit, they can not be negligent or reckless. It is clearly possible to obey the speed limit, yet still act in a negligent or reckless manner. The bill that was brought to the floor purports to address this criticism, but the change is mostly cosmetic. The FDA statue and regulations, like FDA approval, should not be a shield for liability from injury caused by egregious acts.

The legislation also sets a stringent federal statute of limitations on state tort cases. In no event shall the time for commencement of a lawsuit exceed three years. Here again, last minute changes were made to the bill that are cosmetic rather than meaningful. The time should toll from discovery, not manifestation. Such a definition only invites more, not less, litigation. This issue is a well settled one with plenty of examples in case law and statute, and would be quite easy to fix correctly. The majority chose otherwise, leaving many injured patients whose claims would fall subject to this bill shut off from recourse.

One more item I should mention is the sense of the Congress on holding insurance companies liable for damages when their medical decisions cause harm. This provision is all bark and no bite. Democrats and a handful of moderate Republicans have tried for more than five years to enact a Patients' Bill of Rights that would allow injured patients to hold HMOs accountable under state law. Time and time again, however, such legislation has been blocked by Republicans who ultimately wish to shield insurance companies from liability. This last minutes cosmetic change cannot hide that fact.

In sum, instead of help for doctors with their malpractice premiums and fair compensation for injured patients, this bill puts more money in the pockets of insurance companies, and combines broad liability protections for industry with restrictions on patients who are harmed. The rising cost of malpractice insurance is a real problem requiring careful, balanced, and targeted legislation. Sadly, efforts to address this problem have become the vehicle for all manner of anti-patient provisions. I urge my colleagues to reject H.R. 4600.

Mr. MOORE. Mr. Speaker, I rise in opposition to H.R. 4600.

Like my colleagues, I am concerned about medical malpractice premiums and their effect on the availability of physicians, especially obstetricians and specialty physicians to practice in certain states. I am not at this time convinced, however, that H.R. 4600 is the complete answer to the medical malpractice insurance premium problem. The concentration of excessively high premiums in certain states shows that this is a regional, not national problems.

I believe that Congress should address the medical malpractice insurance system as a whole. The pricing and accounting practices of medical malpractice insurers may have contributed to this problem. There are indications that imprecise accounting practices have inflated the bottom line of companies and price wars in the early 1990s led insurers to sell malpractice coverage at rates that were inadequate to cover anticipated claims. Recent stock market declines have further exacerbated the financial difficulties of these companies, which have raised premiums or gone out of business in response.

I believe that a solution to the problem of rapidly rising medical malpractice insurance

premiums must address all of the factors that contribute to premium cost. Earlier this year, I sent a letter with several of my colleagues asking that the General Accounting Office conduct a study on the effect of market conditions and insurance company practices on medical malpractice insurance premiums. I am introducing into the RECORD a copy of that letter as well as a July 3, 2002, article from the Wall Street Journal.

I expect to have preliminary results from the GAO in December. Once we know the full scope of the problem, I hope that we can work together to find a comprehensive solution to this problem.

WASHINGTON, DC,
July 2, 2002.

Hon. DAVID M. WALKER,
Comptroller General of the United States, General Accounting Office, Washington, DC.

DEAR MR. WALKER: We are writing to request your assistance in evaluating the extent to which current market conditions and insurance company practices are contributing to an increase in medical malpractice premiums.

It has been reported that insurance companies have been raising the medical malpractice premiums which doctors must pay in certain regions of the country. Congress has begun to investigate this issue, and many in Congress have already proposed legislation. However, thus far the focus of debate in Washington has been limited. As Congress attempts to balance the rights of patients with the interests of doctors and insurers, we believe that a thorough analysis of insurance industry practices is necessary. Medical malpractice is an important issue that must be examined thoroughly and deliberately from all perspectives.

In this regard, we ask that you examine the financial statements and information submitted to regulators by insurance companies that offer medical malpractice insurance, as well as any other information maintained by regulators that may be relevant to this issue. In particular, we would like to know how reductions in the investment income of insurers may be adversely affecting the financial outlook of these companies, thus increasing physician premiums to compensate for any declines. To the extent feasible, you should also analyze the underwriting history of medical malpractice insurance to determine whether premiums have historically experienced similar increases and also determine whether current market conditions are in some way unique.

We would also like you to examine the competitiveness of markets, particularly in those areas experiencing the sharpest premium increase. For example, has the lack of competition in the medical malpractice insurance market adversely affected physician premiums? In addition, we are interested in having a better understanding of how malpractice settlements and judgements compare to premiums earned for medical malpractice lines of insurance. In particular, we would like to know how incurred but not yet reported holdings have affected the reserve practices of medical malpractice insurers.

As your examination proceeds, please provide us with a status report no later than September 3, 2002. We thank you for your assistance and look forward to your ultimate findings on this important issue for patients and doctors.

Sincerely,

John Conyers, Jr., John J. LaFalce, Joseph M. Hoeffel, Nick J. Rahall II, Alan B. Mollohan, John D. Dingell, Max Sandlin, Ronnie Shows, Dennis Moore, Marion Berry.

[From the Wall Street Journal, June 24, 2002]

INSURERS' PRICE WARS CONTRIBUTED TO DOCTORS FACING SOARING COSTS

(By Rachel Zimmerman and Christopher Oster)

As medical-malpractice premiums skyrocket in about a dozen states across the country, obstetricians and doctors in other risky specialties, such as neurosurgery, are moving, quitting or retiring. Insurers and many doctors blame the problem on rising jury awards in liability lawsuits.

''The real sickness is people sue at the drop of a hat, judgments are going up and up and up, and the people getting rich out of this are the plaintiffs' attorneys,'' says David Golden of the National Association of Independent Insurers, a trade group. The American Medical Association says Florida, Nevada, New York, Pennsylvania and eight other states face a ''crisis'' because ''the legal system produces multimillion-dollar jury awards on a regular basis.''

But while malpractice litigation has a big effect on premiums, insurers' pricing and accounting practices have played an equally important role. Following a cycle that recurs in many parts of the business, a price war that began in the early 1990s led insurers to sell malpractice coverage to obstetrician-gynecologists at rates that proved inadequate to cover claims.

PRICE SLASHING

Some of these carriers had rushed into malpractice coverage because an accounting practice widely used in the industry made the area seem more profitable in the early 1990s than it really was. A decade of short-sighted price slashing led to industry losses of nearly $3 billion last year.

''I don't like to hear insurance-company executives say it's the tort [injury-law] system—it's self-inflicted,'' says Donald J. Zuk, chief executive of Sepie Holdings Inc., a leading malpractice insurer in California.

What's more, the litigation statistics most insurers trumpet are incomplete. The statistics come from Jury Verdict Research, a Horsham, Pa., information service, which reports that since 1994, jury awards for medical-malpractice cases have jumped 175%, to a median of $1 million in 2000. During that seven-year period, the median award for negligence in childbirth was $2,050,000—the highest for all types of medical-malpractice cases, Jury Verdict Research says. (In any group of figures, half fall above the median, and half fall below.)

GAPS IN DATABASE

But Jury Verdict Research says its 2,951-case malpractice database has large gaps. It collects award information unsystematically, and it can't say how many cases it misses. It says it can't calculate the percentage change in the median for childbirth-negligence cases. More important, the database excludes trial victories by doctors and hospitals—verdicts that are worth zero dollars. That's a lot to ignore. Doctors and hospitals win about 62% of the time, Jury Verdict Research says. A separate database on settlements is less comprehensive.

A spokesman for Jury Verdict Research, Gary Bagin, confirms these and other holes in its statistics. He says the numbers nevertheless accurately reflect trends. The company, which sells its data to all comers, has reported jury information this way since 1961. ''If we changed now, people looking back historically couldn't compare apples to apples,'' Mr. Bagin says.

Some doctors are beginning to acknowledge that the conventional focus on jury awards deflects attention from the insurance industry's behavior. The American College of Obstetricians and Gynecologists for the first time is conceding that carriers' business practices have contributed to the current problem, says Alice Kirkman, a spokeswoman for the professional group. ''We are admitting it's a much more complex problem than we have previously talked about,'' she says.

SCRAMBLING FOR DOCTORS

The upshot is beyond dispute: Pregnant women across the country are scrambling for medical attention. Kimberly Maugaoteg of Las Vegas is 13 weeks pregnant and hasn't seen an obstetrician. When she learned she was expecting, the 33-year old mother of two called the doctor who delivered her second child but was told he wasn't taking any new pregnant patients. Dr. Shelby Wilbourn plans to leave Nevada because of soaring medical-malpractice insurance rates there. Ms. Maugaotega says she called 28 obstetricians but couldn't find one who would take her.

Frustrated, she called the office of Nevada Gov. Kenny Guinn. A staff member gave her yet another name. She made an appointment to see that doctor today but says she is skeptical about the quality of care she will receive.

In the Las Vegas area, doctors say some 90 obstetricians have stopped accepting new patients since St. Paul Cos., formerly the country's leading provider of malpractice coverage, quit the business in December. St. Paul had insured more than half of Nevada's 240 obstetricians. Carriers still offering coverage in the state have raised rates by 100% to 400% physicians say.

Dr. Wilbourn says his annual malpractice premium was due to jump to $108,000 next month, from $33,000. The 41-year-old solo practitioner says the increase would come straight out of his take-home pay of between $150,000 and $200,000 a year. In response, he is moving to Maine this summer.

Dr. Wilbourn mourns having ''to pick up and leave the patients I cared for and the practice I built up over 12 year.'' But in Maine, he has found a $200,000-a-year position with an insurance premium of only $9,800 for the first year, although the rate rises significantly after that. Premiums in Maine are relatively low because a dominant doctor-owned insurance cooperative there hasn't pushed to maximize rates, the heavily rural population isn't notably litigious and its court system employs an expert panel to screen out some suits, says Insurance Commissioner Allessandro Iuppa.

Until the 1970s, few doctors faced big-dollar suits. Malpractice coverage was a small specialty. As courts expanded liability rules, malpractice suits became more common. Dozens of doctor-owned insurance cooperatives, or ''bedpan mutuals,'' formed in response. Most stuck to their home states.

St. Paul, a mid-sized national carrier named for its base in Minnesota, saw an opportunity. An insurer of Main Street businesses, St. Paul became the leader in the malpractice field. By 1985, it had a 20% share of the national market. Overall, the company had revenue of $8.9 billion last year, with about 10% of its premium dollars coming from malpractice coverage.

The frequency and size of doctors' malpractice claims rose steadily in the early 1980s, industry officials say. St. Paul and its competitors raised rates sharply during the 1980s.

Expecting malpractice awards to continue rising rapidly, St. Paul increased its reserves. But the company miscalculated, says Kevin Rehnberg, a senior vice president. Claim frequency and size leveled off in the late 1980s, as more than 30 states enacted curbs on malpractice awards, Mr. Rehnberg says. The combination of this so-called tort

reform and the industry's rate increases turned malpractice insurance into a very lucrative specialty.

A standard industry accounting device used by St. Paul and, on a smaller scale, by its rivals, made the field look even more attractive. Realizing that it had set aside too much money for malpractice claims, St. Paul ''released'' $1.1 billion in reserves between 1992 and 1997. The money flowed through its income statement and boosted its bottom line.

St. Paul stated clearly in its annual reports that excess reserves had enlarged its net income. But that part of the message didn't get through to some insurers—especially bedpan mutuals—dazzled by St. Paul's bottom line, according to industry officials.

In the 1990s, some bedpan mutuals began competing for business beyond their original territories. New Jersey's Medical Inter-Insurance Exchange, California's Southern California Physicians Insurance Exchange (now known as Scpie Holdings), and Pennsylvania Hospital Insurance Co., or Phico, fanned out across the country. Some publicly traded insurers also jumped into the business.

With St. Paul seeming to offer a model for big, quick profits, ''no one wanted to sit still in their own backyard,'' says Scpie's Mr. Zuk. ''The boards of directors said, 'We've got to grow.' '' Scpie expanded into Connecticut, Florida and Texas, among other states, starting in 1997.

As they entered new areas, smaller carriers often tried to attract customers by undercutting St. Paul. The price slashing became contagious, and premiums fell in many states. The mutuals ''went in and aggravated the situation by saying, 'Look at all the money St. Paul is making,' '' says Tom Gose, President of MAG Mutual Insurance Co., which operates mainly in Georgia. ''They came in late to the dance and undercut everyone.''

The newer competitors soon discovered, however, that ''the so-called profitability of the '90s was the result of those years in the mid-80s when the actuaries were predicting the terrible trends,'' says Donald J. Fager, president of Medical Liability Mutual Insurance Co., a bedpan mutual started in 1975 in New York. Except for two mergers in the past two years, his company mostly has held to its original single-state focus.

The competition intensified, even though some insurers ''knew rates were inadequate from 1995 to 2000'' to cover malpractice claims, says Bob Sanders, an actuary with Milliman USA, a Seattle consultancy serving insurance companies.

ALLEGED FRAUD

In at least one case, aggressive pricing allegedly crossed the line into fraud. Pennsylvania regulators last year filed a civil suit in state court in Harrisburg against certain executives and board members of Phico. The state alleges the defendants misled the company's board on the adequacy of Phico's premium rates and funds set aside to pay claims. On the way to becoming the nation's seventh-largest malpractice insurer, the company had suffered mounting losses on policies for medical offices and nursing homes as far away as Miami.

Pennsylvania regulators took over Phico last August. The company filed for bankruptcy-court protection from is creditors in December. A trial date hasn't been set for the state fraud suit. Phico executives and directors have denied wrongdoing.

In the late 1990s, the size of payouts for malpractice awards increased, carriers say. By 2000, many companies were losing money on malpractice coverage. Industrywide, carriers paid out $1.36 in claims and expenses for every premium dollar they collected, says Mr. Golden, the trade-group official.

The losses were exacerbated by carriers' declining investment returns. Some insurers had come to expect that big gains in the 1990s from their bond and stock portfolios would continue, industry officials say. When the bull market stalled in 2000, investment gains that had patched over inadequate premium rates disappeared.

Some bedpan mutuals went home. Scpie stopped writing coverage in any state other than California. ''We lost money, and we retreated,'' says the company's Mr. Zuk.

New Jersey's Medical Inter-Insurance Exchange, now known as MIIX, had expanded into 24 states by the time it had a loss of $164 million in the fourth quarter of 2001. The company says it is now refusing to renew policies for 7,000 physicians outside of New Jersey. It plans to reformulate as a new company operating only in that state.

St. Paul's malpractice business sank into the red. Last December, newly hired Chief Executive Jay Fishman, a former Citigroup Inc. executive, announced the company would drop the coverage line. St. Paul reported a $980 million loss on the business for 2001.

As carriers retrench, competition has slumped and prices in some states have shot up. Lauren Kline, 6½ months pregnant, changed obstetricians when her long-time Philadelphia doctor moved out of state because of rate increases. Now, her new doctor, Robert Friedman, may have to give up delivering babies at his suburban Philadelphia practice. His insurance expires at the end of the month, and he says he is having difficulty finding a carrier that will sell him a policy at any price.

Last year, Dr. Friedman says he paid $50,000 for coverage. If he gets a policy for next year, it will cost $90,000, he predicts, based on his broker's estimate. ''I can't pass a single bit of that off to my patients,'' because managed-care companies don't allow it, he says.

Dr. Friedman says he is considering dropping the obstetrics part of his practice. Generally, delivering babies is seen as posing greater risks than most gynecological treatment. As a result insurers offer less-expensive policies to doctors who don't do deliveries.

Mr. Golden of the insurers' association argues that whatever role industry practices may play, the current turmoil stems from lawsuits. The association says that from 1995 through 2000, total industry payouts to cover losses and legal expenses jumped 52%, to $6.9 billion. ''That says there are more really huge verdicts,'' Mr. Golden says. Even in the majority of cases in which doctors and hospitals win—the zero-dollar verdicts—there are still legal expenses that insurers have to pick up, he adds.

Industry critics point to different sets of statistics. Bob Hunter, director for insurance at Consumer Federation of America, an advocacy group in Washington, prefers numbers generated by A.M. Best Co. The insurance-rating agency estimates that once all malpractice claims from 1991 through 2000 are resolved—which will take until about 2010—the average payout per claim will have risen 47%, to $42,473. That projection includes legal expenses and suits in which doctors or hospital prevail.

While the statistical debate rages, pregnant women adjust to new limits and inconveniences. Kelly Biesecker, 35, spent many extra hours on the highway this spring, driving from her home in Villanova, Pa., to Delran, N.J., so she could continue to use her obstetrician. Dr. Richard Krauss says he moved the obstetrics part of his practice from Philadelphia because malpractice rates had skyrocketed in Pennsylvania. Ms. Biesecker, who gave birth to a healthy boy on June 5, says Dr. Krauss was the doctor she trusted to guard her health and the health of her baby: ''You stick with that guy no matter what the distance.''

Dr. Krauss, 53, left Philadelphia last year only after his malpractice premium rose to $54,000, from $38,000, and then was canceled by a carrier getting out of the business, he says. After getting quotes of about $80,000 on a new policy, he moved. New Jersey hasn't been a panacea, however. His policy there expires July 1, and the carrier refuses to renew it. The doctor says he hopes to go to work for a hospital that will pay for his coverage.

Mr. BERMAN. Mr. Speaker, I've heard many arguments against H.R. 4600, but there is one that I've not heard mentioned yet today. I suspect that the drafters did not intend the bill to have this effect, but as drafted the HEALTH Act endangers the effectiveness of the most successful anti-fraud tool that the government has at its disposal—the False Claims Act.

In 1986, Congress passed and President Reagan signed legislation strengthening the False Claims Act, a law originally signed by President Lincoln in 1863. The amendments passed in 1986 have made it possible for the government to recover close to $9 billion that would otherwise have been lost to health care fraud and abuse.

The definitions of ''health care lawsuit'' and ''health care liability action'' in this bill are very broad. Broad enough to encompass fraud cases brought under the False Claims Act. If a False Claims Act case was determined to fall under the HEALTH Act, it would be devastating to the effectiveness of this anti-fraud tool. Under False Claims the government can recover up to treble damages. In a decision 2 years ago, the Supreme Court determined that these recoveries constitute punitive damages. The Health Act would cap punitive damages at $250,000 or twice the amount of economic damages, whichever is greater.

Let's use as an example the 1996 case against Laboratory Corporation of America, a fraud case based upon false claims for medically unnecessary ''add-on'' tests submitted to Medicare, Medicaid, and CHAMPUS. The government recovery in this case was $182 million. These are not small cases. The treble damages serve as a deterrent—a very effective deterrent. By some estimates the deterrent effect of the False Claims Act amendments was between 150 and 300 billion dollars during their first ten years of existence. By blocking punitive damages in these cases, the bill could make the False Claims Act useless to the government as a tool against fraud.

In a report released last year, Taxpayers Against Fraud estimated that using the False Claims Act, the government was recovering $8 for each tax dollar spent fighting health care fraud. There are very few government efforts that can claim this level of efficacy.

I encourage my colleagues to reject this bill and permit the government to continue to protect itself from health care fraud.

Mr. GOODLATTE. Mr. Speaker, I rise in strong support of H.R. 4600, which makes health care delivery more accessible and cost-effective in Virginia and throughout America by curbing medical malpractice abuse.

In recent years, Americans have witnessed a dramatic rise in the costs of malpractice insurance for doctors and hospitals. This cost is ultimately passed along to patients. Skyrocketing insurance premiums are debilitating

America's health care system. Liability insurers are either leaving the market or raising rates to astronomically high levels. This has led physicians, hospitals and other health care providers to severely limit their practices or to leave the practice of medicine all together. Women, low-income neighborhoods and rural areas are among the hardest hit.

Fearing bankruptcy or the possibility of endless litigation, some doctors have turned to ''defensive medicine''—which consists of wasteful prescription of medically unnecessary medicine and the performance of unnecessary tests with the intent of limiting liability exposures. These ''defensive medicine'' practices ultimately cost taxpayers billions of dollars. In addition, fearing litigation, some doctors may hesitate to discuss a potential misdiagnosis or medical error, thereby compounding the harm done to patients. A recent survey released by the Department of Health and Human Services revealed that over 76 percent of physicians are concerned that malpractice litigation has hurt their ability to provide quality care to patients.

This bill safeguards patient's access to care by limiting the number of years a plaintiff has to file a healthcare liability action. This ensures that claims are brought while evidence and witnesses are available. The legislation allocates damages fairly in proportion to a party's degree of fault, allows patients to recover economic damages such as future medical expenses and loss of future earnings, while establishing a cap of $250,000 on non-economic damages, such as pain and suffering. The bill also places reasonable limits on punitive damages.

American health care is still the envy of the world, but unless we act now to curb rapidly rising health care costs, we threaten the future availability of high quality affordable health care. One way to cut costs and improve quality is by curbing excessive lawsuits. This bill is a big step in the right direction to improving patient safety and doctor accessibility.

Mr. SMITH of Texas. Mr. Speaker, the cost of malpractice insurance has steadily risen, which has caused many insurers to drop coverage or raise premiums. Doctors and others have been forced to abandon patients, particularly in high-risk specialties such as emergency medicine and obstetrics and gynecology.

H.R. 4600, the HEALTH Act, will cap non-economic damages at $250,000, and limit the contingency fees lawyers can charge. This will reduce the number of medical malpractice claims and make medical malpractice insurance affordable again. Patients will receive better and less expensive health care.

By improving the medical malpractice system, the HEALTH Act will enhance the quality of care for all patients.

I urge my colleagues to support this legislation.

Mr. STENHOLM. Mr. Speaker, I rise in strong support of the HEALTH Act of 2002 (H.R. 4600), which will improve health care quality and help ensure the availability of health care services and coverage.

The failure of the medical liability system is compromising patient access to care. Liability insurers are leaving the market or raising rates to astronomical levels. In turn, more physicians and other health care providers are severely limiting their practices or are simply unable to afford to practice medicine. Physicians in Texas as well as Florida, Mississippi, Nevada, New York, Ohio, Pennsylvania, Washington, West Virginia and other states are already in crisis.

Skyrocketing medical malpractice insurance premiums are debilitating the nation's health care delivery system in communities across the country. Physicians in Texas have experienced a 51 percent increase in malpractice claims between 1990 and 2000, and according to the Texas Medical Association, increases in physician malpractice insurance rates in 2002 ranged from 30 percent to 200 percent.

Increasing numbers of physicians, hospitals, and other providers are curtailing their services, relocating to other states, or simply ceasing to offer medical services altogether. For example, obstetricians/gynecologists and surgeons in these states routinely pay more than $100,000 a year for $1,000,000 coverage. Some are paying more than $200,000. A physician facing these premiums is more likely to practice defensive medicine, order extra tests and use only procedures that limit risk. For some, it goes to the heart of their practice. For instance, many OB/GYN physicians have stopped delivering babies. The problem also has spread to emergency rooms where the crisis takes on life-or-death proportions.

Especially in rural areas, health care services are likely to be unevenly distributed. Many rural residents do not even have access to a local doctor, primary care provider, or hospital. Increases in medical malpractice insurance have resulted in a further loss of patient access to health care. Without access to local health care professionals, rural residents are frequently forced to leave their communities to receive necessary treatments. Not only is this a burden to rural residents, who are often older or lack reliable transportation, but it drains vital health care dollars from the local economy—further straining the financial well-being of rural communities.

Without federal legislation, the exodus of physicians from the practice of medicine will continue, especially in high-risk specialities, and patients will find it increasingly difficult to obtain health care.

It is for these reasons that I joined my fellow colleagues as an original cosponsor of the HEALTH Act, which safeguards patients' access to care, promotes speedy resolution of claims, fairly allocates responsibility, compensates patient injury, maximizes patient recovery, and puts reasonable limits, not caps, on punitive damages. This bill alone will not resolve our health care costs or access challenges but it is one part of the solution.

I urge my colleagues, especially those who represent rural America, to support H.R. 4600, stabilizing the nation's shaky medical liability system.

Mr. SHUSTER. Mr. Speaker, I rise today in support of H.R. 4600, the Help Efficient, Accessible, Low-cost, and Timely Healthcare Act, and ask my colleagues to support this common sense measure.

This legislation, modeled after California's 25 year old reforms, contains a tested package of reforms that will help lower medical liability premiums across the country is important for both physicians and patients.

In my great state of Pennsylvania, five commercial carriers that insured more than half of the hospitals and health systems have left the market or are not renewing policies for this year. Pennsylvania hospitals and physicians continue to face skyrocketing premiums. The cost of primary coverage has increased as much as 450% for some hospitals, and on average by 70 percent for all hospitals.

Further, the medical liability crisis is hindering the ability of our academic medical schools to recruit and retain students. According to the American College of Obstetricians and Gynecologists, one in ten obstetricians have already stopped delivering babies due to skyrocketing premiums. A shortage in radiologists willing to read mammograms has increased the wait time for screening mammograms at most major hospitals from two to three months. The current system is forcing our doctors to quit, encouraging them to seek other employment and jeopardizing the health care of our women.

In rural Pennsylvania this issue hits home. Many doctors are relocating to big cities where they can be part of a larger practice, specifically because they can't afford the insurance premiums on their own. In rural areas we have to travel farther and farther for quality health care—this dramatically affects our quality of life. Who wants to move to an area where they can't get health care?

It becomes more worrisome when it is an emergency. it is common knowledge that the sooner you get to the doctor the better chance you have in surviving a serious medical emergency. In rural areas, emergency medical personnel have to travel to the patient, diagnose the problem and then transport them to the nearest facility that can treat them. The further they have to travel the less likely they will survive.

Mr. Speaker, by passing H.R. 4600, we will take significant steps toward stabilizing the medical liability system by both safeguarding patients' access to care while helping to address skyrocketing health care costs. Congress needs to work for the betterment of the whole nation and pass this common-sense well tested package of reforms.

Mr. CROWLEY. Mr. Speaker, I rise in opposition to H.R. 4600. This bill's proponents say the legislation helps curb the costs of healthcare and helps doctors stay in business by reducing their insurance rates. However, they are wrong. I would like to illustrate why they are wrong and why I will oppose this legislation.

First, the $250,000 cap on non-economic damages will impede the right of patients and victims of gross negligence. Under this legislation, victims would not be allowed to sue for pain and suffering. That is wrong. Consider the cases of the patient who has the wrong leg amputated or who finds surgeon's initials carved into her skin or the recent example in Massachusetts where a surgeon left in the middle of surgery to go cash a check at the bank. Who would dare look these victims in the eye and say they should not be allowed to sue for anything beyond what this cap allows. Under current law, the onus is on the victims to prove they are deserving of a particular award. If they succeed in making their case, then they deserve to be awarded the appropriate amount by a jury of their peers in accordance with the law. This legislation leaves victims isolated without assistance and without the tools to protect themselves and their families.

Second, the bill takes power away from jurors and judges. Our constitution provides for trial by jury to ensure fair trials for all. Now the

Republican majority believes that the Constitution is wrong and people are not trustworthy; that power should be in the hands of the insurance companies not the American public. This bill is a one-size-fits-all approach to ruling on legislation. It says that even if jurors, who have conscientiously listened to every fact presented by both sides, want to award a plaintiff an amount beyond the cap, they are unable to do so. This bill says that judges, who are trained to listen to the specifics of a case and to understand the specifics of the law, cannot award damages as they see fit. This bill ties the hands of those who are expected to know the most about the law and about individual cases.

Third, the bill, which was drafted under the auspices of trying to lower malpractice insurance costs, offers no guarantees that medical malpractice costs will fall. Proponents claim the bill's intent is to reduce malpractice insurance rates, yet malpractice insurers can easily choose to price gauge. A June 24, 2002 Wall Street Journal article discusses the direct impact of insurers' ''pricing and accounting practices'' on increased malpractice rates. If we want to limit the burden on doctors, we need to limit their insurance rates, not limit victims' rights.

Finally, this bill places caps on suits due to negligent doctors who shouldn't be practicing, dangerous HMOs that should be shut down, and faulty pharmaceuticals and faulty devices that should be off the market. Unfortunately there are bad pharmaceuticals and bad devices in this country. Consider the Dalcon Shield, the inter-uterine device that used to be on the market. This device caused many women to develop serious uterine infections or worse, and the company knew it was faulty. Their negligence was punished by crushing lawsuits that caused the corporation to go bankrupt—and they should have gone bankrupt because they were killing women. This bill would allow manufacturers of devices like the Dalcon Shield to pay off small awards by their insurance company to their victims and continue to kill.

Additionally, this bill exempts all HMOs from litigation for denials of care. So many of my Congressional colleagues talk about wanting to protect Americans against HMOs, yet here we are discussing a bill that would do precisely the opposite. This bill is protection for HMOs. This bill saves HMOs from paying victims whatever amount the judicial systems finds is just. Patients need and deserve stronger protections against their HMOs than this bill permits.

This bill simply takes power away from judges, jurors, and victims while guaranteeing no relief for hospitals and physicians. My constituents have been waiting for Congress to pass a serious Patients Bill of Rights, protect patients and their families, and lower medical costs. This bill will accomplish none of these goals.

Therefore, I will be opposing this vote and urge all Members who care about their constituents and about health care costs to oppose this bill as well.

The SPEAKER pro tempore. Pursuant to House Resolution 553, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. Mr. Speaker, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS moves to recommit the bill H.R. 4600 to the Committee on the Judiciary and the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendment:

In section 11—

(1) in the first sentence of subsection (a), strike ''subsections (b) and (c)'' and insert ''subsections (b), (c), and (d)''; and

(2) add at the end the following new subsection:

(d) PATIENTS' BILL OF RIGHTS.—Notwithstanding any other provision of this Act, if a State has in effect a law that provides for the liability of health maintenance organizations (as defined in section 2791(b)(3) of the Public Health Service Act (42 U.S.C. 300gg–91(b)(3))) with respect to patients, or sets forth circumstances under which actions may be brought with respect to such liability, this Act does not preempt or supersede such law or in any way affect such liability, circumstances, or actions.

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan is recognized for 5 minutes in support of his motion.

Mr. CONYERS. Mr. Speaker, I ask that the gentleman from New Jersey (Mr. ANDREWS) join me in the motion to recommit, and I offer this motion on behalf of myself and him.

As currently drafted, this bill guts HMO reform laws that States have already passed because it creates broad new caps on damages when HMOs deny coverage to patients, and so what we do is to add a safe harbor provision to specify that these State patient's bills of rights laws are not preempted by this bill. Nothing more.

It goes without saying that these limits are far less friendly to consumers injured by HMOs than the patient protection laws already enacted by the States, and I would love to refer to the former Governor of Texas George W. Bush, who had a similar view in mind. They enacted an HMO law in Texas, and that law, still on the books, has a higher cap on punitive damages than this bill and no caps on noneconomic damages for suits against HMOs.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank the gentleman for yielding.

There is a serious disagreement about the underlying bill and whether or not it poses the right solution to the malpractice crisis. Aside from that, there should be no dispute over what this bill should and should not do with respect to State laws that many of our States have passed to protect patients against abuses by the managed care industry. This bill should have no effect on those underlying State laws.

If this motion to recommit is not adopted, I believe the best analysis is that this bill would have the effect of repealing or substantially neutralizing and weakening those State law protections. The purpose of the motion to recommit is to make it explicit in the statute that this bill, if enacted into law, would not preempt State patient protections laws.

