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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. THORNBERRY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 13, 2003.

I hereby appoint the Honorable MAC THORNBERRY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer: Lord of history and Conqueror of evil, empower us to surrender completely to Your spirit. With renewed faith in Your guidance, even in the midst of conflicting inspirations, we commend to You the Members of Congress, the President, his Cabinet, and all who struggle to lead Your people and acknowledge Your sovereignty over all events and times.

When faced with impending decisions or making a deep commitment, Your devout people not only turn to You in prayer but they use every ounce of intelligence and every source of consultation to know Your holy will. Lord, human as we are, often we talk to You as we would a friend or an intimate, wondering what is Your mind.

At a certain moment, we begin to look for signs from You that will confirm the movement in our heart. Lord, send forth Your light that we may discern well the desolations or consolations You give us. If conscience is flooded with anger, resentment, and darkness, we will reexamine their source. If, however, You fill us with a surge of energy borne of inner peace

and freedom, that takes us beyond our ego and is in tune with Your word, we will continue to seek to do Your will now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. 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.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Florida (Ms. ROS-LEHTINEN) come forward and lead the House in the Pledge of Allegiance.

Ms. ROS-LEHTINEN 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain five 1-minutes on each side.

BAN PARTIAL-BIRTH ABORTION

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

Mr. PITTS. Mr. Speaker, today, our colleagues on the other side of the building will vote on a bill banning the barbaric procedure of partial-birth abortion. Partial-birth abortion is one of the most violent and gruesome acts known to mankind.

Despite what its supporters say, several thousand times a year in the United States healthy babies and

healthy mothers in the fifth and sixth months of pregnancy undergo this horrific procedure. As we seek to lead the world against tyranny and in support of basic human rights, we must recommit ourselves to promoting the basic human rights of the most vulnerable among us, the most innocent and defenseless members of the human race. We have a chance to stand up for what is right, to stand against what is wrong. We have a chance to defend those who need it most, to stand against those who seek to harm them.

Partial-birth abortion is not rare, partial-birth abortion is not safe, partial-birth abortion does not foster a respect for human life. It degrades us all. Partial-birth abortion must be banned. Let us pass the bill.

THE CRISIS WITH IRAQ

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

Mr. KENNEDY of Rhode Island. Mr. Speaker, I voted for the resolution authorizing the forcible disarmament of Iraq, and I continue to agree with the President of the United States that we should disarm Iraq by force, if necessary, in order to protect American lives. But I also recognize that if we go to war right now, the war will have little legitimacy in the eyes of the world community, and that increases the risks. I, therefore, believe that it is in our security interests to support Great Britain's latest proposal to establish specific unambiguous disarmament benchmarks and a firm deadline. Failure to comply with all requirements would trigger military action without further debate.

If Iraq does comply, we would have achieved our aims without the need for war, everybody's first choice. If Iraq again fails to meet its obligations, our

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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good-faith effort will have helped restore some of the U.S.'s lost credibility, thereby strengthening the coalition supporting the war as well as improving our ability to prosecute the war on terrorism, as well as decreasing the risk and cost of rebuilding Iraq after a conflict.

I urge my colleagues to support this reasonable approach to the crisis.

WOMEN AND HEART DISEASE

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

Ms. ROS-LEHTINEN. Mr. Speaker, last month we celebrated Heart Month, a time for us to reflect upon heart disease, its effects, and our methods of prevention.

I would like to take this opportunity to recognize the Miami Heart Research Institute for its dedication to the research and the treatment of this life-threatening disease.

Heart disease is the single leading cause of death for American women. Obviously, women make an indispensable contribution to the growth of our culture and must be ensured every opportunity for good health and longevity. It is critical that women be educated on the risk of heart disease as well as on the effective methods of prevention.

I hope that my colleagues will join me in recognizing the efforts of the Miami Heart Research Institute and that we will all grow in the awareness of the impact which heart disease has on Americans, especially our Nation's women.

IN MEMORY OF FORMER CONGRESSMAN GUS YATRON

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

Mr. HOEFFEL. Mr. Speaker, I have the sad task of informing my colleagues that my predecessor, Gus Yatron, passed away unexpectedly early this morning.

Gus Yatron dedicated his entire life to public service, first serving as a school director for the Reading School District, and then serving in the Pennsylvania State House and in the Pennsylvania State Senate. He served with distinction in the halls of Congress for 24 years.

During Gus Yatron's years of public service, he helped thousands of people and was respected by all the colleagues that he served with. Our thoughts and prayers go out to his wife, Millie; his daughter, Theana; his son, George; and to his grandchildren.

ELIMINATING UNFAIR DOUBLE TAXATION ON DIVIDEND INCOME

(Mr. WILSON of South Carolina asked and was given permission to ad-

dress the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, over 250 economists have urged Congress to repeal the unjust double taxation on dividend income. This is an excellent opportunity to dramatically boost our economy and create jobs for Americans.

There is an urgent need to pass President Bush's plan. On March 11, the widely respected Charles Schwab wrote in *The Washington Post*, and I quote, "If we are going to stimulate the economy, we need a tax policy that bolsters confidence, improves corporate governance, unlocks the stagnant capital inside companies, and lifts the stock market across the board. Only the elimination of the double tax on dividends achieves all these goals. Congress ought to act quickly."

That is why I have introduced H.R. 225, the Double Taxation Elimination Act of 2003, and I ask my colleagues to join me in ending this unfair double tax on dividends which has been championed by the House Policy Committee chaired by the gentleman from California (Mr. COX) and which has been promoted by the Committee on Ways and Means chairman, the gentleman from California (Mr. THOMAS). With this plan we can stimulate the economy and create jobs.

In conclusion, Mr. Speaker, God bless our troops.

SUPPORT OF TROOPS

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

Mr. GREEN of Texas. Mr. Speaker, our 1-minutes are designed for us to talk about things that are happening in our districts or whatever issues may be important for the day. I wanted to talk about a situation that is happening in east and northeast Harris County.

Mr. Speaker, we have a group that is talking about communities rallying for our troops. Now, our troops are in Iraq and in Afghanistan. We have two groups, the 373rd Support Battalion and also the 450th Chemical Battalion. They are Houston Reserves who are serving our country. What is happening this week in North Shore and Channel View and northeast Harris County and Houston are our communities showing support for those young men and women serving our country everywhere in the world.

Mr. Speaker, we are fighting for freedom and democracy everywhere in the world. My only frustration is that here on the floor of the House today we do not even get an amendment on a major piece of legislation. But we know that we support our troops, whether they are in Afghanistan, Iraq, or anywhere else in the world.

FREEDOM OF SPEECH DOES NOT MEAN DESTRUCTION OF PRI- VATE PROPERTY

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

Mr. BARTLETT of Maryland. Mr. Speaker, today I rise to talk about a misunderstanding about our Constitution. It has been reported that some antiwar protesters destroyed a 9-11 memorial in La Habra, California, last Saturday. The memorial was on private property and was set up after 9-11 to honor those murdered by the terrorist attackers. The antiwar protesters burned and ripped flags while the local police watched and did nothing.

It is unconscionable there would be Americans who would show no respect for those victims of 9-11. Even more outrageous is that the police department excused this vandalism by citing the first amendment's protection of freedom of speech. Freedom of speech is a God-given right of every American; destroying private property is not.

What would the police officers do if a citizen wanted to exercise his freedom of speech by setting fire to city hall? Can a person express their freedom of speech by punching a speaker they disagree with? Obviously not.

I encourage the La Habra Police Department and all police departments across this country to protect freedom of speech while at the same time not allowing vandals to destroy private property.

NATION REJOICES IN RETURN OF ELIZABETH SMART

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

Mr. LAMPSON. Mr. Speaker, the Nation grieved with the Smart family when Elizabeth disappeared 9 months ago. As chairman of the Congressional Missing and Exploited Children's Caucus, I, and our Nation, are overjoyed at her discovery. This is the light at the end of the tunnel for her family and friends, something that every parent who has a missing child would dream of.

I want to thank the media, the citizens who paid attention and called in leads, and the law enforcement officials who worked so hard on this case. This is the ultimate example of the growing cooperation between law enforcement, the public, and the media. By working together, people become the eyes and ears of law enforcement, increasing their numbers by thousands.

We can learn a great deal from this case. First of all, the parents did exactly the right thing and were prepared with current photos and information of Elizabeth. This is the most important thing for parents to have. Elizabeth's sister was an incredible witness and a

wonderful example of how kids can play a part in their own and others' safety. And we also saw law enforcement officials that handled the case well.

Through cooperation, like what we saw in this case, cooperation of the media, the public, witnesses, and the family, we will bring more children home.

MONTANANS GATHER TO SUPPORT OUR TROOPS

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

Mr. REHBERG. Mr. Speaker, I have been disturbed by the headlines depicting extremists protesting the disarmament of Saddam Hussein even before it begins. I sadly read about a group of anarchists trashing a 9-11 memorial in California, tearing up dozens of American flags. In doing so, these people send a caustic message to our young men and women in uniform who, instead, need our support.

I am proud of our troops. In my home State of Montana, our citizens admire these brave young people. Two weeks ago in Missoula, a large gathering of community leaders, families, and senior citizens gathered to show their support for the people in uniform who have volunteered to put their lives on the line for this country. Several days ago, a similar gathering in Kalispell turned out to show support for those who serve our country. Last weekend, more than 200 Montanans gathered in Billings, shouting "USA" and "God Bless America."

In each of these cases, Montanans gathered not to criticize our role in the Middle East, but to say, We love our country and we support our President. They gathered to tell our young men and women in uniform, We love you, we are proud of you, go with God, and may His grace surround you should you enter harm's way.

MEDICAL LIABILITY LIMITATION ACT

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

Ms. SOLIS. Mr. Speaker, today I rise in strong opposition to the so-called medical malpractice bill that we are going to be voting on today.

I have heard from the minority physicians in my area, and they are quite alarmed. They are quite alarmed because their insurance premiums keep skyrocketing. And I am talking about the State of California, where we had some reforms back in 1974 through a law called MICRA, which was supposed to bring down the cost of malpractice lawsuits. What happened there was not much.

We had also Proposition 103 that was passed to bring down insurance pre-

miums. Guess what, folks? In California it helped slightly, but not enough.

□ 1015

In fact, in California, the rates are still 8 percent higher than other parts of the country. I want to call the Members' attention to the fact that the caps that we are going to be looking at in this proposal discriminate against children, seniors, and the unemployed.

I want to call attention to the case of Jessica Santillan, a Latina teenager, who died last month after doctors at Duke University Hospital confused her blood type during an organ transplant. Under this proposed bill, Jessica's family would only be allowed to recover \$250,000 in damages. That is wrong. This is no small amount that can compensate for the suffering of the family. I urge Members to allow Congress to vote on the Conyers-Dingell alternative.

PROVIDING FOR CONSIDERATION OF H.R. 5, HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2003

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 139 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 139

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. 5) 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) two hours of debate on the bill, as amended, with 80 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and 40 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.

SEC. 2. House Resolution 126 is laid on the table.

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

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

Mr. REYNOLDS. Mr. Speaker, House Resolution 139 is a closed rule providing 2 hours of debate for consideration of H.R. 5, Help Efficient, Accessible, Low-cost, Timely Healthcare Act, 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.

Mr. Speaker, my home State of New York has been designated by the American Medical Association as one of the 18 crisis States because of the staggering number of physicians that are unable to obtain or afford liability insurance. It is not just physicians that are feeling the crunch; hospitals and other providers have also reached their breaking point.

Take, for example, family-run skilled nursing facilities in my district that have not once had a claim brought against them, yet they have seen their liability insurance rates climb over 200 percent during the past 2 years alone. That is 200 percent in the last 2 years alone.

According to a study conducted by the American Hospital Association and the American Society of Risk Management, one-third of the hospitals experienced an increase of 100 percent or more in liability insurance premiums in 2002. Meanwhile, patients are the ones losing choices, access, and care.

Mr. Speaker, last September I stood on this floor to speak in favor of the HEALTH Act. Since that time, my home community of Erie County, New York, has lost 40 actively practicing physicians. Only 3 months into the current year, they are anticipating a loss of another 20 physicians. If we do not solve the problems facing physicians in this community and so many others across America, who will provide the health care services so vital to all of our constituents?

The fact is that physicians are limiting their patients, moving to States with lower insurance rates, or closing their practices altogether. The fact is that astronomical costs and unpredictability in the legal system are causing this alarming trend.

The effect? Doctors practice defensive medicine to avoid litigation and think twice about openly discussing and reporting possible errors. A study released by the Department of Health and Human Services last week emphasizes that bolstering predictability in the legal system will dramatically reduce the incentives for unnecessary lawsuits. Those who need care will get it faster and more reliably, and those who may need proper redress will get it faster and more reliably.

The HEALTH Act will provide that predictability, while at the same time halting the exodus of providers from the health care industry, stabilizing premiums, limiting astonishing attorney fees, and above all, improving patient care.

Just as important is what HEALTH Act will not do. It will not preempt any existing State laws that limit damages at a specific amount, and it will not establish any new causes of action.

Also, it will not prevent juries from awarding unlimited economic damages. This means that quantifiable lost wages, medical costs, pain-reducing medications, therapy and lifetime rehabilitation can all be recuperated as tangible economic damages. Patients that have been wrongly injured will not be denied access to substantial amounts in economic damages.

The HEALTH Act is modeled after legislation adopted by a Democratic legislature and a Democratic Governor in the State of California nearly 30 years ago. While insurance premiums increased over 500 percent nationwide, California's have risen only a third of that much, by 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.

By following California's lead to place modest limits on unreasonable economic damage awards, an estimated \$60 billion to \$108 billion could be saved in health care costs each year. The Congressional Budget Office calculated that medical liability insurance premiums would be lowered an average 25 to 30 percent from what they are now under current law. And CBO also predicts that reducing the occurrence of defensive medicine would save anywhere from \$25 billion to \$44 billion per year of taxpayers' money.

I want to thank the leadership of the Committee on Energy and Commerce and the Committee on the Judiciary for working so expeditiously to bring this important measure back to the floor and focusing our attention on health care, particularly for coupling the HEALTH Act this week with patient safety legislation. Physicians need an environment where they can both share and learn, while at the same time practicing medicine without the fear of burgeoning liability rates and unnecessary lawsuits.

Mr. Speaker, spiraling medical liability insurance rates have hemorrhaged in recent years. Today we have an opportunity to stop the bleeding and maximize healthy patient outcomes. I urge Congress to support this rule and the underlying legislation.

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

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

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

Mr. HASTINGS of Florida. Mr. Speaker, let me say to the gentleman from New York (Mr. REYNOLDS) that the gentleman and I handled this measure last fall when this bill was brought to the floor. It was a bad bill then, and

it is a bad bill now. I also want to clear up something about so-called unnecessary lawsuits. There are penalties for lawyers who bring frivolous claims into any courtroom; thus, I theorize that the majority evidently does not understand that particular distinction.

Mr. Speaker, I rise today in strong opposition to this closed rule for H.R. 5. This legislation requires a full and open debate. The closed rule is abhorrent and cowardly. It denies the opportunity for free and fruitful discussion that would uncover all this legislation's deficiencies.

The current Committee on Rules chairman, the gentleman from California (Mr. DREIER), said in 1994 when a Member of the minority, and referring to the Democratic members of the Committee on Rules, "But we should have a structure which allows Members to participate more than they do now, and that it is again underscoring Lord Acton's very famous line that power corrupts, and absolute power corrupts absolutely. The arrogance of power with which they prevent Members, rank-and-file Democrats and Republicans, from being able to offer amendments, that is what really creates the outrage here."

That was the gentleman from California (Mr. DREIER), and outrage continues in the minority today. If the majority alleges that Democrats were wrong in utilizing the closed rule when we were in the majority, why not be the bigger party and end the practice? Why the political games, or is it simply more fun to be principled when it is convenient?

There is no question that medical liability insurance rates are out of control. Consequently, fine doctors, as well as other health care providers, often do not properly attend to patients. However, the underlying bill will not relieve doctors of high malpractice insurance premiums. I am focused on giving Americans quality health care, as all of my colleagues are, not increasing profits for the health insurance industry; and there are good proposals to correct the situation. H.R. 5 is not one of them.

Instead of protecting patients, H.R. 5 protects HMOs and big insurance companies. The so-called HEALTH Act of 2003 addresses the health of the health care industry and not that of physicians and patients. H.R. 5 is bad legislation; but like perennial flowers, its contents sprout every Congress, replenishing the coffers of its supporters. HMOs and big health insurers should not receive special treatment. They are not above the law. Nor should they be exempt from new legislation simply because they contributed millions of dollars in the last two election cycles.

H.R. 5 applies to medical malpractice, medical products, nursing homes, and health insurance claims because its supporters' true concern is not the suffering of patients or victims. Instead, H.R. 5 advocates want immunization from the consequences of irresponsible civil behavior.