So, for example, there are States that have laws that say that if a person went to their primary care provider and she suggested that a person needed a series of tests regarding possible malignancy and the managed care company refused to pay for the tests regarding the possible malignancy and they developed a malignancy, developed cancer, got sick as a result of it, under these State patient protection laws there are certain remedies that that patient and her family would now have, the ability to get a review before the decision was made by an external objective body and the ability, if the decision were not reversed, the ability to recover damages resulting from the arbitrary medical malpractice by the managed care company.

This has been a principle embraced by Republicans and Democrats in State legislatures around the country. In fact, as the gentleman from Michigan (Mr. CONYERS) mentioned, the President of the United States embraced such a bill when he was chief executive of the State of Texas.

□ 1445

The good work that the Texas legislature has done, and other legislatures have done around the country, would be imperiled and put at risk if this motion to recommit is not adopted.

Mr. Speaker, I disagree with the underlying bill; but even those who agree with the underlying bill, I believe, did not set out with the intention of repealing State patient protection statutes. I know that the majority has added a sense of Congress provision to the underlying bill that says it is not really our intention.

Frankly, there is a better way for us to express our intention than simply expressing the sense of Congress. It is to write a statute or to write a provision in the statute that says that State patient protection provisions are not repealed as a result of the adoption of this bill.

Mr. Speaker, I think Members should support the motion to recommit whether they are for the underlying bill, or whether they are joining those of us who oppose the underlying bill. If

Members respect and support the right of their State legislature to enact State laws that would protect Members' constituents against abuses by managed care companies and State laws, Members should vote for the motion to recommit. I would urge Republicans and Democrats to vote for the motion to recommit.

Mr. SENSENBRENNER. Mr. Speaker, I claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. GUTKNECHT). The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, this is a very craftily drafted motion. The effect of its adoption will be to increase health care costs and further restrict availability of health care to people all around the country.

First, it will increase health care costs in that patients of HMOs and the employers that sponsor the HMO-type coverage will not be able to benefit from what the Congressional Budget Office estimates will be a reduction of somewhere between 25–30 percent of professional liability insurance. So there will be higher professional liability insurance premiums paid by the doctors who practice in the HMOs which will be passed on to their patients and which will be passed on to their employers.

This is an incentive for doctors to leave practicing with HMOs. And as we know, HMOs generally save money. Every Member who gets these statements from our insurance company that says ''This is not a bill'' on it, there are negotiated savings that would not be there if the doctor left the HMO as a result of this motion to recommit passing, and thus qualifying for the lower insurance premiums available, or where the protections of this bill would be available to doctors practicing outside of HMOs.

By increasing the cost of HMOs, more and more employers will decide that it is too expensive for them to continue to provide health insurance coverage. So the protections to patients will go down as fewer and fewer employers can afford the coverage through the HMOs.

But I think also the availability of quality health care will go down whether one is in an HMO or not in an HMO because the market works. If health care becomes more expensive, then there will be less health care that will be available. I do not think anybody who supports this motion to recommit can ever come to the floor of this House of Representatives with a straight face and sincerely complain about increased health care costs because that is exactly what the motion to recommit will accomplish should it pass.

Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Speaker, this motion to recommit is, I fear, a wolf in sheep's clothing. The fact of the matter is while it purports to be a small carve-out for the Patient Bill of Rights as they apply to HMOs, the fact of the matter is it would insulate and take away the protections for all of the physicians who work for HMOs, and I believe for the hospitals that contract with HMOs. It is very much a gutting amendment.

The fact of the matter is that we in this House have to decide which side we are on here. We are either on the side of providing adequate care to our patients, to our constituents, making sure that our physicians can stay in practice, stop retiring early, keeping the trauma centers open; or we are on the side of doing nothing, which is about what this bill would do with a motion to recommit with instructions.

The Congressional Budget Office has said that this bill will reduce premiums by 25–30 percent. Despite all of the railings against it, the fact of the matter is when we limit liability, as California has seen and the statistics are crystal clear there, when we limit noneconomic damages, the rates go down. The rates go down because there is competition in the system, and the insurance companies will have to lower their premiums in order to compete with others in the same market.

The fact of the matter is, until we do that, we will remain on this head-long path towards crisis, in which case the traumas centers will close, the obstetrician offices will close, and patients, our constituents, will have third world health care if we do not pass this bill today.

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

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CONYERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 193, nays 225, not voting 14, as follows:

[Roll No. 420]

YEAS—193

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Coble
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Ganske
Gephardt
Gonzalez
Gordon
Graham
Green (TX)
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moore
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—225

Aderholt
Akin
Armey
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo

McCrery
McHugh
McInnis
McKeon
McKinney
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—14

Bachus
Barcia
Bonior
Callahan
Hilliard
Israel
Maloney (NY)
McDermott
Mink
Roukema
Slaughter
Stump
Thompson (CA)
Thurman

□ 1513

Messrs. CAMP, KIRK, BAKER, HORN, CRAMER, EHLERS, SHAYS, TIBERI, ISTOOK, MORAN of Virginia, Ms. ROS-LEHTINEN, and Mrs. KELLY changed their vote from ''yea'' to ''nay.''

Mr. LIPINSKI, Mr. LAMPSON, Ms. WOOLSEY, and Mrs. CLAYTON changed their vote from ''nay'' to ''yea.''

So the motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 217, nays 203, not voting 12, as follows:

[Roll No. 421]

YEAS—217

Aderholt
Akin
Armey
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Dooley
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Ferguson
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wolf
Young (AK)
Young (FL)

NAYS—203

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Coble
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank
Frost
Gephardt
Gilman
Gonzalez
Gordon
Graham
Green (TX)
Grucci
Gutierrez
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moore
Morella
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Phelps
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Terry
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Wilson (SC)
Woolsey
Wu
Wynn

NOT VOTING—12

Bachus
Barcia
Bonior
Callahan
Israel
Maloney (NY)
McDermott
Mink
Roukema
Stump
Thompson (CA)
Thurman

□ 1528

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2215, 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 552, I call up the conference report on the bill (H.R. 2215) to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. GILLMOR). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 25, 2002, at page H6586.)

□ 1530

The SPEAKER pro tempore (Mr. GILLMOR). The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the conference report on H.R. 2215 currently under consideration.

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

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have a lengthy statement which I plan on putting in the

RECORD, as it is important to this conference report. I know that the Members wish to make plans so that they can get out of here before the last plane leaves, and I would hope that everybody who seeks time will speed it up so that the Members will be accommodated.

This conference report represents the first Department of Justice authorization that will be signed into law since 1979. The Department has gone for 23 years without an authorization. This legislation will help the Congress to do better oversight over the Department of Justice and will allow the Department of Justice to do better oversight over itself through improvements in the Inspector General's Office.

There are a number of additional judgeships that have been created, largely in the southwestern part of the country, to handle cases that arise from problems along the border. There is an improvement in how the Department administers its grant programs through the Office of Justice programs; and I think probably most importantly, the improvements in the juvenile justice system at the Federal level, jointly within the jurisdiction of the Committee on the Judiciary and the Committee on Education and the Workforce, at long last, will be finding its way into law.

All of the conferees signed this legislation. It has significant bipartisan support. I would commend it to the Members' favorable vote.

Mr. Speaker, over the last two decades, there have been several unsuccessful attempts by the Committees on the Judiciary of both Houses of Congress to authorize the Department of Justice. If enacted, H.R. 2215 represents the first such authorization of the Department in nearly a quarter century. It reflects the broad bipartisan support of both Houses, and was signed by all of those appointed to the Conference. While some might argue that congressional authorization of federal departments within its jurisdiction is a mere formality, the authorization of executive agencies fulfills Congress' fundamental constitutional obligation to maintain an active and continuing role in organizing the priorities and overseeing the operation of the executive branch. This process also ensures that the authorizing committees' institutional knowledge about the federal agencies they oversee can be imparted in the course of regulation reauthorization.

The Department of Justice is one of the most important agencies in the Federal Government and the world's premier law enforcement organization. With an annual budget exceeding 20 billion dollars and a workforce of over 100,000 employees, the Department of Justice is an institution whose mission and values reflect the American people's staunch commitment to fairness and justice.

The importance of the Department of Justice has only increased since the tragic events of September 11th, 2001. Last year, I was pleased to introduce and lead congressional passage of the PATRIOT Act, which has strengthened America's security by providing law enforcement with a range of tools to fight and win the war against terrorism.

As Chairman of the Judiciary Committee, I have continued to help provide the Department with the legislative resources to carry out its crucial mandate. At the same time, I have worked to ensure that the Department's structure, management, and priorities are tailored to best promote the purposes for which it was established.

The 21st Century Department of Justice Appropriations Authorization Act advances this important goal. The title of this measure reflects its broad and ambitious sweep: to focus the priorities of the Department to tackle the challenges of the 21st century. At the same time, its title alone does not fully capture the several individual legislative initiatives contained in its text. Many of these initiatives were reported by the House Judiciary Committee and passed the House of Representatives, only to be diverted from the President's desk by the delay and inaction of the other body.

H.R. 2215 fully authorizes the appropriations requested by the President for fiscal years 2002 and 2003. It strengthens oversight of the Department of Justice by bolstering the authority of the Department's Inspector General. It also mandates that one senior official in the Inspector General's office be dedicated to the oversight of the FBI. It also requires the Inspector General to submit an FBI oversight plan to Congress within 30 days of enactment.

It also directs the Department to submit a report detailing the operation of the Office of Justice programs, requires the submission of information concerning litigation activities at the Department, and protects civil liberties by requiring the submission of a report on the Department's use of the electronic surveillance system formerly known as ''Project Carnivore.''

H.R. 2215 strengthens the statutory authority of the Attorney General to conduct his official responsibilities, enhances the administration of justice by incorporating long-needed judicial improvements and strengthens judicial disciplinary procedures. It also creates additional judgeships to address the chronic overburdening of America's federal courts, particularly in border states such as Texas, California, and New Mexico, as well as Florida, Nevada, and Alabama.

H.R. 2215 also ensures effective market competition by making important improvements to federal antitrust statues, and establishes a Commission to review the adequacy of existing antitrust laws. It promotes America's economic competitiveness by strengthening protections for intellectual property, modernizing the application process at the Patent and Trademark Office, and ensuring that holders of U.S. trademarks are accorded the full protection of international law.

In addition, H.R. 2215 strengthens the integrity of the criminal justice system in several ways. It increases penalties for those who tamper with federal witnesse4s or harm federal judges and law enforcement personnel, authorizes danger pay for federal agents in harm's way overseas, and contains important provisions to reduce illegal drug use. The Report also makes important refinements to address INS administrative processing delays faced by legal immigrants.

Of critical importance, this legislation contains a sweeping and ambitious program to protect at-risk kids. It provides continued support for Boys and Girls Clubs, enhances juvenile criminal accountability, and provides states with block grants to curb youth crime. It represents comprehensive bipartisan legislation the House Committees on Judiciary and Education and Workforce have been working on for several years, and I am proud of its inclusion in the Conference Report. Finally, this bill promotes continued support for federal, state, and local coordination of preparedness against terrorist attacks.

Mr. Speaker, it is my hope that the American people will not have to wait another 23 years for this body to again reauthorize the Department of Justice. Rather, I hope that passage of H.R. 2215 will lead to a period of reinvigorated congressional oversight of the executive branch. Working in concert to identify solutions to the growing challenges faced by federal law enforcement, Congress and The Administration will better provide for the safety and security of American people. H.R. 2215 makes a critical, long-overdue step in this direction, and I urge your support.

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

Mr. SCOTT. Mr. Speaker, I rise in support of the conference report. I yield 2 minutes to the gentleman from California (Mr. SCHIFF), who has been very helpful in putting this bipartisan package together.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding me this time, and I applaud the bipartisan leadership for their tireless work in bringing this bill to the floor today.

In particular, I am very appreciative that one of my bills, the Law Enforcement Tribute Act, has been included in the reauthorization conference report. The Law Enforcement Tribute Act authorizes funding for grants to States and localities to aid in honoring those men and women of the United States who were killed or disabled while serving as law enforcement or public safety officers.

To ensure this funding would allow for the development of many tributes around the country, there is a limit that no award may be greater than $150,000; and the bill further requires a match by the State or locality requesting the funding. The bill authorizes $3 million a year for 5 years to be administered through the Department of Justice and would provide enough funding for 20 projects each year.

Mr. Speaker, I would like to explain briefly why this bill is so important. In one of the communities I represent alone, Glendale, California, four police officers and one sheriff's deputy have been killed in the line of duty. Many others have suffered injuries and illnesses that have contributed to early deaths. The ultimate sacrifice they have made deserves this recognition.

One of those fallen heroes was Charles Lazzaretto, a Glendale police officer killed in the line of duty only 4 years ago. Another involves Janice Starnes of Martinsville, Indiana, whose husband, Dan, was killed in the line of duty in July of 2001, just months after they celebrated their 25th anniversary. Earlier this year, Janice wrote a check for $100 to start a memorial for her husband and two other officers also killed in the line of duty. In a letter that we received from her, she writes:

''He was the best friend to our sons. Dan paid the ultimate sacrifice. He has always been my hero, and now others can be honored by this memorial. I want to live long enough to see this memorial completed.''

Well, so do all of us in the Congress of the United States.

I want to thank the original cosponsor, the gentleman from Virginia (Mr. DAVIS); our subcommittee chairman, the gentleman from Texas (Mr. SMITH); and the gentleman from Virginia (Mr. SCOTT), the ranking member of the subcommittee, for their work; and the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the committee; and the gentleman from Michigan (Mr. CONYERS), the ranking member of the full committee, for all of their assistance. To the many organizations of law enforcement who have supported it, I thank them; and I urge the support of my colleagues.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding me this time.

This conference report contains intellectual property provisions which are very significant, such as PTO reauthorization; the patent reexamination reform proposal; intellectual property technical amendments; the TEACH Act, regarding the distance education program; and the Madrid protocol implementation concerning the international registration of trademarks.

Our subcommittee of the Committee on the Judiciary, Mr. Speaker, has worked a long time on these matters, and in the case of the Madrid protocol for 8 years. This is much-needed reform that will benefit the intellectual property owners of the intellectual property community, and the American public as well.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Speaker, I rise in support of this conference report. I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), our chairman; and the gentleman from Michigan (Mr. CONYERS), our ranking member; and the gentleman from Virginia (Mr. SCOTT), the ranking member of the subcommittee, for their efforts to pass the first DOJ authorization bill in 2 decades. I have enjoyed working with them as a member of the Committee on the Judiciary and as a member of the conference committee to bring this legislation to the floor.

This is an excellent piece of legislation that deals with a large number of important issues. I would like to focus on two of them today.

I am very pleased that we were able to create a permanent Violence Against Women Office and make the director of that office a Senate-confirmed appointee. These provisions will strengthen the existing office, enhancing the Department of Justice's capacity to address the continuing problems of domestic violence and sexual assault.

Domestic violence and sexual assault are still scourges on our Nation. The statistics are chilling. Nearly one in three women will experience either domestic violence or a sexual assault in her lifetime. These horrible crimes damage lives and tear families apart. The Violence Against Women Act is a proven part of the solution to these problems, and a permanent office with a strong director will help us continue to move forward to end this problem forever.

I want to thank the gentlewoman from New York (Ms. SLAUGHTER), my colleague, for introducing the original legislation; and I also want to appreciate the work of the gentlewoman from Maryland (Mrs. MORELLA) and the gentlewoman from Colorado (Ms. DEGETTE), and also appreciate the gentleman from Michigan (Mr. CONYERS), the ranking member, for their efforts to move this issue forward. I thank the chairman of the committee, the gentleman from Wisconsin (Mr. SENSENBRENNER), for the work that he did to make sure that we found appropriate legislative language that meets the great need for a strong Violence Against Women Office.

Mr. Speaker, this bill also includes an important, although somewhat obscure, provision that will help promote education. The bill includes the Technology Education and Copyright Harmonization Act, also known as the TEACH Act. The TEACH Act extends the current exemption of educational use of copyrighted materials to distance learning. This will allow our schools, colleges, and universities to expand educational opportunities through new technology. Copyright holders and our educational institutions worked hard to develop this compromise language. I am pleased we were able to introduce it and include it in this bill, and I urge my colleagues to vote for this conference report.

Mr. SENSENBRENNER. Mr. Speaker, I yield a quick 1 minute to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank the chairman of the Committee on the Judiciary for yielding me this time.

This legislation contains several bills originated by the Subcommittee on Crime, Terrorism and Homeland Security. The Juvenile Offender Accountability Act, the Law Enforcement Tribute Act, and the Body Armor Act will help make America safer.

Additionally, this legislation increases penalties for threatening Federal judges and other Federal officials, and for threatening witnesses, victims and informants.

An immigration provision I sponsored benefits the high-tech sector. It allows high-tech workers with H1–B visas who apply for an extension beyond their normal 6 years to extend their stay in the U.S. while their application is pending.

This legislation provides for three additional judgeships in Texas, two permanent district judges in the western district and one temporary district judge in the eastern district.

Mr. Speaker, I urge my colleagues to support this conference report.

Mr. Speaker, Section 11030 A of the conference report will permit H–1B aliens who have labor certification applications caught in lengthy agency backlogs to extend their status beyond the 6th year limitation or, if they have already exceeded such limitation, to have a new H–1B petition approved so they can apply for an H–1B visa to return from abroad or otherwise re-obtain H–1B status.

Either a labor certification application or a petition must be filed at least 365 days prior to the end of the 6th year in order for the alien to be eligible under this section. The slight modification to existing law made by this section is necessary to avoid the disruption of important projects caused by the sudden loss of valued employees.

This corrects a problem created in the American Competitiveness in the 21st Century Act (Pub. L. 106–313)(AC21). The provision, as it was orginially written, allowed for extensions of H–1B status beyond the usual 6 years, but required that a labor certification be filed more than 365 days before the end of the 6th year and that an immigrant petition, the next step in the long line to permanent residency, be filed before the end of the 6 year as well.

When it passed AC 21, Congress intended to protect foreign nationals and the companies who sponsor them from the inequities of government bureaucracy inefficiency. This specific provision was put in place to recognize the lengthy delays at INS in adjusticalting petitions, rather than DOL. But since that time, DOL has slowed down its own processing, and the provision as it was orginially written has become useless for many otherwise qualified applicants.

This correction allows for those in H–1B status to get extensions beyond the six years when a labor certification was filed before the end of the fifth year, without regard to the ability to file an immigrant petition within the next year. The conferees intends that those who are about the exceed their six years in H–1B status should not be subject to the additional requirement of having to file the immigrant petition by the end of the sixth year, which is simply impossible when DOL has not finished its part in the process.

This recognizes that these individuals are already well-valued by their companies, have significant ties to the U.S. and whose employers have to prove that they are not taking jobs from U.S. workers.

It also is meant to permit those who have exceeded their six year limitation to return to H–1B status. The conferees intend for this provision to allow those who already exceeded the 6-year limitation to have a new H–1B petition approved and obtain a visa to return from abroad or otherwise re-obtain H–1B status.

In addition, the compromise reached with the Senate on Title IV of Division B of this legislation relating to the Violence Against Women Office (VAWO) gives the Attorney General discretion about where to place the VAWO in the organizational structure and chain of command of the Department of Justice as did the version contained in the House passed bill.

This compromise does not contain language found in section 402(b)(1) of the Senate bill which stated that the VAWO "shall not be part of any division or component of the Department of Justice." The conference report permits the Attorney General the flexibility to manage the Department's responsibilities in the area of violence against women.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. GEORGE MILLER), who is the ranking member of the Committee on Education and the Workforce, which did a tremendous job on part of the juvenile justice provisions in the legislation.

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of the conference report. I believe that it offers a balanced approach to reducing juvenile crime and promotes both prevention and accountability. States will have an obligation to protect children in the juvenile justice system. Runaways and truants cannot be contained in secured facilities; juveniles cannot be held in adult facilities. The States have to find a systematic method of addressing a disproportionate number of incarcerated minority youth.

It also includes for the first time a measure aimed at preventing the abuse of juveniles in residential camps, many of whom are in federally funded, but State supervised, foster care. These camps have operated away from the public scrutiny for too long, and the result is that children have suffered serious injuries and, in several circumstances, children have died. This provision requires that residential camps be licensed in the State in which they are located and also meet the licensing standards of States which send juveniles for placements.

I also want to take time to thank so many people who participated in these components of this legislation. I want to thank Bob Sweet and Krisann Pearce of the majority staff on the committee; Judy Borger with the staff of the gentleman from Pennsylvania (Mr. GREENWOOD); and Ruth Friedman and Cheryl Johnson and Denise Forte of our staff on the minority side. On the Senate side I want to thank Tim Lynch and Beryl Howell with Senator LEAHY, and Jeff Miller with Senator KOHL, and Leah Belaire with Senator HATCH.

Mr. Speaker, I also would like to thank the gentleman from Virginia (Mr. SCOTT) for all the work that he did on behalf of this legislation to make it fair and equitable. It is a good piece of legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER), the distinguished chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, let me congratulate our colleagues on the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the committee, and his colleagues for their very good work on this DOJ authorization bill.

I am very pleased that the chairman has included the provisions of juvenile justice that we have been trying to pass in this House for 6 years. We have had countless numbers of hearings, countless numbers of markups; we have been to the floor three times, and finally, this 6-year project is finished.

I just want to thank the two people most responsible on our committee, and that would be the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Virginia (Mr. SCOTT), who have really worked hard to help pull this together. I also want to thank the chairman of the subcommittee, the gentleman from Michigan (Mr. HOEKSTRA), for his fine work; one of our committee staff, Bob Sweet, who just did incredible work, working with Members and staff on both sides of the aisle to bring about what I would describe as a very good agreement and something that has alluded us for a long time.

Lastly, let me thank two other people, my colleague, the gentleman from California (Mr. GEORGE MILLER), the ranking member of my committee. We have a very good relationship, and we have been able to work through many of these difficult issues. Lastly, let me thank again Chairman Sensenbrenner for his willingness to include this issue, this juvenile justice bill in this DOJ conference report.

Mr. SCOTT. Mr. Speaker, I yield 2½ minutes to the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today in support of H.R. 2215, the Department of Justice Authorization Conference Report.

I am pleased that the conferees included my bill H.R. 28, the Violence Against Women's Office Act, which was approved by the House last year and would make the Violence Against Women Office a permanent and independent force in the Department of Justice.

Created in 1995, this office has been absolutely critical in heightening awareness within the Federal Government and the entire Nation about domestic violence, sexual assault, and stalking. The office formulates policy and administers more than $270 million annually in grants to State governments, as well as to local community organizations, police, prosecutors and courts to address violence against women. In addition, it assists these organizations with education and training to ensure the highest quality services to victims and the full administration of justice.

The importance of this office cannot be overestimated. In fact, in a survey conducted by the National Coalition Against Domestic Violence, reports of domestic violence have dropped 21 percent since the inception of this office. Much remains to be done, however, as nearly 25 percent of women also reported they had been physically and/or sexually assaulted by a current or former intimate partner at home some time in their lifetime. These statistics illustrate the importance of the Violence Against Women Office to the health, safety, and the very survival of women all over America.

The conference report creates an independent Violence Against Women's Office within the Department of Justice, rather than making the office simply a subsidiary part of the Office of Justice programs. The policy independence of the Violence Against Women Office is critical in carrying out its unique mission with regard to both its policy and grant administration efforts to prevent violence against women.

□ 1545

The office's work with grantees on very sensitive issues is vital and will be best addressed through a separate and independent office. This valuable resource has been specifically authorized by statute, and will be a permanent part of the government's anti-violence efforts.

Ending violence against women is an ongoing struggle, and one of the best tools is the Violence Against Women Office. I want to give my thanks to the gentleman from Virginia (Mr. SCOTT), the ranking member, and to the gentleman from Wisconsin (Mr. SENSENBRENNER) for bringing this good bill to the floor today. I give it my support.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. STUPAK), who contributed significantly to this legislation.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am pleased to rise in support of this conference report, which contains a bill that I have worked on for several years, the James Guelff and Chris McCurley Body Armor Act of 2002. I introduced this bill with Asa Hutchinson and the gentleman from Virginia (Mr. SCOTT), and thanks to their strong support of this issue and the hard work of the gentleman from Wisconsin (Chairman SENSENBRENNER), the ranking member, the gentleman from Michigan (Mr. CONYERS), and Senator FEINSTEIN, this bill will finally be enacted into law.

We are providing invaluable assistance to our Nation's law enforcement at a time when their mission is even more important. Violent felons will be prohibited from owning body armor, and serious crimes committed while wearing body armor will be punished more severely.

Criminals wear body armor in the commission of crimes so they can outgun our law enforcement officers and facilitate their criminal intent. This must be stopped. We cannot allow criminals to have an advantage over the men and women that put their lives on the line every day to protect society. The days of the Wild West are

over, and gunfights have no place in our society.

I want to thank the Nation's law enforcement that has rallied behind our bill. The Fraternal Order of Police, the National Association of Police Organizations, the National Troopers Coalition, and the International Union of Police Associations have provided invaluable support to the bill, as have numerous police departments across the Nation, including Los Angeles and New York.

But I think the greatest thanks goes to Lee Guelff, who has worked tirelessly on this cause in the name of his brother. Lee has done much and sacrificed more, and today's action serves as a tribute to his efforts. Lee's advocacy has resulted in the passage of similar provisions in numerous State legislatures, including my own State of Michigan.

James Guelff, Chris McCurley, and many other law enforcement officers have been tragically killed by criminals wearing body armor. After the events of September 11, our law enforcement officials have been called upon to go even further in protecting this great Nation, so I am pleased that by passing the James Guelff and Chris McCurley Body Armor Act of 2002, we are standing up for them as they rise every day to protect us.

Mr. Speaker, I thank all the people associated with this committee for including our bill.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act. I want to commend my colleagues, the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS), particularly for their leadership in ensuring that we have worked in a bipartisan, cooperative method in developing this conference report.

It is because of that kind of leadership that we have for the first time in over 20 years a bill to authorize the programs and funding in the Department of Justice.

Mr. Speaker, this bill is based on the provisions that both sides of the aisle in both Chambers can agree on, rather than provisions which divide us based on the disagreements. This is especially true in the juvenile justice provisions in the bill.

For years, juvenile justice programs and funding have been characterized in both Chambers by contention and differences. In this bill are two juvenile justice provisions, one developed in the Committee on the Judiciary and one developed in the Committee on Education and the Workforce. Both bills were developed through bipartisan cooperation and agreement, in stark contrast to the contention and rancor which has deadlocked both Chambers on the issue of juvenile justice in recent years.

I want to give special credit for the hard work on this bill to the gentleman from Texas (Mr. SMITH), the chairman of the Subcommittee on Crime, Terrorism, and Homeland Security, and the gentleman from Pennsylvania (Mr. GREENWOOD), who has worked for years on juvenile justice issues.

Juvenile justice bills in the past have been based on the advice of political pollsters and consultants. These bills, however, were developed based on advice of juvenile justice researchers, administrators, judges, psychologists, educators, and other experts in the field.

The Committee on the Judiciary bill provides for accountability of the juvenile to the law, as well as accountability of the juvenile justice system to the juvenile and the public through a program of graduated sanctions and services.

States and localities are provided with resources to ensure that offenses by juveniles are responded to with an appropriate degree of punishment and/or services, as the individual case requires, graduated and increasing in the level of punishment or services with any subsequent offenses until the problems bringing about such offenses are resolved.

The education bill authorizes the Juvenile Justice and Delinquency Prevention Act for the first time in almost 6 years. We have maintained the core requirements of the act that serve to protect juveniles from abuse and that direct resources towards reducing overrepresentation of minorities in the system.

This reauthorization also provides resources through a delinquency prevention block grant designed to identify at-risk children and to address difficulties which may lead to juvenile offenses before such offenses occur through proven juvenile delinquency prevention programs.

The juvenile justice provision of the report also contains a provision to ensure that the Office of Juvenile Justice and Delinquency Prevention has continued responsibility for the oversight and planning for the research, evaluation, and statistical functions of the office, in addition to grant and contracting authority for these functions.

The research and evaluation arm of that office has been critical to the development of effective juvenile delinquency prevention programs, and this reauthorization reaffirms its important role within the office.

In sum, Mr. Speaker, the juvenile justice provisions of this bill will provide the necessary resources to effectively reduce juvenile delinquency and hold juveniles accountable for any offenses they commit.

I am also pleased to see several other items in the bill which are the result of bipartisan cooperation. We converted a temporary judgeship in the Eastern District of Virginia to a permanent one, which is of critical importance to the area that I represent.

I am also pleased to have worked to include in the bill the bill introduced by the gentleman from Michigan (Mr. STUPAK), providing our brave law enforcement officers with bulletproof vests, and another bill introduced by the gentleman from California (Mr. SCHIFF) to provide suitable tributes to those who have paid the ultimate sacrifice protecting the public from criminals.

Mr. Speaker, there are provisions in the bill which some would prefer would not be there, and other provisions were left out which some would have preferred were in the bill, but the bill represents a well-reasoned, bipartisan effort to fund important programs in the Department of Justice.

I would like to commend the Members on both sides of the aisle, and our respective staffs in both Chambers, for their hard work and accomplishments, as well. I urge my colleagues to support the bill.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I support this measure because, parochially speaking, it does a great deal for some of the projects in which we are so interested in Pennsylvania.

For instance, at Fort Indiantown Gap, this calls for full funding of an anti-drug/antiterrorist school and training program that is extant in that institution, that military base. That alone would justify my vote for this.

But then we include, on top of that, the fact that there is language that will help the State Borough Association implement a plan of Pennsylvania-wide security measures and infrastructure protection that is vital to our State, as it is to every other State in similar circumstances.

Thirdly, under the INS, there is strong language to help us implement the CIVAS program through the designated school officials' training program that will make the visa applications of students better monitored.

Mr. HYDE. Mr. Speaker, as a member of the Committee of Conference on H.R. 2215, the Department of Justice Authorization Act for Fiscal Years 2002 and 2003, I strongly support adoption of the conference report.

I am particularly pleased that the conference report authorizes $10,732,000 and an additional six full-time employees in fiscal year 2003 for the Community Relations Service (CRS) of the Department of Justice. CRS is an extraordinarily important office whose many accomplishments have been too little noticed. It has the statutory responsibility to assist communities around the United States, and particularly minority communities, in preventing violence and resolving conflicts arising from racial and ethnic tensions and to develop the capacity of such communities to address these conflicts without external assistance. They do a wonderful job and we are fortunate to have them. The increased authorization

provided by this section and the additional full-time employees will support the expansion of the Community Relations Service's efforts to address heightened tension and potential for conflict in many communities in the wake of the September 11, 2001 attacks on the United States.

I am also pleased that the conference report creates a Violence Against Women Office with the Department of Justice. The Office will be headed by a Director who reports directly to the Attorney General and has final authority over all grants, cooperative agreements and contracts awarded by the Office.

Finally, Mr. Speaker, the conference committee wisely decided not to include a Senate provision would have exempted federal government lawyers from the responsibility to follow the same ethnical rules that bind other lawyers. The Senate provision was not only unnecessary, but would have been counterproductive to the goal of truly professional law enforcement.

Mr. Speaker, I strongly support this important legislation.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to speak to Section 312 of the Conference Report accompanying H.R. 2215, as well as to support passage of this important legislation.

On the 21st of May this year, I wrote to Congressman SENSENBRENNER and Ranking Member CONYERS to express my concern for the dire shortages of federal judges in the State of New Mexico, and to request that the Committee authorize an additional judgeship for the District of New Mexico in the 21st Century Department of Justice Appropriations Authorization Act.

Today, I want to thank Chairman SENSENBRENNER, Ranking Member CONYERS and the members of the Conference Committee for including appropriations for an additional temporary judgeship for the State of New Mexico in Section 312 of the Report.