The top priority in reforming America's health care system should be reducing the shameful number of preventable medical errors that kill nearly 100,000 hospital patients a year.

Wrong-doers must remain accountable. When a stay-at-home mom dies or a child dies or a senior citizen suffers irreparable harm, there is no economic loss because it is impossible to prove damages from loss of income. H.R. 5 takes away compensation for parents who lose children, husbands who lose wives, children who lose parents, and patients who lose limbs, eyesight and other very real losses that are not easily measured in terms of money.

Despite a wide consensus, skyrocketing premiums are not due to bad politics. The malpractice insurance market is having a predicament because of the insurance industry. The other side of the aisle claims that the lure of big wins prompts many to file frivolous lawsuits. But, in fact, victims are already at a disadvantage. Two-thirds of patients who file a claim do not get a dime. About 61 percent of cases are dismissed or dropped, and 32 percent are settled; and too many of them are on the courthouse steps when they could have been settled earlier. Only 7 percent of all cases go to trial.

□ 1030

Patients prevail in only one in five of the cases that are tried. These are pretty staggering odds against the victims.

The American people would know these truths if their Representatives could expose the selective use of data and statistics that the majority uses in supporting H.R. 5. One classic example would be the notion that in California, after 1975, premiums went down. Well, they did not go down until California reformed the insurance laws. It did not go down. It went up progressively for 12 years.

But under today's closed rule, the majority is committing the greatest form of political malpractice. When the majority has finished bullying its members into voting the party line today, the American people will not only be barred from seeking compensation when a doctor transplants an incorrect organ but they will realize that with closed rules as the order of business, they cannot even seek compensation in the People's House.

For example, if this bill were current law, no experienced trial lawyer would take the case of the young Mexican girl who lost her life at Duke University. The case would be complex, obviously, and expensive to put on, there would be no economic damages, and the maximum noneconomic award would be \$250,000. H.R. 5 treats the health care insurance businesses as the victims, and that is unacceptable.

The consequences of an injury are highly subjective and affect different people in vastly different ways. Put another way, how much is my arm worth? How much is your leg worth? This one-size-fits-all solution contradicts the

promise of individualized justice and objectifies victims and the uniqueness of their suffering. Different States have different experiences with medical malpractice insurance and insurance remains a largely State-regulated industry. The \$250,000 cap that must have been taken out of somebody's cap as a reason for going forward takes away juries' abilities in our States to determine the appropriate level of compensation for people who suffer grievous injuries at the hands of their health care providers. The majority does not trust the people to defend its political contributors.

Al Hunt of the Wall Street Journal quoted a Republican lawyer from Houston as asking, "Why are juries okay to take a man's life on the criminal side but are not competent to put a dollar value on an innocent victim's life on the civil side?" That is shameful. H.R. 5 is a health care immunity act that does not benefit physicians and victimized patients.

When Democrats were in the majority, Republicans complained time after time that closed rules were unfair. On all of the radio infrastructure, we heard closed rules were unfair, unpatriotic and contrary to the goals of the framers. However, in more than 8 years that Republicans have been in the majority, closed rules are preferred and ruling with an iron fist is the practice. I am in strong opposition to this closed rule and the underlying bill.

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

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

Mr. Speaker, the debate has begun. We are going to have an hour on this rule. I believe after that we are going to have 2 hours of general debate. It really cuts right down through the center. As I talked about excessive court trial damage driving up the cost of patient health care, I listened to the other side say it is the insurance companies and the doctors that are the cause of so much of this. It will be a good debate. It will be a full hour here on this rule and it will be 2 hours of general debate, and then we are going to have an up or down on the HEALTH Act and we are going to find out whether it is passed and sent to the other body.

But I must say that over 60 percent of the doctors in the United States are insured by insurance companies that are owned and operated by other doctors and which operate primarily for their benefit. The idea that those companies would price-gouge the very physicians who own them, I think, is absurd.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. WELDON).

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

Mr. Speaker, I practiced defensive medicine for 15 years before I was elected to Congress. Defensive medicine is extremely costly. The way it works is very simple. The patient

comes in. You think the patient has something. And then you think of all the other things that it could be and how you could be sued if you missed those things, so you order more and more tests. You may say, well, this is just one doctor speaking anecdotally, but actually this very issue was studied scientifically in California. They looked at the reforms put in place in California and its impact on charges in the Medicare plan. They discovered that over time after the cap on damages went into place and the threat of very, very excessive damages went away that charges for two diagnostic codes, the two codes they looked at were unstable angina and myocardial infarction, went down and there was no increase in morbidity and mortality. In other words, quality was maintained while charges went down.

This study was published in 1995 in the Journal of Economics. It was done by economics professors at Stanford University. They argued that the high cost of litigation cost the Medicare plan billions of dollars a year in unnecessary procedures and tests. They further went on to say that it cost, in 1995 dollars, our health care system \$50 billion a year. Today that figure is estimated at over \$100 billion a year.

Mr. Speaker, this is not just an issue of access. We are going to hear about access from the gentleman from Florida (Mr. KELLER). He is going to talk about the trauma facility in Orlando, Florida, being closed down because of this problem. This is not just an issue of high cost. This is an issue of the uninsured. As the costs go up because of the high cost of litigation, more and more people are pushed out of the insured market into the uninsured category. We all say here that we care about the uninsured, the people who cannot afford health care, but this is impacting them. This is impacting our competitiveness in the global marketplace because all these costs of litigation get transferred into the costs of health care that get transferred into the costs of our products and services as we compete in the global marketplace.

If we pass this bill and if the other body passes it, the President has said he would sign it, it is going to allow more people to get access to health care, it is going to reduce our costs through the Medicare plan, and we may ultimately be able to better afford more services through Medicare like prescription drugs. And, yes, it will help our businesses and industries to be more competitive in the global marketplace.

This is a good rule, it is a fair rule, and this is an extremely important bill. I encourage all my colleagues to vote "yes."

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself 30 seconds.

In response to my good friend and colleague regarding the fairness and openness and the 1 hour of debate, 31 amendments were offered last night in

the Committee on Rules and my good friend the gentleman from New York (Mr. REYNOLDS) and I were there. Not one, not one, was permitted. What is fair about that?

In response to Dr. WELDON's defensive medicine argument, some people claim that billions of dollars are being wasted on so-called defensive medicine. Our own Congressional Budget Office has concluded that the idea of defensive medicine is uncertain and hypothetical. You can find that on page 74 of House Report 108-32.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. FROST), the distinguished ranking member of the Committee on Rules.

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

Mr. FROST. I thank the gentleman for yielding me this time.

Mr. Speaker, we all agree that there is a problem in America's medical system, but Republicans are not taking a serious approach to this problem. They are just playing politics and risking the rights of patients in order to carry water for HMOs and insurance companies. We know this, Mr. Speaker, because Republican leaders have brought this bill to the floor under a closed rule.

Now, on this very important subject, let me quote from a statement made 9 years ago by the distinguished chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), at a time that he was in the minority. He said, and I quote, "I oppose closed rules, Mr. Speaker. I believe they are anathema to the concept of deliberative democracy."

Mr. Speaker, if Republicans wanted to deal with medical malpractice in a serious and substantive way, would they be using a process that is, as the gentleman from California himself said, anathema to the concept of deliberative democracy? I do not think so. And would they be preventing the House from voting on Democrats' comprehensive medical malpractice reform plan? Certainly not. But that is exactly what Republican leaders are doing today. As a result, the only bill made in order by this rule today is the Republican one and it is a shocking attempt to protect insurance companies while attacking the rights of victims.

Make no mistake, Mr. Speaker, the Republican bill will not reduce doctors' premiums, but it will protect HMOs and insurance companies, and it will punish patients who suffer from medical mistakes, patients like 17-year-old Jessica Santillan, who died because of a tragic medical mistake in North Carolina earlier this year. Or patients like the 1-year-old baby who died in Dallas last August after a surgical error.

That is right, Mr. Speaker. Instead of reducing malpractice premiums, Republicans are reducing victims' rights. Instead of protecting patients, they are protecting the profits of HMOs and insurance companies. It is absolutely

outrageous, but that is what you get with this Republican Congress.

It did not have to be that way, Mr. Speaker. Democrats, led by the two most senior Members of the House, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Michigan (Mr. CONYERS), offered a comprehensive plan to bring down doctors' insurance rates and protect patients. The Democratic plan combines tort reform and insurance reform. It cracks down on frivolous lawsuits. And, just as importantly, it forces insurance companies to pass on their savings to doctors. Without this rate rollback provision, Mr. Speaker, insurance companies can just pad their profit margins instead of passing the savings on. That is a lesson we learned in Texas when we passed tort reform. So the Texas legislature and then-Governor Bush agreed on a law that specifically required that insurance companies reduce doctors' premiums, and that is all we are trying to do here. But Republican leaders decided to protect insurance company profits while they were reducing patient protections. So they defeated our amendments in the Committee on Rules last night.

Mr. Speaker, doctors and patients deserve better than this. So I urge my colleagues to defeat the previous question. Then we can amend the rule to bring up the only comprehensive plan to reform medical malpractice, the Democratic substitute. And if Republicans succeed in passing this rule, I urge a "no" vote on the underlying bill. Do not let Republicans sacrifice victims' rights in order to protect HMO profits.

I would make one other point. Last night in the Committee on Rules when challenged by the gentleman from Michigan (Mr. DINGELL), the gentleman from California (Mr. DREIER), the chairman of the committee, explained why the committee was not going to grant an open rule, why they were going to grant a closed rule. What he said was, "This is payback. This is payback for what you did when you were in the majority."

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding. Would the gentleman state the quote again that I said? I did not hear it correctly.

Mr. FROST. Mr. Speaker, I was sitting next to the gentleman from California, and I believe that I heard him say that this was payback.

Mr. DREIER. I never said anything of the kind.

Mr. FROST. Mr. Chairman, I was sitting right next to you.

Mr. DREIER. I never said anything of the kind. I just would like the record to show that, Mr. Speaker.

I thank my friend for yielding.

Mr. FROST. All I can say is I was sitting next to the gentleman. I understand and I know what I heard last night.

Mr. Speaker, assuming that the Republicans are pursuing some sort of payback because they do not like what we did when we were in the majority, I would only point out that we rarely granted closed rules, and they normally were bills out of the Committee on Ways and Means. Bills of this nature, of this controversy, when we were in the majority, we permitted the minority to have a substitute on the floor, something which they have denied us today.

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

Mr. Speaker, I have only served under the distinguished chairmanship of Chairman DREIER, but I am always pleased that in each rule that we make there is always a recommit. Looking back at history, one of the people that I think was a distinguished chairman of the Committee on Rules, Joe Moakley, I am not sure he always had a recommit in the legislation. I am not sure that former Speaker Tip O'Neill when he was a member of the Committee on Rules always voted that there would be a recommit. But I do believe that there has been a recommit in here. More importantly, I think it is important that this legislation was thoroughly vetted in two committees, the Committee on Energy and Commerce and the Committee on the Judiciary, and even passed by voice vote in the Committee on the Judiciary. Just weeks ago these same committees once again took testimony and the bill passed through the Committee on Energy and Commerce by voice vote.

□ 1045

The Committee on Rules last night took testimony for over 2 hours and reasonably provided 2 hours of general debate, in addition to the standard motion to recommit, and I believe we will have a full hour on this rule today.

Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky (Mr. FLETCHER). The gentleman, a doctor, is an expert in this legislation.

Mr. FLETCHER. Mr. Speaker, I will have to say it is rather amazing that when the minority is wrong on policy, they focus on process.

Mr. Speaker, as a family physician, I have always tried to do what is best for patients, and as a Member of Congress I still try to do what is best for patients in Kentucky and all across America.

Mr. HOYER. Mr. Speaker, will the gentleman yield on that point?

Mr. FLETCHER. Not at this time. I have 3 minutes.

Mr. HOYER. We yielded on our side.

Mr. FLETCHER. Mr. Speaker, what is best for the patient? I believe that unlimited medical liability awards are bad for patients, because they cause malpractice insurance prices to climb, resulting in more expensive care, fewer doctors, and problems obtaining access to needed care.

H.R. 5, the HEALTH Act of 2003, actually ensures fair compensation for

everyone. We need to keep in mind that everyone is entitled to full compensation for their losses, medical bills and wages under H.R. 5.

It is not unusual to hear stories of doctors moving from Kentucky to Indiana, where they have enacted comprehensive liability reform, to take advantage of lower costs of medical liability insurance.

Passing the HEALTH Act, which reasonably reforms our liability system, will hold premiums at a lower, more predictable rate. That will ensure patients are not left without their local physician, who may be otherwise driven out of their practice. And to say that this bill will not reduce frivolous lawsuits and reduce malpractice premiums is truly laughable. Lawsuits do not prevent injuries, they do not reduce medical errors, but they do create an atmosphere of fear, defensiveness and distrust in the doctor-patient relationship.

In fact, a recent study estimated that defensive medicine cost \$163 per person per year in Kentucky. That means Kentucky spends about \$655 million on unnecessary care due to fear of litigation.

Let me give you specific examples, too. Blue Grass Orthopedic Group in my district has never lost any of the handful of claims filed against its eight doctors. Yet their premiums, which were \$222,000 last year, shot up to \$635,000, nearly tripling in a single year. Why? Because personal injury lawyers, hoping to hit the jackpot, file frivolous lawsuits.

More than 70 percent of Kentucky physicians say their medical liability insurance premiums increased in 2002. Emergency physicians saw increases greater than 200 percent, general surgeons and orthopedists saw increases between 87 and 122 percent, and obstetricians and internists saw increases between 40 and 64 percent. Several saw several hundred percent increases in their premiums. In other words, this is just unsustainable.

It is estimated that for every obstetrician that leaves a practice in Kentucky, 140 women are left without their physician. That means that women during prenatal care will have to drive an extra 30 or 50 minutes to see a doctor. That also means during labor if that unborn child is in fetal distress, there is an extra 30 minutes of fetal distress, which could blankly rob that child of all their hopes and future of what they potentially could be.

As a family physician, I took an oath to do no harm. The only bill today that will help physicians keep that oath is one that ensures safe and timely access to care through reasonable, comprehensive and effective health care liability reform, and that is H.R. 5. I urge my colleagues to support this rule and vote yes on H.R. 5.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, there is a recent study reported in USA Today of medical malpractice insurance that concluded that,

on average, doctors still spend less on malpractice insurance, 3.2 percent of their revenue, than on rent. I offer that for the gentleman from Kentucky (Mr. FLETCHER).

Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Maryland (Mr. HOYER), the distinguished Democratic whip.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

I want to say to my friend from Kentucky, who says that we rise to focus on process, I tell my friend from Kentucky there is a reason for that, because your Committee on Rules does not have the courage to allow us to debate substance. It does not have the courage to allow us to offer a substitute and amendments to your bill so that we could discuss substance. Have courage on your side, that substance is what ought to be at risk here. We are prepared to debate it. Allow us to do so.

Mr. Speaker, once again today the Republican leadership is employing outrageous tactics that trample the rights of the minority and rig the rules of this debate.

Mr. FLETCHER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. As long as the gentleman yielded to me.

Mr. Speaker, these tactics demean the People's House. Hear me. Hear me. These tactics demean the People's House, demean democracy, demean freedom, and they fly in the face of commitments by Republicans when they regained the majority to run an open and deliberative process.

These comments are on the record. Here is how Gerald Solomon, the former Republican Chair of the Committee on Rules, explained it in November of 1994 when you were just about to take power. This is a quote, on the record:

"The guiding principles will be openness and fairness. The Rules Committee will no longer rig the procedure to contrive a predetermined outcome. From now on," the Republicans said, "the Rules Committee will clear the stage for debate and let the House work its will."

The year before, Congressman Solomon remarked, "Every time we deny an open amendment process on an important piece of legislation, we are disenfranchising the people and their representatives from the legislative process."

Mr. Speaker, this side of the aisle represents at least 140 million people. This side of the aisle represents 140 million Americans, and you have shut them up today, and you shut them up last week, and you may be considering shutting us up next week. Not 204 or 205 Democrats, but 140 million Americans.

I submit that this is precisely what we are doing today under this closed rule, which is what Mr. Solomon said you would not do. But you do it this day, and you demean this House.

I would say to the gentleman from Kentucky (Mr. FLETCHER), yes, that is why we talk about process, because we want to show why we are not serving doctors this day; why in State after State after State that have capped recovery premiums have not gone down. Doctors will not be served by this legislation you offer, and you will not allow us an amendment to do something that will protect doctors, that will protect patients, that will protect injured people.

This is a travesty of democracy, and it is a travesty for people who are injured severely by the negligence of others.

Vote against the previous question, vote against this bill, vote for fairness and equity in this House.

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

Mr. Speaker, we are going to continue on the debate of the issue of the day, which is medical liability. I must tell you, while I guess it is important to listen to some of the process, and half of this debate by the leadership of our House is on the process, I am hoping that we can continue to hear the debate that was at least opened by myself and my good friend from Florida who has a different view.

I look at it that we need to helm doctors and patients, and to make sure we can control the costs of malpractice insurance. I have listened to some of the debate on the other side that it is the doctors and insurance companies that are at fault.

It is an important debate. This is a debate that was heard 7 months ago in both the Committee on the Judiciary and the Committee on Energy and Commerce. The Committee on the Judiciary voted by voice vote to put the bill out. Only recently we have had those hearings again in the Committee on Energy and Commerce and the Committee on the Judiciary, and, in a bipartisan fashion, it was passed by a voice vote there.

Last night we took 2 hours of testimony. The Committee on Rules responded with a 2-hour debate, plus what will be a full hour of the resolution, now going forward here on the rule itself.

I look forward to the debate, I look forward to hearing it, and then I look forward to voting up or down on whether we are going to help patients or not.

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

Mrs. CAPITO. Mr. Speaker, I would indeed like to debate the issue, I would like you all to live in my State of West Virginia over the last year. Our Trauma I Medical Center in the State's Capital, Charleston, West Virginia, closed. No specialist. It was reopened, but it was closed for 2 or 3 months.

In September of 2002, a young boy who had something lodged in his windpipe, his parents had to drive him 4 hours to get a specialist in Cincinnati, Ohio. Thank goodness it had a good ending, but it might not have.

In January, a group of Wheeling surgeons left the emergency room to illustrate the deep and devastating problem that West Virginia doctors are suffering with the high cost of medical liability. And, guess what happened? Our State legislature, which is predominantly Democrat, in probably the largest way of any State legislature, we have a Democratic Governor, they passed and signed the day before yesterday a medical liability bill that does in fact have caps on non-economic damages. Because, you know what? When your grandmother, when your mother, when your husband or wife cannot find medical care at a trauma center, cannot find an OB/GYN, when their general practitioner leaves to go to California, North Carolina, Georgia, that is a human problem. That is a health problem.

So the answer to this is the legislation that we are going to pass today. I proudly voted for it last year. I think it will help not only my State of West Virginia, but it will help every State in the Union.

We cannot retain and recruit physicians in the State of West Virginia because of this problem. We have had a brain drain because our older physicians are leaving, they are practicing defensive medicine, and they are afraid of the lawsuits that are pending in front of them. Sixty-three percent of them say they considered moving to another State, 41 percent are considering retiring early, and 30 percent are considering leaving the practice of medicine altogether.

Mr. Speaker, this is a devastating problem. Come to West Virginia and see. It is a quality of life issue, it is an economic issue.

Today I join with my colleagues to vote for H.R. 5, and I will be extremely happy to see national legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 2¼ minutes to my good friend, the gentleman from New York (Ms. SLAUGHTER), who is an expert in this area, with a Master's of Public Health.

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

Mr. Speaker, this is one of the debates that has gone on for many years and it has always been characterized as a debate between physicians and lawyers, leaving out one of the major players in all of these problems, the insurance industry.

This health care act is wrongly named. It is the wrong prescription for curing any malady in medical malpractice insurance. The proponents want to claim jury awards for rising insurance premiums. But a study by Americans for Insurance Reform reported that rising insurance premiums are not tied to jury awards.

Let me for a moment talk about how an insurance company meets a lawsuit that is filed against it. The money that is asked for in that bill is set aside in a separate pot of money as though they

had lost the suit. Of course, only about one of nine of those cases is ever brought to court, but that large pot of money still exists over there for the insurance company, on which they pay a very low rate of taxes. They should be a major player here.

Wait until your doctors hear back home that what we have done here today, because I am sure it is going to pass, will not do a thing in the world about lowering their insurance premiums. There is no mention in here that insurance companies of any sort will have to give back money to the physicians or to lower their rates. They are probably not going to give up anything out of that large pot they have had all of these years, and which we have no right, because the Federal Government has no oversight over insurance, to see what is there.

One of the most egregious things in this legislation and this debate is we have been told over and over that 5 percent of the physicians in the United States are responsible for more than 55 percent of the lawsuits. Would you not think that the sensible thing to do would be to get rid of that 5 percent? If this law passes, the 5 percent still continued to create malpractice, have bad outcomes on their patients. The only difference after this bill is passed is that patients will have no recourse at all.

□ 1100

The caps are really extensive. There is no recourse. And in addition, one more thing I would say. Not only are the insurance companies protected, but also the people who manufacture medical devices, HMOs, and pharmaceutical companies. It is very far-reaching and will do nothing to lower premiums.

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

(Mr. KELLER asked and was given permission to revise and extend his remarks, and include extraneous material.)

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

Mr. Speaker, I rise today in strong support of H.R. 5, because there is absolutely a medical liability crisis in Florida which will, among other things, result in patients in Orlando with severe head injuries not having access to a doctor. Let me give one example of the crisis.

The Orlando Regional Medical Center is a large hospital located in the heart of my district in Orlando, Florida. It is home to the only level-1 trauma center in the central Florida area. It specializes in treating patients with severe head injuries. The trauma center was praised last month by the State of Florida as delivering patient care that is "above and beyond" that of other level-1 trauma centers. I personally toured this trauma center, and I can tell my colleagues it is a source of pride for many central Floridians.

Last week, Orlando Regional Medical Center announced that they were closing in April 2003 because the neurosurgeons in the Orlando area can no longer afford skyrocketing medical liability insurance premiums.

Now, how bad is the situation? Dr. Jonathan Greenberg, the chairman of the Department of Neurosurgery at ORMC, personally told me that the malpractice insurance premiums have risen five-fold over the past 2 years from \$55,000 a year to \$256,000 a year.

We do not have to guess what the consequences are when this sort of facility is closed down. Just last week, Mrs. Leanne Dyess testified before our Committee on the Judiciary. Her husband suffered one of these severe head injuries in a car accident. There were no longer any neurosurgeons in the area because they could not afford the liability insurance. As a result, it took 6 hours to airlift Mr. Dyess to a different location. It was too late. Mr. Dyess is now permanently brain damaged. He is unable to talk, unable to work, unable to provide for his family.

We must bring common sense back to the health care system so that patients with severe head injuries have access to trauma centers. We should care about each other more and sue each other less.

I ask my colleagues to vote "yes" on H.R. 5 and the rule. I will also include in the RECORD an article dated March 11, 2003 from Dr. Greenberg and published in the Orlando Sentinel.

[From the Orlando Sentinel, Mar. 11, 2003]

NEUROSURGEON: SAVE TRAUMA CENTER
(By Jonathan Greenberg, M.D.)

A human tragedy of immense proportions is unfolding in Central Florida, and my neurosurgical colleagues and I have been unable to prevent it.

Less than two weeks after a state trauma-site review lauded Orlando Regional Medical Center's Level I trauma center for its high level of patient care and dedication "above and beyond" that at other Level I centers, the ORMC administration was compelled to inform the state that it will go off-line as an adult Level I trauma center as of April 1 because of the lack of neurosurgical coverage.

Seven neurosurgeons resigned from the ORMC medical staff, citing the physical stress of on-call requirements, medical malpractice-insurance premiums, increased liability exposure in treating trauma patients and the adverse impact that on-call coverage has had on their private practices.

I cannot fault my neurosurgical colleagues for having taken this action. They have complained that they were being charged significantly increased malpractice-insurance premiums—or were going to be denied malpractice insurance altogether—for the privilege of getting up in the middle of the night to take care of critically ill head and spine-injured patients.

Three neurosurgeons have closed their practices and left the community. Trying to replace them has been almost impossible. What sane physician would move to a state known to be in the throes of a "medical malpractice-insurance crisis," where insurance is either unobtainable or exorbitantly priced, and where there is a constant threat of frivolous but nonetheless disruptive lawsuits?

ORMC has lobbied vigorously for relief; we have demonstrated to increase public awareness and spoken with state representatives.

For those who denied that there was a "physician drain" or a problem with the tort system, who asserted that this was only an insurance-industry, stock-market-cyclical financial problem, who ignored the looming crisis, the end results of denial, deception, apathy and procrastination are clear.

As of April 1, Central Florida will have lost one of its most precious assets, the ORMC Level I trauma center. There will not be enough neurosurgeons left to fully man the on-call schedule.

We know that in the past many patients survived their injuries because they were brought to ORMC; they would not have survived elsewhere. After April 1, similarly injured patients may not survive. I am profoundly saddened by this prospect.

It will take more than an act of God to avert this catastrophe. It will take responsible action by the governor, the state Legislature, and county and regional leaders. Band-Aid solutions will not save a health-care system that is exsanguinating. ORMC has the only Level I trauma center in the state without sovereign immunity. Relief from predatory lawsuits and unaffordable insurance premiums and adequate compensation for extraordinary medical care will be necessary.

Mr. HASTINGS of Florida. Mr. Speaker, would the Chair announce the remaining time on both sides, please?

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Florida (Mr. HASTINGS) has 10¼ minutes remaining; the gentleman from New York (Mr. REYNOLDS) has 10½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased and privileged to yield 3 minutes to my good friend, the gentleman from Michigan (Mr. DINGELL), the dean of the House, who I think can speak to both substance and process.

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

Mr. DINGELL. Mr. Speaker, I say to my colleagues, vote down this iniquitous rule. It is unfair. It is demeaning. It strikes at the heart of the parliamentary practices that are the proud tradition of this body. It also tears at the throat of honorable and open and fair debate. It denies every Member, not just Democrats, the right to offer amendments to the bill. Mr. Speaker, 31 amendments were requested of the Committee on Rules last night; not a one was given. A substitute was given.

The chairman of the committee talks of the need to have a fair and open process. Well, we do not have a fair and open process. Therefore, vote down the rule, vote down the previous question. It is an outrage, and it is inconsistent with the tradition and practices of the House.

I would point out that in the rules, rule XVI, clause 6 begins, "When an amendable proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order." It is in the rules. The Committee on Rules should read it.

We are not discussing the substance of the legislation. We hope to have a fair chance to do so. We hope to have a

fair chance to amend the basic proposition before this body. The Committee on Rules has not given it to us.

I went before the Committee last night and I asked, am I wasting my time and am I wasting your time by being here? The answer is, I was. I was not told that I was, but the simple fact of the matter was the decision had already been made. The process had already been carefully cooked so that no opportunity to amend the bill is before this body at this time.

We can talk about what it is that is wrong with this legislation and how the amendments would improve it. That is really not important. What is important is that the basic rights of the Members of this body, the basic prerogatives of the institution to perfect legislation before it has been denied by the majority, functioning through the organism of the Committee on Rules.

In 14 years as the chairman of the Committee on Commerce, never once did I go before the Committee on Rules to ask for anything other than an open rule so that all Members might have a fair chance to participate in the debate on the legislation and to offer amendments as the need would require, no matter how complex or controversial the legislation was. That is the way this institution should work.

This rule demeans this body. It demeans every Member here, and it demeans the Committee on Rules and those who have inflicted this outrage upon this body.

I say again, vote this rule down. It is wrong. It is arrogant. It is without justification. I note that it comes up on a day when this is the last item of business of the week and when this is the last item of business that will be done. Let us vote it down, and let us then go about the business of conducting the business of the House in a fashion which is consistent with the traditions of this great democratic institution.

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

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

Mr. DREIER. Mr. Speaker, it is a great honor to be a Member of this institution, and it is an honor for me to have the opportunity to follow my very good friend, the gentleman from Michigan (Mr. DINGELL), the dean of the House.

As we have listened to the arguments that have been provided about the rights of the minority, I have to say that while the gentleman from Michigan (Mr. DINGELL) served for 14 years as chairman of the Committee on Commerce, I served for 14 years as a member of the minority in this institution. When we won the majority in 1994, I felt very strongly about something that had existed under the democratic rule in this place for 4 uninterrupted

decades. I felt strongly about ensuring that the minority had the right to come forward with at least an opportunity, through an amendment and a motion to recommit, which was denied us on many occasions.

Now, last night when we had the testimony in the Committee on Rules, the gentleman from Michigan (Mr. DINGELL) told me that he came here in 1955, and our good friend, the gentleman from Michigan (Mr. CONYERS) came here in 1965, and they had never known of any instance whatsoever when the Democrats had denied the Republican minority the opportunity to consider at least an opportunity to amend through a recommitment motion.

I have to say that I have the greatest respect for the gentleman from Michigan (Mr. DINGELL), my friend; but I have a list right here of in the 100th Congress, 16 examples of where this was denied.

Now, this issue of payback has come up. Well, so is this payback now that we are imposing on the minority? Absolutely not. Because when we passed our opening day rules package, having served 14 years in the minority, I was very sensitive to make sure that we would guarantee the minority that right to offer a motion to recommit with an amendment, and that is exactly what is going to exist under this process.

Now, I believe that we should have as open and as fair a process as we can, and I stand here continuing to be committed to our goal of ensuring that the minority does have as many rights as possible, and I will continue to fight in behalf of that, because I believe in the Madisonian spirit of minority rights.

I also know that we have a responsibility to move our agenda. And we are doing that, while guaranteeing these minority rights.

Now, when we opened this process last night, I am very happy that my friend, the gentleman from Florida (Mr. HASTINGS), began by talking about the fact that we did meet his request to provide 2 hours. There will be a debate. There will be an opportunity for Members to voice their concern, regardless of what side of this issue they are on. I happen to think that it is very important for us to also recognize that the Committee on the Judiciary and the Committee on Energy and Commerce both had full markups with the exchange of ideas, and the people who have stood up to speak against this rule are people who in fact offered amendments through the committee process. The committee process has worked very effectively here.

We have come together with a package which I believe, through both committees, can, in fact, have an opportunity to be heard; and I urge my colleagues to vote in support of this rule and for the underlying legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I would remind the distinguished chairman, my friend, that we did have 31 amendments last night;

none of them have been allowed to come to the floor.

Mr. DREIER. Mr. Speaker, I thank the gentleman for reminding me.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia (Mr. SCOTT), my very good friend.

(Mr. SCOTT of Virginia asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. SCOTT of Virginia. Mr. Speaker, this closed rule does a disservice to the legislative process. Medical malpractice is a very complicated issue, there are many different provisions, and we cannot possibly debate each one with a closed rule. The fact is that one-half of the medical malpractice premiums represent ½ of 1 percent of health care costs, and those costs have been going up at the same rate of health care inflation. California had medical malpractice reform, but the rates did not go down until there was insurance reform.

This bill does nothing to eliminate frivolous lawsuits, but it makes the bona fide lawsuits even more difficult to bring. The elimination of joint and several liability means that you have to chase each and every doctor for each and every portion of their liability. The young Mexican girl with the transplant, one would have to prove a separate case against each and every company, the transplant company, the hospital, and everybody else before she could get anything. She would probably use up the whole \$250,000 cap before she could get anything.

The collateral source rule will shift the cost of malpractice onto the employer. If one has a self-insured employer, if one of their employees gets put in a malpractice-induced coma, the employer will have to pay the bill. This bill prohibits subrogation so that the employer cannot get the money back; the malpractice insurance company will not have to pay that hospital bill.

Mr. Speaker, we need to debate that and discuss it; but we cannot, because it is a closed rule.

I hereby attach to my statement, the additional dissenting views I offered to the Judiciary Committee report on H.R. 5.

ADDITIONAL DISSENTING VIEWS

In addition to the dissenting views, I would add the following:

1. In addition to the comments on the bill's elimination of joint and several liability, I would add that this new burden on the plaintiff is administratively unfair to the plaintiff. The apportionment of malpractice responsibility is routinely made in the health care field by apportionment of insurance coverage. Health care providers can and do decide in advance who will pay for what coverage. The plaintiff, on the other hand, is not in a position to apportion damages, because the plaintiff often has no idea what happened, much less who was responsible. The entire concept of *res ipsa loquitur* is based on the fact that some cases are so obviously the result of malpractice that the general burden of proof is eased for such victims. With the elimination of joint and several liability, and without knowing exactly what

happened, the plaintiff will have to make a separate case, including establishing a standard of care, violation of that standard and proximate cause for each conceivable participant in his care and always have the possibility of defendants pointing to an "empty chair" or an insolvent defendant at the trial. This burden comes with the costs of expert witnesses for each doctor, nurse and hospital even minimally involved in the most egregious and obvious cases. As the dissent mentions, any defendant can always seek contribution without the elimination of joint and several liability.