New Mexico is the 3rd busiest judicial district in the nation behind southern California and western Texas. In 1996, the Judiciary Council recommended that New Mexico receive one new permanent judgeship and one temporary judgeship. Two years later, the council reiterated that recommendation. Then, in 2000, the Judicial Conference recommended that New Mexico receive two permanent judgeships and one temporary judgeship.

Since the Conference's first recommendation six years ago, the caseload in the federal courts in New York has been on the rise, seemingly growing exponentially each year. Accordingly, the judgeship appropriated in Section 312 will help alleviate the pressure felt within this increasingly overloaded judiciary system, and provide the people of New Mexico more efficient accessibly to federal courts.

Once again, I think my collegues for considering my request.

Mr. NADLER. Mr. Speaker, I rise in support of the DOJ authorization bill because it does enhance the Violence Against Women Office and increase assistance to our law enforcement officers.

I also applaud the provision of the bill that directs the Attorney General to conduct a study to assess the number of untested rape examination kits that currently exist nationwide.

However, I know we could have done more.

It would be nice to know how many rape kits are outstanding. But it is much more important that we fund the DNA analysis of the kits and solve crimes, rather than simply counting how many kits remain on the shelf.

We know there are outstanding kits, anywhere from 150,000 to 500,000 of them, and we need money to test them. Asking for a study doesn't put any rapists behind bars.

Now, you may ask, what else could we possibly do about this?

Well, we could have put money for testing into the DOJ authorization bill. In fact, I asked the distinguished Chairman to do just that. He told me the study was the best he could do.

Well, I know we can do better. In fact, the Senate already has. The Senate already had hearings, already had a markup, and already passed a bill under unaminous consent. Now, the House has the opportunity to take up S. 2513, the DNA Sexual Assault Justice Act. We could have put this bipartisan bill into the conference report, but we didn't.

The Senate bill included $500,000 for a study, but it didn't stop there. The Senate bill also includes $15 million a year for DNA testing for convicted felons, $75 million a year to test rape kits, and $150 million over five years to train nurses how to better collect evidence. That is a lot better and would make much more of an impact than an unfunded study.

Now, some may say, we just didn't have time to address this problem. Well, I introduced a bill to solve this problem back in March of this year. It has never had a hearing. It has never been considered by the Judiciary Committee. It has been ignored, just like all the untested rape kits across America. So, we had plenty of time to address this issue, the Republican leadership simply chose not to.

This is a serious effort to combat crime, locate and apprehend rapists, and use powerful evidence to put them behind bars. We all know that DNA evidence is essential to solving crimes. It can lead to punishment of the guilty and the freeing of the innocent. The Department of Justice released a statement yesterday that mentioned the ''unprecedented success in linking serial violent crimes by registering more than 80 matches against the FBI's National DNA Index System (NDIS) last month.'' The Department also states that ''two of these matches resulted in the arrest in Pennsylvania of the perpetrator of two rapes.'' The DOJ reports that the DNA evidence solved 24 previously unsolved cases, and that nine matches involved connecting together previously unrelated crime scenes.

We must commit the necessary resources now to empower law enforcement to analyze all of the DNA evidence they collect, so that they can solve cases and bring justice to American families.

We already have a non-controversial bill that we could make law very quickly (we could even do it today), and it would be an immediate benefit to people all across America, especially victims of rape and sexual assault.

It is time for Congress to lend a hand to our law enforcement officers and provide them with the funds needed to solve these crimes and put rapists behind bars.

Since some Members were unwilling to include the Senate rape kit bill in this authorization bill, I now urge the leadership to bring the Senate bill up for a vote as soon as possible. I have a letter here signed by more than a dozen Members of Congress urging Majority Leader ARMEY to take up the Senate bill, and I ask unanimous consent that this letter be included as part of the RECORD. I also ask unanimous consent to include the Statement by the U.S. Department of Justice that I mentioned earlier.

STATEMENT OF U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

The FBI Laboratory today lauded state and local laboratories unprecedented success in linking serial violent crimes by registering more than 80 matches against the FBI's National DNA Index System (NDIS) last month. Additionally, the FBI's federal convicted offender program recorded its first NDIS match during the final week in August. The federal match was between the federal convicted offender database and a DNA profile from a case involving a sexual assault of a juvenile in Tampa, Florida contributed by the Florida Department of Law Enforcement. Two weeks later, as a result of this match, an arrest was made in this case.

The final week of August was one of the most successful weeks ever in the four years that NDIS has been operational. During that week, 33 matches were made, 17 by Oklhoma in that state's upload of DNA profiles into NDIS. To illustrate the power and reach of NDIS. Oklahoma's DNA matches were made with cases in the FBI Laboratory, Kansas, Colorado, Missouri, Texas, California, Arizona, and Maine. Examples of other matches included the FBI Laboratory matching a profile from New York; and Virginia posting matches with Washington state and Oregon.

Of the 33 matches made in the last week of August, 24 matched convicted offender DNA profiles already contained in the national database with DNA profiles from unknown individuals obtained at crime scenes or from rape kits, thus solving these previously unsolved cases. Two of these matches resulted in the arrest in Pennsylvania of the perpetrator of two rapes. The other nine matches involved connecting together previously unrelated crime scenes.

The FBI implemented NDIS is October, 1998 to allow state laboratories the ability to electronically compare and exchange DNA profiles with one another in an effort to link serial violent offenses. Today 44 states, the FBI and U.S. Army Lab participate in the NDIS program NDIS contains nearly 1.4 million offender DNA samples and 47,000 DNA profiles developed from crime scenes and rape kills. In the four years of NDIS, there have been approximately 5,000 DNA profile matches across 36 states and the District of Columbia. In December, 2000 legislation was passed which authorized collection and inclusion of DNA samples of certain federal offenders into NDIS. Full implementation of the federal convicted offender program began in July, 2002. In only the second upload of federal data, the first federal match was made.

CONGRESS OF THE UNITED STATES,
Washington, DC, September 26, 2002.

Hon. DICK ARMEY,
Majority Leader, House of Representatives, the Capitol, Washington, DC.

DEAR LEADER ARMEY: We are writing to urge you to bring up the Senate passed bill, S. 2513, the DNA Sexual Assault Justice Act, without delay.

This bill passed the Senate by unanimous consent on September 12th. Similar legislation has been introduced in the House and has gathered the support of a substantial number of supporters. We believe this bill could be passed into law quickly and would be an immediate benefit to people all across America, especially victims of rape and sexual assault.

ABC's 20/20 reports that hundreds of thousands of rape kits sit unprocessed in police storage units across the country. There could be anywhere from 150,000 to 500,000 kits that remain untested. That means that DNA evidence from rape kits is going untested and crimes are going unsolved. This is totally unacceptable. It is time for Congress to lend a hand to our law enforcement officers and provide them with the funds needed to solve these crimes and to put rapists behind bars.

This is a serious effort to combat crime, locate and apprehend rapists, and use powerful evidence to put them behind bars. We all know that DNA evidence is essential to solving crimes. It can lead to punishment of the guilty and the freeing of the innocent. We must commit the necessary resources now to empower law enforcement to analyze all of the DNA evidence they collect, so that they can solve cases and bring justice to American families.

As the number of bills on this issue as well as the number of supporters indicate, there is strong public interest in this issue. We hope that you will schedule S. 2513 for House floor consideration as soon as possible.

Sincerely,

Jerrold Nadler, John Conyers, Jr., Bernard Sanders, Gary Ackerman, Rod Blagojevich, Danny Davis, Carolyn Maloney, Robert Andrews, Lane Evans, Rush Holt, Corrine Brown, Maurice Hinchey, Tammy Baldwin, Brad Carson, James Langevin, Sam Farr, Juanita Millender-McDonald, Ron Kind, Eleanor Holmes Norton, Julia Carson.

Mr. TERRY. Mr. Speaker, this Conference Report does not include a permanent Judgeship for the State of Nebraska. Since 1998 Nebraska has exceeded the weighted standard of 430 filings per judge, and in 2001, that number grew to 482 filings. Without this permanent Judgeship, over the next year filings are expected to rise to over 600 per Judge. Currently, the caseload in Nebraska is the 9th heaviest in the Nation, and is only expected to increase. Nebraska has a higher drug prosecution rate than any other federal court in the 7th and 8th circuit; 65 percent of our drug cases are methamphetamine prosecutions, compared to a national average of 14.5 percent. The continued absence of this Judgeship hurts the citizens of Nebraska and brings an already over-worked court system to near standstill.

This permanent Judgeship was included in the House-passed Department of Justice Authorization bill, and I would like to thank Chairman SENSENBRENNER and Ranking Member CONYERS for their assistance in this effort. However, I learned last night that the Nebraska's permanent judgeship designation had been stripped from the conference report. I have no idea why this language was stripped out, and it upsets me that I've been unable to obtain a definitive answer. I'm left to believe that this designation was eliminated due to political concerns, and it was not a decision based upon merit or need.

Nebraska has had a temporary Judgeship since 1990 and will expire in November 2003. What occurred in conference is unfair to the State of Nebraska, and will negatively impact an already strained court system.

NEBRASKA TEMPORARY/PERMANENT JUDGESHIP ISSUE, APRIL 8, 2002

(Currently three permanent and one temporary judgeship)

1. Need for permanent judgeship in Nebraska is critical:

A. Temporary judgeship created in 1990.

B. Expires first judge to leave after November 20, 2003.

C. Based on 430 weighted standard, Nebraska eligible for even a fifth judge, but not asking for that.

D. Since 1998, District of Nebraska exceeded 430 weighted filing per judge.

E. 2001—weighted case load was 482 per judge, with a 95 percent confidence level of 525–440 cases.

F. 2001 busiest year in last 6 years with 1500 new filings and 1242 pending cases.

G. Weighted filings in 2001—482, highest in last six years, compared to 377 in 1996.

H. Without this judgeship, weighted filings expected to exceed 600 per judge.

2. Criminal filings very heavy:

A. Very heavy for last 12 years and continues to increase.

B. 17th heaviest in nation in 1998, 12th in nation in 1999, and 9th in nation in 2001 (ranks 9th out of 94 districts).

C. Caseload per judge is double that of 1996: 118 per judge vs. 58 per judge.

D. Average caseload is 50 percent greater in criminal cases than average federal judge.

E. Heavier criminal case load than judges in New York City, Chicago, or Los Angeles.

F. Highest drug prosecutions than any other federal court in the 7th and 8th Circuits.

G. Nebraska's drug docket is 66 percent, while national average is less than 40 percent.

H. 64 percent of drug cases is methamphetamine, compared to national average of 14.5 percent.

I. Nebraska ranked 2nd in the number of high level drug trafficking defendants indicated and convicted in the Central Region (includes 12 states).

J. Criminal caseload is expanding; crack cocaine defendants doubled over last year, and meth defendants increased 88 percent.

3. Senior judges:

A. Two senior judges, and each carry about 100 cases.

B. Will not be able to continue to carry a caseload that heavy.

C. Both judges are over 75, and one has indicated he wishes to cut his caseload by 50 percent in 2002.

D. No additional help from senior judges available.

E. Note that one active judge has serious cancer, but no senior judges available in future to help with that caseload.

4. Magistrate judges:

A. Three magistrate judges, two in Omaha and one in Lincoln.

B. All three are fully utilized in criminal cases, preliminary civil dispositions, ADR management, and consent trials.

5. Visiting Judges:

A. Forced to request assistance of visiting judges in 2001 to handle the heavy volume of criminal/civil cases.

B. Will not address severe problem.

6. Current legislation:

A. H.R. 2215 does not include a recommendation that Nebraska temporary judgeship be converted into a permanent one, although recommendations for other states (Central District of Illinois, Southern District of Illinois, and Northern District of Ohio) are addressed.

B. Nebraska must be included in that legislation.

Mr. BEREUTER. Mr. Speaker, today the House is considering the conference report on H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act which includes provisions that make several existing temporary Federal judgeships permanent. Unfortunately, Nebraska was not included on the list.

This Member greatly appreciates the attempts by the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER) to make this critically important improvement for the people of Nebraska. Despite the gentleman's best efforts, the conferees from the other body would not agree to include Nebraska on this list. As such, this Member is very concerned and disappointed that the Nebraska judgeship was not included in the final conference report.

The Nebraska temporary judgeship was created in 1990, and will expire with the first vacancy after November 2003. The caseload for the Federal District Court in Nebraska has steadily increased since that time, rising well above the Judicial Conference weighted standard of 430. In fact, in 2001, there were 1500 new filings and 1242 pending cases, with a weighted filing of 482. Without this judgeship, the weighted filings are expected to exceed 600 per judge. In addition, Nebraska currently has two District Court judges who have taken senior status and are expected to retire in the near future, further increasing the caseload on Nebraska judges.

Mr. Speaker, clearly, this is an important issue to this Member and to the state of Nebraska. It is impossible for this Member to understand the reason this important change was not included in this conference report. The opportunity was available and yet inexplicably not taken by the conferees from the other body. However, because of the many important provisions in this bill, this Member will vote ''aye'' even while expressing his extraordinary disappointment and regret that the permanent Nebraska judgeship was not included in the conference report. If there was a problem on another issue or judgeship in the House offer, Nebraskans did not deserve to lose this opportunity for the much-needed permanent judgeship designation.

Mr. GALLEGLY. Mr. Speaker, today, along with my fellow conferees, I'm pleased to deliver a comprehensive conference report and ask for other members' support. We have worked diligently to address a wide variety of issues. From crime prevention programs, to drug education and treatment, a fix in the H1–B visa system and the inclusion of the Judicial Improvements Act, this conference report is a complete package. I'd like to take the opportunity to highlight these provisions and thank several individuals who made the inclusion in this conference report possible.

First, the conference report includes a provision that permits consumers who visit wineries to ship a limited quantity of wine back to their homes. This language is needed because post-September 11, as the Federal Aviation Administration and Congress supported strong airline security measures, it became difficult, if not impossible, to carry-on bottles of wine after a visit to a winery. This provision is not only pro-consumer, but it is also very important to California's $12 billion wine industry. I would like to thank Chairman SENSENBRENNER for his support on this provision.

In addition to the direct shipment of wine, we are also including legislative language that will allow motor vehicle dealers, who sign franchise contracts with manufacturers, to have the opportunity to either accept or reject mandatory binding arbitration after a legal dispute arises. Currently, the mandatory arbitration requirements are either ''take it or leave it'' provisions in the contracts, forcing auto dealers to

waive important legal safeguards. I would personally like to thank Chairman SENSENBRENNER and Congressman GEKAS for their support on this issue.

Finally, I am very pleased that this conference report includes five additional federal judgeships for the Southern District of California, as well as one temporary judgeship for the Central District of California. The numbers speak for themselves; the Southern California District is the most overwhelmed in the country and greatly needs these additional judgeships. In the year 2000, the weighted caseload for the Southern District of California was 978 cases per judge. That was more than double the national average of 430. Most alarming is the number of felony cases, which tripled between 1994 and 1999 without additional judgeships. These additional judgeships will ensure that the very integrity of our judicial process will be protected. For that, I'd like to thank all of the conferees for their support.

Mr. CONYERS. Mr. Speaker, we all know by now that this is an historic moment—Congress has not reauthorized the Department of Justice in over 20 years; instead, we have left the responsibility to the appropriators to decide which Department programs should be authorized and their maximum funding level.

This conference report, arrived at after months of bipartisan, bicameral negotiations, expresses the views of the authorizing committees about how these programs should operate. I'd like to thank Conference and Senate Judiciary Chairman LEAH, House Judiciary Chairman SENSENBRENNER, and Senate Judiciary Ranking Member HATCH for working with us on this legislation.

Aside from the authorizing language and technical corrections to the antitrust, criminal, and intellectual property laws, important compromises were reached between the House and Senate on other non-controversial provisions so they could be included in this report. Included are:

A provisions supported by Representative MARY BONO and myself to ensure that parties to motor vehicle franchise contracts cannot be subject to mandatory arbitration without their consent;

A provision supported by Representative TAMMY BALDWIN, Representative LOUISE SLAUGHTER, and myself to establish an independent Violence Against Women Office within the Department of Justice. This provision raises the profile of the Office by having its Director report directly to the Attorney General instead of through other subordinates. This demonstrates our commitment to rooting out, deterring, and preventing violence against women;

A provision that expands vocational and remedial opportunities to smooth the reentry of inmates post-incarceration;

A provision offered by Representative BARNEY FRANK that allows grandparents to apply for citizenship for a child in the event that the parents are deceased;

A provision offered by Representative ADAM SCHIFF to create a fund that disburses Federal grants for states and localities to construct memorials to officers killed or disabled while protecting the public;

A provision drafted by Representative LAMAR SMITH and Representative BOBBY SCOTT that authorizes grants for states and local governments to improve their juvenile justice programs; and

The Madrid Protocol Implementation Act, which will allow one-stop shopping for international trademark registration. This bill has passed the House on several occasions and finally will be enacted into law.

At the same time, the Republicans were not able to accept a permanent extension of chapter 12 (family farmer bankruptcy) or higher compensation for workers who are laid-off as a result of a corporate bankruptcy. I hope we can address these issues before adjourning this session.

I urge my colleagues to vote ''yes'' on this conference report.

Mr. OSBORNE. Mr. Speaker, today the House is considering the conference report for H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act. While this conference report authorizes appropriations for the Justice Department, it also establishes federal judgeships. Despite the efforts of Chairman SENSENBRENNER, this legislation fails to make permanent Nebraska's temporary judgeship, which is set to expire November 20, 2003.

Caseloads for U.S. district judges in Nebraska have climbed steadily largely because of an increasing number of criminal cases, particularly those related to drug trafficking. In fact, criminal cases have more than doubled since 1995. Like many other states in the Midwest, Nebraska has been plagued in recent years by an influx of methamphetamine (meth), and criminal cases involving meth represent 66 percent of Nebraska's drug docket, compared to the national average of 14.5 percent.

The influx of meth in Nebraska will continue to cause the criminal caseload to increase. In the last year alone, the number of meth defendants increased by 88 percent. Interstate 80, which runs the length of the state of Nebraska, is one of the primary transit routes used for drug trafficking across the central United States. This has contributed to Nebraska being ranked second in the number of high-level drug trafficking defendants indicted and convicted in the Central Region, which includes 12 states.

This substantial increase in Nebraska's criminal trials leaves Nebraska's federal judges with extremely heavy caseloads. In fact, Nebraska's judges carry a heavier criminal caseload than judges in New York City, Chicago, and Los Angeles. This fourth judgeship is critically important to Nebraska, and without it, criminal cases will move more slowly and handling civil cases will become increasingly burdensome.

Mr. Speaker, while I am grateful for the efforts of Chairman SENSENBRENNER on this issue, I am very disappointed this conference report does not address Nebraska's serious need for a permanent judgeship. Without this fourth judgeship, Nebraska's criminal justice system will be in real trouble.

Mr. ISSA. Mr. Speaker, I rise in support of the Conference Report for H.R. 2215, ''The 21st Century Department of Justice Appropriations Authorization Act.'' I thank Chairman JAMES SENSENBRENNER, the House and Senate Conferees and the Judiciary Committee staff for their leadership on this bill.

Within this Conference Report, in section 312, the Southern District of California will receive five judgeships. This authorization will bring immense relief to this district. As you may know, Southern California has the dubious distinction of having the highest judge to caseload ratio in the nation. I have met with four of the sitting judges in this district and have seen first hand the problems they face on a daily basis. In 1998, the Southern District, which has 8 judgeships, had a weighted caseload of 1,006 cases per judge, annually.

I want to give you a comparison of the caseload to judges from different regions of the United States to show you how overloaded the judges in the Southern District of California are:

New York has 28 judgeships and each one handles 468 cases annually, LA has 27 judgeships/481 caseload, Chicago—22 judgeships/381 caseload, Houston—18 judgeships/588 caseload, Philadelphia—22 judgeship/381 caseload.

Congress has not authorized any new judgeships for the Southern District since 1990, and with this district being a border corridor, I do not expect the level of criminal activity to diminish in the near future. Passing this bill is necessary to ease the burden on the sitting judges of the Southern District.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 400, nays 4, not voting 28, as follows:

[Roll No. 422]

YEAS—400

Abercrombie	Bono	Combest
Ackerman	Boozman	Cooksey
Aderholt	Borski	Costello
Akin	Boswell	Cox
Allen	Boucher	Coyne
Andrews	Boyd	Cramer
Armey	Brady (PA)	Crane
Baca	Brady (TX)	Crenshaw
Baird	Brown (FL)	Crowley
Baker	Brown (OH)	Cubin
Baldacci	Brown (SC)	Culberson
Baldwin	Bryant	Cummings
Ballenger	Burr	Cunningham
Barr	Burton	Davis (CA)
Barrett	Buyer	Davis (FL)
Bartlett	Camp	Davis (IL)
Barton	Cannon	Davis, Jo Ann
Bass	Cantor	Davis, Tom
Becerra	Capito	Deal
Bentsen	Capps	DeFazio
Bereuter	Capuano	DeGette
Berkley	Cardin	Delahunt
Berman	Carson (IN)	DeLauro
Berry	Carson (OK)	DeLay
Biggert	Castle	DeMint
Bilirakis	Chabot	Deutsch
Bishop	Chambliss	Diaz-Balart
Blagojevich	Clay	Dicks
Blunt	Clement	Dingell
Boehlert	Clyburn	Doggett
Boehner	Coble	Doolittle
Bonilla	Collins	Doyle

Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—4

Duncan
Flake
Kerns
Paul

NOT VOTING—28

Bachus
Barcia
Blumenauer
Bonior
Callahan
Calvert
Clayton
Condit
Conyers
Dooley
Ehrlich
Gilchrest
Israel
Maloney (NY)
McDermott
McKinney
Meek (FL)
Mink
Ros-Lehtinen
Roukema
Shadegg
Simpson
Smith (MI)
Stump
Thompson (CA)
Thurman
Waxman
Young (AK)

□ 1649

Mr. HASTINGS of Florida changed his vote from ''nay'' to ''yea.''

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GILCHREST. Mr. Speaker, on rollcall No. 422 I was inadvertently detained. Had I been present, I would have voted ''yea.''

PERSONAL EXPLANATION

Mr. ENGLISH. Mr. Speaker, on the morning of September 26, 2002, due to an official meeting at the White House, I was unable to place votes on three items:

If I had been present, I would have voted ''yea'' on H.R. 2215, ''no'' on the Journal, and ''yea'' on the motion to instruct conferees on H.R. 3295.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF H.J. RES. 111, CONTINUING APPROPRIATIONS, FISCAL YEAR 2003

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it shall be in order at any time without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 111) making continuing appropriations for the fiscal year 2003, and for other purposes; the joint resolution shall be considered as read for amendment; the joint resolution shall be debatable for 2 hours, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. HANSEN). Is there objection to the request of the gentleman from California?

Mr. NUSSLE. Mr. Speaker, I reserve the right to object so that I may enter into a colloquy with the very distinguished chairman of the Committee on Appropriations.

The resolution that we have before us that the very distinguished chairman of the Committee on Rules is bringing up under this unanimous-consent request is based on what might be referred to as ''a rate not to exceed the current rate'' for fiscal year 2002. Is it the gentleman's understanding that this would effectively carry forward appropriations from last year's supplementals that were designated as emergencies?

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. The gentleman is correct. The bill carries forward all amounts that were appropriated in fiscal year 2002, including amounts that were designated as an emergency. However, as in all previous continuing resolutions, the Office of Management and Budget has the flexibility under this CR to not extend funding for one-time items.

Mr. NUSSLE. Will the very distinguished gentleman work with me on the next continuing resolution that we understand will be necessary to ensure that one-time, nonrecurring emergency designated expenditures are not included in the base used to calculate the current rate of operations?

Mr. YOUNG of Florida. If the gentleman will yield further, it is not my intention that any true one-time nonrecurring expenditures from last year's supplementals be included in the base of any continuing resolution. It is my understanding that under any short-term CR, the Office of Management and Budget can avoid funding one-time items.

Mr. NUSSLE. This short-term CR would, if it were to last for an entire year, provide, according to the Congressional Budget Office, $744.3 billion in budget authority which in fact would not exceed the appropriate level in the budget resolution because defense is assumed to continue at last year's level. However, if it were annualized and the defense and military construction bills were enacted at even the House-passed levels, it would exceed the budget level by $8.2 billion. Of course, that assumes that these emergencies would continue. Will the gentleman assure the House and work with me in assuring the House that any further future continuing resolutions will come in under, on an annualized basis, the $749 billion in new budget authority assuming the enactment of the defense and MILCON bills at the levels requested by the President?

Mr. YOUNG of Florida. If the gentleman will yield further, the gentleman's estimate is correct only if you assume that one-time spending continues. No one else has included such items in their estimates, including OMB. So it is my intent that any CR provide the most limited funding possible under a current rate. If the defense and military construction bills are enacted and the 11 remaining bills are funded at a current rate and OMB exercises its authority as it has in the past to not extend one-time funding, the total annualized funding under a CR would be below $749 billion. I would

also remind the House that it is imperative that we pass the remaining fiscal year 2003 bills.

Mr. NUSSLE. If I may reclaim my time, Mr. Speaker, I compliment the gentleman on his work to do just that, and I thank the hard work of the Committee on Appropriations in trying to accomplish that goal and will stand by the gentleman to work with him to accomplish that goal.

Mr. YOUNG of Florida. I would like to respond in kind to my friend from Iowa, the chairman of the Committee on the Budget.

Mr. DREIER. If the gentleman will yield under his reservation, I would like to congratulate both the Committee on the Budget and the Committee on Appropriations; and it is an honor to stand between the two very distinguished chairmen of these committees, Mr. Speaker.

Mr. NUSSLE. Mr. Speaker, I withdraw my reservation of objection.

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

Mr. OBEY. Mr. Speaker, reserving the right to object, under my reservation I simply want to confess my bafflement. We are one working day from the end of the fiscal year. We had expected to have this proposal on the floor yesterday; and we have been held up for more than a day, as I understand it, by the misgivings of the distinguished chairman of the Committee on the Budget about the resolution that the Committee on Appropriations had intended to bring to the floor yesterday.

I simply want to reiterate what the distinguished chairman of the Committee on Appropriations said, that we are very close to the end of the string on this fiscal year and we cannot afford any more delays. I would also point out, I find it somewhat ironic that the Committee on the Budget, as represented by the Chair, has been raising these concerns, legitimate concerns, I might say, about the complicated and sometimes uncertain nature of continuing resolutions. We all know that continuing resolutions are imperfect instruments for extending the authority of the government to function because they have many anomalies and they do not take into account many of the other legitimate anomalies that occur in funding requirements.

Just yesterday, for instance, the Secretary of Transportation was in my office discussing his need for one such adjustment in order to be able to provide what that agency felt was necessary under some of the homeland security provisions. But I simply want to say that the Committee on Appropriations has tried to produce the regular bills which would have made unnecessary a continuing resolution, but it has been the unrealistic budget resolution produced by the Committee on the Budget chaired by the distinguished gentleman from Iowa that is at the root of the problem to begin with, because he has chosen, along with some of his colleagues in the majority caucus, to try to enforce rigidly that resolution to the point where it has been impossible to bring bills to the floor that would achieve enough votes in the majority caucus to pass, much less the minority caucus.

We are stuck here, for instance, still unable to bring up the Labor-Health-Education bill because people are insisting that we stick to the budget resolution and the allocation provided under it to the Labor-Health-Education bill. And because that bill has been bogged down by an internal war in the majority party caucus, we have not been able to bring the other bills forward to finish the basic work that we have.

So I find it somewhat ironic that at the last day, virtually the last day that we have to send this to the Senate before both bodies leave for the weekend, that the committee that has caused the problems in the first place is still producing the doubts about this instrument which was made necessary by their own lack of realism in the first place. I think that needs to be made quite clear.

Mr. NUSSLE. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Iowa.

Mr. NUSSLE. I know the gentleman will most likely have the last word on this, so I will make my comments brief; but I have a slightly different take on who might be responsible here. The rules of the House may not permit me to be quite as specific as I might like, but there are two bodies that have to have a budget, have to complete a process in order to be successful. This body passed a budget. The gentleman may not agree with it. It may be difficult. These are difficult times. But at least the House of Representatives has completed its work on a budget and did so back before the deadline of April 15. If there was a better budget, a better proposal, a better outline and a better plan, we have yet to see it. It has yet to materialize in either the gentleman's caucus or the other body, as it is referred to. That may happen, but until then I would at least suggest that there may be more responsibility to go around than where he pointed the responsibility in his comments here just a moment ago.

I appreciate the gentleman yielding.

□ 1700

Mr. OBEY. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments. Let me simply respond by saying I think that is a red herring. The fact is that it is not the fault of the other body that this House has only produced five of the 13 appropriation bills. The other body is not even supposed to consider appropriation bills until they are reported and handled in this body. So, I think it is quaint indeed to blame the body which is supposed to act after we act for the fact that we have not acted in the first instance.

The fact is that this House has produced final action on only five of 13 appropriation bills. We have the responsibility to finish all 13 of them. This is the worst record that the House has had in finishing its appropriations work of the last 15 years. The last time we had such a serious problem was the year after the Reagan tax cuts were passed and the Congress was trying to find ways, after those tax cuts resulted in huge additions to the deficit, to take additional money out of appropriations bills. So we got hung up in 1981.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, if the gentleman will yield for a procedural comment, I made a request that there be 2 hours of debate once there is agreement in the House to this unanimous consent request that I have just propounded. This is a fascinating exchange that is taking place between the chairman of the Committee on the Budget and the ranking minority member of the Committee on Appropriations. I would like to think if we could accept this unanimous consent request to have 2 hours of debate, we could continue it under that procedure.

Mr. OBEY. Mr. Speaker, reclaiming my time, so would I. But let me simply say we have been held up by the actions of the Committee on the Budget and the internal war in the Republican caucus for 8 months. We have been held up for the last 26 hours by the gentleman from Iowa and his concerns. With all due respect, I make no apology for taking 5 minutes to express my unhappiness about it.

Mr. DREIER. Mr. Speaker, if the gentleman will yield further, I am not asking anyone to apologize. I am just suggesting we start the 2 hours of debate and continue this exchange.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, it has been my experience that not everybody following the debate fully understands the rules. The gentleman from Wisconsin knows them well, both the rules of the House and the rules of the Committee on Appropriations.

Is there any rule, law, statute, constitutional principle that in any way hinders this House from taking up appropriations bills whenever it wants because somebody else has not done anything?

Mr. OBEY. Mr. Speaker, reclaiming my time, of course not. That is the problem. This House has ducked its responsibility for 8 months, and is now looking for a way to get out of town without having voted on the specifics.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HANSEN). Is there objection to the request of the gentleman from California (Mr. DREIER)?

There was no objection.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.J. Res. 111, and that I may include tabular and extraneous material.

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

There was no objection.

CONTINUING APPROPRIATIONS, FISCAL YEAR 2003

Mr. YOUNG of Florida. Mr. Speaker, pursuant to the previous order of the House, I call up the joint resolution (H.J. Res. 111) making continuing appropriations for the fiscal year 2003, and for other purposes.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 111 is as follows:

H.J. RES. 111

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2003, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2002 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 2002, at a rate for operations not exceeding the current rate, and for which appropriations, funds, or other authority was made available in the following appropriations Acts:

(1) the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002;

(2) the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1));

(3) the Department of Defense Appropriations Act, 2002, notwithstanding section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1));

(4) the District of Columbia Appropriations Act, 2002;

(5) the Energy and Water Development Appropriations Act, 2002, notwithstanding section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1));

(6) the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002, notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956;

(7) the Department of the Interior and Related Agencies Appropriations Act, 2002;

(8) the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002;

(9) the Legislative Branch Appropriations Act, 2002;

(10) the Military Construction Appropriations Act, 2002;

(11) the Department of Transportation and Related Agencies Appropriations Act, 2002;

(12) the Treasury and General Government Appropriations Act, 2002; and

(13) the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002.

SEC. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for new production of items not funded for production in fiscal year 2002 or prior years, for the increase in production rates above those sustained with fiscal year 2002 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during fiscal year 2002: *Provided*, That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2002.

SEC. 105. (a) For purposes of section 101, the term ''rate for operations not exceeding the current rate''—

(1) has the meaning given such term (including supplemental appropriations and rescissions) in the attachment to Office of Management and Budget Bulletin No. 01–10 entitled ''Apportionment of the Continuing Resolution(s) for Fiscal Year 2002'' and dated September 27, 2001, applied by substituting ''FY 2002'' for ''FY 2001'' each place it appears; but

(2) does not include any unobligated balance of funds appropriated in Public Law 107–38 and carried forward to fiscal year 2002, other than funds transferred by division B of Public Law 107–117.

(b) The appropriations Acts listed in section 101 shall be deemed to include supplemental appropriation laws enacted during fiscal year 2002.

SEC. 106. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 107. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 4, 2002, whichever first occurs.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 110. Notwithstanding any other provision of this joint resolution, except section 107, for those programs that had high initial rates of operation or complete distribution of fiscal year 2002 appropriations at the beginning of that fiscal year because of distributions of funding to States, foreign countries, grantees or others, similar distributions of funds for fiscal year 2003 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 111. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 112. For the Overseas Private Investment Corporation Program account, for the cost of direct and guaranteed loans, at an annual rate not to exceed $19,000,000, to be derived by transfer from the Overseas Private Investment Corporation non-credit account, subject to section 107(c).

SEC. 113. Activities authorized by section 403(f) of Public Law 103–356, as amended by section 634 of Public Law 107–67, and activities authorized under the heading ''Treasury Franchise Fund'' in the Treasury Department Appropriations Act, 1997 (Public Law 104–208), as amended by section 120 of the Treasury Department Appropriations Act, 2001 (Public Law 106–554), may continue through the date specified in section 107(c) of this joint resolution.

SEC. 114. Activities authorized by title IV–A of the Social Security Act, and by sections 510, 1108(b), and 1925 of such Act, shall continue in the manner authorized for fiscal year 2002 through December 31, 2002 (notwithstanding section 1902(e)(1)(A) of such Act): *Provided*, That grants and payments may be made pursuant to this authority at the beginning of fiscal year 2003 for the first quarter of such year, at the level provided for such activities for the first quarter of fiscal year 2002: *Provided further*, That notwithstanding rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, the provisions of this section that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 were they included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, and by the Chairmen of the House and Senate Budget Committees, as appropriate, under the Congressional Budget Act of 1974.

SEC. 115. Activities authorized by section 1722A of title 38, United States Code may continue through the date specified in section 107(c) of this joint resolution.

SEC. 116. In addition to amounts made available in section 101 and subject to sections 107(c) and 108 of this joint resolution, such sums as may be necessary for contributions authorized by 10 U.S.C. 1111 for the

Uniformed Services of the Department of Defense, the Coast Guard, the Public Health Service, and the National Oceanic and Atmospheric Administration are made available to accounts for the pay of members of such participating uniformed services, to be paid from such accounts into the Fund established under 10 U.S.C. 1111, pursuant to 10 U.S.C. 1116(c).

SEC. 117. None of the funds made available under this Act, or any other Act, shall be used by an Executive agency to implement any activity in violation of section 501 of title 44, United States Code.

SEC. 118. Collection and use of maintenance fees as authorized by section 4(i) and 4(k) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136a–1(i) and (k)) may continue through the date specified in section 107(c) of this joint resolution. Prohibitions against collecting ''other fees'' as described in section 4(i)(6) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(6)) shall continue in effect through the date specified in section 107(c) of this joint resolution.

SEC. 119. Security service fees authorized under 49 U.S.C. 44940 shall be credited as offsetting collections and the maximum amount collected shall be used for providing security services authorized by that section: *Provided*, That the sum available from the General Fund shall be reduced as such offsetting collections are received during fiscal year 2003.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will control 1 hour.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

(Mr. YOUNG of Florida asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before the House, H.J. Res. 111, is a continuing resolution, a CR, for fiscal year 2003, and it extends our spending profiles for four big days.

At midnight this coming Monday, the fiscal year ends. None of the appropriations bills has been sent to the President's desk, regardless of who is at fault. We have heard some discussion on that. We will probably hear more about that. But we need this legislation to continue operations of the Federal Government for the first 4 days of the new fiscal year.

As everyone is aware, the Committee on Appropriations continues to work on the fiscal year 2003 appropriations bills, despite the fact that we have no common budget with the other body. The collapse occurred because we had a breakdown in the budget process, not the appropriations process. The budget process stalled because the other body did not adopt a budget resolution. The House did. But because both Houses did not, we had no opportunity to come to conference and reach the same 302(a) number, the 302(a) number being the top number that we would both use in our appropriations process.

Anyway, despite all of that, we continued to produce bills, and we have a number of bills in the queue ready to go when we are given the approval to bring them to the House floor.

I will comment again that without a common 302(a) number, the top number, it is nearly impossible to have a common 302(b) number for the respective subcommittees of the House and the Senate appropriations committees. It is unfortunate that this is the case, because one of the fundamental responsibilities of Congress is the power of the purse. I emphasis ''responsibility.''

The guiding principles of checks and balances that the founders of our great Nation embodied in our Constitution is lost when the Congress does not complete its work with regard to government spending.

If I might indulge my colleagues in the House for just a moment by reading from Article I of the Constitution, it very simply says, ''No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.''

That is in our Constitution. Unless we do this, we are failing to uphold our basic constitutional responsibilities.

It is unfortunate that our budget process broke down at a critical time for our country when we are currently at war against terror and when the security of our homeland is at risk. I do not believe the people who wrote the Budget Act ever intended that budget debates would get in the way of our national security interests.

The House has passed five of the 13 appropriations bills. We are currently in conference with the Senate on two of those bills, the defense and military construction bills. We are waiting to appoint conferees on the legislative branch bill.

The Committee on Appropriations has reported four other bills that are awaiting floor action, and that is the appropriations bill for agriculture, energy and water, foreign operations and the District of Columbia. On Tuesday of next week we will conclude consideration of the transportation appropriations bill, and next week we also plan to report the VA–HUD bill from the Committee on Appropriations.

But until we get to the point where we can develop a common set of numbers between the House and the Senate for us to work with, it is important that the operations of our government agencies continue without any disruption, and that is what this legislation is about today.

Let me briefly describe the terms and conditions of the CR. It will continue all ongoing activities at current rates, including supplementals, under the same terms and conditions as fiscal year 2002. We have codified the term ''rate for operations not exceeding the current rate'' as defined in OMB Bulletin No. 01–10. As in past CRs, it does not allow new starts, and it allows for adjustment for one-time expenditures that occurred in fiscal year 2002. It restricts obligations on high initial spend-out programs so the annualized funding levels in this bill will not impinge on our final budget deliberations.

It includes eight funding or authorizing anomalies, of which six allow for the continuation of existing programs and fee collections that would otherwise expire. The remaining two provisions will ensure that executive agencies use the Government Printing Office when procuring government printing, as specified under current law and to ensure that funding for all of the uniformed services to support the accrual contribution for Medicare-eligible retiree health care is available.

After some of the discussion, Mr. Speaker, this may come as a surprise to some, but I believe the CR is noncontroversial, and I urge the House to move this legislation to the Senate quickly so that our government will continue to operate smoothly and efficiently and so that we can continue our work to finish our regular appropriations bills when we are able to do that.

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

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. FROST).

Mr. FROST. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I expect this short-term continuing resolution will pass the House by an overwhelming bipartisan majority. But make no mistake. When it does, it will represent an overwhelming bipartisan indictment of the failures of this Republican House of Representatives.

The fiscal year ends next week, and this Republican-controlled House has passed only five of the 13 appropriation bills. The gentleman who just spoke, the chairman of the committee, is an honorable man and his committee has been doing its work. His own leadership has prevented him from bringing the appropriation bills to the floor even though those bills have been reported out of his committee. Republican leaders have stopped even trying to do their work. They have given up on doing the most basic job Congress is elected to do, fund important initiatives in education, health care, and other key American priorities.

It is a shocking abdication of leadership, Mr. Speaker. America is suffering through the weakest economy in 50 years. Unemployment and the poverty rate are up while the stock market and retirement security is down. For too many Americans, the drop in the stock market has turned 401(k) plans into 201(k) plans, but while millions of Americans are busy looking for jobs, House Republicans refuse to do their jobs, the jobs they are getting paid to do.

What accounts for this shameful failure to lead, Mr. Speaker? Simply put, Republicans have put America in a huge deficit ditch, one that poses a

grave threat to Social Security and other priorities like education, prescription drugs, and homeland security, and now they refuse to pick up the shovels and dig their way out of it. We can see it most clearly on education. With much fanfare last year, Democrats and Republicans passed the No Child Left Behind Act, but now Republicans refuse to provide schools with the resources they need to carry out the reforms Congress mandated last year.

That is why the appropriations process is stuck in the House, Mr. Speaker. The majority of the House Republican Conference wants to gut resources for education and other priorities in the bill funding the Departments of Labor, Education, and Health and Human Services. But a few moderate Republicans are afraid to take that vote on the eve of the election.

Over the past week, Mr. Speaker, Republican leaders have turned the House floor into little more than a PR vehicle for the Republican Party. They have wasted time and taxpayers' dollars on numerous, meaningless resolutions. Mr. Speaker, Americans are facing real challenges right now. The economy is weak, prescription drug prices are still sky high, the budget is in deficit, and many Republicans want to privatize Social Security. It is time to quit playing politics. It is time to get back to doing the American people's business.

Free the Committee on Appropriations. Let them bring their bills to the floor. What is the leadership on that side afraid of?

Mr. YOUNG of Florida. Mr. Speaker, I would like to reserve my time for just another couple of minutes if the gentleman could proceed.

Mr. OBEY. Mr. Speaker, I yield myself 14 minutes.

Mr. Speaker, this is a serious time for the country. In 2 years' time we have seen a record surplus go to record deficits, almost 2 million people more out of work today than there were a year ago, a year and a half ago. Economic growth is more anemic than at any time in 20 years. Corporate marauders have swindled investors and ruined workers' pension plans. The stock market has lost more than $4 trillion in value, and the price of health care and prescription drugs is skyrocketing. And almost nothing is being done about that by the American people's government.

We also are conducting a war against terrorism, and now we are considering taking on a new war against Iraq. In the midst of all of that, because of an unreal and incredibly mismanaged budget, this Congress has passed only one of 13 appropriation bills, and that means that 90 percent of our domestic budget is likely by the end of next week still to be unfunded.

□ 1715

Even the defense budget is not funded at this point; we hope it will be funded next week.

Under these circumstances we need to work together; we need a cooperative spirit. The last time we went to war against Iraq, President Bush, Sr., consulted broadly, he respected differences of opinion, he set the tone for cooperation between the U.S. and our allies, between the U.S. and the U.N., between the executive and legislative branches of government, between the Democrats and Republicans who serve in this Congress. The result was that we had a spirited debate which I had the privilege to chair at that time; and after the vote, we all came together, united in purpose and in spirit.

But this time the situation is sadly different, and this President is taking a much different approach at a time when we need to keep discussion on a high plane. We have seen the report in The Washington Post yesterday which questioned the concern of the Senate Democrats about national security. The kind of rhetoric that we saw emanating from the President on seven occasions is divisive when it should be unifying, it personalizes issues that ought to be substantive, and it weakens this country's ability to find consensus at a time when we need it badly.

Now, the White House issued a limp apology yesterday and said ''Oh, the President did not mean it; he was not talking about the Iraq debate, he was talking about homeland security.'' I would point out that when this President questions someone else's concern for national security because of their positions on homeland security issues, this is the same President who told me nose-to-nose in the White House that the bipartisan package that the gentleman from Florida (Chairman YOUNG) and I were producing to buttress our homeland security programs after September 11 would be vetoed if we spent one dime more than the President had himself requested for homeland security.

This is the President who resisted our efforts to provide more money to the FBI so that we could end the disgraceful situation under which 50 percent of the FBI's computers could not even send a picture of a terrorist or a suspected terrorist to another FBI computer around the country.

This is the same President who resisted our efforts to add more funding for Canadian border security, when I stood in this well holding a traffic cone, saying that on many of the stations on the Canadian border, after they were closed at night, the only deterrent we had to terrorists crossing the border was a traffic cone. I am sure they were scared stiff of that.

This is the same President who resisted our efforts to strengthen funding for the Nunn-Lugar program to secure nuclear material in the former Soviet Union before it fell into terrorist hands.

This is the same President who resisted our efforts to add money above his budget request to protect our nuclear plants and to protect other sensitive Federal installations from terrorist attack.

Now, I have served with seven Presidents. I have never seen any President during all of that time, except Richard Nixon—the only President I ever saw use that kind of innuendo, questioning someone else's dedication to the security interests of this country was President Nixon.

The reason I am so passionate about this issue is because I get my dander up when people question any other public servant's commitment to this country's security interest. Because I come from the State of Joe McCarthy, and I saw how he denigrated the political debate in this country, and I think that no one ought to emulate that. Unfortunately, I think we have seen remarks that came pretty close.

I would also point out, it was not the other body of this Congress, if the President wants to know, it was not the other body that blocked funds that his own Secretary of Energy requested to protect the shipment of nuclear warheads down U.S. highways from terrorist attacks. Huge bipartisan majorities of this House and the other body approved those funds, but the President said no. It was not the other body of this Congress that blocked funds to bring the Federal Bureau of Investigation into the information age. Huge bipartisan majorities in both Houses of Congress approved those funds in the recent supplemental, but the President said no.

It was not the other body of this Congress that blocked funds to establish a global system of checking containerized cargo on cargo ships before they leave ports overseas rather than after they are on American soil in order to determine if they have radioactive material, chemical, or biological weapons, or other material that may be used to launch acts of terror. Huge bipartisan majorities in both Houses of Congress approved those funds, but the President said no. It was not the other body of this Congress that blocked funds to help the Immigration and Naturalization Service develop the analytical capability they needed to prioritize and track the thousands of illegal immigrants who were inside the United States and identify the ones that are likely to pose the greatest threat to the citizens of this country. Huge bipartisan majorities in both Houses of Congress approved those funds also, but the President said no.

It was not the other body of this Congress that blocked funds to help the National Weapons and Research Laboratories to make certain that they can defend themselves and their employees against cyberattacks and espionage conducted by terrorist organizations. Huge bipartisan majorities in both Houses of Congress approved those funds, but the President said no.

Despite all of that, I do not think we saw Democrats in either this body or the other body questioning the President's patriotism or his commitment

to national security. We took those differences to be honest differences. The President owes us and the other body the same courtesy.

We all have obligations of conscience, and we should respect them, including the President of the United States. And we have other obligations. Because this House has not met those obligations, we are here today with this continuing resolution. Because at this point, this House, if we can quit blaming somebody else for a change, this House, not the other body, this House has passed only five appropriation bills out of the 13 required to finish our business.

This chart demonstrates what has happened every year since 1988. The worst record during that period from 1988 through today, the worst record we had was in 1991 when the House only finished 10 of its 13 appropriation bills, and in 1, 2, 3, 4, 5, 6, 7, 8 years, the House finished all of them. This year, the House has done virtually nothing of its appropriations work, and that is not the fault of the chairman of the Committee on Appropriations, and it is not the fault of the Committee on Appropriations.

It is because there is an internal war in the majority party caucus over one bill, the Labor, Health and Education bill. The conservatives in the majority party caucus do not want to see any appropriation bill brought to this floor until the education budget is brought to this floor and passed at the President's level, and the Republican leadership's dilemma is that they know they do not have the votes for that in their own caucus. Because the moderates in the Republican caucus know that the President's budget is inadequate, and they do not want to go home having stopped the progress we have made on education over the last few years.

Now, I will say one thing for the President. He has had a lot of photo ops. He has been in elementary schools more often than students over the past year, posing for political holy pictures with children promoting the No Child Left Behind Education Act. We passed that with large bipartisan majorities, and what that act said is that we are going to reform the education programs and then we are going to fund them. Well, we reformed them. Where is the funding? Before that act passed, this Congress, over a 5-year period, virtually doubled support for public education. But what budget did the President send down to match his talk as he goes from schoolroom to schoolroom, trying to create the image that he is putting education first in this country? The President's education budget brings to a screaming halt the progress we have made in expanding education funding over the past 5 years. He puts a financial freeze on education when we look at it on a per-student basis. That is not what my constituents tell me they want when I go home.

The reason this continuing resolution is here is for only one reason: it is because the majority party does not want to have to vote on the President's education budget before the election. The only group that appears to want to vote on it are the conservatives in the Republican caucus. But the rest of the caucus does not want to have to vote on the President's budget because they know they would vote no, because the President's rhetoric is not matched by his actions.

Mr. Speaker, the President is not putting our money where our mouths are, and I call that posing for political holy pictures. As far as I can see, the Nation's schools are regarded as the number one photo op for the White House political staff and the number one target by the White House budget staff. I would like to know which of those two groups our friends in the majority party are actually going to be supporting. But this CR is here because they do not want to have to vote on that issue. They do not want to have to expose their own chaos and their own different vision in their own caucus.

So I want to make clear to the leadership in this House, I will vote for this resolution today, this short-term continuing resolution, because we have no option if we are going to keep the government open. But I will not vote for an extended continuing resolution. I will not vote for a continuing resolution that allows this body to push these issues off until after the election so they can have a collective Republican duck. I will not do that.

This House needs to finish its business. It needs to pass the Labor–HHS bill, it needs to pass the transportation bill, it needs to pass the budget for science, it needs to pass the budget for defense. In short, we need to meet our basic responsibilities.

When all we can do is produce five of these 13 bills and then somehow blame the other body for the fact that we have not even seen these bills come up here, that to me is a confession of institutional impotence and a demonstration of political incompetence; and neither one of them ought to make anybody very proud.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 1 minute. I do so, number one, to say that I agree with some of the things that the gentleman from Wisconsin (Mr. OBEY) has said, and I disagree with some of the things that he has said. I do want to thank him for helping us bring this resolution to the floor today, because it is essential. We have to pass this resolution, or Monday night at midnight the government closes down. I do not want that to happen. There may be some around here that want it to happen, but I am not one of them. But anyway, I do appreciate the fact that we finally have got this resolution on the floor.

But I also want my friend, the gentleman from Wisconsin (Mr. OBEY), to know that I am not going to try to respond in kind on any of the political issues that might be raised today, because my job and my responsibility today is to move this CR through the House, get it to the Senate, and get it to the President.

□ 1730

Mr. Speaker, I yield 7 minutes to the gentleman from Ohio (Mr. REGULA), the distinguished chairman of the Subcommittee on Labor, Health and Human Services and Education.

(Mr. REGULA asked and was given permission to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, I thank the chairman for yielding time to me.

I do not want to engage in the blame game; I just want to support the record that we have achieved in the past 6 years in terms of education. I think this is an outstanding record, and I must say, in fairness, that oftentimes or most of the time we have had the support of the minority party in doing this. The gentleman from Wisconsin (Mr. OBEY) is ranking in our committee, and has been very supportive.

Title I, aid to disadvantaged students. I think the important part that I want to say is that the record in education has been to help those really in need of help. Let us take Title I. It is up 62 percent from 1996, from $6.37 billion to $10.35 billion, a good record for this body that we can all take pride in.

IDEA, special education grants. These are young people who need help. It is up by 224 percent. That is a remarkable increase over the past 6 or 8 years.

We have tripled the funding for Federal reading programs from $300 million to more than $900 million. This is what the President promised to do. I think he deserves credit for that.

We have increased the Federal teacher quality funds by 35 percent to help States and local communities to train, recruit, and retain quality public school teachers.

I might say here, and this is almost a crusade with me, we should get a good teacher in every classroom, because if we ask any group, do you have some teacher that in your life has made a difference, without hesitation hands go up. That is why it is so important that we can continue the programs that will help the States and local communities to get good teachers in every classroom. No child will be left behind if they have a quality teacher.

Pell grants. This is help to those from the low income to have an opportunity to get an additional education; it might be in a trade school, it might be in a college, a university, or whatever. We have increased them by 62 percent, from $2,470 to $4,000 in fiscal year 2002. That is a credit to this Congress, that it has recognized the importance of helping these young people.

Head Start, another program to help those who are less advantaged, we have increased it by 83 percent over the past 6 years. I think it is a record to be proud of.

We have increased Federal aid to America's Historically Black Colleges and Universities by 144 percent.

Mr. Speaker, we want to continue this record because I think education is the most important responsibility, in cooperation with the States and the local communities. We need to have an educated population if we want to compete in the world of tomorrow, if we want to give the people of this Nation an opportunity, the young people.

I would also like to point to the record in Health and Human Services. We have supported dislocated worker employment assistance. It grew by $271 million to $1.4 billion, again, helping those who need a helping hand.

Community health centers. They delivered needed medical services to over 10 million patients in fiscal year 2001, and it grew by 77 percent since fiscal year 1996.

Support for the Centers for Disease Control. We suddenly discovered after 9/11 how important the Centers for Disease Control were to this Nation, and they deal with infectious diseases. They are the traffic cop that stands between us and the incursion of many different types of diseases in our society. It grew by 400 percent; again, something that helps people all across the Nation.

The Centers for Disease Control's chronic disease prevention, it has grown by 178 percent.

Medical research by the National Institutes of Health: a commitment was made about 4 years ago or 5 years ago that we would double their budget. We have kept that commitment, and we would hope to do that again in this fiscal year. They have supported nearly 37,000 research projects. That is important. That is important to people, because out of those research projects will come cures, will come ways of helping individuals.

If Members could sit in the committee that the gentleman from Wisconsin (Mr. OBEY) and myself are responsible for and listen to the testimony, they would realize how important it is to the people of this Nation, and parents with children that need help; people with Alzheimer's, Parkinson's, you name it, we have heard from them in our subcommittee, and we have tried to help by enhancing the programs of the National Institutes of Health and many others.

All I want to say to this body is that I think we have an excellent record we have accomplished on a bipartisan basis over the past several years, and particularly since the Republicans have had the responsibility for the programs as the majority party.

But in fairness, I also want to say, we have had help in getting this record accomplished. We would hope that we will have the same kind of help. We know that we cannot do everything, that the resources are not as great as they might have been 3 or 4 years ago.

I think one of the things we need to do is take a look at all the money we have poured into these programs and say, is it being spent wisely? Is it getting results? Is it producing value received to the taxpayers of this Nation? What we are trying to do in crafting these appropriations bills is to ensure that we are getting value received; that we are using the money wisely on behalf of the people who need the help.

I would reiterate again that these programs help all Americans. They are not limited to any single group. Illness strikes at all types in our socioeconomic strata.

Education is important, and we have had a real concern in making sure these programs serve the people. I think that is a record we can point to with pride, and I hope that we can work out appropriation bills that will continue this record of great service to the American people from every walk of life.

Under Republican leadership, America's proven education programs have thrived. In the past several years, Republicans have:

Increased Title I aid to disadvantaged students by 62 percent—from $6.37 billion in FY 96 to $10.35 billion in FY 02.

Increased special education grants to states (Part B of the Individuals with Disabilities Education Act, or IDEA) by 224 percent—an increase far larger than under Democrat controlled Congresses.

Tripled funding for federal reading programs from $300 million to more than $900 million, as promised by President George W. Bush.

Increased federal teacher quality funds by 35 percent to help states and local communities train, recruit, and retain quality public school teachers.

Increased the maximum Pell Grant award by 62 percent—from $2,470 in FY 96 to $4,000 in FY 02.

Increased Head Start funding by 83 percent—from $3.569 billion in FY 96 to $6.538 billion in FY 02.

Increased federal aid to America's Historically Black Colleges and Universities, Historically Black Graduate Institutions, and Hispanic-Serving Institutions by 144 percent—from a combined total of $140 million in FY 96 to $341 million in FY 02.

Support for dislocated worker re-employment assistance grew $271 million, to nearly $1.4 billion since FY96;

Support for Community Health Centers, which delivered needed medical services to an estimated 10.5 million patients in FY2001, grew $587 million, or 77 percent, since FY96 helping CHCs serve 2.4 million more patients over six years;

Support for CDC's work in tracking, understanding and controlling new and re-emerging infectious agents grew $282 million, or over 400 percent since FY96.

Support for CDC's chronic disease prevention activities, in areas such as breast and cervical cancer prevention, diabetes control, and cardiovascular disease prevention, grew $479 million, or 178 percent, since FY96;

Support for medical research administered by the National Institutes of Health grew $11.5 billion, or 97 percent since FY96. NIH estimates that they will support nearly 37,000 research/project grants in FY2002, over 11,000 more than they supported in FY96;

Support for Head Start grew nearly $3 billion, or 83 percent, since FY96. During FY2002, the Administration estimates Head Start will serve over 100,000 more children aged 3 to 4 then it did in FY96; and

Support for helping low income Americans in meeting their heating costs through the LIHEAP program grew $1.1 billion, or 120 percent since FY96.

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

Mr. Speaker, the gentleman is certainly a friend of education and health care; but I would simply point out that the issue is not what we have done last year, it is what we are going to do next year.

We still have not seen a bill produced by the majority, and the President's budget for health care cuts back $1.4 billion in crucial health care programs outside of NIH. It essentially fails to provide anywhere near the support level that is needed for programs that help low-income students, for programs that help the handicapped, and for children who need help with second languages.

So there are going to be thousands of children, indeed, left behind by the President's budget, and we would like to correct that, but we cannot get the Republican majority to bring a bill to the floor.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the ranking member for yielding time to me.

Mr. Speaker, I would like to respond to my friend, the gentleman from Ohio (Mr. REGULA). I agree with the gentleman from Wisconsin (Mr. OBEY), the gentleman from Ohio (Mr. REGULA) is a friend of education. Also, he is the chairman of our subcommittee.

What I think most of us feel on the Committee on Appropriations is our Republican colleagues on the Committee on Appropriations want positive investment in our country. They are not the problem, but the leadership of the Republican Party is the problem. Frankly, the chairman of the Committee on the Budget this year and in past years is the problem.

Now, let me tell my friend, the gentleman from Ohio, about education. The irony is that my friend, the gentleman from Ohio, would stand and say, look what we have done since 1995 on education. What we have done on education is, under the leadership of Bill Clinton, he said, I am not going to sign bills that underfund education.

What were those bills? Let me read them to the Members so in the future the Members will know, because I know if the gentleman knew this, he probably would not have made this representation.

The Republican bill offered to this House in 1996 was $5 billion under the President's request. That did not end up that way.

In 1997, the Republican bill offered $2.8 billion under the President.

In 1998, it was a Presidential election year. The Republican leadership, wanting to elect its own, came in with a bipartisan bill. It was just $191 million under the President. However, in the

next year, it was over half a billion dollars over the President.

In the year 2000, the Republican bill was $1.4 billion under the President; and in 2001, it was $2.9 billion under the President. By the way, the bills were not as harsh as the budget.

So, Mr. Speaker, yes, over the last 8 years we have been generous to education, and we have in fact said not only are we rhetorically going to leave no child behind, but we are going to fund programs to seek that end.

The gentleman from Wisconsin (Mr. OBEY) put up a chart here, it is now over there, but essentially it shows 15 years of activities of the Committee on Appropriations, and more importantly, the House committee, in passing appropriation bills.

Over those 15 years, we have averaged 12.2 bills passed before the end of the fiscal year. That is a 93 percent average. That is an A. This year, we are at 38 percent. That is a miserable failure; not the responsibility of the chairman of the Committee on Appropriations or the gentleman from Ohio (Mr. REGULA) or the gentleman from California (Mr. LEWIS) or others who chair the appropriations subcommittees, but it is the fault of a divisive leadership that wants to talk about being for programs but does not want to fund those programs; not only that, does not want to debate them on this floor.

This month of September we have not considered one appropriation bill on this floor, notwithstanding the fact that September 30 is at the door.

I, like the gentleman from Wisconsin (Mr. OBEY), will vote for this continuing resolution, but like the gentleman from Wisconsin (Mr. OBEY), I will also call to account those who put us in a position of being unable to debate the priorities of this Nation on this floor.

Like the gentleman from Wisconsin (Mr. OBEY), I do not want my patriotism or concern for the security of this Nation to be called into question by this President, who is our leader and who ought to bring us together, not drive us apart.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I wanted to respond to my dear friend, the gentleman from Maryland (Mr. HOYER). I want to assure him that however politically engaged this might become this afternoon, that none of my speakers will attack any of the gentleman's leadership. We had a lot of disagreements with the gentleman's leadership, but we are not going to raise those today. We have a strong leadership on our side and they have accomplished a lot in this Congress.

We did hit a couple of roadblocks dealing with the budget process, and as the gentleman knows, we passed a budget. Whether the gentleman likes it or not, we passed a budget in the House. That did not happen in the other body.

Secondly, I wanted to point out to my friend that the only two bills that we have had a request from the other body to go to conference on are the defense bill and the military construction bill. We in fact are in conference aggressively coming to closure on those two bills. With the exception of Legislative Branch appropriations, we have not had a request from the other body to go to conference on any other appropriation bills, including the ones that we have already sent down there to them.

Mr. Speaker, I yield 6 minutes to the distinguished gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to remind my colleagues that in 1994, with a Democrat-controlled House, they passed an education bill $3 billion below President Clinton's request.

□ 1745

I have heard tonight, well, let us stop pointing fingers. That is all I have heard from the other side, every single speaker, pointing fingers. You know why? Well, the President took control of the issue of education.

I have talked to Democrat pollsters; they are upset because the Democrat numbers are down on Education. This President has shown that he cares about education. He focuses on education. And education spending is not everything.

I would like to submit this for the record. It is what Secretary Paige showed, the number of increases in education spending but yet test scores have baselined. The education plan is more than just spending. We have increased education dollars, but we have also given the State the flexibility to move those dollars around where parents and teachers can make those decisions.

My colleagues on the other side want line items and every item increased so that they can mandate exactly what is done in the States, the paperwork increases, the mandates, the union bureaucracy. And the President said no, I want to give the States the flexibility where parents and teachers can make those decisions.

They also demand accountability. And with the accountability he also gave the superintendents and the State legislatures the ability to move money around, not line item it and mandate it. A hundred thousand teachers? We need teachers, yes. But we also put money in for the quality of education and teachers.

We have passed prescription drugs, and tax relief for working families. My colleagues only attack, oh, it is a tax break for the rich. Some of them have not found a tax they do not want to increase. In 1993 they increased tax on the middle class after they said they were going to reduce it. They taxed Social Security. They actually taxed gas. And, remember, there was even a retroactive tax in there and you cut veterans' COLAs. You cut military COLAs, if you want to talk about history.

And I want to tell you, I would question somebody who used our military as White House waiters. I would question someone who would send our people into harm's way. I questioned a Republican President who sent our people over in Lebanon and let them sit there. But I sure question President Clinton on a lot of the things he did that in my estimation were not right.