2. In addition to the comments in the dissent on the collateral source rule, I would add that there are three interested parties: the plaintiff, the health care insurance company and the defendant. Good arguments can be made for the plaintiff to benefit from the provisions he has made to pay his bills. Some may have saved money over the years, including a medical savings account, and others may have paid for insurance. Those persons who have invested in insurance should be able to benefit from their thrift. If one is not persuaded by that argument, and is offended by the plaintiff "being paid twice" for the same bill, then one could reasonably say that the health insurance carrier should be able to get its money back through subrogation, and charge a smaller premium based on the anticipation that some of their claims will not ultimately have to be paid, because a tortfeasor will be responsible. The last person of interest who should benefit from the plaintiff's insurance should be the tortfeasor. In fact the prohibition against subrogation in the bill creates the bizarre situation in which a self-insured small business could have an employee in a malpractice induced coma, and have to pay all of the hospital bills, notwithstanding the fact that the negligent doctor is fully insured.

3. Finally, one of the reasons why the "average" malpractice award is increasing is because smaller cases are not brought. The complexity of the cases makes it impossible to hire an attorney if the award is too small to generate a meaningful attorney's fee. This "average" will undoubtedly increase if this bill is enacted because of limitations on damages, limitations on attorney's fees, elimination of joint and several liability and elimination of collateral sources. A better measure of the impact malpractice litigation has on the health care system is the fact that all malpractice awards and settlements have been approximately 1/2 of 1 percent of the national health care costs and have been recently increasing at the same rate as the health care costs generally.

ROBERT C. SCOTT.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Ms. PRYCE), a member of the Committee on Rules and Chair of the Republican Conference.

Ms. PRYCE of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, my home State of Ohio is one of a dozen States that is facing a real crisis in health care. Simply put, doctors are leaving and patients are suffering. One by one, facilities are closing their doors, retiring early, and not performing various procedures because, simply put, they cannot afford the insurance. The result is a pending perfect storm, where all of the converging factors meet to create utter and total chaos.

Among Ohio physicians surveyed last year, 96 percent expressed serious con-

cerns about the impact of rising liability insurance. Seventy-two percent in high-risk specialties said insurance premiums have affected their willingness to perform procedures, and 34 percent have admitted that they have to order more tests, perform more procedures, and practice defensive medicine just to protect themselves. But as a result, health care costs soar. In Ohio alone, there is story upon story of doctors retiring early or leaving the State just because of liability premiums.

Take Brian Bachelder, who had to stop practicing obstetrics this year because he simply could not afford it. As a result, his patients, many of whom had trouble just paying for the gas to get to their appointment with him, will now have to travel 50 or 65 miles further for prenatal care. Or take Dr. Romeo Diaz, whose patients had to actually chip in and raise \$40,000 to cover his increased premiums. All of this scrimping and saving for a doctor who had not had a malpractice claim filed in over 10 years.

America's health care system is quickly approaching the eye of a perfect storm, a world without doctors. They are becoming increasingly hard to find in so many places; and even worse, when you find one, they often cannot help. Their hands are tied.

Far too many Americans are unable to find a doctor to deliver a baby, to perform a surgery, or to provide trauma care necessary to save a loved one's life.

Mr. Speaker, Congress needs to act today and pass a medical liability reform plan that keeps our doctors practicing, alleviates patients' suffering, and restores medical justice to this system.

□ 1115

Mr. HASTINGS of Florida. Mr. Speaker, how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Florida (Mr. HASTINGS) has 5¼ minutes remaining. The gentleman from New York (Mr. REYNOLDS) has 5½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to my good friend, the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, Nathaniel is in fact the face of the devastation of H.R. 5. In the name of God and country, this rule says to Nathaniel, 6 days old, he is brain damaged because physicians and nurses failed to diagnose jaundice. In this bill he would be denied under the capping of noneconomic damages that are capped. Nathaniel is the face of the horror of what happened in the Committee on Rules last night. There will be no response to our physician friends and doctor friends on the question of reducing premiums because they re-

jected my amendment that said 50 percent of the savings by insurance companies should be reinvested into physicians to lower their premiums.

They know that California did not have those premiums go down until California enacted insurance reform. This is an insurance giveaway bill. This is not going to bring doctors into rural and urban America.

Mr. Speaker, this rule should be voted down in the name of Nathaniel, now brain damaged. H.R. 5 is a devastation and a disgrace to this baby who lost the ability to live a good quality of life.

Mr. Speaker, I am disgusted by this closed rule and call on my colleagues to defeat the rule and the underlying bill. We have a health care crisis on our hands. We need to work together in a democratic fashion to address it: to improve access to care, to protect patients, to ensure that good physicians can afford to continue treating those patients, and to decrease frivolous lawsuits. The underlying bill does nothing to address any of those issues, and I and many of my colleagues came forth last night to present amendments that would have ensured that it did. Not a single one of those excellent ideas will be even considered today.

What in the name of God and Country is our Democracy coming to when on the Floor of the House of Representatives, there is not a single chance to debate and vote on one of many ideas that could save lives and rescue our floundering health care system?

I hate the idea of putting a price tag on a human life, or a value on pain and suffering. However, we all know that malpractice premiums are outrageously high in some regions, for some specialties of medicine. I understand that some physicians are actually going out of business because the cost of practicing is too high, and that we run the risk of decreasing access to healthcare if we do not find a way to decrease malpractice insurance premiums.

But it would be doubly tragic if we did compromise the ability of patients suffering from medical negligence from seeking recourse in our courts, and did not achieve any meaningful decrease in malpractice premiums. Therefore, I offered an amendment last night that would require that all malpractice insurance companies make a reasonable estimate each year of the amount of money they save each year through the reduction in claims brought about by this Act. Then they would need to ensure that at least 50% of those savings be passed down in the form of decreased premiums for the doctors they serve.

I shared this concept with doctors and medical associations down in Texas, and they were very enthusiastic, because this amendment would ensure that we do what, I am being told, this bill is supposed to do—lower premiums for doctors.

Without my provision, this bill could easily end up being nothing more than heartbreak for those dealing with loss, and a giant gift to insurance companies. Parents who lose a child due to a tragedy like the one in North Carolina recently where the wrong heart and lung were placed in a young girl—they don't lose any money—they lose a part of their souls. We are going to tell them that their child was only worth \$250,000 in non-economic damages for all of their pain and suffering. We are being told that we are going to do this to such devastated families, in order to enable our doctors

to keep treating patients. However, the Rules Committee has decided to prevent us from voting on amendments that would ensure that this bill helps any doctor at all.

Without debate and votes, a Democracy is not a Democracy. I will vote against this Closed Rule, and encourage my colleagues who care about helping patients and good doctors to do the same.

Mr. REYNOLDS. Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia (Mr. LINDER), a distinguished member of the Committee on Rules.

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

Mr. Speaker, I rise in support of the rule and the underlying legislation, H.R. 5, the underlying medical malpractice reform bill. This rule gives the minority party a motion to recommit with or without instructions. This motion to recommit provides the minority with an opportunity to amend H.R. 5 as it sees fits, something the House Democrats often refused to give Republicans before 1995.

As a former dentist I understand the necessity for this particular form of tort law and how the reality of judicial adventurism is a prime cause of rising health care costs and reduced access in our country.

I absolutely believe that medical malpractice litigation has a substantive effect on health care quality and costs.

In a recent survey of Georgia doctors, 18 percent said they would stop providing high risk procedures to limit their liability; 33 percent of OB-GYNs and 20 percent of family practitioners said they will abandon high-risk procedures such as delivering babies. In addition, 11 percent of physicians will stop providing emergency room services.

The benefits of capping malpractice damages are staggering. In California it is estimated that MICRA has saved under those with high-risk specialties as much as \$42,000 per year, not to mention the \$6 billion per year of savings to patients in California. According to the U.S. Department of HHS, limits on noneconomic damages could yield taxpayers 25- to \$44 billion per year in savings.

Our founders incorporated explicit protections for citizens in criminal trials in the sixth amendment. However, they foresaw the potential abuse in civil trials and thus remained explicitly silent on the rights of juries to operate in civil cases.

In Federalist 83 Alexander Hamilton went to great lengths to discuss the absence of constitutional protections in civil cases, going so far as to claim that he could not "discern the inseparable connection between the existence of liberty and the trial by jury in civil cases."

According to Hamilton, the genius of the constitution was not only its flexibility in handling the changing nature of the American judiciary but also its reliance on the legislature to prescribe the effective checks on such changes.

Abuse in our judicial system can be remedied by the implementation and power of trials by jury, but a balance must be struck between that idea and the notions of common sense and personal responsibility. Unfortunately, our current system does not strike that balance.

I urge, as such, my colleagues to join me in passing this rule and the underlying legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. DELAHUNT), who has studied this problem long-standing as an attorney.

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

This is Linda McDougal, and like Nathaniel and many others she too would be a victim of the underlying bill H.R. 5. She received an unnecessary double mastectomy after doctors mixed up her results, her lab results, and erroneously told her she had breast cancer.

Under this bill her lifetime of pain and disfigurement would be worth \$250,000 and not a penny more. I ask my friends, is that fair?

Well, if my friends have any doubts, I would suggest they ask their mother, their sister or their daughter.

Mr. REYNOLDS. Mr. Speaker, I yield 45 seconds to the gentleman from Nevada (Mr. PORTER).

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

Mr. PORTER. Mr. Speaker, I rise in support of the HEALTH Act of 2003. This bill will be the first step towards curing the escalating medical liability costs.

The runaway litigation has forced a dozen States into near cardiac arrest, including my home State of Nevada. In Nevada medical liability costs have skyrocketed, forcing doctors to leave in droves. The trauma center in our top hospital had to shut its doors because there were not enough doctors to treat the patients. Just about every day you pick up the paper and you turn on the TV and there is another story about a pregnant woman or an emergency patient going into other States to have their babies delivered or emergency care treated. It is just one example.

In Las Vegas, Mr. Speaker, obstetrician Dr. Shelby Wilbourn packed up a 12-year practice and moved to Maine, where insurance rates are more affordable and doctors appear less likely to be sued.

Mr. Speaker, in order to remedy this, we must pass this legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I would say to the gentleman from Nevada (Mr. PORTER), the gentleman from Nevada (Ms. BERKLEY), who is married to a physician, does not find that H.R. 5 is going to remedy her husband's problem.

Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California (Mrs. CAPPS), who is a registered nurse and has seen what we are talking about.

Mrs. CAPPS. Mr. Speaker, I rise in opposition to the rule and the underlying bill.

We should not be capping the awards for pain and suffering that an injured patient receives when they have been harmed by their doctor. This puts the burden of rising insurance rates onto the innocent patient rather than the insurance company.

Mr. Speaker, I offered an amendment to the Committee on Rules which was not made in order. My amendment would set caps in the bill of \$250,000 or the total compensation package of the CEO of the insurance company representing the doctor in the case, whichever is highest.

It is not fair for insurance companies to pay their executives millions of dollars, give them bonuses, increase their pay when they are trying to deprive victims of their rightful compensation. In these days of Enron and MCI WorldCom, I believe that Congress should be siding with injured patients over corporate executives.

The Nation's largest medical malpractice insurance company pays their CEO \$9.7 million, but even so they apparently cannot keep paying for the pain and suffering of patients their clients have injured and so they keep raising their rates. You have to wonder about priorities.

This is about Nathaniel and Linda. This amendment that I propose promotes corporate responsibility. It is a more fair approach, and I urge my colleagues to defeat this rule and the underlying bill.

Mr. REYNOLDS. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GREENWOOD), who is an expert on the Committee on Energy and Commerce on this issue.

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

The gentlewoman from Texas (Ms. JACKSON-LEE) showed me a picture of Nathaniel, a young boy tragically brain damaged. I want my colleagues to understand that this bill of ours is modeled after California law. And in California law just last May under the same kind of law, a little boy who was brain damaged at a very young age because of malpractice was awarded \$43.5 million. And our bill would do nothing to prevent this young man from getting what they need, and that is probably a lifetime of round-the-clock medical care, a lifetime of lost wages.

All that would be recoverable in full, as it should be, and on top of that at least a quarter of a million dollars in pain and suffering; and if the State from which the child comes wanted to, that State could raise that level to whatever it wants. We have a flexible cap. This is a question of balance. This is a question of balance. We have to figure out how do we properly pay for medical liability claims in a reasoned way that still allows us to retain our doctors and hospitals.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from Nevada (Ms. BERKLEY), my friend, who is an attorney married to a physician, who has studied this problem actively and carefully over a period of time, coming from a State with dramatic problems.

(Ms. BERKLEY asked and was given permission to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, I fear we are doing a terrible disservice to our Nation's physicians and the patients who depend on them. We are deceiving them by passing a bill that does not ensure that doctors will actually benefit from these caps.

As a representative of southern Nevada I am all too familiar with the medical liability issue. Nevada has faced a serious medical malpractice crisis for years. Doctors cannot afford insurance premiums and they are threatening to leave the State. Some have and some are refusing to accept new patients.

In August of 2002, Nevada passed a carefully balanced tort reform bill which limited noneconomic damages to \$350,000 and allowed for judicial discretion in particularly egregious cases. Nevada passed caps. But the medical insurance companies have refused and have failed to reduce their premiums.

This Congress cannot for a minute pretend that we have addressed the real problem of skyrocketing insurance rates if we limit our prescription to liability caps. We must also provide doctors with insurance reforms as well.

Medical liability reform is worthless if we ignore all of the evidence demonstrating that the current crisis is due more to insurance company miscues than liability claims. We must combine them both and I urge you to reject this rule.

Mr. Speaker, I rise in opposition to the rule.

As a Representative of southern Nevada, I am all too familiar with this medical liability issue. Nevada has faced a serious medical malpractice crisis for the last year. Doctors cannot afford insurance premiums and are threatening to leave the State. Some have and are refusing to accept new patients.

I convened discussion groups of doctors and lawyers at my home to try to understand the medical malpractice issue, and it's a regular conversation in my own home as my husband and I, a doctor and lawyer, have searched for effective solutions to this crisis.

Nevada's problem is not one of obscene awards and lawsuits, but of poor calculations and bad decisions on the part of insurers over the past couple of decades.

Nevada's problem is the result of artificially inflated profits, over saturation and price slashing by the insurance company and when Nevada was no longer profitable, St. Paul Insurance Co. withdrew from the market. When that happened, 60% of Nevada's doctors lost their insurance carrier and the remaining medical malpractice insurance companies raised their rates to unconscionable extremes.

In August of 2002, Nevada passed a carefully balanced tort reform bill which limited non-economic damages to \$350,000 and al-

lowed for judicial discretion in particularly egregious cases.

Nevada passed caps, but the medical insurance companies have refused and have failed to reduce their premiums.

The evidence demonstrates that judgements are not the full, or even a large measure of the problem. And therefore caps will have a very limited effect on solving this problem.

This Congress cannot—for a minute—pretend that we have addressed the very real problem of skyrocketing insurance rates if we limit our prescription to liability caps. We must also provide doctors with insurance reforms as well.

Medical liability reform is worthless if we ignore all the evidence demonstrating that the current crisis is due more to insurance company miscues than to liability claims.

It is fundamentally unfair and bad public policy to limit jury awards without directly addressing reform of the insurance industry. If this Congress is going to pass tort reform, it should be accompanied by insurance reform so that insurance companies will pass along the savings, and doctors become the direct beneficiaries of cap limitations.

Anything less will fail to solve the malpractice crisis in my State and in this Nation.

I urge my colleagues to vote against this Rule. We are doing a terrible disservice to our Nation's physicians and to the patients that depend on them. We are deceiving them by passing a bill that does not insure that the doctors will actually benefit from caps.

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

The SPEAKER pro tempore. The gentleman from New York has 1¼ minutes remaining. The gentleman from Florida (Mr. HASTINGS) has 2 minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS) and then I will be prepared to close.

Mr. EDWARDS. Mr. Speaker, I am deeply disappointed that the Republican House leadership refused last night to even let this House consider my amendment, a reasonable amendment, to exclude the \$250,000 caps only in cases where someone is guilty of gross negligence.

I support cracking down on frivolous lawsuits and I even favor punishing attorneys who file them. But under the guise of stopping frivolous lawsuits, it is wrong for the Republican leadership to protect those guilty of gross negligence even when the consequence is the loss of a child.

Jeanella Aranda was a 1-year-old baby. Last August Jeanella died needlessly in Dallas, Texas, because the transplant liver team did not check the fact that the father's liver and blood type were not compatible. Had they checked they have would have found out little Jeanella's mother could have donated part of her liver and Jeanella would most likely be alive today.

Mr. Speaker, I hope every Member of this House will ask his or herself this question before voting on this awful unfair rule: Had Jeanella Aranda been your child, would you think it would be fair for politicians in Washington to

decide how to hold responsible those involved in her death?

Mr. REYNOLDS. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, everyone in this body knows why pregnant mothers cannot find doctors to deliver their babies, why emergency room and trauma centers are closing and why physicians are leaving their practices. The health care liability crisis has been worsening every year since 1993, when I first introduced this legislation that we are considering today.