Why are they doing this? Well, it is an election year, Mr. Speaker. Have you ever heard the name of James Carville and his colleagues? We have got the ''Carville Report.'' What does he recommend to his Democrat pollsters? For the Democrats to stick close to the President on the war because if they do not, the numbers will go down. But they also requested that the Senate hold up bills, because in a bad economy they can hang on to the Senate. They also said we can pass things here like tax relief but to blast the Republicans on these issues. And I think you have heard every speaker over here do that. And it is just not the case.

We have passed prescription drugs here. The Senate has not. We have passed homeland security. And I tell you, I would question somebody that holds up a homeland security bill insisting on union workers filling those billets instead of passing a homeland security bill. I think that is wrong. And I think it should be questioned.

I heard about border patrol. The gentleman from California (Mr. HUNTER) on this floor, when I first came, we fought to get more border patrol and we were turned down until we took the majority. And slowly in a bipartisan way in many cases, we got more border patrol to secure our borders.

It is sad to watch the things that are going on tonight because as a group we have done so many things. This President is a caring President. I want to tell you, he has brought credibility, he has brought character to the White House that was not there before. Is it not nice to see a President who can actually look at his wife and say, I love you and mean it?

The economy is growing. It is growing by 3 percent. Alan Greenspan said that the economy has grown by 1.5 percent because of tax relief for working families. My colleagues say it is just for the rich; it is an election year.

Inflation is low. Interest is low. But yet there is not confidence in the market. The Senate has not passed the Employee Protection Act that would protect them from cases of Enron and WorldCom. We need to pass that bill, to bring that confidence up. And that has not been passed by the other body; and I think that is wrong.

POINT OF ORDER

Mr. FRANK. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman will state his point of order.

Mr. FRANK. Mr. Speaker, the speaker has just violated the rules of the House with regard to references to the Senate.

The SPEAKER pro tempore. The characterizing of the Senate inaction is not in order.

Mr. CUNNINGHAM. Mr. Speaker, they have not passed the bill that should be in order. They have not passed the bill.

POINT OF ORDER

Mr. FRANK. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. FRANK. Mr. Speaker, the point of order I raised was not when the gentleman referred to inaction, but when the gentleman characterized that inaction and gave a value judgment to the inaction.

The SPEAKER pro tempore. The gentleman is correct. The gentleman in the well will proceed in order.

Mr. CUNNINGHAM. I do not believe I have done that, Mr. Speaker.

But I will tell you, an energy bill is critical. The Senate has not passed that bill. An economic stimulus package is critical which helps us in education. The Senate has not passed that bill.

The Senate according to the Carville memo did not pass its budget, not mine. Why? Because they can offer a trillion dollars in a prescription drugs program.

MR. OBEY. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. PELOSI), the distinguished whip.

Ms. PELOSI. Mr. Speaker, I thank the distinguished ranking member for yielding me time and for his great leadership on behalf of America's families. I also commend the distinguished Chair of the Committee on Appropriations for his leadership and the two of them for bringing this continuing resolution to the floor.

The sadness of it all, though, is that the continuing resolution is needed at all. For the weeks that we have come back here from the summer August break, this Congress has been in session from Tuesday night until Thursday afternoon. We have had plenty of time if we had worked a full week to do the people's business, to pass the appropriations bills that are our responsibility by the end of this fiscal year and the start of the new one.

Instead, we are here passing a short-term continuing resolution, and there will be another one and there will be another one because this House has ignored the needs of the American people, the needs for a growing economy, for prescription drug benefits, for access to quality health care, for educating our children; and that is the point on which I would like to focus.

I rise on behalf of America's children who deserve every opportunity we can give them and on behalf of their parents who deserve to know just where the parties really stand as opposed to what they say they stand for.

Nowhere is the contrast between Republican rhetoric and Republican reality so stark as in the oft-repeated promise to ''leave no child behind.''

The reality is that the Republicans want to cut our investment in education to a level far below what is authorized in the Leave No Child Behind Act, $7 billion less of an investment than that which was promised by the President. Despite countless Presidential photo ops and despite the little red school house built outside the Department of Education at massive tax payer expense, I might add, the reality is that the Republican Party plans to leave millions of children behind.

The fact is that the Republicans do not want to debate appropriations bills because they do not want the public to see that their education budget would underfund the No Child Left Behind Act, which the President heralded as his great achievement by $7.2 billion, and that is the President's recommendation and that is why some Republicans will hold up this bill from coming to the floor.

The President's education budget stops in its tracks 6 years of steady progress in Federal support to local schools, dead in its tracks. The investments in education under this budget are down to less than 1 percent. How are we going to grow our economy if we will not grow our investment in public education?

There is no tax cut you can name or benefit or credit or anything that you could name that grows the economy more than investing in education. There is nothing that is more dynamic to the budget than investing in education. We are not only doing a disservice to the children, we are doing a disservice to the taxpayers. There is nothing you can name that would grow the economy more than investing in education.

All the research, Mr. Speaker, tells us that children do better in smaller classes and, indeed, they do better in smaller schools. And yet the Republicans want to freeze funding for these cost-effective programs. What they have in the budget is enough to provide, for example, after-school programs to only 8 percent of the 15.2 million low-income children who could benefit from them.

I refer you to this chart. Look at this. We are gaining in enlightenment. We are giving after-school guidance for children. It is good for their education. It is good for their health. It is good for their future. And here we come into this budget and take a downturn in after-school programs for America's children. This is really, really a tragedy. We cannot turn our backs on the millions of children who just last year we were promising to rescue, and we cannot turn our backs on the economic future of our great country. When we make a decision in this body we should think of America's children. We should think of growing our economy. There is a commonality of interest.

Mr. YOUNG of Florida. Mr. Speaker, I yield 5 minutes to the very distinguished gentleman from Ohio (Mr. BOEHNER), who is the chairman of the Committee on Education and the Workforce and who authored the outstanding education bill last year, H.R. 1.

Mr. BOEHNER. Mr. Speaker, the rhetoric we are hearing from our friends across the aisle is not about children. This is all about politics. And when it comes to education funding or any other kind of funding, our Democrat friends this year have no budget, no plan, and no credibility.

Now let us just look at the facts. In the House the Democrats voted against the President's budget but did not even offer an alternative of their own. In the Senate they even failed to pass any budget at all. The first time since 1974 that has happened.

Now, let us take a look at what columnist David Broder wrote recently: ''When the House is debating its budget resolution,'' Broder wrote, ''the Democrats proposed no alternative of their own.'' He went on to say, ''Rather than fake it, House Democrats just punted,'' Broder wrote. ''The resolution is designed to be the clearest statement of a party's policy priorities, and as long as they are silent the Democrats cannot be part of a serious political debate.''

I think David Broder is right.

So I say to my Democrat friends, if you are going to stand here today and say you are for additional education spending, you better be prepared to tell the American people how you plan to get there. Fortunately, President Bush has given us a budget this year that continues to make education a priority even in the face of war and economic turmoil.

As you can see by this chart, President Bush's budget this year proposes far more for education than the last budgets proposed and signed by President Clinton. In fact, Federal funding for education has more than doubled over the past 6 years. Discretionary appropriations for the Department of Education have climbed from $23 billion in fiscal year 1996 to $49 billion this year, an increase of 113 percent.

Now, as you can see by this chart, special education, the Republican budget provides for another billion dollars' increase in special education grants to the States, and calls for full funding of IDEA over the next 10 years. This is almost a 300 percent increase over the last 7 years.

Democrats did not offer a budget to help children with special needs. They have no budget. They have no plan, and they have no solution.

Now, let us look at title I for a moment. For disadvantaged students in school, the Republican budget provides for a billion dollars' increase in title I grants. Now this is on top of the $1.6 billion increase that we passed and was signed into law earlier this year. These resources are focused in on high-poverty schools and kids who are in poor

neighborhoods who need our help. Democrats have not offered a budget to help low-income school districts or kids. They have no budget. They have no plan and they have no solution.

Now, here is something else to consider. As this chart shows, under the first 2 years of President Bush's Presidency, we will have seen greater increases in title I funding than in the previous 7 years combined.

□ 1800

The last 2 years of the President's budget, last year and this year, are greater increases than in the last 7 years under the previous President.

Let us not forget about teachers, the people responsible for our kids in the classroom. For teachers, the Republican budget provides $2.85 billion, matching the historic increase the President signed into law last year. This is a 38 percent increase over the last Clinton budget.

Democrats have offered no budget to help America's schoolteachers. They have no plan, they have no budget and they have no solution. Despite the twin challenges of war and economic recovery, the President's budget this year expands funding for all of our educational priorities, and so I say to my friends on the other side, if they have got a better plan, why do they not show us?

Mr. OBEY. Mr. Chairman, I yield myself 2 minutes. The previous speaker leaves a false impression in the House because of his constant reference to budget resolutions rather than appropriations. Budget resolutions do not provide one dime for students. Appropriations bills do.

The fact is despite the fact that the President of the United States made a big thing out of being for the No Child Left Behind authorization bill, there will be hundreds of thousands of children left behind under the budget that he proposed, which does not in any way match that original legislation. Example: Special education, the budget he proposed this year is one-half billion dollars below what it would have to be to meet the promises of the Individuals with Disabilities Act.

In Title I, they are $4.6 billion below where they would have to be in order to meet the promised funding level under the No Child Left Behind Act, and even the small $1 billion increase in that package is paid for by cuts in other programs that affect the very same children who need help the most, and then you have in addition the President cutting the comprehensive school reform program by 24 percent, eliminating the smaller schools appropriations.

So then if you take the children who are most at risk, because they have difficulty with languages, this budget on a pupil basis provides a 10 percent real reduction in programs to help children who have trouble with the English language. No child left behind, it sounds nice. Why do you not back it up with your money?

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, if the gentleman is so proud of that which he has done in his budget and his bill, why does he not bring the appropriations bill to the floor? Why does it languish for the last 8 months in committee? Why do they say to me we do not have the votes for the bill on our side of the aisle if what he says is so true?

Mr. YOUNG of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, let me respond to my colleagues and say that we worked closely together in a bipartisan way to produce the No Child Left Behind Act, and it was truly the most bipartisan bill this Congress has produced, and I am proud of my relationship with my good friend the gentleman from California (Mr. GEORGE MILLER), who worked closely with me and all of my colleagues to produce it.

We put huge increases in place last year, and my colleagues have to understand that the increases that are in this year's budget are on top of the increases in last year's budget. We have offered a budget. We have a plan. My colleagues have no plan. They brought no budget to the floor. They are ducking and hiding from the issues how.

Now where is the bill? The fact is we have a plan. We have a budget. Show us yours. We have not seen it yet.

Mr. YOUNG of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. DELAY), a strong member of the strong leadership team in the House.

Mr. DELAY. Mr. Speaker, I greatly appreciate the gentleman from Florida's work and what he has been able to accomplish, and I understand the dilemma that he is facing, and I can answer the question where is the bill.

You cannot reconcile with an addict. The Senate did not pass a budget. Therefore, they are spending with addiction. They are addicts. They are spending like I have never seen before. When we have a budget that we have to adhere to in the House, you cannot reconcile.

POINT OF ORDER

Mr. FRANK. Mr. Speaker, point of order.

The SPEAKER pro tempore (Mr. HANSEN). Members will avoid improper references to the Senate during this debate.

Mr. DELAY. Mr. Speaker, I appreciate that.

When you try to reconcile a bill against with having a budget, it cannot be reconciled with a bill that has increased spending with abandon. It is amazing, Mr. Speaker, that they do not understand that.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman from Texas (Mr. DELAY) will avoid improper references to the Senate.

Mr. DELAY. Mr. Speaker, this surge of aggression from the other side of the aisle is simply the bitter fruit of a strategy to stymie, frustrate and defeat fiscal discipline at every turn. My colleagues from the other party are infuriated.

Mr. Speaker, I am speaking about Members of this House.

My colleagues from the other party for this House are infuriated that our Republican House majority is a dike holding back waves upon waves of new Democrat nonsecurity spending. That is not how it used to be around here. They ache to restore the tax and spend policies that robbed the Social Security Trust Fund for decade after decade after decade after decade when the Democrats controlled this Congress.

The Democrats ran the House and they fueled an irresponsible culture of spending that drove America's books deep, deep, deep into the red. They spent with abandon. They spent without restraint. They spent blindly. They spent more than the country could bear. They ignored the economic damage that their spending lust had created. They balanced their budgets on the backs of future generations.

The other party understands that they have to raise taxes to fund the huge new spending programs that their big spending caucus demanded. Our Republican insistence on lowering, not raising, taxes makes them livid. They complain that lowering taxes causes the deficit, and one made mention that Reagan's tax cut in the eighties created the deficit. For every dollar, revenues actually went up after that tax cut. The problem is for every dollar of new revenues coming in they spent two dollars.

The other party understands that and has a single all-consuming ambition, separating the taxpayers from more of their hard-earned dollars and swelling the size of government with waves of new spending, waves and waves of new spending.

The Democrat House leadership embraced the decision by the other body to proceed with no governing fiscal oversight called a budget. They attempted to do the same thing here, but unfortunately for the big spenders, the House of Representatives passed a budget. Let us shift our attention away from the specific points at issue. Let us consider things in the realm of the theoretical.

For any theoretical elective body, the decision to proceed forward without a governing budget would be foolhardy and grossly irresponsible. It would be a blunder of rank stupidity and extreme fiscal wantonness for any conceivable legislative body to rashly conclude it could sustain fiscal discipline without a guiding and governing budget.

Our House Republican majority brought America back into the black. We brought back fiscal discipline. We

even started paying down the debt. We are working with the President to hold the line on excessive nonsecurity spending, we are holding firm, and we are motivated by an undeniable truism: The dollars that Washington spends belong to the taxpayers. We respect their hard work. We appreciate the taxpayers' ability to spend their own money better than Washington, D.C., and we are extremely hostile to any scheme that would separate a single taxpayer from any additional dollar.

Our friends on the other side of the aisle see 180 degrees differently. The truth is the House Republicans are completing America's business and we are doing it responsibly within a fiscal framework that preserves fiscal freedom.

The hostility directed against us today flows from the bitter hunger pains of an insatiable appetite for new wasteful spending.

Mr. OBEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, we have just been told by the majority party whip that he is holding back an ocean wave of spending. Well, what is it that he is holding back? What is he using his hammer to hold back in his own caucus? He is using his hammer in order to prevent this House from voting on the education and health appropriations bill. He has his ideological views and he has assessed the votes in his own caucus and he has decided he does not even have the votes in his own caucus to squeeze down education as much as the President wants to do in his own budget.

If The Hammer, as he is known on that side of the aisle, if the gentleman is so confident that he can prevail, then why do you not allow the committee to bring up the Labor-Health-Education bill? I wrote to the Speaker and I said, Mr. Speaker, you have got a fight between your conservatives and your moderates and so you are hung up and so you do not want to bring a bill up because you cannot guarantee an outcome, why do you not simply bring the bill to the floor and let us let the gentleman from Florida (Mr. YOUNG) offer the President's budget, which he tried to do, let your Republican caucus offer any other alternative they want, and then let us offer an alternative we want and let us see which package wins? The reason you will not bring the Education bill to the floor is because you know you cannot win it.

It is also because you know that your Members desperately want to avoid voting on the President's Education budget before the election. Why? Because in the last 5 years, we have delivered on average a 13 percent increase for education each year, and now you want to freeze it. Now you want to freeze it and your moderate Members know that that will not fly with the American people. It will not do any good for America's kids. It will not help build America's future, and it will not help you in the election.

Bring the bill out. That is what we are asking.

As for the Senate being responsible, the fact is that 90 percent of the domestic budget has not passed, and that is no fault of the Senate. You have only produced on this floor the smallest of the domestic appropriation bills and only the Treasury-Post Office bill has become law.

We are going to have a conference on Defense next week but you have abdicated your responsibility. The gentleman from Texas, I say to you, you have abdicated the responsibility as majority party whip to do the Nation's business. You say you have completed the Nation's business. Then why is it that 90 percent of the domestic appropriations are being bottled up by the majority party? Why do you not do your duty and bring those bills to the floor?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to remind Members to please avoid improper references to the Senate.

Mr. OBEY. Mr. Speaker, how much time is remaining on both sides?

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) has 29½ minutes, and the gentleman from Florida (Mr. YOUNG) has 29 minutes.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. SHAW), my distinguished colleague.

Mr. SHAW. Mr. Speaker, I thank the chairman for yielding me this time.

One item that has been lost in this debate, which is truly important, I think one of the proudest moments in this House of Representatives was in 1996, when we passed a welfare reform bill. As a result of that, almost 3 million kids are now out of poverty. Millions and millions of people who otherwise would be on the welfare roll are on the payroll, and the welfare rolls in this country have been reduced by 60 percent, and that is why at the same time we are reducing poverty among kids. What greater accomplishment have we had?

That bill runs out the end of this month.

□ 1815

There will be no welfare and welfare reform can be forgotten. The $4.8 billion in child care will no longer be there. Four months ago on the floor of this House, we passed the extension. The Senate has not.

Part of this bill is to extend welfare reform so that the checks will continue to go out. The child care will continue to be there, the job training will still be there, and all of the good things that we passed in 1996 will remain with us. But it is going to be absolutely vital that we pass this continuing resolution because this would extend it for 3 months into next year. That is tremendously important because if we do not, there will be no checks going out.

The prediction that was made in 1996 when we passed welfare reform would come true and the poverty levels would skyrocket, the job training and all of the good that we did would be undone. The Senate has not acted on this most important piece of legislation, and it is one that I think all Members in one degree or another can support.

Mr. Speaker, I would like to compliment the House for passing welfare reform, and also urge that all Members tonight vote for this continuing resolution so that all the good that we did in 1996 is not lost.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. JACKSON).

(Mr. JACKSON of Illinois asked and was given permission to revise and extend his remarks.)

Mr. JACKSON of Illinois. Mr. Speaker, I intend to support the continuing resolution that is before us today, but I must say that the administration's budget proposal in this body has not lived up to the commitment that we made to leave no child behind.

Yesterday, the Census Bureau stated that the proportion of Americans living in poverty rose significantly last year, increasing for the first time in 8 years. At the same time, the Bureau said that the income of middle-class households fell for the first time since the last recession ended, in 1991. In the last 2 years, 2 million more Americans have lost their jobs, and economic growth is at an anemic 1 percent, the slowest growth in over 50 years.

What has been the House's answer to this: Tax cuts, the ability to find another $100–200 billion for a possible war in Iraq.

A strong economy depends on a strong workforce, and that means educating all Americans and providing them with skills they need to be productive workers. Some Members of Congress seem to have a single focus, and that is keeping America strong abroad. But we have a dual responsibility, keeping America strong abroad and also keeping America strong at home. Education is the key to keeping America strong at home, and that is why I think we must finish our work here before we adjourn for the elections in November.

The title I program provides funds for school districts to help disadvantaged children obtain a high-quality education, and at a minimum, to achieve proficiency on challenging academic achievement standards established by the States.

The President's request for title I education is $4.56 billion below the $16 billion he supported and Congress supported in the Leave No Child Behind Act. The administration refused to request funding for title I school improvements funds, and last year over 8,600 schools, 10 percent across the country, were identified as failing to meet the State standards. With the additional funds promised by the Leave No Child Behind Act, school districts would have been able to hire an additional 92,000 title I teachers.

Mr. Speaker, I urge Members to support this continuing resolution, but let us also focus on the need to fully fund education for our children.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON), a member of the Committee on Appropriations.

Mr. KINGSTON. Mr. Speaker, there is a sinkhole on the Capitol, not over here, but over there, a giant growing sinkhole. It is particularly hazardous to judicial nominees, to presidential appointees, and to presidential ideas or initiatives in general. It is very hazardous to legislation, hazardous to the budget. In fact, the only thing that seems to get through this giant sinkhole are memos from Barbra Streisand; but that is an improvement, I would say, over contacting Eleanor Roosevelt, as we were doing a couple of years ago to get our instructions.

Now, this sinkhole ate up the budget this year. There is no budget. Where there is no budget, every day is Christmas.

I have four wonderful children. I love my children, like just every Democrat and Republican here. We all love our kids, but my kids have all kinds of ideas about how I ought to be spending my money. For birthdays, they want a golf cart, Jetskis, CDs, and if they are older, they want a car. None of them quite wanted the pair of tennis shoes that I bought and wrapped so carefully. The reality is, they think I am a U.S. Senator, and every day is Christmas when we do not have a budget.

So here we are forced to pass a continuing resolution because we cannot deal with some group that does not have a budget. That is bad enough, but here are some other bills. We are at war. As I speak, as we sit here, we have troops in Afghanistan and Pakistan and all over the Middle East, and yet we cannot get a homeland security bill passed. We cannot get faith-based initiatives passed. The House has passed 51 bills which have not been passed by the other body. There is no bipartisan Patient Protection Act. There is no human cloning bill. I can understand that because some of them do not want more of us, and a lot of us do not want more of them. Maybe that one I can understand their hesitancy.

They have not passed Personal Responsibility, Work, and Family Promotion Act, or welfare reform. We had 14 million people on welfare 3 years ago.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Georgia will suspend.

Members must avoid improper references to the other body. That is the rule of the House.

Mr. KINGSTON. Mr. Speaker, I appreciate that. Now there is no doubt who I am referring to; and that same other body has not passed the Child Custody Protection Act, the Internet Freedom and Broadband Deployment Act, the Small Business Interest Checking Act, the Sudan Peace Act, the Coral Reef and Coastal Marine Conservation Act, the Rail Passenger Disaster Family Assistance Act, the Medicare Regulatory and Contracting Reform Act, the Two Strikes and You're Out Child Protection Act, the Anti-Hoax Terrorism Act, the Class Action Fairness Act, the True American Heroes Act, the Jobs for Veterans Act, the Social Security Benefit Enhancement for Women Act, the Child Sex Crimes Wiretapping Act.

Mr. Speaker, all this stuff the House has passed, 51 pieces of legislation which languish in this giant sinkhole on the other side of the Capitol. It is disgraceful.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds Members not to characterize action or inaction in the other body.

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

Mr. Speaker, it is not the other body that has prevented this House from bringing out the Labor-Health and Education budget, or the Science budget, or the Housing or Transportation budget. It is the fact that the majority caucus is wrapped around the axle because they cannot get an agreement on any approach that will bring those bills to the floor and allow them to pass them. That is what the problem is.

Now we have an effort to shift the blame somewhere else. I guess that is the normal course of action around here. That does not make it right.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. STENHOLM).

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, I love this House of Representatives, but I do not like us when we do not do our work. The reason we are here tonight is because we have not done our work. We have not passed the 13 appropriation bills in this body, and we would have all of the complaints in the world had we done our work. We have not done our work.

It is amazing the speeches I have heard defending the budget and the fact that we do not have a budget on this side of the aisle. Some of us did. We were denied an opportunity to debate it on the House floor. Some of us had a budget. We did not like the budget that has now given us $317 billion of new deficits.

Conveniently, the majority whip came on the floor and talked about 10 years ago. What about right now? We are here tonight discussing a budget that has given us $317 billion of new deficits and will spend Social Security trust funds for the next 10 years. Forget the last 40, worry about today. That is when we can do something about it. The other side is in the majority.

Mr. Speaker, I have no quarrel with the gentleman from Florida (Chairman YOUNG) or the gentleman from Iowa (Chairman NUSSLE), but the gentleman from Texas who stood down here a moment ago and made that eloquent speech of untruths reminded me of the Will Rogers quote when he said, ''It ain't people's ignorance that bothers me so much, it's them knowing so much that ain't so is the problem.''

Mr. Speaker, we talk about the Reagan tax cuts. I was here. For the 12 years of Reagan-Bush, never did the big spending Democratic Congress, other than 1 year, spend more than Presidents Reagan and Bush asked us to spend; and yet, conveniently, the rhetoric tonight says it was us that did it.

Conveniently, we are letting some of the real budget rules that allowed us to do some good things on budget expire September 30, and the same leadership that comes down and makes the speeches they made a moment ago are directly responsible for allowing pay-go to expire, to allow discretionary caps to expire.

Let me make out one relevant point tonight when we talk about spending, as so many Members on the other side of the aisle keep talking about Democratic spending, the difference between the House and the Senate; the difference we are talking about on the appropriators is $9 billion. That is the difference that has kept the leadership from bringing the 13 appropriation bills to the floor of the House and letting the House work its will.

We should at least keep the spending caps in. I feel kind of ridiculous arguing for that because we have ignored them all year, but if the other side had enforced the pay-go rules, we would have never passed the budget because we could not have passed the budget. Increasing the debt ceiling for our country was passed at midnight because the majority party did not want to stand up and acknowledge the fact that as they talk about paying down the debt and deficit elimination, the debt is going up. We are going to have to do it again, under the budget that everybody over on the other side is bragging about. If they are bragging about it, spend the appropriation bills out and pass them; but do not keep complaining about somebody else's fault. This House has not done its work. It is not the minority party's fault; it is the majority party's fault.

As a child, I always knew that if I started criticizing some trait about one of my playmates, Mother would soon be talking about ''your own plank.'' Her shorthand reference was to the scripture which warns against pointing out the ''speck'' in someone else's eye when there was a huge ''plank'' in your own. I think we could use my mother on the House floor these days. There has been a lot of rhetoric about what the other chamber has not done but not much attention to some of our own shortcomings right here in the House. One of those shortcomings—the failure to renew budget enforcement rules—is very near and dear to my heart and, after years of defending those rules, I cannot remain silent today.

Circumstances have changed dramatically since we passed the Republican budget last year. The projections turned out to be too optimistic, revenues are much lower than expected, and we face tremendous new expenses for homeland defense and the war on terrorism and a possible war with Iraq.

Now that those projections have proven to be nothing more than empty hopes and unfulfilled promises, some of us think we should look honestly at our economic situation rather than continuing to view the world through faulty rose colored glasses. But the leadership on the other side of the aisle refuses to consider any adjustments to their budget policies.

At the very least, we should take action to make sure we don't dig the deficit hole still deeper. Instead, the Republican leadership is allowing the existing budget enforcement rules which impose some fiscal discipline on Congress to expire.

Over the previous decade, the budget enforcement rules were one of the more successful tools for establishing fiscal discipline and helping bring about budget surpluses. These rules set limits on the amount of discretionary spending Congress can approve and prohibited legislation which would have increased the deficit.

When these rules expire five days from now, there will be no limits on spending and no restrictions on the ability of Congress to pass legislation which makes the deficit even worse.

Considering spending bills during a lame duck session after the election without any rules imposing budget discipline is a recipe for runaway spending and higher debt.

Unless we renew our budget discipline, Congress will continue to find ways to pass more legislation that puts still more red ink on the national ledger.

Alternatively, enforceable spending limits would serve as a fiscal guardrail to help keep our spending within our means.

Federal Reserve Board Chairman Alan Greenspan told the Budget Committee that "Failing to preserve (budget enforcement rules) would be a grave mistake . . . the bottom line is that if we do not preserve the budget rules and reaffirm our commitment to fiscal responsibility, years of hard effort could be squandered.

Leon Panetta, who served as Chairman of the House Budget Committee and Bill Frenzel, the former Ranking Republican on the Budget Committee wrote a letter on behalf of the Committee for a Responsible Federal Budget warning that: "The expiration of Budget Enforcement Act constraints on spending and revenue legislation is an open invitation to fiscal irresponsibility and an embarrassment to all that care about the budget process. . . . To let them expire now would send a terrible signal to an economy that is struggling for stability."

The Concord Coalition has warned that allowing budget enforcement rules to expire is "an open invitation to fiscal chaos."

Despite these warnings about the harm that could be done to the federal budget and the economy if we allow these rules to expire, the House leadership has resisted any efforts to extend these rules.

In my book, that's a mighty big "plank" in the House's eye.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, I urge support for this continuing resolution so that America's critical welfare reform programs and support for low-income families can continue. Welfare reform should not be forced to be part of this discussion today. The House passed a 5-year welfare reform extension bill this May. Fourteen of my colleagues across the aisle joined us in approving that bill. Now more than 4 months later, the Senate has still failed to act.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman will suspend.

The gentleman from California is reminded to avoid improper references to the other body.

Mr. HERGER. Mr. Speaker, if it were not for this continuing resolution, the greatly successful 1996 welfare reforms would expire just 4 days from now. What makes this prolonged lack of action so frustrating is that welfare reform has helped literally millions of families achieve remarkable progress in the last 6 years.

□ 1830

The 1996 welfare reforms were the greatest social policy change success story in history. The success is indisputable. Nearly 3 million children have left poverty. Employment by mothers most likely to go on welfare rose by 40 percent. Welfare caseloads fell by 9 million.

The continuing resolution before us extends for 3 months the important welfare programs depended upon by millions of low-income families. We should not have to be here today extending welfare programs, but the other body has failed to act; so we have no other choice. I encourage my colleagues to support this continuing resolution so millions of low-income families can continue to be supported in their efforts to work and support their families.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HANSEN). The Chair reminds the Members again that characterizing Senate inaction is not appropriate and is against our rules.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I am going to confess our inferiority. We have been here denouncing this continuing resolution, but we are not as good at denouncing continuing resolutions as some of the great figures in America's past.

I was here when Ronald Reagan really talked about a continuing resolution, when he said Congress should not send another one of these, when he belittled a continuing resolution of 5 days and 8 days and 9 days, then denounced the fact that Congress had passed none of the appropriations bills. That was Ronald Reagan holding up that continuing resolution as an example of government at its worst. How the Republican Party has fallen away from that ideal. Ronald Reagan was the one who said let us get the people's work done in time to avoid a foot race with Santa Claus. Santa Claus has gained on the Republican Party since he left.

The Republican Party is usually quite respectful of Ronald Reagan. Why this great falling away from the teachings of President Reagan to which they are usually so obedient? Do the Members know why? I hope Members listened to the speech from the chairman of the Subcommittee on Labor, Health and Human Services and Education, who boasted about increased government spending, and then heard the speech from the majority whip, who denounced all those people who boast about increased government spending. That is the problem when the chairman of the Appropriations subcommittee gives a speech which is in fact denounced by the majority whip. That is why the bill cannot come up.

Let us be clear. There is no rule, there is no principle, there is no Constitution, there is nothing that interferes with this House bringing something up, and Members can violate the rules by denouncing the Senate all they want. It is irrelevant to anything except their disrespect for the rules of this House. It has nothing to do with whether or not we vote on bills. Indeed, they are illogical by their own rules because they ultimately boast about passing some appropriations bills and then complain that some mystical force has kept them from passing the others.

The fact is that rarely, rarely do I have to dissent even mildly from the gentleman from Wisconsin who has been such a magnificent articulator on this issue, but he said the problem is a fight between the moderates and the conservatives of the Republican Party. He knows that is a fight between Mike Tyson and Grandma Moses. The moderates in the Republican Party are lucky if they get the water cooler turned on. It is not the moderates. Here is the problem: it is the Republicans who voted for a tax cut, and then we had Afghanistan and Iraq and homeland security, and we now have demands on expenditures that are greater than the revenues.

I will pay tribute to those like the majority whip in his fervor and venom against government spending. He is prepared to bring government spending down to the level that would be consistent with the tax cut, but the other Republicans want to have it both ways. They want to vote for a tax cut, which reduces government revenue; and then they do not want to vote for a bill that would bring down the spending. So that is why we do not have the bill. We do not have the Health and Human Services bill or the HUD bill because they cannot admit how much they have made it impossible for the government to spend responsibly.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PETERSON), who is a member of the Committee on Appropriations.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I thank the chairman for yielding me this time, and I feel compelled to share a few words in this debate tonight.

I have dealt with budgets all my life. For 26 years I operated a business and I had a budget. In the family I had a budget. For 19 years I was in State government and we passed a budget every year. For 10 years I was a State appropriator; so I was very involved in the State budget. It had taken me a while since my 6 years in Washington to figure out our process because it is a lot more complicated, and I have often wondered why it was so complicated. But we all know the basic principles, that the House has to pass a budget and the Senate has to pass a budget, and we have to bring that together. And the process that I have learned to understand is the budget first is the framework of how much money we should spend. The Senate figures out how much money, and then we reconcile that figure and then we are all working off of the same spending plan. We only argue about how we spend it.

This is the first time that process has fallen apart. Our friends have not played in this process and so they have no rules of conduct, they have no limits on spending, so their proposals from the figures I have when you use the budget gimmicks of advance spending is up to close to $15 billion above the President's proposal.

We have had the war on terrorism; we had the rebuilding of our defenses. We have a stellar record of spending in the last few years for education which increased education spending 132 percent.

It seems to me it is the year that we both need to have a proposal that limits spending because we have a war to fight, we have our defenses to rebuild; and if we do not have some rules of spending, we will have deficits as long as we are around. The debate is about do we want to have deficits forever, or do we want to have deficits temporarily and get past deficit spending back to budgets that are surpluses? That is the big argument. If the other body plays by no rules and we have no way to reconcile how much money we are going to spend together, we can never reconcile our appropriation bills at the end of the process, in my view. That is pretty simple adding up the numbers.

So we now have a process where we have rules, they have no rules. We have a limit on how much we will spend so we can get beyond deficit spending down the road. They have taken the rules away so they can spend for anything they want to spend no matter what it costs so it will sound good for the election. Their process is about electing people. It is not about having our budget process work so the American people can know that we have been a little cautious in our spending because we have a war to fight and so that we can bring realism back to our budget process in the future and we can get back to surpluses where this country needs to be.

I rise tonight to say that it is time for these two bodies to reconcile their differences and get down to a budget process that has rules for both bodies.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. For the benefit of the Members, the gentleman from Florida (Mr. YOUNG) has 18 minutes and the gentleman from Wisconsin (Mr. OBEY) has 21 minutes.

The Chair again reminds Members to please not characterize the actions of the Senate.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

I would simply like to say to the gentleman who just spoke, the worst thing that can happen in this town is when we believe our own baloney, and the fact is I have just heard a lot of it.

We hear speech after speech from the majority side of the aisle saying, It's them thar other guys on the other side of the Capitol what's caused this problem.

That is really not the problem. The problem can be summed up in a quote from Shakespeare: ''The fault, dear Brutus, lies not in our stars but in ourselves.''

I would say to my friends in the majority, you are in the majority. Act like it. Bring the bill to the floor. If you have got the votes, you have got the votes. If you do not, we will reach some other result. But do not stymie the Congress into paralysis and then govern by continuing resolution because you do not have the courage of your convictions. Bring the bills up and see whether the majority whip or other factions in the caucus win. The only reason the majority whip does not want to bring the bill up is because he knows he does not have the votes in his own caucus. I dare him to bring the Labor-Health-Education bill up. I dare him to put the President's budget on the floor.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. GEORGE MILLER), ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. I thank the gentleman for yielding me this time.

Mr. Speaker, I have never heard such a sad, duplicitous argument from my colleagues on the other side as this one of why they cannot get their work done, why they cannot do the job that they were elected to do. They come out here and suggest that somehow it is everyone else's fault, but the fault lies within the Republican caucus.

I find it rather interesting on the eve of the time when so many in this House are so anxious to send our troops into harm's way to establish democracy and defend democracy, they are so afraid of democracy on the floor of the House of Representatives. Bring the bill out and let us vote. Somebody will win and somebody will lose. It may be a bipartisan coalition of moderates and Democrats or right-wing conservatives and conservative Democrats, I do not know. But bring the health and human services appropriations bill to the floor and let us vote. That is democracy.

This is supposed to be the most democratic of all places on the face of the Earth, and you want to manage it because you are afraid to be accountable for your votes. It was not too long ago when the President of the United States said when he signed the No Child Left Behind education reform that I had the honor of working with him on, along with the chairman of the Committee on Education and the Workforce (Chairman BOEHNER), he said to the American public and he said to every audience as we flew around the country as he had multiple signings, if you will, he said, This is the way Washington should work. This is the way Washington should work.

The basic tenet of that bill at the request of the President of the United States was accountability. That bill holds State offices of education accountable, school districts accountable, chief State school officers accountable, teachers accountable. But now we have the Republican caucus, rather than bring out the funding for that bill, seeking to duck the accountability for the savage cuts that are going to happen if we kick this all over to March.

This is not theoretical. My colleagues in California on both sides of the aisle know that in the middle of March, if we have not done this bill, tens of thousands of teachers in California will get pink-slipped, their lives will be disrupted, school budgets will be disrupted. Most of these local governments and school districts will start the budgetary process in January; and by March, April and May they will be deep into their budget. But there will be no education budget. There will be no education budget allowing for the additional billion dollars for special education on which we have bipartisan agreement. There will be no education budget for the 350,000 additional title I children, the children in most desperate need of this money to get a decent education in this country. There will be no education budget for them. There will be no education budget for 350,000 children with disabilities.

Can you not see it in your heart to bring this budget to do your work to carry out the promise of the President of the United States, the promise of this Congress to the parents and to the children of this Nation that there would be a new day for education, there would be a system of standards and goals and accomplishments and, more importantly than anything, of accountability to the children and to the parents?

When? When will this Republican caucus get the courage and the pride to do the Nation's business?

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from North Carolina (Mr. PRICE).

□ 1845

Mr. PRICE of North Carolina. Mr. Speaker, the audacity of the House Republican leadership in blocking the entire Federal budget in order to spare the President embarrassment and to cater to their most extreme right-wing members goes beyond anything I have ever seen or experienced in this body.

I was amazed in July when the House leadership caved in to the Conservative Action Team, putting the Labor-HHS-Education appropriations bill in jeopardy. I wondered, how are Republican leaders going to pass this bill within the President's inadequate numbers? How would we get past this bill to the rest of the appropriations agenda before the new fiscal year began?

But, Mr. Speaker, it never occurred to me that Republican leaders would simply disregard the start of the new fiscal year and let the entire budget come crashing down, all to appease the most right-wing members of their caucus.

It is equally amazing that the President and his OMB Director are complicit in this strategy, apparently, or perhaps it is a lack of strategy, for in fact this is irresponsibility and dereliction of duty on a monumental scale.

What I never dreamed would happen has indeed happened, and the continuing resolution we are voting on today, covering not one bill or two, but the entire discretionary budget, is a monument to an extraordinary failure of leadership and responsibility.

This institutional breakdown is fraught with real consequences for real people. The No Child Left Behind Act, for example, was signed by the President amid great bipartisan fanfare in January. Yet, just weeks later, the President submitted a fiscal year 2003 budget that would cut the very education programs authorized in the new law. A continuing resolution will stall education funding and negate the effects of No Child Left Behind while the Bush budget would actually take us backwards.

The Bush budget reduces by 82 percent promised support for needy schools and students. Instead of increasing funding to help school districts meet the mandate that all teachers be highly qualified, the President's budget cuts teacher quality funding by 4 percent, eliminating training for 18,000 teachers.

Instead of providing increased support for after school centers to increase enrollment by 580,000, the President's budget would actually force 50,000 children to be eliminated from programs that provide safe places to learn after school.

Mr. Speaker, the House leadership has allowed a willful group of right-wingers to hold the entire budget process to their ideological agenda. This budgetary breakdown is a disaster, not only for this institution, but for the people we represent.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I have been sitting on the floor now for hours, as many of you have as well. I do not relish saying the following, but I think that we have hit one of our all-time lows.

This is the House of Representatives, the place of the people. We are the political descendants, every single one of us, of this man here, George Washington, of Lafayette, of Lincoln, of Kennedy, of Reagan, of all of them. What has come of us, that we have descended into this?

I say to the gentleman from Florida (Mr. YOUNG), I respect you. You are a gentleman. You are a decent man. I respect the mainstream Republicans who have to deal with this nonsense daily by the only wing that dominates your party now, the right wing.

But the right wing is the wrong wing. The people of this country deserve to have their families taken care of by us. That is why we ran. We said to our respective constituents, whether they were Republicans, Democrats, Independents, we want to fulfill the dream of America for you.

Now, whether we agree or disagree about the approaches, we have the collective responsibility to bring the vehicles to this floor, and a continuing resolution means that there has been a collapse, a collapse of leadership.

I do not want to think of what Lincoln would say about the Republican whip and what he said. He is too busy hating Democrats. What about loving our country and moving an agenda forward?

I feel ashamed tonight. I feel ashamed that there is not enough leadership. Where is the Speaker? Where is the majority leader? We can do better than this. We can do better than this, and the American people will hold us accountable. This is a sad evening.

I will vote for the resolution, so the government does not shut down.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Speaker, I am so honored to serve in the people's House and have taken such great pride in my service here over the past 12 years. I will soon be casting my last vote in this historic Chamber, and I remember casting my first 12 years ago on whether or not to go to war in the Persian Gulf. Members sat attentive, listening, applauding one another, Republican and Democrat. Whether or not they agreed with the Member's position, there was respect and comity.

Now, when this Chamber should be united, when that respect should be at an all time high, when we should be productive and working into the night, we are questioning one another's patriotism and calling one another names.

What is happening to this great institution? That night we went into the night, we worked for days. We did the people's work. Now we work 2 days. We cannot bring a housing bill to the floor, we cannot bring an education bill to the floor, we cannot have the great debates that this body has had over centuries.

Why can we not rise to the occasion, rather than putting this great body into reverse and going backwards at one of the most momentous and important times in our Nation's history? Let us pull together and work together and bring glory and hope to what Abraham Lincoln said was the last best hope of mankind. Let us come together and work together in a bipartisan way and do the people's work.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I thank the gentleman from Wisconsin for yielding me time.

Mr. Speaker, I have to tell you, I am reminded of the coffee shop breakfast table where I ate breakfast every morning for 27 years. We have a motto, ''Often wrong, but never in doubt.''

It is a sad day, as previous speakers, have mentioned. We are Americans. We can do better. We can do anything. All we have to do is work together and do the right thing.

The facts are we have got more people in poverty now than we had 2 years ago. Middle income has gone down. The debt is $440 billion greater. The American people continue to get robbed every time they go to the drugstore by the criminal acts of the prescription drug manufacturers.

We have spent all of the Social Security and Medicare trust funds. It is all gone. We collected that money with a promise to the American people that we would take it and it would be there to pay your benefits when your time came. It is all gone. Those are facts. You cannot hide from them. You cannot make up something else. You cannot blame it on somebody else. That is the way it is.

It is also a fact, as I said in the beginning, that we are Americans. We can do better. This is a shameful event in the history of this House.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois (Mr. PHELPS).

Mr. PHELPS. Mr. Speaker, I thank the gentleman from Wisconsin for allowing me the time to speak on this very important subject.

That we are asked to vote on a continuing resolution to continue something implies that which is in progress to reach a reasonable end, a resolve. I remember my father saying, ''Don't start a job you can't finish.'' Well, that is what we are doing, if we are not careful. It is my hope that we can come together and resolve the differences before we throw in the towel.

I am not a quitter. I want to do everything possible that we can to come to a positive end.

Circumstances have changed drastically since we enacted the budget last year, the Republican budget last year. The projections turned out to be too optimistic. Revenues are much lower than expected, and we face tremendous new expenses for homeland defense and the war on terrorism and a possible war with Iraq.

But we have got to acknowledge that there is a problem. New situations call for new solutions. Do not point fingers at each other and say it will work itself out. We came here to do a job, the greatest deliberative body in the world, to debate the very differences that we have. Maybe it is about unions in one respect and business in another, but that is why we came here. Can we not as reasonable people reach a resolve on behalf of the American people, whom we are going to ask in a few days to reelect us? It is shameful if we cannot.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, like every one of you, I love my country, but I do not think we serve our country when we lie to the people who sent us here.

In the past month I have heard no one less than the Speaker of this House and the majority whip tell the American people we are paying down the debt. A question I pose to the both of you, if that is so, then why did this body schedule a vote in the wee hours of the morning when our constituents slept to raise the debt limit over $6 trillion? If that is so, why is our Nation $440 billion deeper in debt than 1 year ago today, and en route within the next week to have the single largest increase in our Nation's debt in one fiscal year?

Mr. Speaker, we have to pass this resolution tonight. But I want to very much commend the people in that party and the people in this party who are working with our budget chairman to try to rein in spending, because not one of you would go buy a car and say, ''Let my kids pay for it.'' Not one of you would go buy a house and say, ''By the way, I don't care what it costs, let my kids pay for it.'' That is precisely what you are doing.

By the way, it was a Republican House, a Republican Senate and a Republican President who signed the budget bill last year. Please do not tell me and please do not tell the people I represent that somehow your magical budget is going to solve that, because it was your budget that put us $440 billion deeper in debt in the past 12 months.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Texas (Mr. EDWARDS).

□ 1900

Mr. EDWARDS. Mr. Speaker, while American servicemen and women are fighting the war against terrorism in Afghanistan tonight, and preparing for possible war against Iraq, it seems to me that the House could at least extend its present 3-day work week in order to keep from undermining the education of military schoolchildren. By not passing our education appropriation bill and by relying on this continuing resolution, this bill will basically prevent hundreds of millions of Federal dollars from going in November to public schools that have large numbers of military schoolchildren in them.

How can the House leadership explain to soldiers fighting 7 days a week in Afghanistan that the House cannot pass an education appropriations bill important to their children's education because that might just require Members of Congress to work more than 3 days a week? If the top Republican leadership has time to campaign in my district in Texas this weekend, then surely they can find time to schedule more than a 3-day work week in the House so that we can pass an education appropriations bill that is vital to thousands of Army parents in my district.

We have an obligation, Democrat and Republican alike in this House, to pass appropriation bills. That is our responsibility, Mr. Speaker, even if it requires more than a 3-day work week. We owe it to our military children and to their parents who sacrifice so much for our Nation to put this continuing resolution aside, get back to work, and pass an education appropriation bill.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. BENTSEN).

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, after 6 years on the Committee on the Budget, I am amazed at the debate I have heard tonight. I did not realize just how powerful that committee is. In the 6 years I have been on that committee, I have seen Members of the other party in this body and the other body waive the pay-go rules, waive the spending cap rules to accomplish whatever goal they want. But tonight, tonight we hear, because we do not have a budget resolution of both bodies, we cannot bring appropriations bills to the House floor.

Why is it that we can have an ongoing conference on the defense bill and the military construction bill but, somehow, we cannot even bring the Labor-HHS-Education bill to the floor, we cannot bring the science bill or the housing bill or any of those other bills, because the majority whip tells us, if we bring them to the floor, then we will have to go to conference and then the spending will go up?

But we are already in conference on other bills. It seems rather illogical to this Member that if we can do it on some bills, why we cannot do it on other bills.

What it is, Mr. Speaker, is that there is a small cadre in the House on the Republican side that are the last to realize that the economic program of this administration has been a failure, and rather than leaving us in surplus, we have wiped out over $5 trillion in surplus value, including that in the Social Security and Medicare trust funds. They are the last ones to realize it. The American people and the majority in the House and the Senate long ago did. We ought to bring those bills to the floor and finish our work for the American people.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, it is irresponsible for Congress to put off doing the people's business; it is irresponsible for the Republican majority to continue to ignore America's unmet needs, particularly our commitment to educating our children. From Head Start to teacher's pay, America's children, teachers and schools are being severely shortchanged by President Bush's budget and the majority's inaction. Mr. Speaker, 18,000 fewer teachers being trained, 33,000 fewer children in after-school programs, zero funds for repairing our crumbling schools, and only 9 months ago, we heard so much talk about how Congress and the administration would leave no child behind.

But now, with the smallest proposed increase in education since 1996, the President and the Republican majority are doing just that. Leaving our children behind is what happens when we underfund education by $7.2 billion.

This year programs funded under the No Child Left Behind Act are cut by $87 million, no additional resources to purchase books, to invest in teacher training. The President does take a lot of photographs with young children. When it comes to early childhood learning, we have heard soaring rhetoric, but not much else. Nowhere in the Bush budget does the Republican rhetoric ring more hollow. They have cut the Even Start program, supporting projects that combine early childhood education for children and literacy training for parents. By gutting Even Start, we leave whole families behind.

What we need to do is to stop taking pictures with children and provide them with the tools they need in order that they might succeed.

Mr. OBEY. Mr. Speaker, I yield myself the remaining 1½ minutes.

Mr. Speaker, under the rules of the House, the gentleman from Florida has the right to close; he still has a lot of time remaining, and so much may be said which we will not be able to respond to. But having said that, let me simply say that I think every Member of the House wishes the chairman well. He is being honored tonight for his leadership on bone marrow research, and I hope we do not tie him up too late here so that he can receive that award. I want to congratulate him for it. I think all of us in the House know

that he deserves it, and his mother will be proud.

Let me also say, Mr. Speaker, we are simply here because this resolution will extend the ability of the government to function until October 4. It is then my understanding there is another plan to move us to October 11; and then after that, evidently, an effort will be made to move us past the election. I want the majority leadership to understand, I will not vote for a resolution that moves us past the election without doing our duty to pass the education bill, to pass the science bill, to pass the other appropriation bills that this House has a duty to pass. We should not sneak out of town before we have done our duty, especially our duty by the children of America.

Mr. Speaker, I urge the House leadership to take the time afforded by this resolution to face up to their responsibilities to bring the Labor-Health-Education bill to the floor, as well as the other bills, so that the House can finish its business.

When we finish our business, then we can squawk about the other body. Until then, we have no claim in the world to do so.

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

Mr. YOUNG of Florida. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, anyone observing our debate this evening would think that we were engaged in some great political activity and that this bill on the floor was going to affect the politics of this body.

The fact of the matter is, we are only talking about a 4-day CR, and I would suggest that maybe some of us should save our ammunition for next week, because we are going to have to go through this all again next week, probably.

As far as it being a CR, someone might get the idea that it is a sinister development or a sneaky procedure. Except for the year that the gentleman from Wisconsin chaired the Committee on Appropriations, we have used CRs around here forever. So this is not something that is new; it has been used before, a number of times, many times.

But as strange as it might seem from all of this debate, this really is a bipartisan bill that we are debating here tonight. It is bipartisan because the gentleman from Wisconsin has worked closely with us to fashion this bill, and I do not want to get in trouble here with the rules of the House, but as well as the chairman of the Committee on Appropriations in the other body, and the ranking Republican member of the other body; we all worked together to fashion this nonpartisan, bipartisan continuing resolution.

As I said, we are probably going to have to do this again next week, so if my colleagues have some other ammunition that they want to throw out, save it. Although I think everything that needs to be said has probably already been said, but let us see.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman very, very briefly, because I have said there would be no other speakers.

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding.

I would tell my friend from Wisconsin, if I was fighting in combat, I would want to fight against the best MiG driver there is; and as a political opponent and a friend, I think we have fought against one of the best MiG drivers here on the floor tonight, and I salute the gentleman.

I would just like to answer, and I do not think they will be controversial, two questions real quick. The gentleman from Texas (Mr. EDWARDS) asked how can we increase the debt. If you inherit a debt that is $5 trillion and you nearly spend $1 billion a day on just the interest of the debt, it grows. You can pay down $490 billion; but if it grows over the years, over $1 billion a day, it is going to get bigger.

The other thing I would say is to my friend, the gentleman from California (Mr. GEORGE MILLER), whom I am very proud of as a colleague in California, who worked on the education bill, but I would ask him to take a look at what Governor Gray Davis is doing to education in California where every single district is being cut millions of dollars because of the energy crisis that was mismanaged.

Mr. YOUNG of Florida. Again, Mr. Speaker, this is a continuing resolution to keep the government funded until October 4, which is 4 days into the fiscal year. It is a bipartisan bill, and I would urge that we vote it quickly, send it down to the other body so that we can get it to the President's desk.

Mr. BLUMENAUER. Mr. Speaker, it is unfortunate that we have not been able to deal meaningfully with the appropriations process. The fiscal year ends in a few more days and we have not completed our appropriations work. Indeed, we have barely begun. The Republican part has a split between its conservative and its more conservative members, which is keeping the remaining appropriations bills from being brought to the House floor for debate and action.

The funding of our federal departments and program is one of the most important jobs of Congress. We must honor our commitments to defend our country, educate our children, and protect the environment. I am willing to support this short-term continuing resolution. However, we must, sooner rather than later, face up to the consequences of a massive tax cut, more demands for security, and the impact of the wasteful farm bill, and get on with the job the American people expect of us.

Mrs. LOWEY. Mr. Speaker, I wanted to take this opportunity to express my strong opposition to the idea of a long-term continuing resolution.

My colleagues, what have we done over the last few weeks? We've passed resolutions critical of the other body. Day by day, however, the start of the fiscal year approaches and the possibility looms that our inaction on the Labor-HHS bill will be felt in classrooms throughout American and by every school-age kid.

The House Republican leadership ought to stop pointing the finger at the Senate, and start crafting appropriations bills that are palatable to their own party.

Last year we passed and the President signed into law the landmark reauthorization of the ESEA, which calls for substantial increases in funding to ensure a quality education for every American child. The No Child Left Behind Act marked a new federal commitment to the education of our children.

It seems, unfortunately, that the Republican Leadership suddenly forgot everything it said as soon as we passed this bill.

The new ESEA law promised to provide school districts with 40% of the nation's average per pupil expenditure for each low-income student. Title I funding already does not meet the overwhelming need across the country, particularly in urban school districts, but ESEA was a step in the right direction.

The Republican budget, however, provides a mere $1 billion increase in Title I funding. This funding level is $16.7 billion below ''full'' funding for Title I under the new education law. Not only does this increase come on the backs of other programs, but it does not even keep up with inflation.

In New York City alone, only 30% of eligible low-income students were served by Title I in the last school year. This means that 326,000 students are being left behind. Under the Republican budget, even with the $1 billion increase, 256,000 eligible students will still miss out.

The failure to provide adequate Title I dollars runs counter to the historic No Child Left Behind Act, which promised to provide greater federal assistance to those schools serving the highest concentration of poor students. Regardless of location, the costs of educating children are similar in all schools. Under the Republicans' education spending bill, children will continue to be deprived of critical academic services.

Now it is the number one victim of Republican delays and intra-party squabbles.

Democrats will not allow after-school, teacher training, and school construction programs be put aside and underfunded until the spring of next year. Clearly, education must remain a recession-proof priority.

Mr. HINOJOSA. Mr. Speaker, although I support this continuing resolution, I want to sound a warning to my colleagues.

Last year, many of us proudly went to the White House and stood with the President as he signed the No Child Left Behind Act. That bill instituted many needed reforms and authorized additional funding to help poor and disadvantaged children.

I was very disappointed when the President's Fiscal Year 2003 budget did not provide the money necessary to fulfill the promise of that historic bill. Yet today we are heading down a path that will be even more tragic.

No matter how inadequate the President's budget, it at least provided some minimal increases to several critical programs. If in the next few weeks, however, we agree to a long-term continuing resolution, even those scant increases will be gone.

What does this mean to our children? It means that states with sizeable Hispanic student populations like Texas, California, New

York and Florida will lose almost $2 billion in funding for Title I.

California, Texas, New York, Arizona, New Mexico and Illinois will lose $63 million just under the English Language Acquisition State Grants program. This program serves 950,000 limited-English proficient and immigrant children. These are the children who need the most help, yet we will be denying them access to education they deserve.

If we pass a long-term CR will be freezing funding for TRIO, GEAR-UP, Migrant Education, drop-out prevention, and the College Assistance Migrant Programs. All of these programs heavily impact Hispanic students nationwide. A long-term CR will leave thousands of Hispanic children behind.

We do not need a long-term continuing resolution, we need a fully funded education appropriations bill for all the children in this country. I urge my colleagues to take heed.

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

The SPEAKER pro tempore (Mr. HANSEN). All time for debate has expired.

The joint resolution is considered read for amendment, and pursuant to the order of the House of today, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 370, nays 1, not voting 61, as follows:

[Roll No. 423]

YEAS—370

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Ballenger
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Berkley
Berry
Biggert
Bishop
Blagojevich
Blumenauer
Blunt
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Camp
Cannon
Cantor
Capito
Capps
Capuano
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinchey
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (NY)
McCollum
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—1

DeFazio

NOT VOTING—61

Armey
Bachus
Baker
Barcia
Bereuter
Berman
Bilirakis
Boehlert
Bonior
Burton
Buyer
Callahan
Calvert
Cardin
Condit
Conyers
Cooksey
Deal
Delahunt
Dooley
Ehrlich
Everett
Gallegly
Green (TX)
Hilleary
Hinojosa
Hoekstra
Houghton
Israel
Issa
Istook
Keller
Kind (WI)
King (NY)
LaHood
LaTourette
Maloney (NY)
McCarthy (MO)
McCrery
McDermott
McInnis
Meek (FL)
Miller, Gary
Mink
Murtha
Ortiz
Otter
Paul
Quinn
Ros-Lehtinen
Roukema
Sandlin
Sawyer
Shadegg
Simpson
Slaughter
Stump
Thompson (CA)
Thurman
Visclosky
Young (AK)

□ 1935

Ms. CARSON of Indiana changed her vote from ''nay'' to ''yea.''

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. MCCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 423, H.J. Res. 111, continuing Appropriations for FY03 I was unavoidably detained. Had I been present, I would have voted ''yea.''

PERSONAL EXPLANATION

Mr. ISRAEL. Mr. Speaker, I was absent from votes this afternoon so that I could be in New York to keep an appointment at my daughter's school. Were I here I would have voted as follows:

Rollcall Vote 420, on a Motion to Recommit H.R. 4600 with Instructions: ''yea''; rollcall Vote 421, on Passing H.R. 4600: ''nay''; rollcall Vote 422, on Passing the Conference Report to Accompany H.R. 2215: ''yea''; and rollcall Vote 423, on Passing H.J. Res. 111: ''yea''.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 483 Concurrent Resolution directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 1646.

The message also announced, that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1646) An Act to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes.

LEGISLATIVE PROGRAM

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, I take this time for the purposes of inquiring

about the schedule of next week, and I yield to the distinguished gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I thank the gentlewoman for yielding.

I am pleased to announce that the House has completed its legislative business for the week. The House will next meet for legislative business on Tuesday, October 1 at 10:30 a.m. for morning hour and 12 o'clock noon for legislative business. The majority leader will schedule a number of measures under suspension of the rules, a list of which will be distributed to the Members' offices tomorrow. Recorded votes on Tuesday will be postponed until 6:30 p.m.

For Wednesday and the balance of the week, the majority leader has scheduled the following measures for consideration in the House:

H. Res. 559, a House resolution on expedited special elections;

H. Res. 543, expressing the sense of the House that Congress should complete action on H.R. 4019, making marriage penalty tax relief permanent; a continuing resolutions; and S. 2690, the Pledge of Allegiance Reaffirmation Act; and Conferees are also working hard to complete work on the Bob Stump National Defense Authorization Act conference report. It is our hope that the conference report will be available for consideration in the House next week as well.

I thank the gentlewoman for yielding.

Ms. PELOSI. Mr. Speaker, I thank the gentleman.

From what I can tell from what he read, next week we will have another week of heavy lifting: a House resolution on special elections, sense of the Congress on making tax relief permanent, a continuing resolution reflecting the fact that we have not finished our business, and the Pledge of Allegiance Reaffirmation Act.

We all want to reaffirm our Pledge of Allegiance, but we can do that by pledging allegiance not only to the Flag but to the American people. They are still crying out for us to take action, to grow the economy, to create jobs, to educate our children, to provide a prescription drug benefit, access to health care, protect Social Security, preserve Medicare, give us a prescription drug benefit under Medicare; and we are having resolutions and hoping to complete our work on the defense bill.

I have some questions for the gentleman. Will the resolution on Iraq be brought up on the floor next week? If not, when do you think it will be brought up?

Mr. Speaker, I yield to the distinguished gentleman.

Mr. BLUNT. Mr. Speaker, in response to my friend, the gentlewoman from California (Ms. PELOSI), I would like to say that on the list of things she mentioned, the House of Representatives passed virtually all of that legislation, sent it to the Senate. We would like to see it come back and would like to take final action on it and hope that the conference reports on defense and military construction and other conference reports would produce some of that work next week.

In terms of Iraq, there is hard work on a bipartisan bicameral basis to get a resolution that I personally would be pleased to see come to the House next week, but we are working hard to have a resolution that has broad agreement to deal with this very important question.

Ms. PELOSI. Mr. Speaker, I thank the gentleman. Can the distinguished gentleman inform us when H.R. 3450, to reauthorize community health centers, might be scheduled? Twelve million Americans who are served by the centers are waiting to hear. I was hoping it might be a suspension on Tuesday.

Mr. BLUNT. Mr. Speaker, at the gentlewoman's request, I am told it will be on suspension on Tuesday, and I look forward to seeing that bill come to the floor as well.

Ms. PELOSI. To the best of the gentleman's knowledge, will there be votes next Friday?

Mr. BLUNT. I think there very likely will be votes next Friday; and certainly if we are able to move on the Iraq resolution, there will definitely be votes on Friday.

Ms. PELOSI. We have given up Monday of next week already?

Mr. BLUNT. We are working Tuesday, not Monday.

Ms. PELOSI. What is the leader's latest prediction on when the House will adjourn before the election? Closer to October 11 or 18? And when do you believe we will return for a lame duck session?

Mr. BLUNT. I am certainly in no position to predict that. I think there is a discussion with the leaders on both sides of the building. We want to adjourn, of course, in conjunction with our friends on the other side of the building. I would anticipate that the continuing resolution next week will go through the 11th; and hopefully by the time we get into that period, we will have either resolved some of the appropriations concerns, or we will be looking at the time between now and the election in a more definite way.

Ms. PELOSI. I certainly hope so. And I hope that we can work together to pass more of these appropriations bills. We have taken them up in committee. Some of them are ready. In fact, the distinguished chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs last Thursday on the floor asked when his bill would be taken up. We are working on transportation, but we passed District of Columbia today. So many of these bills are ripe for coming to the floor. That is why I am disappointed not to see them on the schedule because when we pass up votes on Monday, I remind my colleagues that is September 30, the last day of the fiscal year, Mr. Speaker, and once again there are no appropriations bills scheduled to be on the floor. We used to say, and you know the expression, you are a young man, ''Thank God it's Friday.'' Around here it is ''Thank God it's Thursday.'' Now the Republican leadership is giving us a work week that ends on Thursday afternoon. I am sure hard-working Americans who are holding down two jobs to support their families and work more than 40 hours a week would appreciate a schedule like this.

We spent weeks telling the other body that they have made no progress taking care of business we think they should be doing, and yet we have neglected so many of our own responsibilities. We have eight appropriations bills to fund the entire government that the House has yet to consider: education, veterans' medical care, transportation, agriculture, energy. The list goes on and on. And the disappointment is that these are being held up because an element, not the entire, but an element in the Republican Party wants to cut $7 billion out of education and you do not have the votes to do that; so you cannot bring it to the floor and therefore we are engaged in this business of one CR after another.

I thank the gentleman for the information.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF HOUSE RESOLUTION 559, EXPEDITED SPECIAL ELECTIONS

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it shall be in order at any time to consider in the House H. Res. 559; the resolution shall be considered as read for amendment; the resolution shall be debatable for 90 minutes, equally divided among and controlled by the chairman and ranking minority member of the Committee on House Administration, Representative COX of California and Representative FROST of Texas; and the previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. PUTNAM). Is there objection to the request of the gentleman from California?