The national median malpractice awards has been increasing 43 percent a year. It is unsustainable. Today the average physician faces a new lawsuit every year. The opponents of this legislation are convinced that the best place to make split second medical decisions is in the courtroom. But this bill is about getting better health care in America for doctors and patients and all of the people who rely upon this system. It is high time for medical justice and high time to enact this legislation.

□ 1130

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, if the previous question is defeated, I will offer an amendment to the rule. My amendment will allow the House to consider the Conyers-Dingell substitute to the medical malpractice bill. My amendment will give Members an opportunity to vote on this substitute which, unlike the majority, takes a comprehensive approach to rising medical malpractice insurance premiums. It takes steps to weed out frivolous lawsuits. It requires insurance companies to pass their savings on to health care providers, and it provides targeted assistance to the physicians and communities who need it most.

Let me make it clear that a "no" vote on the previous question will not stop consideration of this bill. A "no" vote will allow the House to consider and get a vote on the Conyers-Dingell substitute. However, a "yes" vote on the previous question will shut out any opportunity for a vote on the substitute. I urge a "no" vote on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment and a description be printed in the RECORD immediately prior to the vote on the previous question, on which I urge a "no" vote on the base rule.

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

There was no objection. The SPEAKER pro tempore. The time of the gentleman from Florida has expired.

Mr. REYNOLDS. Mr. Speaker, I yield myself the remaining time.

I hope my colleagues have had the opportunity to read the heart-wrenching testimony presented by Leanne

Dyess earlier this month before the Committee on the Judiciary. I hope their compassion will allow them to consider how it would feel if a similar tragedy befell someone they love simply because doctors had been pushed out of the area; and I hope they can recognize that, today, we have the opportunity to prevent such tragedies from happening to others.

The HEALTH Act is about patients getting the best possible care they can when and where they need it. Dollar signs do not cure people; doctors do. Let us make sure doctors and other providers all across the country remain open for business.

I urge a "yes" vote on the rule and the underlying legislation. A "yes" vote is a vote for patients.

Mr. CONYERS. Mr. Speaker, there is one word that best describes this closed rule: cowardly. This is a Republican leadership that fears a real debate on this cold hearted proposal that would rob victims of medical malpractice. They fear that too many of their own Members would vote for a democratic bill because it makes sense and would address the problem.

They have decided to dodge a clean vote on a real bill and bury real debate in procedural doubletalk. They have decided to let their Members hide behind parliamentary tricks.

The Republican leadership has shredded any semblance of fairness or open debate. Just last year, for the first time since 1910, this Republican leadership denied the Minority party a motion to recommit. Today, the two most senior members of the House of Representatives, who are also the two Ranking Democrats on the Committees of jurisdiction, are being denied the opportunity to offer the amendment of their choosing.

The Republican leadership's bill doesn't solve the problem of medical malpractice insurance rates skyrocketing. It has no insurance reform at all. Doctors who are being price gouged by insurance companies will not see one cent of savings from this bill.

The simple fact is that draconian caps on damages do not reduce insurance premiums. In a comparison of states that enacted severe tort restrictions in the mid-1980s and those that resisted enacting any tort reform, no correlation was found between tort reform and insurance rates.

Our bill takes away the antitrust exemption for medical malpractice insurance providers that has allowed those providers to collude to jack up rates for doctors.

The Republican leadership's bill does nothing about the deadly problem of medical malpractice that costs victims literally their life and limb. Between 44,000 and 98,000 people die each year because of medical negligence in hospitals and the Republican answer is to take away the rights of surviving family members and accountability for bad apple health care providers.

H.R. 5 does nothing about the fact that 5% of all doctors are responsible for 54% of malpractice claims paid. H.R. 5 does nothing to solve the problem that medical malpractice is the fifth leading cause of death in the country.

Our bill preserves accountability in the health care system.

The Republican leadership's bill does nothing about frivolous lawsuits, only hurts victims.

All this bill does is take away compensation from the most seriously injured plaintiffs. These are the victims who have a case that has so much merit that a jury of their peers decides they deserve more than \$250,000 in non-economic damages.

Our bill requires an attorney to file a certificate of merit that an action is not frivolous and, if that certificate is false, that attorney can be disbarred.

The Republican bill takes a chain saw to the health care system instead of a scalpel. It is no wonder they fear a fair and honest debate and a clean vote.

I urge Members to:

(1) Vote "no" on the Previous Question so that we can make in order a vote on Conyers-Dingell and other worthy Democratic amendments.

(2) If we are not successful in defeating the previous question, vote "no" on this one sided, anti-democratic rule.

The material previously referred to by Mr. HASTINGS of Florida is as follows:

PREVIOUS QUESTION FOR H. RES. 139—MEDICAL MALPRACTICE: H.R. 5—HELP EFFICIENT ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2003

In the resolution strike "(and (2))" and insert the following:

"(2) an amendment in the nature of a substitute consisting of the text of H.R. 1219 if offered by Representative Conyers or a designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for 60 minutes equally divided and controlled by the proponent and an opponent; and (3)"

CONYERS/DINGELL DEMOCRATIC SUBSTITUTE—H.R. 1219, "THE MEDICAL MALPRACTICE AND INSURANCE REFORM ACT OF 2003"

SECTION-BY-SECTION ANALYSIS

Scope. The legislation narrowly defines "medical malpractice action" to cover "licensed physicians and health professionals" for only cases involving medical malpractice. These definitions are intended to include doctors, hospitals, nurses, and other health professionals who pay medical malpractice insurance premiums. See, sec. 107(8).

Title I—Reducing frivolous lawsuits

SEC. 101.—Statute of Limitations. This section limits the amount of time during which a patient can file a medical malpractice action to the later of three years from the date of injury or three years from the date the patient discovers (or through the use of reasonable diligence should have discovered) the injury. Children under the age of 18 have the later of three years from their eighteenth birthday or three years from the date the patient discovers (or through the use of reasonable diligence should have discovered) the injury.

SEC. 102.—Health Care Specialist Affidavit. This section requires an affidavit by a qualified specialist before any medical malpractice action may be filed. A "Qualified Specialist" is a health care professional with knowledge of the relevant facts of the case, expertise in the specific area of practice, and board certification in a specialty relating to the area of practice.

SEC. 103.—Mandatory Sanctions for Frivolous Actions and Pleadings. This section requires all plaintiff attorneys who file a medical malpractice action to certify that the case is meritorious. Attorneys who erroneously file such a certificate are subject to strict civil penalties. For first time violators, the court shall require the attorney to

pay costs and attorneys fees or administer other appropriate sanctions. For second time violators, the court shall also require the attorney to pay a monetary fine. For third time violators, the court shall also refer the attorney to the appropriate State bar association for disciplinary proceedings.

SEC. 104.—Mandatory Mediation. This section establishes an alternative dispute resolution (ADR) system for medical malpractice cases. Participation in mediation shall be in lieu of any other ADR method required by law or by contractual arrangements by the parties. A similar approach is recommended by the Committee for Economic Development (CED), which suggests that defendants make and victims accept "early offers." The effect of the "early offer" program, according to the CED, is that defendants will reduce the likelihood of incurring litigation costs, and victims would obtain fair compensation without the delay, expense or trauma of litigation.

SEC. 105.—Punitive Damages. This section limits the circumstances under which a claimant can seek punitive damages in a medical malpractice action. It also allocates 50 percent of any punitive damages that are awarded to a Patient Safety Fund managed by HHS. HHS will administer the Patient Safety Fund through the Agency for Healthcare Research and Quality. The Secretary will promulgate regulations that will establish programs and procedures to carry out this objective. See also, Sec. 221-223.

SEC. 106.—Reduction in Premiums. This section requires medical malpractice insurance companies to annually project the savings that will result from Title II of the bill. Insurance companies must then develop and implement a plan to annually dedicate at least 50 percent of those savings to reduce the insurance premiums that medical professionals pay. Insurance companies must report these activities to HHS annually. The section provides for civil penalties for the non-compliance of insurance companies.

Title II—Medical malpractice insurance reform

SEC. 201.—Prohibition on Anti-competitive Activities by Medical Malpractice Insurers. This section would repeal McCarran-Ferguson Act to ensure that insurers do not engage in price fixing. The Act, enacted in 1945, exempts all anti-competitive insurance industry practices, except boycotts, from the Federal antitrust laws. Over the years, even oversight of the insurance industry by the States, coupled with no possibility of Federal antitrust enforcement, have created an environment that fosters a wide range of anti-competitive practices.

SEC. 202.—Medical Malpractice Insurance Price Comparison. This section creates an internet site at which health care providers could obtain the price charged for the type of coverage the provider seeks from any malpractice insurer licensed in the doctor's state. This section specifies the availability of online forms and that all information will remain confidential.

Title III—Enhancing patient access to care through direct assistance

SEC. 301.—Grants and Contracts Regarding Health Provider Shortages. This section authorizes the Secretary of Health and Human Services (HHS) to award grants or contracts through the Health Resources and Services Administration (HRSA) to geographic areas that have a shortage of one or more types of health care providers as a result of dramatic increases in malpractice insurance premiums.

SEC. 302.—Health Professional Assignments to Trauma Centers. This section amends the Public Health Service Act to authorize the Secretary to send physicians from the National Health Service Corps to trauma centers that are in danger of closing (or losing

their trauma center status) due to dramatic increases in malpractice premiums.

Title IV—Independent advisory commission on medical malpractice insurance

SEC. 401-402.—Independent Advisory Commission on Medical Malpractice Insurance. This section establishes the national Independent Advisory Commission on Medical Malpractice Insurance. The Commission must evaluate the causes and scope of the recent and dramatic increases in medical malpractice insurance premiums, formulate additional proposals to reduce those premiums, and make recommendations to avoid any such increases in the future. In formulating its proposals, the Commission must, at a minimum, consider a variety of enumerated factors.

SEC. 403.—Report. This section requires the Commission to file an initial report with Congress within 180 days of enactment and to file annual reports until the Commission terminates.

SEC. 404.—Membership. This section specifically establishes the number and type of commissioners that the Comptroller General of the United States must appoint to the Commission. Generally, the membership of the Commission will include individuals with national recognition for their expertise in health finance and economics, actuarial science, medical malpractice insurance, insurance regulation, health care law, health care policy, health care access, allopathic and osteopathic physicians, other providers of health care services, patient advocacy, and other related fields, who provide a mix of different professionals, broad geographic representations, and a balance between urban and rural representatives.

SEC. 407.—Authorization of Appropriations. This section authorizes that such sums be appropriated to the Commission for five fiscal years.

(Prepared by the Democratic staffs of the Committee on the Judiciary and the Committee on Energy and Commerce.)

Mr. REYNOLDS. Mr. 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 question.

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.

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.

The vote was taken by electronic device, and there were—yeas 225, nays 201, not voting 8, as follows:

[Roll No. 61]

YEAS—225

Aderholt	Barton (TX)	Blackburn
Akin	Bass	Blunt
Bachus	Beauprez	Boehlert
Baker	Bereuter	Boehner
Ballenger	Biggert	Bonilla
Barrett (SC)	Bilirakis	Bonner
Bartlett (MD)	Bishop (UT)	Bono

Boozman	Hastings (WA)	Pickering
Bradley (NH)	Hayes	Pitts
Brady (TX)	Hayworth	Platts
Brown (SC)	Hefley	Pombo
Brown-Waite,	Hensarling	Porter
Ginny	Herger	Portman
Burgess	Hobson	Pryce (OH)
Burns	Hoekstra	Putnam
Burr	Hostettler	Quinn
Burton (IN)	Houghton	Radanovich
Buyer	Hulshof	Ramstad
Calvert	Hunter	Regula
Camp	Isakson	Rehberg
Cannon	Issa	Renzi
Cantor	Istook	Reynolds
Capito	Janklow	Rogers (AL)
Carter	Jenkins	Rogers (KY)
Castle	Johnson (CT)	Rogers (MI)
Chabot	Johnson, Sam	Rohrabacher
Chocola	Jones (NC)	Ros-Lehtinen
Coble	Keller	Royce
Cole	Kelly	Ryan (WI)
Collins	Kennedy (MN)	Ryun (KS)
Cox	King (IA)	Lofgren
Crane	King (NY)	Saxton
Crenshaw	Kingston	Schrock
Cubin	Kirk	Sensenbrenner
Culberson	Kline	Sessions
Cunningham	Knollenberg	Shadegg
Davis, Jo Ann	Kolbe	Shaw
Davis, Tom	LaHood	Shays
Deal (GA)	Latham	Sherwood
DeLay	LaTourrette	Shimkus
DeMint	Leach	Shuster
Diaz-Balart, L.	Lewis (CA)	Simmons
Diaz-Balart, M.	Lewis (KY)	Simpson
Doolittle	Linder	Smith (MI)
Dreier	LoBiondo	Smith (NJ)
Duncan	Lucas (KY)	Smith (TX)
Dunn	Lucas (OK)	Souder
Ehlers	Manzullo	Stearns
Emerson	McCotter	Sullivan
English	McCry	Sweeney
Everett	McHugh	Tancredo
Feeney	McInnis	Tauzin
Ferguson	McKeon	Taylor (NC)
Flake	Mica	Terry
Fletcher	Miller (FL)	Thomas
Foley	Miller (MI)	Thornberry
Forbes	Miller, Gary	Tiahrt
Fossella	Moran (KS)	Tiberi
Franks (AZ)	Murphy	Toomey
Frelinghuysen	Musgrave	Turner (OH)
Galleghy	Myrick	Upton
Garrett (NJ)	Nethercutt	Vitter
Gerlach	Ney	Walden (OR)
Gibbons	Northup	Walsh
Gillmor	Norwood	Wamp
Gingrey	Nunes	Weldon (FL)
Gingrey	Nussle	Weldon (PA)
Goode	Osborne	Weller
Goodlatte	Ose	Whitfield
Goss	Otter	Wicker
Granger	Oxley	Wilson (NM)
Graves	Paul	Wilson (SC)
Green (WI)	Pearce	Wolf
Greenwood	Pence	Young (AK)
Gutknecht	Peterson (PA)	Young (FL)
Harris	Petri	
Hart		

NAYS—201

Abercrombie	Carson (OK)	Etheridge
Ackerman	Case	Evans
Alexander	Clay	Farr
Allen	Clyburn	Fattah
Andrews	Conyers	Filner
Baca	Cooper	Ford
Baird	Costello	Frank (MA)
Baldwin	Cramer	Frost
Ballance	Crowley	Gonzalez
Becerra	Cummings	Gordon
Bell	Davis (AL)	Green (TX)
Berkley	Davis (CA)	Grijalva
Berman	Davis (FL)	Gutierrez
Berry	Davis (IL)	Hall
Bishop (GA)	Davis (TN)	Harman
Bishop (NY)	DeFazio	Hastings (FL)
Blumenauer	Delahunt	Hill
Boswell	DeLauro	Hinchey
Boucher	Deutsch	Hinojosa
Boyd	Dicks	Hoeffel
Brady (PA)	Dingell	Holden
Brown (OH)	Doggett	Holt
Brown, Corrine	Dooley (CA)	Honda
Capps	Doyle	Hooley (OR)
Capuano	Edwards	Hoyer
Cardin	Emanuel	Insee
Cardoza	Engel	Israel
Carson (IN)	Eshoo	Jackson (IL)

Jackson-Lee	Meek (FL)	Sanchez, Loretta
(TX)	Meeks (NY)	Sanders
Jefferson	Menendez	Sandlin
John	Michaud	Schakowsky
Johnson, E. B.	Millender-	Schiff
Jones (OH)	McDonald	Scott (GA)
Kanjorski	Miller (NC)	Scott (VA)
Kaptur	Miller, George	Serrano
Kennedy (RI)	Mollohan	Sherman
Kildee	Moore	Skelton
Kilpatrick	Moran (VA)	Slaughter
Kind	Murtha	Smith (WA)
Klecza	Nadler	Solis
Kucinich	Napolitano	Spratt
Lampson	Neal (MA)	Stark
Langevin	Oberstar	Stenholm
Lantos	Obey	Strickland
Larsen (WA)	Olver	Stupak
Larson (CT)	Ortiz	Tanner
Lee	Owens	Tauscher
Levin	Pallone	Taylor (MS)
Lewis (GA)	Pascarell	Thompson (CA)
Lipinski	Pastor	Thompson (MS)
Lofgren	Payne	Tierney
Lowe	Pelosi	Towns
Lynch	Peterson (MN)	Turner (TX)
Majette	Pomeroy	Udall (CO)
Maloney	Price (NC)	Udall (NM)
Markey	Rahall	Van Hollen
Marshall	Rangel	Velazquez
Matheson	Reyes	Vislosky
Matsui	Rodriguez	Waters
McCarthy (MO)	Ross	Watson
McCarthy (NY)	Rothman	Watt
McCollum	Roybal-Allard	Waxman
McDermott	Ruppersberger	Weiner
McGovern	Ryan (OH)	Wexler
McIntyre	Sabo	Woolsey
McNulty	Sanchez, Linda	Wu
Meehan	T.	Wynn

NOT VOTING—8

Combest	Gilchrest	Rush
DeGette	Hyde	Snyder
Gephardt	Johnson (IL)	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore (Mr. THORNBERRY) (during the vote). Members have 2 minutes to record their votes.