There was no objection.

ADJOURNMENT TO MONDAY, SEPTEMBER 30, 2002

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

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

There was no objection.

HOUR OF MEETING ON TUESDAY, OCTOBER 1, 2002

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, September 30, 2002,

it adjourn to meet at 10:30 a.m. on Tuesday, October 1, for morning hour debates.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

PERMISSION FOR THE COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, MONDAY, SEPTEMBER 30, 2002, TO FILE REPORT ON H.R. 4561, FEDERAL AGENCY PROTECTION OF PRIVACY ACT

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight on Monday, September 30, 2002, to file a report to accompany H.R. 4561.

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

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, MONDAY, SEPTEMBER 30, 2002, TO FILE REPORT ON H.R. 4125, FEDERAL COURTS IMPROVEMENT ACT OF 2002

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight on Monday, September 30, 2002, to file a report to accompany H.R. 4125.

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

There was no objection.

PERMISSION FOR COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE TO HAVE UNTIL MIDNIGHT, MONDAY, SEPTEMBER 30, 2002, TO FILE REPORT H.R. 5428, CONSERVATION AND WATER DEVELOPMENT PROJECTS AUTHORIZATION

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the Committee on Transportation and Infrastructure may have until midnight on Monday, September 30, 2002, to file a report to accompany H.R. 5428.

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

There was no objection.

□ 1945

APPOINTMENT OF HON. JAMES V. HANSEN TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH OCTOBER 1, 2002

The SPEAKER pro tempore (Mr. PUTNAM) laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 26, 2002.

I hereby appoint the Honorable JAMES V. HANSEN or, if not available to perform this duty, the Honorable MAC THORNBERRY to act as Speaker pro tempore to sign enrolled bills and joint resolutions through October 1, 2002.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

STANDING FIRM FOR THE PEOPLE OF SUDAN

(Mr. WATTS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATTS of Oklahoma. Mr. Speaker, for nearly 20 years, the people of Sudan have been engaged in a civil war. The government in Khartoum, known as the National Islamic Front, has been ruthlessly terrorizing its own citizens in the south, killing and starving those who are not Muslim Arabs.

This religious hatred has evolved into genocide. Christians in southern Sudan are the subject of ethnic cleansing. Over 2 million people have died. Over 4 million people have been displaced. The war in Sudan is clearly one of good versus evil.

If this persecution was not bad enough, southern Sudan is a source of enormous oil reserves, causing the National Islamic Front to literally clear a path of black Christians in order to reap the benefits of this commodity.

Sudan is perhaps the most prominent purveyor of slavery, an atrocity of unspeakable proportions. Women and children are subjected to extreme cruelty. Men are removed from their families and given Arabic names before experiencing the worst of conditions.

There have been many prayers and vigils for the people of Sudan recently. I commend those who speak up for the persecuted and enslaved in the south of Sudan, and I urge the Sudanese government to resume peace talks with the Sudan People's Liberation Army. We must have peace, Mr. Speaker, in Sudan.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

WELCOMING MEMBERS OF RUSSIAN DUMA AND FEDERATION COUNCIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise tonight to pay tribute to what has been a very exciting week.

Members of this body and the other body played host to four separate groups of our colleagues from the Russian Duma and Federation Council. These groups were involved in intense discussions involving cooperation on antiterrorism, on projects involving health care, energy, programs to improve the conditions of the people of Russia and the relationship between the U.S.

In fact, the gentleman from New Jersey (Mr. SAXTON) chaired one delegation, and we had Members of other groups in the Congress chair other delegations. The gentleman from New Jersey (Mr. SMITH) was hosting a group that was focusing on veterans benefits and ways to construct housing support for the military in Russia. It has been a good week.

Mr. Speaker, on Tuesday a group of our colleagues, 12 to be exact, from both sides of the aisle played host to one of the rising young companies in Russia, an energy company known as ATERA and their CEO Igor Makarov. The members of the bipartisan delegation that traveled to Russia last May were hosted by ATERA as they had been hosted in previous delegations by the officials from GASTFIRM, LUKoil and other major energy companies, including Yukost and our friend Mikhail Korofko.

In response to the hospitality shown to us in Moscow, we agreed to host a dinner here in Washington for Makarov and the ATERA Corporation, and so on Tuesday evening in the Library of Congress almost 30 Members of this body from both parties and members of the other body assembled, along with diplomats from eight nations and approximately 18 members of the Russian Duma and Federation Council. In addition, we were joined by officials from various Federal agencies.

It was a very productive dinner, as we heard the progress of this young energy company, 10 years old, that now has an annual revenue approximating $5 billion.

There were also some serious discussions because, as with other merging companies in Russia, there have been allegations and accusations, as there have been with other energy companies and other banks and institutions in Russia, that the companies are perhaps not transparent enough, perhaps they have items that we have to confront and ask them about.

In this case, what was absolutely refreshing was that the chairman of the board of the ATERA, Igor Marakov, a young 34-year-old champion bicyclist from Russia, openly in front of our entire assembled group offered to provide to us the complete list of all of the owners of this privately held corporation. That in itself was significant because they are a private corporation. They gave us the list at my request of not just the owners of the company but also the members and employees of their Esau who, in fact, were revealed to us so that we now know the true ownership of this corporation as they move to be accepted on the New York Stock Exchange.

Secondarily, because of concerns that we raised with them and concerns that we have had with other companies that are emerging in Russia, they announced that they have agreed to form an outside independent board that would monitor and review the board activities of ATERA, and they have announced that they are accepting, and I have provided to them suggestions for prominent Americans that can reflect upon the kind of work that this company is engaged in, and in fact, they had meetings this week with former CIA Director Jim Woolsey, former Energy Secretary and former CNO of the Navy Jim Watkins and, in fact, took their constructive suggestions and have agreed to put into place an aggressive effort to open up the inside operations of the company, the kinds of activities they are involved in, the extent of their operations and to have a formal process for these kinds of officials that will, in fact, come from America and perhaps other companies to bring true transparency to their company.

For these things I applaud ATERA. I am not saying that we have answered all the questions, but I am saying that we have made a good start, and this company deserves to be given credit for coming to Washington and telling the elected officials of this body that it wants to be open, it wants to engage with American energy corporations. It wants to have the bipartisan look of not just Members of Congress and our agencies but also of those individuals in America that can help them chart a new course, a course of integrity, honesty and openness as they grow into a company that hopefully will become a true multinational organization.

I thank my colleagues for joining with me in hosting that event, in particular the gentlewoman from Florida (Ms. BROWN) and the gentleman from Florida (Mr. SHAW) from Jacksonville, who hosts the corporate headquarters of this company, and I applaud those other Russian companies that are looking to make the same strides in moving toward open ownership and openness and moving toward the kind of transparency that American companies must provide to get the investment from the people of this country and people from around the world who have confidence in the American free enterprise system.

FREEDOM OF SPEECH FOR RELIGIOUS INSTITUTIONS

The SPEAKER pro tempore (Mr. CRENSHAW). Under the Speaker's announced policy of January 3, 2001, the gentleman from North Carolina (Mr. JONES) is recognized for 60 minutes as the designee of the majority leader.

Mr. JONES of North Carolina. Mr. Speaker, I want to report to the staff that I will not take the full hour. That I am sure is good news because they work awfully hard, and many times the staff is here at 11:00 at night. I will keep my word to be not much longer than 20 minutes.

Mr. Speaker, I am on the floor again, I have been every week for the last month, talking about an issue that, to me, if we are talking about September 11, we are talking about the war on terrorism, we are talking about our troops in Afghanistan. Part of the reason they are there is to protect our freedom. There is no question about it, and our national security.

The reason I come to the floor is because a year or so ago it was brought to my attention by a minister in my District that he was prohibited from talking about a political issue or candidate during the 2000 election in the months of September and October. So I took it upon myself to, along with my staff, to research this issue, and I found out that in 1954 Lyndon Baines Johnson had the H.L. Hunt family opposed to his reelection, and the H.L. Hunt family had established two 501(c)(3) think tanks.

So Johnson, being the majority leader and a very powerful man, and I think very arrogant man quite frankly, but anyway that is my opinion. He put an amendment on the revenue bill that was going through the Senate that was never debated, no debate, and basically what this debate said that if a company is a 501(c)(3) then they may not have political speech.

Mr. Speaker, the reason that bothers me so greatly is that prior to the Johnson amendment, any pastor, priest or rabbi or cleric in this country had the right to talk about any issue that they and the congregation chose for that minister to talk about. The Johnson amendment put the IRS, because his amendment went on a revenue bill, into our churches, and they are what we call the speech patrol.

That is not what this great Nation is about. This great Nation is about freedom, and the first amendment is cherished by all of us, and I would always do any and everything I can as a Member of Congress and as a citizen to protect the first amendment rights of the people of this country, and that includes our preachers, priests and rabbis.

So we put a bill in as H.R. 2357, the Houses of Worship Political Speech Protection Act, and I am pleased to tell my colleagues, as of tonight, we have about 134 cosponsors. We are picking up some from the other side of the aisle, some Democrats. I am delighted that the gentleman from Tennessee (Mr. CLEMENT) came on this week. He has joined us in this fight to return the freedom of speech to our churches and synagogues, and I want to read a couple of quotes at this time.

This is a quote from the former Congressman George Hansen from Idaho who served 12 terms, and this is his quote, ''It is impossible to have religious freedom in any Nation where churches are licensed to the government.'' In my opinion, if the government is going to influence what a person can and cannot say within a church, then that is the government, in my opinion, that might as well as be licensed to churches, if they are going to stop them from talking about the moral and political issues of the day, because many of the biblical issues are today the political issues of the day. So the churches should be free to have those sermons and those discussions if the minister chooses to do so.

In addition, Martin Luther said, ''The church must be reminded that it is neither the master nor the servant of the State but, rather, the conscience of the State.''

Mr. Speaker, what happened in the year 2000 and actually throughout the election cycle in the year 2000, Barry Lynn of the Americans United for Separation of Church and State, he sends a letter to the religious leaders, both front page and back, and I am just going to read one paragraph because I want to make a point with this one paragraph. He says, ''Dear Religious Leader, another election year is upon us, and questions about the appropriate role of houses of worship in the political process have arisen.''

The second paragraph is the one that I really find intriguing quite frankly

because he says in the first sentence of the second paragraph, he acknowledges what I am saying tonight is that our churches are guaranteed freedom of speech by the Constitution, and this is what Mr. Lynn says to begin this second paragraph.

''The First Amendment of the U.S. Constitution protects the right of pastors and church leaders to speak about on religious, moral and political issues.'' That is exactly what I am saying. Exactly what I am saying. The first amendment guarantees the freedom of speech in our churches and synagogues and mosques throughout this country. However, and that is the word he uses, the second part of that paragraph or the second sentence in that paragraph is exactly what I am talking about tonight, the Johnson amendment.

He says, ''However, houses of worship, as nonprofit entities under Section 501(c)(3) of the Internal Revenue Service Tax Code, are barred from endorsing or opposing candidates for any public office and may not intervene directly or indirectly in partisan campaigns.''

That is because of the Johnson amendment. If I go back to Mr. Lynn's first sentence, very seldom do I agree with him, but I do agree with him and he is exactly right, ''The first amendment of the U.S. Constitution protects the right of pastors and church leaders to speak out on religious, moral and political issues.''

□ 2000

He is right. The problem is the second sentence, the Johnson amendment, ''however.'' That is right, Mr. Lynn and I agree, the Constitution does guarantee that right to our preachers, priests, and rabbis throughout this country.

There was a hearing held, and the gentleman from Illinois (Mr. CRANE) has certainly been interested in this issue. He has a separate bill from mine. They are not competing. Mine just takes a different approach than his, but I want to praise the gentleman from Illinois (Mr. CRANE) for taking on this issue for a number of years, and I look forward to working with him in the months and years ahead. One day I hope that President Bush will sign a bill that says to the churches and synagogues of this country that they have total free speech in that church. That is what the cosponsors who have joined us on this bill, H.R. 2357, want.

Tonight I am not going to take the time to list all of the spiritual leaders that have written letters of support and made telephone calls.

Dr. D. James Kennedy from Florida testified before the oversight subcommittee of the Committee on Ways and Means, and brought petitions signed by 60,000 people from around this country in support of this legislation. That same day we had a former Member of Congress from Washington, D.C., and a vice mayor of Washington, D.C., Pastor Walter Fauntroy testified on behalf of this legislation at the same time Dr. D. James Kennedy testified, and the attorney who helped me draft this legislation, Mr. Kobe May of the American Center for Law and Justice. Mr. May has been in the courts many times trying to protect the first amendment rights of people throughout this country.

What I want to share is a response. There were two representatives from the Internal Revenue Service. One is Mr. Hopkins, and one is Mr. MILLER. I found the whole testimony intriguing, quite frankly, but just a couple of points I would like to bring forward. In response to a question the gentleman from Georgia (Mr. LEWIS) asked Mr. MILLER, ''As a rule, do you monitor the activities of churches during the political season?''

Mr. MILLER with the Internal Revenue Service, ''We do monitor churches. We are limited in how we do that by reason of section 7611 and because of lack of information in the area because there is no annual filing.''

Mr. Speaker, this is the point that I want to make clearly. The last part of his answer, Mr. MILLER to the gentleman from Georgia (Mr. LEWIS), and this is what I wanted to stress, ''So our monitoring is mostly receipt of information from third parties who are looking.''

Mr. Speaker, third parties that are looking to see what the church and the pastor in that church is talking about and if he is violating the 501(c)(3) status, the Johnson amendment, then he is in violation and can lose the 501(c)(3) status. For those who talk about the separation of church and state, if they really are concerned, why do they want the government dictating what a minister might or might not be able to say within the church?

Let me go just a little bit further. The gentleman from Illinois (Mr. WELLER) also is on that committee, and I want to read a couple of his questions and the answers. This gives a better example I think to my colleagues here in the House. The gentleman from Illinois (Mr. WELLER) asked a question of Mr. MILLER of the Internal Revenue Service. Can the from the pulpit and not be in violation of the tax status that candidate is pro life or candidate why is pro choice? The answer was that becomes more problematic can speak to issues of the take but to the extent they start tying it to particular candidates and to a particular election, it begins to look more and more like either opposition to a particular candidate or favoring a particular candidate.

Basically he is saying they are in violation of the Johnson amendment. The preacher cannot do that. That is exactly what he is saying that.

Let me go to another question that the gentleman from Illinois (Mr. WELLER) asked. He asked, ''and would the Crane and Jones legislation clarify the law to allow for that type of statement?

Mr. MILLER answers, ''I believe so.''

That is what this is all about. I think if this country is to remain morally strong, our spiritual leaders throughout the country should have the right to talk about these issues. They had it prior to 1954. I am going to give evidence of that in just a moment.

Another question from the gentleman from Illinois (Mr. WELLER) to another agent who was in attendance, Mr. Hopkins. He says, ''So just to follow up on that, say you have a candidate who is a guest speaker, was in a church speaking from the pulpit, concludes his or her remarks, and the minister walks up, puts his or her arm around that particular candidate and says, this is the right candidate. I urge you to support this candidate. Is that allowable under current law?''

Mr. Hopkins with the Internal Revenue Service, ''No, that would not be allowable under current law. That would clearly be political campaign activity. It would be protected, however, under the two bills that are the specific subject of the hearing.'' So it would be protected under my bill and the Crane bill.

Some people might say why should the churches get involved in political campaigns. Let me give another example. Down in my district during the year 2000, Jerry Shield, a friend of mine who is Catholic, went to his priest, Father Rudy at St. Paul's in New Bern, North Carolina, the Sunday before the Tuesday and he said to Father Rudy, Would you please say to the congregation George Bush is pro-life. The priest said, I cannot do that. It will violate the tax status of this church.

Let me give an example on the other side. There is a wonderful former Member of Congress, Floyd Flake, whom all of us love. He is Dr. Floyd Flake, a minister, and has a very large church in New York City. Mr. Flake had Al Gore in his church, and when Mr. Gore completed his speech, Reverend Flake went up and did exactly the same thing that the gentleman from Illinois (Mr. WELLER) asked the IRS about. He stood up there and said I believe this is the right man to lead this Nation. He is trying to say that he believes as a spiritual man that he believed Al Gore is the right man. He got a letter of reprimand from the Internal Revenue Service; a third party turned him in.

Mr. Speaker, this is America. Freedom rings in this great country. Our men and women are serving this Nation across the sea to guarantee that freedom, and we have a responsibility to not let Lyndon Johnson get by with an amendment that was not even debated. That is what happened. So after 48 years, 48 years of the Federal Government influencing and threatening what can be said in our churches and synagogues, we now have an opportunity to pass legislation to get this debate started.

I want to thank even some who do not agree with me on this issue, thank you for allowing, after 48 years, for this

bill to get to the floor for a debate. We will see what might happen when this bill might come forward.

Let me take 5 or 6 more minutes and then I will close. There is a professor at Purdue University named Dr. James Davidson. I had read a report. He is well known. He is a psychologist at Purdue University. I talked to Dr. Davidson yesterday. He has spent a lot of time writing books and articles about churches and religion in America. I want to read this to Members. This is the beginning of his research on the issue of the freedom of churches to talk about political issues. ''The ban on electioneering has nothing to do with the first amendment or Jefferson's principle of separation of church and state. The first amendment speaks of religious freedom. It says nothing that would preclude churches from aligning themselves with or against a candidate for political office,'' and he cites certain court rulings. I will not recite those because of time.

''The courts also have never used Thomas Jefferson's celebrated 1802 metaphor about a wall of separation between church and state to stifle church's support or opposition to a political candidate.''

Another paragraph, ''From a Constitutional perspective then, American churches have had every right to endorse or oppose political candidates. They have not participated in all elections, but they have been actively involved in some. For example, many Protestant churches and church leaders delivered sermons and published religious literature opposing Al Smith's bid to become the Nation's first Catholic President in 1928.''

□ 2015

He cites some references there. Constitutional principles have not changed since 1928. Churches still have a constitutional right to endorse or oppose political candidates. However, then he gets into the issue of the Johnson amendment. What he is saying, that up until the Johnson amendment, there were no restrictions of speech, right or wrong. The preacher, the priest, the rabbi, the cleric had every right to talk about issues they thought were important to their church, to their State and to this Nation.

I just wanted to read that because this man, Dr. Davidson, is an expert on this issue. I wanted to cite that for the record tonight.

Mr. Speaker, I would like to take just a couple of more minutes now to say that the left has tried to say that if my bill or the bill of the gentleman from Illinois (Mr. CRANE) passed, then you are allowing the churches to get into the fund-raising business for political candidates. That is total hogwash. The bill that the Congress and the Senate passed, the 2002 campaign finance reform laws, says that if you are a nonprofit entity, which is a 501(c)(3), you cannot raise hard or soft money. So that is just a bogus argument from the extreme left that does not want to have the preachers to have the right to talk about these issues in their churches, synagogues and mosques.

Mr. Speaker, I want to thank the staff and you for giving me this time. I want to say that the strength of America depends, quite frankly, on our spiritual leaders being able to talk about the issues of the day, whether they be moral issues or political issues. I believe that the strength of this country is dependent on the fact that our spiritual leaders have total freedom of speech no matter what the issue might be. That is the best hope for this country. The spiritual leaders that I have met in the last year and a half I really believe are my brothers in Christ and I have great respect for them.

I want to say that this legislation is supported by such people as D. James Kennedy, Dr. Tim LaHaye and his wife Beverly, by also Ray Flynn, the former Ambassador to the Vatican and also Rabbi Daniel Lapin, a wonderful man of God from the west coast. I talked to him two or three times on this issue. Again, these spiritual leaders and I would say that probably the majority of the spiritual leaders maybe would not even want to discuss these issues in front of their congregation. Maybe they would choose to say, well, I don't want to talk about a political candidate here or there. But my point is, they should have the right to make that decision. They now do not have that right.

There is one other problem with this law. The IRS admitted during the hearing that they cannot enforce this law. As I said earlier, they are dependent on a third party, a spy, if you will, to turn somebody in. I do not believe that that is what this great Nation stands for. Let me also say that they acknowledge that they cannot enforce this law adequately across the board. They have and they did admit they have been somewhat selective as to certain churches. I gave you an example of Floyd Flake who again is a wonderful man of our Lord in New York. All he did was to say to his congregation that he believes that Al Gore is the right man to lead this Nation. Then again I want to go back to the priest down in my district, there was a request made by a parishioner, Just say that George Bush is pro-life. These are just simple words. They have a right to say it. They should have that right. That is acknowledged by Davidson and even in Barry Lynn's letter, the first sentence. He is exactly right. They do have that right. Johnson took it away from them.

I also want to say that this country, I think, is a Nation, and some people will not agree with this, but it was founded on Judeo-Christian principles. That is the foundation of America and if America is going to remain strong, then we have got to be sure that our spiritual leaders have the freedom to talk about the biblical, the moral, and the political issues of the day. They must have that right.

Mr. Speaker, I always close when I come to the floor in a certain way. I spoke this morning and I close this way everywhere I go, because I think we are so fortunate to have our men and women in uniform who are protecting our national security and also protecting the first amendment, the second amendment and all the guarantees that we have in the Constitution. I close this way by saying, I ask God to please bless our men and women in uniform, I ask God to please bless the families of our men and women in uniform, I ask God to please bless the men and women who serve in the United States House and the United States Senate, I ask God to please bless the President of the United States so that he might make the right decisions for this Nation.

Mr. Speaker, I close this way by saying three times, I ask God: Please God, please God, please God, continue to bless America.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GREEN of Texas (at the request of Mr. GEPHARDT) for today after 6:30 p.m. on account of business in the district.

Mrs. THURMAN (at the request of Mr. GEPHARDT) for today on account of a birth in the family.

Mr. THOMPSON of California (at the request of Mr. GEPHARDT) for September 25 after 4:00 p.m. and the balance of the week on account of official business.

Mr. ENGLISH (at the request of Mr. ARMEY) for today until noon on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. KUCINICH) to revise and extend their remarks and include extraneous material:

Ms. NORTON, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

The following Members (at the request of Mr. WELDON of Pennsylvania) to revise and extend their remarks and include extraneous material:

Mr. WELDON of Pennsylvania, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly an enrolled bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 640. An act to adjust the boundaries of Santa Monica Mountains National Recreation Area, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 238. An act to authorize the Secretary of the Interior to conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.

S. 1175. An act to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on September 25, 2002 he presented to the President of the United States, for his approval, the following bills.

H.R. 486. For the relief of Barbara Makuch.

H.R. 487. For the relief of Eugene Makuch.

H.R. 4558. To extend the Irish Peach Process Cultural and Training Program.

ADJOURNMENT

Mr. JONES of North Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 17 minutes p.m.), under its previous order, the House adjourned until Monday, September 30, 2002, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9368. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Fenamidone; Pesticide Tolerance [OPP-2002-0229; FRL-7196-8] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9369. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Glyphosate; Pesticide Tolerances [OPP-2002-0232; FRL-7200-2] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9370. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Lambda-cyhalothrin; Pesticide Tolerance [OPP-2002-0204; FRL-7200-1] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9371. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Cyfluthrin; Pesticide Tolerance [OPP-2002-0193; FRL-7199-8] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9372. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Dimethomorph; Pesticide Tolerances [OPP-2002-0221; FRL-7199-2] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9373. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Clopyralid; Pesticide Tolerance [OPP-2002-0235; FRL-7198-4] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9374. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Triticonazole; Pesticide Tolerance [OPP-2002-0199; FRL-7200-6] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9375. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Spinosad; Pesticide Tolerance [OPP-2002-0195; FRL-7199-5] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9376. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pyraclostrobin; Pesticide Tolerance [OPP-2002-0225; FRL-7200-7] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9377. A letter from the Comptroller, Department of Defense, transmitting notification regarding authorizing the use of a multiyear procurement contract for the DDG-51 program; to the Committee on Armed Services.

9378. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Edwin P. Smith, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

9379. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Freddy E. McFarren, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

9380. A letter from the Secretary, Department of Defense, transmitting notification that the President approved changes to the 2002 Unified Command Plan; to the Committee on Armed Services.

9381. A letter from the Assistant General Counsel for Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting the Department's final rule — Exception Payment Standard to Offset Increase in Utility Costs in the Housing Choice Voucher Program [Docket No. FR 4672-F-02] (RIN: 2577-AC29) received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9382. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Louisiana; Control of Emissions of Nitrogen Oxides in the Baton Rouge Ozone Nonattainment Area [LA-62-1-7571; FRL-7384-5] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9383. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality State Implementation Plans (SIP); Louisiana; Emissions Reduction Credits Banking in Nonattainment Areas [LA-63-2-7569; FRL-7384-6] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9384. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans for Kentucky: Vehicle Emissions Control Programs [KY 134 & KY 136-200235(a); FRL-7381-2] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9385. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality State Implementation Plans (SIP); Louisiana: Substitute Contingency Measures [LA-61-1-7564; FRL-7382-6] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9386. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department's proposed Letter(s) of Offer and Acceptance (LOA) to North Atlantic Treaty Organization Consultation, Command, and Control Agency for defense articles and services (Transmittal No. 02-61), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9387. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Germany for defense articles and services (Transmittal No. 02-60), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9388. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Spain for defense articles and services (Transmittal No. 02-59), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9389. A letter from the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting the Department's final rule — Missile Technology Production Equipment and Facilities [Docket No. 020830206-2206-01] (RIN: 0694-AC51) received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9390. A letter from the Acting White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9391. A letter from the Chairman, Postal Rate Commission, transmitting a report submitted in accordance with the Inspector General Act of 1978, as amended, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

9392. A letter from the Assistant Secretary — Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Outer Continental Shelf Oil and Gas Leasing-Clarifying Amendments (RIN: 1010-AC94) received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9393. A letter from the Regulations Coordinator, IHS, Department of Health and Human Services, transmitting the Department's final rule — Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character (RIN: 0917-AA02) received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9394. A letter from the Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and

Atmospheric Administration, transmitting the Administration's final rule — Announcement of Funding Opportunity to Submit Proposals for the Coastal Ecosystem Research Project in the Northern Gulf of Mexico [Docket No. 000202023-2049-03 I.D. 041502E] received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9395. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone off Alaska; ''Other Rockfish'' in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management area [Docket No. 011218304-1304-01; I.D. 090302A] received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9396. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 6 — Closure of the Commercial Fishery from Horse Mountain to Point Arena (Fort Bragg) [Docket No. 020430101-2101-01; I.D. 080202D] received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9397. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska [Docket No. 011218304-1304-01; I.D. 070802B] received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9398. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 011218304-1304-01; I.D. 090302D] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9399. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 011218304-1304-01; I.D. 082202A] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9400. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 5- Adjustment of the Recreational Fishery from the U.S.-Canada Border to Cape Falcon, OR [Docket No. 020430101-2101-01; I.D. 080202C] received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9401. A letter from the Staff Director, United States Commission On Civil Rights, transmitting the list of state advisory committees recently rechartered by the Commission; to the Committee on the Judiciary.

9402. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace, Springhill Airport, Springhill, LA [Airspace Docket No. 2002-ASW-2] received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9403. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Turbomeca S.A. Makila Models 1A, 1A1, and 1A2 Turboshaft Engines [Docket No. 2001-NE-42-AD; Amendment 39-12882; AD 2002-19-02] (RIN: 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9404. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model SA330F, SA330G, SA330J, AS332C, AS332L, and AS332L1 Helicopters [Docket No. 2001-SW-66-AD; Amendment 39-12879; AD 2002-18-05] (RIN: 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9405. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier-Rotax GmbH Type 912 F and 914 F Series Reciprocating Engines; Correction [Docket No. 2002-NE-08-AD; Amendment 39-12865; AD 2002-16-26] (RIN: 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9406. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc Models Spey 506-14A, 555-15, 555-15H, 555-15N, and 555-15P Turbojet Engines [Docket No. 2001-NE-14-AD; Amendment 39-12877; AD 2002-18-03] (RIN: 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9407. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-300, 747SP, and 747SR Series Airplanes [Docket No. 2001-NM-34-AD; Amendment 39-12878; AD 2002-18-04] (RIN: 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9408. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2002-NM-166-AD; Amendment 39-12845; AD 2002-16-06] (RIN: 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9409. A letter from the Senior Regulations Analyst, Department of Transportation, transmitting the Department's final rule — Procedures for Compensation of Air Carriers [Docket OST-2001-10885] (RIN: 2105-AD06) received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9410. A letter from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's Annual Report on the Federal Work Force for Fiscal Year 2001, pursuant to 42 U.S.C. 2000e—4(e); jointly to the Committees on Government Reform and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 3802. A bill to amend the Education Land Grant Act to require the Secretary of Agriculture to pay the costs of environmental reviews with respect to conveyances under that Act (Rept. 107–698). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3765. A bill to designate the John L. Burton Trail in the Headwaters Forest Reserve, California (Rept. 107–699). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SENSENBRENNER:

H.R. 5469. A bill to suspend for a period of 6 months the determination of the Librarian of Congress of July 8, 2002, relating to rates and terms for the digital performance of sound recordings and ephemeral recordings; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey (for himself, Mr. PALLONE, Mr. ANDREWS, Mr. LOBIONDO, Mr. SAXTON, Mrs. ROUKEMA, Mr. FERGUSON, Mr. ROTHMAN, Mr. FRELINGHUYSEN, and Mr. HOLT):

H.R. 5470. A bill to establish the HARS-specific PCB effects level, expressed in a certain Memorandum of Agreement issued by the Environmental Protection Agency and the Corps of Engineers, as a final criterion; to the Committee on Transportation and Infrastructure.

By Mr. TOWNS (for himself, Mr. PHELPS, Mr. PETERSON of Minnesota, Mr. LIPINSKI, Mrs. CHRISTENSEN, Mr. HILLIARD, Mr. SHOWS, Mr. DEUTSCH, Mr. THOMPSON of Mississippi, Mr. BISHOP, Ms. CARSON of Indiana, Mr. SANDLIN, Ms. NORTON, and Mr. LUCAS of Kentucky):

H.R. 5471. A bill to extend Federal funding for operation of State high risk health insurance pools; to the Committee on Energy and Commerce.

By Mr. SENSENBRENNER:

H.R. 5472. A bill to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted; to the Committee on the Judiciary.

By Mr. WELDON of Pennsylvania (for himself, Mr. HOYER, Mr. ANDREWS, Mr. CASTLE, Mr. BARTLETT of Maryland, Mr. BORSKI, Mr. BRADY of Pennsylvania, Mr. CARDIN, Mr. COYNE, Mr. CUMMINGS, Mr. DOYLE, Mr. EHRLICH, Mr. ENGLISH, Mr. FATTAH, Mr. FERGUSON, Mr. FRELINGHUYSEN, Mr. GEKAS, Mr. GILCHREST, Mr. GREENWOOD, Ms. HART, Mr. HOEFFEL, Mr. HOLDEN, Mr. HOLT, Mr. KANJORSKI, Mr. LOBIONDO, Mr. MASCARA, Mr. MENENDEZ, Mrs. MORELLA, Mr. MURTHA, Mr. PALLONE, Mr. PASCRELL, Mr. PAYNE, Mr. PETERSON of Pennsylvania, Mr. PITTS, Mr. PLATTS, Mr. ROTHMAN, Mrs. ROUKEMA, Mr. SAXTON, Mr. SHERWOOD, Mr. SHUSTER, Mr. SMITH of New Jersey, Mr. TOOMEY, and Mr. WYNN):

H.R. 5473. A bill to grant the consent of the Congress to the SMART Research and Development Compact; to the Committee on the Judiciary, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KLECZKA (for himself and Mr. RYAN of Wisconsin):

H.R. 5474. A bill to amend the Gramm-Leach-Bliley Act to further protect customers of financial institutions whose identities are stolen from the financial institution, and for other purposes; to the Committee on Financial Services.