□ 1154

Ms. WATSON, Messrs. SANDLIN, MATSUI, HINOJOSA, SHERMAN, KUCINICH, Mrs. JONES of Ohio, Messrs. RUPPERSBERGER, BALLANCE, DEUTSCH, OWENS, Ms. MAJETTE, and Mr. DAVIS of Florida changed their vote from “yea” to “nay.”

Mr. PETRI and Mr. PAUL 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. The question is on the resolution.

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

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 225, noes 201, not voting 8, as follows:

[Roll No. 62]

AYES—225

Aderholt	Bartlett (MD)	Bilirakis
Akin	Barton (TX)	Bishop (UT)
Bachus	Bass	Blackburn
Baker	Beauprez	Blunt
Ballenger	Bereuter	Boehlert
Barrett (SC)	Biggert	Boehner

Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite,
 Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht

Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)

NOES—201

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza

Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel

Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souders
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer

Inslee
Israel
Jackson (IL)
Jackson-Lee
 (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Lagavin
Lantos
Larsen (WA)
Larsen (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan

NOT VOTING—8
DeBaste
Hyde
Gephardt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. THORNBERRY) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1207

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.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

HELP EFFICIENT, ACCESSIBLE, LOW-COST TIMELY HEALTHCARE (HEALTH) ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 139, I call up the bill (H.R. 5) 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. SIMPSON). Pursuant to House Resolution 139, the bill is considered read for amendment.

The text of H.R. 5 is as follows:

H.R. 5

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 Healthcare (HEALTH) Act of 2003".

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) 33½ 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, if awarded, in a health care lawsuit, 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, if awarded, in a health care lawsuit may be as much as \$250,000 or as much as two times the amount of economic damages awarded, whichever is greater. The jury shall not be informed of this limitation.

(c) NO CIVIL MONETARY PENALTIES FOR PRODUCTS IN COMPLIANCE WITH FDA STANDARDS.—

(1) PUNITIVE DAMAGES.—

(A) IN GENERAL.—In addition to the requirements of subsection (a), punitive damages may not be awarded against the manufacturer or distributor of a medical product, or a supplier of any component or raw material of such medical product, on the basis that the harm to the claimant was caused by the lack of safety or effectiveness of the particular medical product involved, unless the claimant demonstrates by clear and convincing evidence that—

(i) the manufacturer or distributor of the particular medical product, or supplier of any component or raw material of such medical product, failed to comply with a specific requirement of the Federal Food, Drug, and Cosmetic Act or the regulations promulgated thereunder; and

(ii) the harm attributed to the particular medical product resulted from such failure to comply with such specific statutory requirement or regulation.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) may not be construed as establishing the obligation of the Food and Drug Administration to demonstrate affirmatively that a manufacturer, distributor, or supplier referred to in such subparagraph meets any of the conditions described in such subparagraph.

(2) LIABILITY OF HEALTH CARE PROVIDERS.—A health care provider who prescribes a medical product approved or cleared by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such product and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or seller of such 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 law (whether effective before, on, or after the date of the enactment of this Act) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount 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. In lieu of the amendments recommended by the Committee on the Judiciary and the Committee on Energy and Commerce printed in the bill, an amendment in the nature of a substitute printed in House Report 108-34 is adopted.

The text of H.R. 5, as amended pursuant to House Resolution 139, is as follows:

H.R. 5

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 Healthcare (HEALTH) Act of 2003".

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.

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, nothing in this Act shall limit a claimant's recovery of the full amount of the available economic damages, notwithstanding the limitation in subsection (b).

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of noneconomic damages, if available, 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 injury.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—For purposes of applying the limitation in subsection (b), 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. Whenever a judgment of liability is rendered as to any party, 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) 33 $\frac{1}{3}$ 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. The requirement for court supervision in the first two sentences of subsection (a) applies only in civil actions.

SEC. 6. ADDITIONAL HEALTH BENEFITS.

In any health care lawsuit involving injury or wrongful death, 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 involving injury or wrongful death. 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, if awarded, in a health care lawsuit, 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, if awarded, in a health care lawsuit may be as much as \$250,000 or as much as two times the amount of economic damages awarded, whichever is greater. The jury shall not be informed of this limitation.

(c) NO PUNITIVE DAMAGES FOR PRODUCTS THAT COMPLY WITH FDA STANDARDS.—

(1) IN GENERAL.—

(A) No punitive damages may be awarded against the manufacturer or distributor of a medical product, or a supplier of any component or raw material of such medical product, based on a claim that such product caused the claimant's harm where—

(i) such medical product was subject to premarket approval, clearance, or licensure 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, cleared, or licensed; or

(ii) 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.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) may not be construed as establishing the

obligation of the Food and Drug Administration to demonstrate affirmatively that a manufacturer, distributor, or supplier referred to in such subparagraph meets any of the conditions described in such subparagraph.

(2) LIABILITY OF HEALTH CARE PROVIDERS.—A health care provider who prescribes, or who dispenses pursuant to a prescription, a medical product approved, licensed, or cleared by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such product and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or seller of such product. Nothing in this paragraph prevents a court from consolidating cases involving health care providers and cases involving products liability claims against the manufacturer, distributor, or product seller of such medical product.

(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, clearance, or licensure 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, clearance, or licensure 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 any health care lawsuit, the court may be guided by 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 contribu-

tion, 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 non-economic 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 or any medical product affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services or any medical product 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. Such term does not include a claim or action which is based on criminal liability; which seeks civil fines or penalties paid to Federal, State, or local

government; or which is grounded in anti-trust.

(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 or care 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, device, or biological product intended for humans, and the terms “drug”, “device”, and “biological product” 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) and section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)), 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 AND OTHER LAWS.**—(1) 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.

(2) This Act shall not preempt or supersede any State or Federal law that imposes greater procedural or substantive protections for health care providers and health care organizations from liability, loss, or damages than those provided by this Act or create a cause of action.

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

(1) any State law (whether effective before, on, or after the date of the enactment of this Act) that specifies a particular monetary

amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount 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 40 minutes and the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) each will control 20 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 include extraneous material on H.R. 5, the bill 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, our Nation is facing a health care crisis driven by uncontrolled litigation. Medical professional liability insurance rates have soared, causing major insurers to either drop coverage or to raise premiums to unaffordable levels. Doctors are being forced to abandon patients and practices or to retire early, particularly in high-risk specialties such as emergency medicine, brain surgery and obstetrics and gynecology. Women are being particularly hard hit, as are low income and rural neighborhoods.

H.R. 5, the HEALTH Act, is modeled after California’s highly successful health care litigation reforms enacted in 1975 and known under the acronym MICRA. California’s reforms, which are included in the HEALTH Act, include a \$250,000 cap on noneconomic damages, limits on the contingency fees lawyers can charge, and authorization for defendants to introduce evidence to prevent double recoveries. The HEALTH Act also includes provisions creating a fair share rule by which damages are allocated fairly in direct proportion to fault, reasonable guidelines on the award of punitive damages, and a safe

harbor for punitive damages for products that meet applicable FDA safety requirements.

It is important to note that nothing in the HEALTH Act limits in any way the award of economic damages from anyone responsible for harm. Economic damages include anything to which a value can be attached, including lost wages, lost services provided, medical costs, the cost of pain-reducing drugs, and lifetime rehabilitation care, and anything else to which a receipt can be attached. Because of this, the reforms in the HEALTH Act still allow for very large, multi-million dollar awards to deserving victims, including homemakers and children, as the experience in California has shown.

Still, the California reforms have been successful. Information provided by the National Association of Insurance Commissioners shows that since 1975, premiums paid in California increased by 167 percent while premiums paid in the rest of the country increased by 505 percent. As Cruz Reynoso, the Democratic Vice Chairman of the U.S. Civil Rights Commission wrote recently in the *Los Angeles Times*, "What is obvious about MICRA is that it works and it works well. Our California doctors and hospitals pay significantly less for liability protection today than their counterparts in States without MICRA-type reforms."

The Congressional Budget Office has concluded that "under the HEALTH Act, premiums for medical malpractice insurance ultimately would be an average of 25 percent to 30 percent below what they would be under current law." If California's legal reforms were implemented nationwide, we could spend billions of dollars more annually on patient care. Reform at the Federal level is necessary because the current crisis is national in scope.

According to a report by the Department of Health and Human Services, "The cost of these awards for non-economic damages is paid by all other Americans through higher health care costs, higher health insurance premiums, higher taxes, reduced access to quality care, and threats to quality of care. The system permits a few plaintiffs and their lawyers to impose what is in effect a tax on the rest of the country to reward a very small number of patients." Congress must act to let doctors treat patients wherever they are and to reduce health care costs for all Americans.

H.R. 5 will also save the Federal taxpayers billions of dollars. Former Democratic Senator George McGovern has written in the *Wall Street Journal*, "Legal fear drives doctors to prescribe medicines and order tests, even invasive procedures, that they feel are unnecessary. Reputable studies estimate that this 'defensive medicine' squanders \$50 billion a year, enough to provide medical care to millions of uninsured Americans."

According to the Department of Health and Human Services, "If rea-

sonable limits were placed on non-economic damages to reduce defensive medicine, it would reduce the amount of taxpayers' money the Federal Government spends by \$25.3-44.3 billion per year."

Furthermore, despite accusations from the other side of the aisle, this is not a crisis caused by insurance companies. The President of the National Association of Insurance Commissioners wrote last month that "To date, insurance regulators have not seen evidence that suggests medical malpractice insurers have engaged or are engaging in price fixing, bid rigging, or market allocation. The preliminary evidence points to rising loss costs and defense costs associated with litigation as the principal drivers of medical malpractice prices."

We all recognize that injured victims should be adequately compensated for their injuries, but too often in this debate we lose sight of the larger health care picture. This country is blessed with the finest health care technology in the world. We are blessed with the finest doctors in the world. People are smuggled into this country for a chance at life and healing, the best chance they have in the world.

The Department of Health and Human Services issued a report recently that included the following amazing statistics. During the last half century, death rates of children and adults up to age 24 were cut in half and infant mortality rates have plummeted 75 percent.

□ 1215

Mortality among adults between the ages of 25 and 64 fell nearly as much and dropped among those 65 years and older by a third. In 2000, Americans enjoyed the longest life expectancy in American history, almost 77 years.

These amazing statistics just did not happen. They happened because America produces the best health care technology and the best doctors to use it. But now there are fewer and fewer doctors to use that miraculous technology or to use that technology where their patients are. We have the best brain-scanning and brain-operation devices in history and fewer and fewer neurosurgeons to use them. Unlimited lawsuits are driving doctors out of the healing profession. They are reversing the clock; and they are making us all less safe, all in the name of unlimited lawsuits and personal injury lawyers' lust for their cut of unlimited awards for unquantifiable damages. But when someone gets sick or is bringing a child into the world and we cannot call a doctor, who will we call, a lawyer?

As a Nation today, we have to choose. Do we want the abstract ability to sue a doctor for unlimited, unquantifiable damages when doing so means that there will be no doctors to treat ourselves and our loved ones in the first place? On behalf of all 287 million Americans, all of us who are patients, let us say yes to reasonable

health care litigation management and pass the HEALTH Act.

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

Mr. CONYERS. Mr. Speaker, I am pleased to start the debate off on our side by yielding 3 minutes to the gentleman from North Carolina (Mr. WATT), the ranking member of the Subcommittee on Commercial and Administrative Law, where this bill would have gone had there been subcommittee hearings.

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

Let me say first of all that I do not argue with the right of California to do tort reform or North Carolina or New York or any of the States. There are crises in some States, situations vary from State to State, and State legislators have the prerogative to set whatever tort laws they think are desirable. But I think it is the ultimate act of arrogance on our part as Members of Congress to think that we should dictate to the States in an area that has historically and forever been the prerogative of the State and in a way that I think substantially adversely impacts our whole Federal form of government, and in a way that runs contrary to just about everything my Republican colleagues say they stand for, which is devolving things back to the States.

I talked to a doctor this morning and I said to him, I have never seen a malpractice take place across State lines. To the extent that you operate on a patient from North Carolina, you being a doctor in North Carolina and the patient is from South Carolina, that creates diversity of citizenship and gets you into the Federal court. I offered an amendment in the Committee on the Judiciary designed to restrict this legislation to suits that are brought properly in the Federal court. I think we have the prerogative as the Congress to define what the Federal tort standards should be. But when we start dictating to the States that you have got to follow this one-size-fits-all bill, I think we have just kind of lost sight of the whole thing.

This should not be about getting the result that we want in any particular lawsuit that is pending. It should be about setting a framework, a public policy framework that honors the parameters that our Founding Fathers set up. For the life of me, I cannot figure out what the Federal nexus is for having a bill this broad. We can argue that there is a crisis; I do not think that is really the issue. The issue is how should we respond to the crisis and what should be our role at the Federal level in this context.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes 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.

Today, America faces a national insurance crisis that is destroying our

health care system. Medical liability insurance rates have soared, causing insurers either to drop their 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, brain surgery, and obstetrics and gynecology. This is an intolerable problem that cries out for a solution.

The American people understand the problem. A poll conducted in early February shows that 59 percent of all Americans believe the crisis should be solved either by reining in personal injury lawyers or by placing caps on the amounts juries can award. The obvious cause of skyrocketing medical professional liability premiums is escalating jury verdicts. The median medical malpractice jury award doubled between 1995 and 2000, from a half a million to \$1 million. That does not reflect the huge costs of cases that do not result in jury awards. In fact, 70 percent of all medical malpractice claims result in no payments because claims are either dismissed or withdrawn.

The CEO of Methodist Children's Hospital in my hometown of San Antonio has seen his premiums increase from less than \$20,000 to \$85,000 in less than 10 years. He has been sued three times. In one case, his only interaction with the person suing was that he stopped by her child's hospital room and asked how the child was doing. Each jury cleared him of any wrongdoing, and the total amount of time all three juries spent deliberating was less than 1 hour. Of course, the doctor's insurance company did spend a great deal of time, effort and money in his defense.

Mr. Speaker, Congress can solve the current health care crisis, but it can solve it only by passing the HEALTH Act.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 3 minutes to the gentleman from New York (Mr. WEINER), a distinguished member of the committee.

Mr. WEINER. Mr. Speaker, first of all, as the debate begins, let us put some myths to rest. We are going to hear a great deal of references to the California law that put in a cap. Since 1998, premiums have gone up 37 percent in California. Nationally they have gone up about 6 percent. So you keep talking about how great that has worked, but frankly it has not. In Florida where they also have a cap, and there are plenty of places around the country that do, they have a \$450,000 cap that was put in the last time that suddenly we had an insurance crisis in this country in 1985, 1986. What happened then? Oh, yeah, insurance companies lost a lot of money in the stock market then, too, so that was the last crisis that we had. At the time Florida, they were smart, they asked insurance companies to report back to them the effect of the law. Aetna Casualty re-

ported back. St. Paul, then the largest malpractice insurer, reported back; and in the words of St. Paul they said, quote, "The new limits will produce little or no savings to the tort system as it pertains to medical malpractice."

So feel free to keep talking about the examples that we have, but I think that you will find that when push comes to shove, the precedent is that these caps do not lower premiums. They do not lower premiums.

We are also going to hear a great deal of assertion today about out-of-control juries, out-of-control awards, judges who are completely out of their mind when they make decisions. Frankly, Duke Law School studied this notion not so long ago, as a matter of fact, in December of 2002. Here is what they said, and this is a quote: "The assertion that jurors decide cases out of sympathy for injuries to plaintiffs rather than the legal merits of the case have been made about malpractice juries since at least the 19th century, yet no research shows support for these claims."

But this is part of what I think is an underlying theme on the other side. American citizens cannot be trusted on juries to decide for themselves. They are not smart enough. Apparently my colleagues believe that juries that are made up of nine or 12 American citizens from your districts cannot be trusted to make these decisions. They simply are not trustworthy. But who are they? They are the same people that voted for you. Why is it you trust them to make a decision about who their Congressman would be and you will not trust them to make a decision about whether or not some medical malpractice case occurred and someone should be held accountable for that?