By Mr. ACEVEDO-VILÁ (for himself, Mr. FOLEY, Mr. LAMPSON, Mr. GUTIERREZ, Ms. VELAZQUEZ, Mr. SERRANO, Mr. PALLONE, Mr. CRAMER, Mr. DUNCAN, and Mr. WICKER):

H.R. 5475. A bill to require that certain procedures are followed in Federal buildings when a child is reported missing; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS (for himself and Mr. SAXTON):

H.R. 5476. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of Korean immigration into the United States; to the Committee on Financial Services.

By Ms. BALDWIN (for herself, Mr. OWENS, Mr. SCHIFF, Mr. FROST, Ms. WOOLSEY, Mr. WAXMAN, Mr. SANDERS, Ms. KAPTUR, Mr. EVANS, Mr. REYES, Ms. LEE, and Mr. MCINTYRE):

H.R. 5477. A bill to amend title 38, United States Code, to improve compensation benefits for veterans in certain cases of loss of paired organs; to the Committee on Veterans' Affairs.

By Mr. BILIRAKIS (for himself, Mr. BROWN of Ohio, Mr. TAUZIN, Mr. DINGELL, Mr. UPTON, Mr. WAXMAN, Mr. GREENWOOD, Mr. BOUCHER, Mr. BURR of North Carolina, Mr. TOWNS, Mr. WHITFIELD, Mr. PALLONE, Mr. GANSKE, Mr. DEUTSCH, Mr. NORWOOD, Mr. RUSH, Mr. TERRY, Mr. ENGEL, Mr. SAWYER, Mr. WYNN, Mr. GREEN of Texas, Ms. MCCARTHY of Missouri, Ms. DEGETTE, Mr. BARRETT, Mr. DOYLE, Mr. JOHN, and Ms. HARMAN):

H.R. 5478. A bill to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CAMP:

H.R. 5479. A bill to provide for the development of new firefighting technology, and for other purposes; to the Committee on Science.

By Mr. CHAMBLISS (for himself, Mr. HAYES, Mr. BURR of North Carolina, Mr. KINGSTON, Mr. COBLE, Mr. BISHOP, Mr. JONES of North Carolina, and Mr. BALLENGER):

H.R. 5480. A bill to eliminate the Federal quota and price support programs for certain tobacco, to compensate quota owners and holders for the loss of tobacco quota asset value, to establish a tobacco community reinvestment program, and for other purposes; to the Committee on Agriculture.

By Mrs. JO ANN DAVIS of Virginia (for herself, Mr. TOM DAVIS of Virginia, Mr. MORAN of Virginia, Mr. WOLF, Mr. GREENWOOD, and Mrs. MORELLA):

H.R. 5481. A bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percent relating to periods of receiving disability payments, and for other purposes; to the Committee on Government Reform.

By Ms. DEGETTE (for herself, Mr. NETHERCUTT, Mr. BONILLA, Mrs. CHRISTENSEN, Mr. REYES, Ms. MILLENDER-MCDONALD, Mr. HAYWORTH, Mr. RODRIGUEZ, Mr. UNDERWOOD, Mr. JACKSON of Illinois, Mr. WELDON of Pennsylvania, Mr. LEWIS of Georgia, Mr. GREEN of Texas, Ms. NORTON, and Mr. HINOJOSA):

H.R. 5482. A bill to prevent and cure diabetes and to promote and improve the care of individuals with diabetes for the reduction of health disparities within racial and ethnic minority groups, including the African-American, Hispanic American, Asian American and Pacific Islander, and American Indian and Alaskan Native communities; to the Committee on Energy and Commerce.

By Mr. KINGSTON (for himself, Mr. LARSON of Connecticut, Mr. TOM DAVIS of Virginia, and Mr. LEWIS of Kentucky):

H.R. 5483. A bill to enhance homeland security by encouraging the development of regional comprehensive emergency preparedness and coordination plans; to the Committee on Transportation and Infrastructure.

By Mr. LEACH:

H.R. 5484. A bill to amend the Public Health Service Act to enhance research, training, and health information dissemination with respect to urologic diseases, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MORAN of Kansas (for himself, Mr. OSBORNE, and Mr. THUNE):

H.R. 5485. A bill to eliminate the authority to reduce rental payments under the conservation reserve program in calendar year 2002 by reason of harvesting of forage or grazing on land in an emergency caused by a drought; to the Committee on Agriculture.

By Mr. MORAN of Kansas (for himself, Mr. RYUN of Kansas, Mr. TIAHRT, and Mr. MOORE):

H.R. 5486. A bill to authorize the Secretary of the Interior to cooperate with the High Plains Aquifer States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the High Plains Aquifer, and for other purposes; to the Committee on Resources.

By Mr. PALLONE:

H.R. 5487. A bill to authorize the Secretary of Education to make grants to eligible schools to assist such schools to discontinue use of a derogatory or discriminatory name or depiction as a team name, mascot, or nickname, and for other purposes; to the Committee on Education and the Workforce.

By Mr. PALLONE:

H.R. 5488. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with authority to recall food when there is a reasonable basis for believing that the food is adulterated and presents a risk to human health, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PALLONE:

H.R. 5489. A bill to establish the Great Plains Historic Grasslands Wilderness Area, and for other purposes; to the Committee on Resources.

By Mr. PALLONE:

H.R. 5490. A bill to ensure the coordination and integration of Indian tribes in the National Homeland Security strategy and to establish an Office of Tribal Government Homeland Security within the Department of Homeland Security, and for other purposes; to the Committee on Resources.

By Mr. RANGEL (for himself, Mr. GEPHARDT, Mr. CARDIN, Mr. STARK, Mr. MATSUI, Mr. COYNE, Mr. LEVIN, Mr. MCDERMOTT, Mr. KLECZKA, Mr. NEAL of Massachusetts, Mr. MCNULTY, Mrs. THURMAN, Mr. GEORGE MILLER of California, and Ms. SLAUGHTER):

H.R. 5491. A bill to provide economic security for America's workers; to the Committee on Ways and Means.

By Ms. SLAUGHTER:

H.R. 5492. A bill to require the Federal Government to give a preference in awarding any contract for a construction project to entities participating in qualified apprenticeship programs; to the Committee on Government Reform.

By Mr. STRICKLAND (for himself, Mr. WHITFIELD, Mr. UDALL of Colorado, Mrs. TAUSCHER, Mr. HOLDEN, Ms. SLAUGHTER, Mr. CLEMENT, Mr. UDALL of New Mexico, Mr. LUCAS of Kentucky, and Mr. KANJORSKI):

H.R. 5493. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to provide benefits for contractor employees of the Department of Energy who were exposed to toxic substances at Department of Energy facilities, to provide coverage under subtitle B of that Act for certain additional individuals, to establish an ombudsman and otherwise reform the assistance provided to claimants under that Act, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUMP:

H.R. 5494. A bill to provide for the conveyance of certain Federal lands administered by the Bureau of Land Management in Maricopa County, Arizona, in exchange for private lands located in Yavapai County, Arizona; to the Committee on Resources.

By Mr. TAYLOR of Mississippi (for himself, Mr. THOMPSON of Mississippi, Mr. WICKER, Mr. PICKERING, and Mr. SHOWS):

H.R. 5495. A bill to designate the facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, as the ''Major Henry A. Commiskey, Sr. Post Office Building''; to the Committee on Government Reform.

By Mr. TIAHRT:

H.R. 5496. A bill to permit certain funds assessed for securities laws violations to be used to compensate employees who are victims of excessive pension fund investments in the securities of their employers, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WOOLSEY (for herself, Ms. SOLIS, and Mr. MCGOVERN):

H.R. 5497. A bill to authorize assistance through eligible nongovernmental organizations to remove and dispose of unexploded ordnance in agriculturally-valuable lands in developing countries; to the Committee on International Relations.

By Ms. WOOLSEY (for herself and Mr. GEORGE MILLER of California):

H.R. 5498. A bill to convey to the Board of Trustees of the California State University the balance of the National Oceanic and Atmospheric Administration property known as the Tiburon Laboratory, located in Tiburon, California; to the Committee on Science.

By Mr. HOLDEN (for himself and Mr. PHELPS):

H. Con. Res. 488. Concurrent resolution directing the Clerk of the House of Representatives to correct the enrollment of the bill

H.R. 2215; to the Committee on the Judiciary, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL (for himself, Mr. FLAKE, Mr. JEFF MILLER of Florida, Mr. HOSTETTLER, and Mr. WELDON of Florida):

H. Con. Res. 489. Concurrent resolution expressing the sense of the Congress that the United States should not rejoin the United Nations Educational, Scientific, and Cultural Organization (UNESCO); to the Committee on International Relations.

By Mr. GRAVES:

H. Con. Res. 490. Concurrent resolution to express the sense of Congress concerning the United States and its dependence on foreign sources of oil; to the Committee on Energy and Commerce.

By Mr. LATOURETTE:

H. Con. Res. 491. Concurrent resolution supporting the goals and ideals of National Safety Forces Appreciation Week; to the Committee on Government Reform.

By Mr. COX (for himself, Mr. FROST, Mr. DREIER, Mr. CHABOT, Mr. NEY, Mr. HOYER, Mr. BAIRD, Mr. VITTER, Ms. JACKSON-LEE of Texas, Mr. LANGEVIN, Mr. NADLER, Mr. BALLENGER, Mr. BEREUTER, Mr. CAMP, Mr. COBLE, Mr. CRENSHAW, Mrs. CUBIN, Mr. CULBERSON, Mr. TOM DAVIS of Virginia, Mr. DELAY, Mr. DEMINT, Mr. DIAZ-BALART, Mr. DOOLITTLE, Mr. EHLERS, Mr. FLAKE, Mr. FLETCHER, Mr. GIBBONS, Mr. GILCHREST, Mr. GILMAN, Mr. GOSS, Mr. GREEN of Wisconsin, Mr. GREENWOOD, Mr. HAYES, Mr. HOEKSTRA, Mr. HULSHOF, Mr. HYDE, Mr. ISSA, Mr. JENKINS, Mr. JOHNSON of Illinois, Mr. JONES of North Carolina, Mrs. KELLY, Mr. KERNS, Mr. KNOLLENBERG, Mr. LAHOOD, Mr. LATOURETTE, Mr. LEWIS of Kentucky, Mr. LOBIONDO, Mr. MCHUGH, Mr. MCINNIS, Mr. MCKEON, Mrs. MYRICK, Mr. PETERSON of Pennsylvania, Mr. PLATTS, Mr. PORTMAN, Ms. PRYCE of Ohio, Mr. ROHRABACHER, Mr. RYAN of Wisconsin, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHADEGG, Mr. SHAYS, Mr. SHAW, Mr. SHIMKUS, Mr. SIMMONS, Mr. SMITH of Michigan, Mr. STEARNS, Mr. TANCREDO, Mr. TERRY, Mr. TOOMEY, Mr. WATTS of Oklahoma, Mr. WELDON of Florida, Mr. WELLER, Mr. WICKER, Mr. WILSON of South Carolina, Mrs. CHRISTENSEN, Mr. DAVIS of Florida, Mr. DELAHUNT, Ms. DELAURO, Mr. EDWARDS, Mr. FATTAH, Mr. GEPHARDT, Mr. GONZALEZ, Mr. GREEN of Texas, Mr. HALL of Texas, Mr. HASTINGS of Florida, Mr. HONDA, Mr. ISRAEL, Ms. KAPTUR, Mr. LIPINSKI, Mr. JEFFERSON, Mrs. JONES of Ohio, Mr. LEWIS of Georgia, Mr. LYNCH, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. MENENDEZ, Mr. REYES, Mr. RODRIGUEZ, Mr. SANDLIN, Mr. SCHIFF, Mr. SHERMAN, Ms. SLAUGHTER, Mr. SNYDER, Mr. STENHOLM, Mr. WYNN, Mr. GOODE, Mr. HEFLEY, Mr. HOEFFEL, and Mr. JACKSON of Illinois):

H. Res. 559. A resolution expressing the sense of the House of Representatives that each State should examine its existing statutes, practices, and procedures governing special elections so that, in the event of a catastrophe, vacancies in the House of Representatives may be filled in a timely fashion; to the Committee on House Administration.

By Mr. CAMP:

H. Res. 560. A resolution expressing the sense of the House of Representatives regarding the restoration and protection of the Great Lakes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Resources, Science, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCKEON (for himself, Mr. BONILLA, Mr. HINOJOSA, Mr. BOEHNER, Mr. HOEKSTRA, Mr. GEORGE MILLER of California, Ms. SANCHEZ, Mr. GONZALEZ, Mr. REYES, Ms. VELAZQUEZ, Mr. RODRIGUEZ, Mr. SERRANO, Mr. PASTOR, Mrs. NAPOLITANO, Mr. BECERRA, Mr. GUTIERREZ, Mr. DIAZ-BALART, and Ms. SOLIS):

H. Res. 561. A resolution recognizing the contributions of Hispanic-serving institutions; to the Committee on Education and the Workforce.

By Mr. PALLONE:

H. Res. 562. A resolution expressing the sense of the House of Representatives that a postage stamp should be issued in commemoration of Diwali, a festival celebrated by people of Indian origin; to the Committee on Government Reform.

By Mr. YOUNG of Florida (for himself, Mr. TOWNS, Mr. DAVIS of Illinois, Mr. FOLEY, Mr. CRANE, Mr. PENCE, Mr. BASS, Mr. SIMPSON, Mr. MASCARA, Mr. MORAN of Virginia, Mr. MEEKS of New York, Mrs. CAPPS, Mr. BENTSEN, Mrs. MALONEY of New York, Mr. GRAHAM, Mr. TOM DAVIS of Virginia, Mr. WATKINS, Mrs. MYRICK, Mr. CLAY, Mr. CARDIN, Mr. SOUDER, and Mr. SUNUNU):

H. Res. 563. A resolution expressing the sense of the House regarding the importance of bone marrow donation, honoring the National Marrow Donor Program for its work in increasing bone marrow donations, and supporting National Marrow Awareness Month, and for other purposes; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 97: Mr. ISRAEL and Mr. HAYES.
H.R. 389: Mr. PALLONE.
H.R. 709: Mr. KIND.
H.R. 826: Mr. DIAZ-BALART and Ms. PRYCE of Ohio.
H.R. 827: Mr. HOUGHTON.
H.R. 902: Ms. MCCARTHY of Missouri.
H.R. 951: Mr. VITTER.
H.R. 952: Mr. ALLEN and Ms. HART.
H.R. 967: Ms. RIVERS.
H.R. 975: Mr. VISCLOSKY.
H.R. 1035: Mr. ISSA.
H.R. 1200: Mr. DELAHUNT.
H.R. 1296: Mr. DAVIS of Florida.
H.R. 1368: Mr. PUTNAM.
H.R. 1520: Mr. KIRK, Mr. HAYES, Mr. DOGGETT, Mr. GRAHAM, and Mr. EDWARDS.
H.R. 1522: Mrs. MORELLA.
H.R. 1582: Ms. ROYBAL-ALLARD.
H.R. 1624: Mr. CARDIN.
H.R. 1723: Mr. DELAHUNT.
H.R. 1786: Mr. OLVER and Mr. SHUSTER.
H.R. 1862: Mr. MCNULTY.
H.R. 2037: Ms. PRYCE of Ohio.
H.R. 2063: Mr. SHAYS, Mr. PASCRELL, Mr. MEEKS of New York, Mr. BACA, Mr. LEACH, and Mr. VISCLOSKY.
H.R. 2071: Mr. JENKINS.
H.R. 2127: Mrs. MCCARTHY of New York.
H.R. 2163: Mr. BACA.
H.R. 2198: Mrs. MORELLA.
H.R. 2442: Ms. HOOLEY of Oregon and Mr. DEFAZIO.
H.R. 2458: Mrs. MALONEY of New York.
H.R. 2569: Mr. BROWN of South Carolina.
H.R. 2570: Ms. SANCHEZ.
H.R. 2573: Mrs. MALONEY of New York and Mr. JOHNSON of Illinois.
H.R. 2592: Mr. DELAHUNT.
H.R. 2693: Mr. WEINER, Mr. FRANK,, Mr. ABERCROMBIE, Mr. HOLDEN, Mr. FARR of California, Mr. OWENS, Mr. FROST, Mr. SCHIFF, and Mr. LIPINSKI.
H.R. 2770: Mr. BURR of North Carolina, MR. CRANE, Mr. DEMINT, Mr. DOOLEY of California, Mr. HOBSON, Mr. LATOURETTE, Mr. GRAVES, and Mr. ISAKSON.
H.R. 2799: Ms MCCARTHY of Missouri and Mr. LANTOS.
H.R. 2874: Mr. SPRATT.
H.R. 3109: Mr. CALVERT, Mr. PICKERING, and Mr. SHOWS.
H.R. 3273: Mr. HAYES, Mr. OTTER, and Mrs. MORELLA.
H.R. 3414: Mr. LANTOS and Ms. WATERS.
H.R. 3424: Mr. LIPINSKI.
H.R. 3464: Mr. KILDEE.
H.R. 3613: Mr. BLAGOJEVICH, Mr. SHIMKUS, Mr. RUSH, Ms. SCHAKOWSKY, Mr. DAVIS of Illinois, Mr. COSTELLO, Mr. KIPINSKI, Mr. MANZULLO, Mr. EVANS, Mr. JACKSON of Illinois, Mr. JOHNSON of Illinois, and Mr. CRANE.
H.R. 3665: Mr. ISRAEL.
H.R. 3794: Mr. ALLEN.
H.R. 3831: Mr. MORAN of Kansas.
H.R. 3992: Ms. BALDWIN and Ms. SANCHEZ.
H.R. 4032: Ms. ESHOO.
H.R. 4061: Mr. BACA, Ms. NORTON, Ms. RIVERS, and Mr. DEFAZIO.
H.R. 4075: Ms. SLAUGHTER and Mr. OLVER.
H.R. 4099: Mr. CAMP.
H.R. 4482: Mr. MCDERMOTT, Mr HILLIARD, Mr. PETERSON of Minnesota, Mr. BROWN of Ohio, and Mr. HOEFFEL.
H.R. 4551: Mr. BARCIA.
H.R. 4614: Mrs. THURMAN and Ms. BALDWIN.
H.R. 4643: Mr. BAIRD.
H.R. 4659: Mr. GRAHAM.
H.R. 4678: Ms. HARMAN.
H.R. 4720: Ms. LOFGREN.
H.R. 4728: Mr. RAMSTAD.
H.R. 4730: Mr. CUMMINGS, Mr. PAYNE, and Mr. GEORGE MILLER of California.
H.R. 4753: Mr. KINGSTON.
H.R. 4754: Mrs. CLAYTON.
H.R. 4790: Mr. CANTOR.
H.R. 4803: Ms. SCHAKOWSKY.
H.R. 4821: Ms. SLAUGHTER.
H.R. 4887: Mr. WELLER and Mr. MCDERMOTT.
H.R. 4916: Mr. BONIOR and Mrs. JONES of Ohio.
H.R. 5013: Mr. EVERETT, Mr. KELLER, Mr. BALLENGER, Mr. CARSON of Oklahoma, Mr. PETERSON of Minnesota, Mr. LIPINSKI, Mr. JENKINS, Mr. GUTKNECHT, Mr. HALL of Texas, and Mr. RAMSTAD.
H.R. 5036: Mr. KUCINICH, Ms. CARSON of Indiana, Mr. PLATTS, and Mr. OWENS.
H.R. 5052: Mr. TERRY.
H.R. 5060: Mr. DOYLE.
H.R. 5085: Ms. SLAUGHTER.
H.R. 5089: Mr. KLECZKA.
H.R. 5119: Mr. MEEHAN.
H.R. 5124: Ms. MCCARTHY of Missouri.
H.R. 5197: Mrs. CLAYTON and Mr. ALLEN.
H.R. 5226: Ms. WOOLSEY, Mr. PRICE of North Carolina, Mr. STARK, Mr. UDALL of Colorado, Mr. MORAN of Virginia, Mr. BONIOR, Mr. SMITH of Washington, Ms. BERKLEY, Mr. SABO, Mr. GILCHREST, and Mr. SCHIFF.
H.R. 5230: Mr. STARK, Mr. BROWN of Florida, Mr. BROWN of Ohio, and Ms. ESHOO.
H.R. 5234: Mr. LIPINSKI and Mr. LATOURETTE.
H.R. 5249: Mr. DOYLE.
H.R. 5250: Mrs. JO ANN DAVIS of Virginia, Mr. GORDON, Mr. GRAHAM, Ms. HOOLEY of Oregon, Mr. LOBIONDO, Mr. PALLONE, Mr. JONES

of North Carolina, Mr. RAHALL, Mr. FORBES, Mr. COSTELLO, Mr. SAXTON, and Mr. GIBBONS.

H.R. 5268: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 5272: Mr. FILNER and Mr. PAYNE.

H.R. 5285: Mr. PHELPS.

H.R. 5310: Mr. SHIMKUS, Mr. LAHOOD, Mr. JOHNSON of Illinois, Mr. ENGLISH, and Mr. HAYES.

H.R. 5311: Mrs. MORELLA and Mr. JONES of North Carolina.

H.R. 5314: Mrs. NORTON.

H.R. 5326: Mrs. THURMAN.

H.R. 5331: Mr. TERRY.

H.R. 5334: Mr. CARDIN, Mr. MCINTYRE, and Mr. OBERSTAR.

H.R. 5346: Mr. WATT of North Carolina, Mr. LEWIS of Georgia, Mr. JEFFERSON, Ms. DELAHUNT, Mr. GUTIERREZ, Mr. BLUMENAUER, Mr. HILLIARD, Mr. MOLLOHAN, Mr. DICKS, Mr. CROWLEY, Ms. MCCOLLUM, Ms. BALDWIN, Mr. KENNEDY of Rhode Island, Mr. CLAY, Mr. LYNCH, Mr. BLAGOJEVICH, and Mr. NEAL of Massachusetts.

H.R. 5359: Mr. PHELPS and Mr. LARSEN of Washington.

H.R. 5380: Mr. AKIN, Mr. ENGLISH, and Mr. WELDON of Florida.

H.R. 5383: Mr. JOHNSON of Illinois, Mr. BARCIA, Mr. PHELPS, Ms. RIVERS, Ms. KAPTUR, and Mr. WALDEN of Oregon.

H.R. 5411: Mr. HALL of Texas, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MORAN of Virginia, Mr. KIND, Mr. LARSEN OF WASHINGTON, MR. CARSON of Oklahoma, Mr. DAVIS of Illinois, Mr. FROST, Mr. OBERSTAR, Mr. PETERSON of Minnesota, and Mrs. MORELLA.

H.R. 5414: Mrs. KELLY.

H.R. 5427: Mr. CASTLE, Mr. BOOZMAN, Mr. JEFF MILLER of Florida, Mr. KNOLLENBERG, Mr. ISTOOK, Mrs. NORTHUP, Mr. GOODLATTE, Mr. SIMPSON, Mr. TOOMEY, Mr. WELDON of Florida, Mr. UPTON, Mr. LATHAM, Mr. LAHOOD, Mr. MCKEON, Mr. MCCRERY, Mr. RYAN of Wisconsin, Mr. FLETCHER, Mr. CHABOT, Mr. REHBERG, Mr. SHAW, Mr. DAN MILLER of Florida, Mr. NETHERCUTT, Mr. WICKER, Mr. HAYES, Mr. HERGER, and Mr. ISAKSON.

H.R. 5429: Mr. BOUCHER.

H.R. 5432: Mr. LIPINSKI.

H.R. 5433: Mr. SHIMKUS and Mr. KIRK.

H.R. 5435: Mr. SANDERS.

H.R. 5445: Ms. PRYCE of Ohio.

H.J. Res. 31: Mr. FATTAH and Mr. RUSH.

H. Con. Res. 220: Mr. DEFAZIO.

H. Con. Res. 351: Mr. BLUMENAUER, Mr. BARRETT, Mr. FALEOMAVAEGA, Mr. GORDON, Mr. ISRAEL, Mr. KENNEDY of Rhode Island, Mr. LANGEVIN, Mr. LEVIN, Mr. MARKEY, Mr. MATHESON, Mrs. NORTHUP, Mr. SANDERS, Mr. UPTON, Mr. WU, and Mr. WYNN.

H. Con. Res. 406: Mr. LANGEVIN, Mr. BURTON of Indiana, Mr. TERRY, Mr. LUTHER, and Mr. WAXMAN.

H. Con. Res. 447: Mr. CLAY, Ms. CARSON of Indiana, and Mr. EVANS.

H. Con. Res. 462: Mr. RODRIGUEZ, Mr. MCGOVERN, Mrs. JONES of Ohio, Mr. WYNN, Mr. ENGLISH, Mr. PETERSON of Pennsylvania, Mr. PHELPS, and Mr. PLATTS.

H. Con. Res. 466: Mr. GREEN of Wisconsin and Mr. TURNER.

H. Con. Res. 473: Ms. CARSON of Indiana.

H. Con. Res. 476: Mr. WU, Mr. WEINER, Mr. GRUCCI, Mr. ETHERIDGE, Mr. SHAYS, Mr. FORBES, Mr. WILSON of South Carolina, Mr. HOLDEN, Mr. GRAHAM, Mr. GEKAS, Mr. KENNEDY of Rhode Island, Mr. ISRAEL, Mrs. ROUKEMA, Mr. CALVERT, Ms. BALDWIN, Mr. TOM DAVIS of Virginia, Mr. MCNULTY, Mr. WATTS of Oklahoma, and Mr. KING.

H. Con. Res. 484: Mr. MCKEON, Mr. ISAKSON, Mr. GRAHAM, Mr. PLATTS, Mr. GREENWOOD, and Mr. BOEHNER.

H. Con. Res. 486: Mr. FROST and Mr. BAKER.

H. Res. 253: Mr. SMITH of Michigan.

H. Res. 398: Mr. TIERNEY and Mr. WAXMAN,

H. Res. 491: Mr. RANGEL.

H. Res. 522: Mr. HINOJOSA, Mr. PASTOR, and Ms. ROYBAL-ALLARD.

H. Res. 548: Mr. LEWIS of Georgia.

H. Res. 549: Mr. GEKAS, Mr. BEREUTER, Mr. MCNULTY, Mr. GRAHAM, Mr. WYNN, Mr. WATTS of Oklahoma, Mr. SKELTON, Mr. GOODE, and Mr. COLLINS.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 12. September 24, 2002, by Mr. CONYERS on House Resolution 519, was signed by the following Members: John Conyers, Jr., Michael E. Capuano, William D. Delahunt, Lynn N. Rivers, John W. Olver, Michael R. McNulty, Eva M. Clayton, Joe Baca, Major R. Owens, Stephanie Tubbs Jones, Dennis Moore, Thomas M. Barrett, Zoe Lofgren, Dale E. Kildee, Lois Capps, Anna G. Eshoo, John Lewis, James P. McGovern, Betty McCollum, Lynn C. Woolsey, Jim McDermott, Janice D. Schakowsky, Nick Lampson, James P. Moran, David E. Bonior, Gary L. Ackerman, Xavier Becerra, Bill Pascrell, Jr., Chaka Fattah, Diane E. Watson, Jerrold Nadler, James A. Leach, Lane Evans, Henry A. Waxman, Tammy Baldwin, Rosa L. DeLauro, Patrick J. Kennedy, Sanford D. Bishop, Jr., James R. Langevin, David E. Price, Nydia M. Velazquez, Brad Sherman, Donald M. Payne, Juanita Millender-McDonald, Maxine Waters, Jane Harman, Sheila Jackson-Lee, Jay Inslee, Nancy Pelosi, Carrie P. Meek, Shelley Berkley, Gary A. Condit, Wm. Lacy Clay, Tom Sawyer, Sherrod Brown, Carolyn McCarthy, Lloyd Doggett, Constance A. Morella, Steve Israel, Alcee L. Hastings, Leonard L. Boswell, Martin Frost, Tom Lantos, Benjamin L. Cardin, Rush D. Holt, Thomas H. Allen, Robert T. Matsui, Hilda L. Solis, Lucille Roybal-Allard, Robert Menendez, Earl F. Hilliard, Barbara Lee, Eddie Bernice Johnson, Michael M. Honda, Earl Blumenauer, Charles A. Gonzalez, Solomon P. Ortiz, Peter A. DeFazio, Barney Frank, Calvin M. Dooley, Sam Farr, Jose E. Serrano, Grace F. Napolitano, John Elias Baldacci, Fortney Pete Stark, Steny H. Hoyer, Diana DeGette, Joseph M. Hoeffel, Robert E. Andrews, John D. Dingell, Howard L. Berman, Brian Baird, Susan A. Davis, George Miller, Ellen O. Tauscher, Nita M. Lowey, Mark Udall, John F. Tierney, Norman D. Dicks, Bart Stupak, Anthony D. Weiner, Corrine Brown, Gregory W. Meeks, Adam B. Schiff, Danny K. Davis, Ruben Hinojosa, Silvestre Reyes, Max Sandlin, Sander M. Levin, Frank Pallone, Jr., Dennis J. Kucinich, Darlene Hooley, James E. Clyburn, Bernard Sanders, Julia Carson, Elijah E. Cummings, Albert Russell Wynn, Neil Abercrombie, William J. Jefferson, Luis V. Gutierrez, Jim Davis, Joseph Crowley, Baron P. Hill, Adam Smith, Bennie G. Thompson, Tom Udall, Ed Pastor, Gene Green, Rick Larsen, Karen McCarthy, Rod R. Blagojevich, Carolyn C. Kilpatrick, Maurice D. Hinchey, Robert Wexler, Edolphus Towns, Bobby L. Rush, Bob Filner, Martin Olav Sabo, Charles B. Rangel, Robert A. Brady, Michael F. Doyle, Richard A. Gephardt, Ken Bentsen, David Wu, Ron Kind, Loretta Sanchez, Peter Deutsch, Cynthia A. McKinney, Louise McIntosh Slaughter, Stephen F. Lynch, Vic Snyder, John B. Larson, Robert A. Borski, Ciro D. Rodriguez, Nick J. Rahall II, Edward J. Markey, James H. Maloney, Paul E. Kanjorski, Harold E. Ford, Jr., Jesse L. Jackson, Jr., Ted Strickland, Marcy Kaptur, Bob Clement, John S. Tanner, and Ike Skelton.

DISCHARGE PETTIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 4, by Mr. CUNNINGHAM on House Resolution 271: Joseph M. Hoeffel and Dennis Moore.

Petition 11, by Mrs. THURMAN on House Resolution 517: David Wu, Lynn N. Rivers, Joe Baca, Silvestre Reyes, Stephen F. Lynch, Bart Stupak, Chaka Fattah, James A. Barcia, Gary A. Condit, Anthony D. Weiner, Dennis J. Kucinich, John J. LaFalce, Richard A. Gephardt, and William O. Lipinski.

Petition 1, by Mr. CARSON on House Resolution 146: Stephen F. Lynch.

The following Member's name was withdrawn from the following discharge petition:

Petition 11 by Mrs. THURMAN on House Resolution 517: Bart Gordon.