But there is another current here that I think is even more pernicious. Here we are. We sit in the Committee on the Judiciary. Let us take a look at what we have been doing recently. First, we are coming out after victims of this. This law only applies to you if you have been a victim of medical malpractice. You are a victim, but still we in the House want to take away your rights. Next we are going to take up bankruptcy reform. If you are really poor or you have fallen on hard times, we are coming after you next. But do not get too comfortable, because soon I hear that if you are an asbestos victim, we are going to come after your rights, too. This is who the Republican Party is standing up for in this House.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise in support of H.R. 5, the HEALTH Act. The practice of medicine in the United States is in real crisis. According to the American Medical Association, Pennsylvania's OB-GYN medical malpractice insurance rates increased from \$25,000 to \$64,000 over the last few years. That is an increase of over 125 percent. That is, if the doctor can get insurance.

Excessive lawsuits have gotten so out of control that many doctors are closing their practices, leaving many patients with long waits to see physicians who are farther and farther away from them. Just this past Monday, I met with a dozen physicians in my district. Of the dozen, nearly all of them raised their hands when I asked them if they have children. Of those, all but a few said that they would advise their children not even to consider studying medicine; and one doctor said his wife forbade their kids to even entertain such notions, all because of the unreasonable burden of out-of-hand insurance costs and the consistent fear of lawsuits.

The Pennsylvania Medical Association reports that 80 percent of physicians have difficulties in recruiting new doctors and 89 percent of doctors practice defensive medicine, which increases health costs and drives doctors away from the highly specialized fields.

This bill sets time-tested limits on liability so that we can end this crisis. The proposal provides commonsense reforms. It limits the number of years to file a health care liability action so claims are brought while evidence and witnesses are available. It allocates damage in proportion to a party's degree of fault. It allows patients to recover full economic damages, such as future medical expenses and loss of future earnings while establishing a cap on noneconomic damages of \$250,000. It places reasonable limits on punitive damages as well.

The criteria in this bill assure patients who are injured by a doctor that they will recover. But it also ensures that more of the money goes to the injured patient, not the attorney. Essentially, the lawyer is limited to 40 percent of the first \$50,000 of the award, one-third of the second \$50,000 and 15 percent of amounts over \$600,000. The bill will protect victims of real malpractice, but it will also help reduce lawsuits.

Our Nation has the best health care system in the world, but it is in peril. H.R. 5 will put us back on track.

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds for the benefit of my distinguished colleague, the gentleman from Pennsylvania, on the Committee on the Judiciary. She does not know, as she leaves the floor, that a census conducted by the Pennsylvania Medical Professional Liability Catastrophe Loss Fund found that between 1990 and 2000, the number of doctors in Pennsylvania increased by 13.5 percent, while the population increased by only 3.4 percent.

Mr. Speaker, I include the following citation for the RECORD:

In Pennsylvania a census conducted by the Pennsylvania Medical Professional Liability Catastrophe Loss Fund found that between 1990 and 2000, the number of doctors increased by 13.5 percent, while the population increased by only 3.4 percent. Not only is Pennsylvania not losing doctors, it had more doctors in 2001 than it did in the preceding

five to ten years. Furthermore, the Philadelphia Inquirer notes that in 2000, "Pennsylvania ranked ninth-highest nationally for physician concentration, a top-10 position it has held since 1992. There were 318 doctors for every 100,000 residents in 2000, according to the American Medical Association.

□ 1230

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. WEXLER), a distinguished member on the Committee on the Judiciary.

Mr. WEXLER. Mr. Speaker, I rise in opposition to H.R. 5. I do so because the proponents of this bill would have the country believe that the issue before this Congress is whether or not there is a medical malpractice crisis in America.

There is a medical malpractice crisis, but the issue before this Congress is how do we resolve that crisis? How do we minimize the premiums that doctors have to pay in order to participate in our medical society?

The reason we are in this position, according to a recently released report, particularly as it relates to my State, the State of Florida, by the group Public Citizen, is that a small number of negligent doctors and the cyclical nature of the insurance industry are largely to blame.

The Public Citizen report found that 6 percent of all doctors are responsible for one-half, 50 percent, of all medical malpractice cases. Six percent of doctors are responsible for 50 percent of malpractice cases. Yet the bill before this Congress does not at all address peer review of physicians, nor does it address the insurance aspect of the medical malpractice crisis, nor, most importantly, does it require insurance companies to pass on the savings from the alleged cap that would occur, pass that money on to doctors in the form of lower premiums.

In the State of Florida, which amounts to about 16 million people, in the last reported year there were 230 cases of awards in excess of \$250,000, yet the proponents of this bill would argue that we will resolve this problem by limiting the excessive number of lawsuits that amount to excessive damages. They do not exist, these lawsuits, in the excessive number that they claim.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the distinguished chairman of Committee on the Judiciary for granting me time to speak on H.R. 5, the Medical Justice Act, HEALTH ACT of 2003. As an OB/GYN Member of the body, I think I have a unique perspective on this issue, not only as a physician who has delivered more than 5,000 babies and seen many of my colleagues giving up their practice because of fear of runaway lawsuits, but also as a grandparent. Let me explain that to you, because this issue is all about access to care for our patients, the citizens this country.

My identical twin granddaughters were born 5 years ago at 26 weeks. They each weighed 1 pound 12 ounces. Thank God we were in a community where we had access to care. There was an OB/GYN physician willing to take care of my daughter in that high risk situation. There was a skilled neonatologist. We did have a hospital that still had an intensive care nursery.

Had we not been in that situation, had we been in a more rural part of my State or in some of the other States that are in a crisis mode, like the testimony that we heard from the mother yesterday from the State of Mississippi, my daughters would not have received that care, and instead of being healthy, vibrant 5-year-olds today, I am sure that both of them would have cerebral palsy, our family would be devastated and society would probably bear the brunt of the cost of their care for the rest of their lives.

So this bill is all about access to care. It is not taking away a person's right to a redress of grievances in a situation where they have been injured by a practice below the standard of care. It is not taking away from a trial attorney that works in the area of personal injury their right to do business, and most do in a very equitable manner and with integrity. No, it is not about that at all. It is about access to care.

I am proud to stand here today and enthusiastically support H.R. 5, and I hope the rest of my colleagues in this Chamber will do the same.

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

Mr. Speaker, only for the benefit of the gentleman from Georgia, who asserts that this bill does not take away anybody's rights, the gentleman must be aware, sir, as a Member of Congress and a doctor, that there is a \$250,000 cap on noneconomic damages, unless he thinks that is not taking away anybody's rights.

Mr. GINGREY. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Georgia.

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as we know, this bill, of course, is applicable to those States that have not addressed this issue. Certainly the State of West Virginia and others who have finally tackled this issue, as they did in California in 1978, I believe, they can set their own caps. This law, H.R. 5, will be applicable to those States who, for one reason or another, have not.

Mr. CONYERS. Mr. Speaker, reclaiming my time, what about the States that have no caps?

Mr. GINGREY. Mr. Speaker, if the gentleman will continue to yield, the States that have no caps, of course, for noneconomic damages, this cap of \$250,000 would be applicable.

Mr. CONYERS. In other words, the gentleman is sticking to his statement that this takes away nobody's economic rights, is that correct?

Mr. GINGREY. If the gentleman will allow me to respond?

Mr. CONYERS. If the gentleman will just answer yes or no.

Mr. GINGREY. The answer is no, it takes away no one's economic rights.

What in H.R. 5 is the gentleman pointing out to me or suggesting that takes away a person's right to economic recovery?

Mr. CONYERS. Mr. Speaker, if may I kindly and politely reclaim my time, and I would ask the gentleman to seek his own time from this point on.

Mr. Speaker, I yield 3½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT), who has really worked hard on two committees and covered a lot of territory as a Member of Congress.

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

Mr. Speaker, next week we will be considering most likely on the floor of the House a bill dealing with bankruptcy. Today we are considering a bill that is bankrupt, because it is an act of special cruelty that is being perpetrated on the most vulnerable of victims of malpractice, stay-at-home mothers and children, children like Steven Olson, who was left blind and brain damaged after an HMO refused to give him a \$800 CAT scan when he was 2 years old. He is going to need round-the-clock care for the rest of his life. A jury, a jury, awarded him more than \$7 million for his pain and suffering. But California has a cap on noneconomic damages, so the judge was forced to reduce the award to \$250,000. That is \$12 a day for the rest of his normal life expectancy.

Is that all he is owed for the irreversible damage that was done to him? Is that fairness? Is that justice? I think we know the answer.

Mr. Speaker, the sponsors of this bill have assured the physicians of America that this bill will lower their insurance premiums. The doctors are being deceived, for it includes none of the provisions that would be necessary to bring about such a result.

The bill does nothing to reduce the staggering number of medical errors that kill so many thousands of Americans each year, according to some estimates, up to 98,000 deaths per year. That is a real crisis. It does nothing to weed out the 5 percent of the medical profession who are responsible for 54 percent of the medical claims. So what is going to happen is good doctors will continue to subsidize those that ought to be out of the profession.

It does nothing to regulate the rates that insurance companies charge their policyholders. That did prove effective in California when it was passed in 1988.

Instead of adopting any of these measures, the Republican majority has chosen to blame the victims, capping injury awards at artificially low levels that are insufficient to meet their needs and making it difficult for them

to even find a qualified attorney who is willing to take their case.

It is unconscionable, Mr. Speaker, for Congress to deprive these victims of the right to have a jury of their peers decide what their pain and suffering is worth. It is rather ironic that rather than regulating insurance rates, the apostles of the free markets opt to impose a system of wage and price controls. What irony.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Speaker, I first would like to thank the distinguished chairman for his hard work on bringing this bill forward.

Mr. Speaker, we have heard a number of things today, including from my good friend from North Carolina who mentioned that he had failed to see a situation where a malpractice case crossed State lines. Yet the case law in his own State contains many cases just like that.

As a matter of fact, the Supreme Court in North Carolina has actually ruled that if a patient leaves North Carolina, where they have no cap, travels to Virginia and are treated by a doctor there who thinks he has the protection of a malpractice cap, they can actually be sued in North Carolina, and the Supreme Court there said no cap applies.

Mr. Speaker, I have worked on this crisis, which I believe is indeed a crisis in health care and access to health care, for over a decade now, and every single time this issue is debated I see the opponents of this type of legislation coming in and they try to paint these faces.

On the one hand, they will show a victim of the most egregious scenario, and certainly those victims do exist. On the other side, they will show a portrait, mental, if no other way, of a doctor who is the most egregious kind of doctor.

Mr. Speaker, that is not the true face of this legislation, not the true face of this problem. Let me give you three of those faces.

One is the young internist who tries to save the life of a patient who can no longer breathe, and is actually getting on a helicopter and traveling to a hospital with that patient. At the end, even though they have committed no malpractice, they end up in litigation for almost 4 years. At the end of the process, the doctor looks at you and says, I did nothing wrong, but for 4 years I had a cloud of litigation over me, worried about whether I was going to lose my home and everything I had.

It has the face of the emergency room physician who has been working for 8 hours, and all of a sudden responds to a code outside of the department with a dying patient that he cannot pull one more miracle out of the hat on, and that patient dies. He is brought into that litigation just as a shotgun approach, and, after 3½ years, even though he has no award against

him, his malpractice premium has gone up 70 percent.

Mr. Speaker, it also has the face of a family practitioner, an African American practitioner who I met with just a few months ago, who 2 years ago his premium was \$30,000. Last year it went up to \$100,000. This past year it went up to \$230,000. Mr. Speaker, he closed his doors. The difficulty is not that he is no longer in that office; the difficulty is when all of the patients he serves knock on that door, he is not there to open it again.

Mr. Speaker, the difficulty with not passing this bill is the fact that all of those patients would no longer have access to health care. That is why it is important we get it passed.

□ 1245

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask unanimous consent to control the time of the gentleman from Michigan (Mr. CONYERS).

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is my pleasure to yield 3 minutes to the distinguished gentlewoman from California (Ms. WATERS), a member of the Committee on the Judiciary and a ranking member on the Committee on Financial Services.

Ms. WATERS. Mr. Speaker, today we are here to debate a bill, H.R. 5, written for us by the insurance industry. Supporters of restricting jury awards and malpractice lawyers' fees say excessive billion-dollar damage awards in medical liability suits is the reason medical malpractice insurance premiums have risen so sharply and that nearly half the States are experiencing an insurance crisis. However, others say, and I agree, that rising malpractice rates are part of the cyclical nature of the insurance business, and insurers are raising premiums now to recoup recent stock market losses. In addition, I believe any crisis that exists is specific to certain medical specialties and regions of the country.

Let us, Mr. Speaker, say it like it is: the insurance industry wants this bill because it will increase their profits. Well, forgive me if I do not support the insurance industry over injured patients. I do not represent insurance industry profiteers. I represent the people in my district, the people who will be severely disadvantaged if this bill passes in its current form.

We have gone back and forth on this issue for a long time now. The medical malpractice insurers tell us again there is a crisis, there is a shortage, there is a stoppage, or whatever else they think will bully Congress into doing their bidding. It is truly terrible that good doctors are paying the price for the insurance industry's bad business decisions. It is truly terrible that the insurance industry has fooled doctors into believing that injured patients are to blame for high premiums, and it is

truly terrible that the insurance industry has this control over the health care system.

I would say to my colleagues, it is time for us to put an end to the misrepresentations of the insurance industry. It is time for us to stand up for our constituents and for people who have been injured, who have been maimed, and even killed, who deserve to be protected.

I say vote "no" on this bad bill. Our citizens deserve to be compensated for medical malpractice.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank my distinguished chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), for yielding me this time and also for his work on this important bill.

Mr. Speaker, I would like to rise in support of H.R. 5. Many of the people I represent in Iowa have to drive a long ways to see a doctor and even further to see a specialist. Thankfully, the health care access prices in Iowa may not be as severe as they are in some of the other States, and we have heard some of that this afternoon. However, I know that rural States like Iowa need to do everything they can do to improve access to health care.

Rising medical liability premiums due to lawsuits make it harder for doctors to stay in business and continue to see patients. As I said before, sometimes it is easier to sue a doctor than it is to see one. The health care access crisis hits rural Iowa hard because we have to drive further to seek medical attention. The people in my district cannot afford to lose a single OB-GYN or ER doctor to the rising medical insurance premiums; and if we do, our families will suffer.

Expectant mothers will have to drive further to see their obstetricians, accident victims will spend critical minutes and hours in transportation, seniors will have to drive further and sometimes will not receive the care that they need. Access is critical. The people I represent should not have to spend more time on the road than in a doctor's office.

The health care access crisis is further exaggerated in my district because we have the lowest reimbursement rate of the 50 States for Medicare reimbursement rates, and that means we have a thinner margin to play with.

I would point out also that, if the folks that are seriously opposing this bill were defending just the interests of the patients, we would have seen an amendment that would have waived contingency fees on noneconomic damages.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it gives me great pleasure to yield 3 minutes to the distinguished gentlewoman from California (Ms. LOFGREN), a senior member of the House Committee on the Judiciary and Committee on Science.

Ms. LOFGREN. Mr. Speaker, I am probably one of the few Members who have actually operated under MICRA in California. In the 14 years that I served on the board of supervisors, we bought malpractice insurance for the doctors at the county hospital; we settled lawsuits pursuant to MICRA related to the county medical professionals. People have argued the pros and cons of MICRA. The point that needs to be made is that H.R. 5 is not MICRA.

MICRA's cap on noneconomic damages applies to medical malpractice cases only. H.R. 5 extends liability relief to insurance companies, HMOs, nursing homes, medical device manufacturers, and pharmaceutical companies. In some cases, injured persons, for example, an elderly person abused in a nursing home, will only be able to look to their noneconomic damages for relief because they do not have any earnings to recover.

MICRA in California does not limit punitive damages in personal injury cases, but H.R. 5 caps punitive damages at two times economic loss, or \$250,000, whichever is greater.

H.R. 5 would actually preempt California law by precluding tort recovery against nursing homes, HMOs who wrongly make medical decisions, and insurance companies. It would undercut California's elder abuse statutes, as well as undercut new measures that we have fought hard for in California that allow HMOs to be held accountable for their decision-making when that decision-making disrupts the doctor-patient relationship.

So whatever one thinks about MICRA in California, examine carefully H.R. 5, because it is not MICRA; it is putting the doctors in front of the insurance companies. But the big beneficiaries are the HMOs, the pharmaceutical companies, and the insurance companies and nursing homes.

I think this is not what our country should be doing to preempt California's elder abuse statutes and our new effort to hold HMOs accountable for the practice of medicine through insurance.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, one of the biggest problems facing our health care system today does not start in the doctor's office or in the operating room; it starts in the courtroom. We have a problem in America. There are too many frivolous lawsuits against good doctors, and patients are paying the price. It costs money to fight a frivolous lawsuit and oftentimes, in order to avoid litigation, doctors and insurance companies settle cases, even though they have not committed a medical error.

So it pays to sue. One can file lawsuit after lawsuit and eventually the legal system begins to look like a lottery. With the trial lawyers taking as much

as 40 percent, it is clear who is winning.

We want our legal system to benefit patients, not trial lawyers. Anyone who has been harmed at the hands of a doctor should have their day in court. They should be able to recover the full cost of their care, and they should be able to recover reasonable noneconomic damages.

But we know the insurance companies raise the cost of medical malpractice coverage when faced with the risk of unlimited noneconomic damages. Doctors cannot afford to pay their insurance premiums and end up raising rates or leaving their homes for States with reformed medical litigation systems. That means that the health care is no longer affordable and accessible to many of our citizens. When doctors cannot pay the premiums and stop practicing medicine, everyone loses.

Mr. Speaker, this culture of litigation has to end. No one has ever been cured by a frivolous lawsuit.

So I support the reasonable limits on noneconomic damages. I believe it is time to pass medical liability reform that benefits patients, not trial lawyers. I urge the House to pass H.R. 5, the HEALTH Act of 2003.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it gives me great pleasure to yield 1 minute to the distinguished gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), a physician and an advocate for good health care for all Americans. We thank her very much for her leadership.

(Mrs. CHRISTENSEN asked and was given permission to revise and extend her remarks.)

Mrs. CHRISTENSEN. Mr. Speaker, H.R. 5 is but another wolf in lamb's clothing, pretending to help doctors and patients, but really only helping the large health care corporations and doing nothing to help lift the malpractice burdens from doctors and other providers, or to ensure fair treatment to their patients. Health care professionals need to see through this sham.

I am a family physician. I see my classmates and other doctors, good ones, many who have never been sued, struggling to keep malpractice coverage and just to keep their offices open under the press of high premiums.

It is truly unfortunate that many of the organizations representing us are mistakenly supporting H.R. 5, because I think they think this is the best they can get. H.R. 5 is not. As a matter of fact, it is no help at all. Doctors are but pawns in what is clearly special interest legislation.

Mr. Speaker, H.R. 5 is an assault on the poor and minorities as well, because regardless of their injury and needs, the awards would be capped at low levels. For everyone, this bill sets values on human life and suffering that none of us can measure.

I say to my colleagues, defeat this bad bill that does a disservice to all of

us, and join with our colleagues, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Michigan (Mr. DINGELL) and others, to pass a far better bill, a bill that will bring relief to HMOs, health professionals, and the patients who depend on their services and who need to be made whole.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

(Mrs. BLACKBURN asked and was given permission to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, I rise today to support the HEALTH Act of 2003, because I know what runaway health costs and a broken health care system look like.

In Tennessee we are battling to fix our own system, a statewide, nearly-universal health care service run by the government called TennCare.

H.R. 5 means doctors in your neighborhood, not 50, 100, or 500 miles away in a metropolitan area. H.R. 5 means lower insurance premiums for working families and for small businesses.

This bill will not take away anyone's right to compensation. What it will do is prevent our community doctors, our community doctors from being targeted by profiteering lawyers.

I encourage all of my colleagues to join in supporting the HEALTH Act of 2003.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 25 seconds.

I beg to differ with the gentlewoman from Tennessee. I wish her remarks were accurate, in noting from the American Insurance Association a comment that says, "Insurers never promised that tort reform," which is what medical malpractice, what H.R. 5 is, "would achieve specific premium savings." So in fact, the doctors will not be helped from this legislation, H.R. 5. The only persons that will be helped will be the insurance companies.

Mr. Speaker, it gives me great pleasure to yield 1 minute to the distinguished gentleman from Missouri (Mr. CLAY), a fighter for the rights of many and an advocate for good health care for all Americans.

Mr. CLAY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in opposition to H.R. 5. The bill does a disservice to the medical liability insurance problem. It fails to provide the necessary solutions which are needed to have a win/win situation for all concerned parties.

Proposed legislative relief in the form of damage caps such as H.R. 5 may be construed as only a small portion of the remedy. Caps alone will not result in an immediate decrease in premiums. Malpractice suits take 3 to 8 years to come to trial. Current pending or filed suits will not be resolved for years. New caps on damages may not retroactively cover current suits. Therefore, premiums will not go down.

This bill is silent on the issue of the insurance industry and the failed investments policies of that industry's

past. The choice is simple: enact H.R. 5 and have a system that has a tremendous overhead and continues to cause a disservice, or have a true reform plan that gives an immediate reduction in cost.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GERLACH).

Mr. GERLACH. Mr. Speaker, physicians in Pennsylvania face skyrocketing liability insurance rates. This is forcing them to leave their practices, retire early, or stop performing certain procedures.

□ 1300

That threatens access to care for patients in Pennsylvania and across this country. In my district alone, hospital services have been curtailed and advanced life support services have been terminated at an alarming rate. Without passage of medical liability reform at the Federal level, this situation will continue to worsen.

From 1977 to 2000 the number of practicing OB/GYNs in southeastern Pennsylvania has declined by 20 percent, and that is before the astronomical increase in doctors' medical liability, doctor insurance rates that took place last year. In Pennsylvania more than 75 hospital services have been closed or curtailed in the past year alone. The most severely affected specialty services are obstetrics, orthopedics, general surgery and neurosurgery.

Mr. Speaker, my constituents need real, meaningful medical liability reform and they need it now. We cannot allow the continuation of a system that is threatening and has in fact cut off patients' access to their doctor or hospital of choice. Let us put the patients above litigation and let us pass this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 15 seconds.

The playbook is being said over and over again. Victor Schwartz on tort reform says that many tort reform advocates do not contend that restricting litigation will lower insurance rates, and I have never said that in 30 years.

Mr. Speaker, I will not vote for H.R. 5, because as it is, it does nothing to decrease the premiums our Nation's physicians are burdened with. It does nothing to decrease the number of frivolous lawsuits. It does nothing to decrease the amount of malpractice being inflicted upon the American people, by bad doctors who are jeopardizing the lives of their patients, and driving up the insurance costs of their colleagues. And it does nothing to protect the rights of those suffering in the wake of an act of medical negligence.

I have doctors in my district, who are struggling with high malpractice insurance premiums. In some regions, for some specialties, those premiums can be outrageous. If this bill becomes law, the caps on claims from injured patients will put a lot of money into the coffers of insurance companies. I offered an amendment yesterday in the Rules Committee that would have forced insurance companies to pass at least half of that money down to physicians in the form of reduced premiums. That

just makes sense, if this bill is really intended to decrease premiums. But that amendment will not receive a vote today. That fact lays bare the claim that this bill is anything more than a gift to the insurance industry.

This bill has many troubling aspects and omissions. For example, noneconomic and punitive damages are capped at \$250,000 and there is no provision to have this arbitrary number rise over time with inflation. So, we know that the value of the dollar will go down over time. Do we also feel the value of a human life, or of a child's pain and suffering will also go down over time? I surely do not. This could have easily been changed, but it was not.

Another aspect of this bill that I feel is morally repugnant, is in its valuing of rich people's lives more than poor people's, or children's, or stay-at-home mothers'. In the case of truly heinous acts of negligence, a judge and jury can award a damaged person with punitive damages. Punitive damages, as the name implies, are meant to punish egregious wrong-doers. This bill caps punitive damages at \$250,000 or twice the economic damages, whichever is higher. So if a CEO with a high salary is injured and can't go back to work, his economic damages could be in the millions, and therefore through punitive damages—the perpetrator would be punished severely. On the other hand, if the injured is a child or a stay-at-home mother, the economic damages would be low, and the punitive damages would be capped at \$250,000. Why would the U.S. Government, dedicated to the idea that every person should be treated as equal, say that doctors who hurt rich people should be punished more than those who hurt poor people—that the value of a poor person's life is less—that it is OK to take bigger risks in treating poor people? This is absolutely morally bankrupt.

And the bill does nothing to stem the tide of frivolous lawsuits. This bill, by definition, cuts awards to those people who a jury decided were not frivolous. This is short-circuiting our judicial process.

What in the name of God and country are we doing giving a gift to insurance companies, while people are suffering and access to medical care is threatened? I will vote against H.R. 5 and urge my colleagues to do the same.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. BERMAN), a distinguished senior member of the Committee on the Judiciary who knows about California medical malpractice law firsthand.

Mr. BERMAN. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, two points: In California we had much of the same issue that the country is now facing, rapidly escalating medical malpractice premiums, concerns that the health care system was broken, and we weighed the two approaches we had. One is the accountability for bad medical practices through the tort system versus a compromise that used a combination of tort reform, enhanced regulation of the medical profession and hospitals in terms of ensuring that bad practice would not be allowed to go unpunished and to continue, and insurance industry regulation legislation.

Now, we have this crisis in many other States of the Nation. Without

getting into the issue to the extent to which tort reform played a role in reducing medical malpractice premiums and without getting into the debate about why we would need to federalize the entire system rather than letting the States work this through the same way California did, I just wanted to draw the attention of the body to the fact that what you are being told is not true. This is not an effort to take the California law as passed in 1975, known as MICRA, and to pass it and federalize it and to have it apply to the country as a whole.

This is a bald faced effort to cherry-pick certain provisions of that law, add many different people to the coverage of that law that were never included in that law, add additional tort reform provisions to that law that were not included in that law and then claim that we are doing MICRA.

In MICRA we enacted a series of very serious tort reforms, including the cap of \$250,000, which I opposed vociferously then and do now. But we also massively enhanced both the level of insurance industry regulation and the authority of the boards of medical quality assurance, the disciplinary boards, to discipline those few physicians who were truly bad doctors, whose record of malpractice was astounding. If there was not going to be the full accountability from the tort system for the conduct of those physicians, then their status, their licenses would be in jeopardy.

We provided immunity to other physicians so that they would testify about the bad practices of those few doctors. We set up peer review committees in every area of this State. We significantly enhanced the powers of the boards of medical quality assurance. None of that, absolutely none of that appears here. This is a one-sided effort appealed to by certain interests, decrying other interests, to pretend they are taking the balanced approach of California when they are cherry-picking it to only limit its impact on one issue, the ability of injured patients to recover because of the negligence of another.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BURGESS).

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

Mr. Speaker, I rise today in support of H.R. 5, the HEALTH Act. Before coming to Congress I served as a doctor in north Texas for over 25 years. Over that time I delivered over 3,000 babies and handled my fair share of high-risk births. Because of the nature of my profession, I was not immune to being named in a lawsuit. Even though these claims were eventually dropped, my patients could not get back my time or the benefit of the care that they lost because I was away from my practice defending my livelihood.

The current legal environment reduced the access my patients had to my services, and that is a situation

that I find unconscionable. Thousands of doctors share a similar story and millions of patients are affected in the same way by the current system.

The legal environment in which doctors must work is lopsided to favor a very narrow special interest group, that of the plaintiffs' bar. Because of this patients are losing access to specialized care they need because doctors are being driven out of business or taking time away from their practices to defend against frivolous claims. I urge passage of H.R. 5.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. PASCARELL), one who has been a fighter for physicians and first responders.

Mr. PASCARELL. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I read section 12 of this legislation and it says that this is going to go into effect on the enactment of this bill, it becomes law. There is no grant program to help health care professionals. There is no end of frivolous lawsuits that has been discussed anywhere in this legislation. There is no attempt to pass on the savings to the very doctors who you have conned into believing that their rates are going to go down.

The insurance industry has said time and time again, not to the doctors, that there is no guarantee that the premiums will go down if this is enacted. And what you are going to do to us in New Jersey and 10 other States where we have strong legislation dealing with HMOs that rule the roost, you are going to let them all off the hook and you are going to protect bad doctors, bad hospitals and you are certainly going to protect bad insurance companies. And I say to you, you have created a great injustice here by putting forth this legislation without even allowing us to consider trying to solve the problem. Our bill does that.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, I thank the distinguished chairman for yielding me time and will answer my colleague that you cannot con doctors into anything. Doctors are not only trained professionals who can diagnosis what is wrong with you, they can diagnose what is wrong with our country.

I rise in support of H.R. 5. Without this bill health care in my State of Illinois will change for the worse. I am standing here representing Dr. Gina Wehrmann, who after paying her malpractice bill made less than the office manager in her practice and is now a pharmacist at Walgreens. I also stand with Dr. Scott Hansfield, head of obstetrics at Highland Park Hospital, who recently notified 2,500 of my constituents that he is leaving the practice of medicine and moving to a tort reform State.

The AMA has just put Illinois on the crisis list of liability watch for their

practice. And in testimony before the Committee on Small Business, we learned that 85 percent of neurosurgeons have been sued in my State. Asked if this is too many, the plaintiffs' association said, no, 85 percent of neurosurgeons in Illinois were bad doctors.

I am worried about the plaintiffs' bar and its unintended war on women, forcing OB/GYNs out of my State of Illinois.

This is needed legislation. We need to pass it now. I commend the chairman.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield the gentleman from New Jersey (Mr. PASCARELL) 10 seconds to respond.

Mr. PASCARELL. Mr. Speaker, is this gentleman letting us know today that he is guaranteeing a reduction in the premiums if this bill is passed? Is that what the gentleman is saying? I would like him to say for the record.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 3 minutes to myself.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to answer and I thank the distinguished speaker.

Mr. Speaker, I am going to ask the young lady just to come closer. We have the personal touch here this afternoon.

I want to answer the question that has been raised. This is over and over again about whose problems we are solving. Can I give my friends the real facts?

Sixty-one percent of the cases are dropped. That means as you go into the courthouse, and those of you who have been injured, you have your cases dismissed 61 percent. Plaintiffs only get 1 percent of the verdicts across the Nation. Defense verdicts. That means they rule on behalf of the HMOs, the doctors, the hospitals, 6 percent, and settlements are 32 percent.

H.R. 5 is a bill that does not harm the doctors and the physicians, which we do not want to harm, but it literally destroys the victims. What it does is when the verdicts come it injures the victims because you tell them that they cannot get a recovery.

There is no crisis in medical malpractice insurance. What the crisis is is the insurance companies who refuse to reduce the payments.

So let me show you who will be hurt by H.R. 5. Nathaniel will be hurt by H.R. 5. This is the face of H.R. 5. Why? Because Nathaniel was 6 weeks old when Nathaniel became brain damaged because he was not diagnosed with jaundice. In the Democratic substitute we eliminate cutting off Nathaniel's damages. We take the caps off the noneconomic damages. Is it not interesting that physicians who want to have their rates reduced do not get any relief directly from the insurance payoff because this is not access to medical care. This is insurance payoff day.

What we do for Nathaniel in the Democratic substitute is we say to the

doctors, if you are good doctors, we want the savings that have been given to those to be reduced. I had an amendment that said reduce it by 50 percent. Put 50 percent of the savings and reduce the premiums of the doctors. This is real medical malpractice response. This puts the doctors in the rural communities in New Jersey, in Mississippi, in Texas and New York in the innercity. This helps the babies like Nathaniel.

And then to my dear friends, what about the States rights? What about the States that want to make their own determinations to protect their own citizens, to ensure that Nathaniel does not lay languishing with brain damage, and because he was only 6 weeks old, the noneconomic damages that would provide for him for the rest of his life were cut off, the pain and suffering damages were cut off at \$250,000 in today's time? So besides cutting us off from having amendments, besides denying us a substitute—a legitimate way to discuss a reasonable response—this is what we have today: A false bill that addresses a false issue and Nathaniel languishing in brain damage. Our bill would have provided Nathaniel for getting his day in court, providing for his mother and father the pain and suffering they are experiencing while he languishes without hope.

Payoff day for insurance companies. I stand against it. Vote against H.R. 5.

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

Mr. Speaker, the gentlewoman from Texas (Ms. JACKSON-LEE) displayed a chart that indicated that 61 percent of the malpractice cases were either settled or dropped, and she insinuated that that was for free. It is not for free. It costs money to defend those suits, to go to court, to file answers, to do whatever discovery is necessary in order to convince the plaintiff that they do not have a case, and those costs get folded into the liability premiums that the physicians have to pay.

Who gets off free? It is the plaintiff that gets off free because the plaintiff is on a contingency fee and if there is no recovery then the plaintiff does not have any lawyer fees at all.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 25 seconds to respond.

The Republicans have represented that H.R. 5 is to reduce the premiums of physicians. Let it be perfectly clear, and I stand by my document, 61 percent are dismissed, but let it be perfectly clear that nowhere will the physicians have premiums reduced and more doctors be able to practice because we pass H.R. 5, which is a payout to the insurance companies. I maintain that position and it is accurate.

Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Pennsylvania (Mr. HOFFEL), who experiences firsthand what happens with a

crisis in his State. He is a leader on these issues.

□ 1315

Mr. HOEFFEL. Mr. Speaker, I thank the gentlewoman for yielding me the time.

I agree with her concern because Pennsylvania doctors have a tremendous problem with medical malpractice premiums doubling and tripling, but they have been sold a bill of goods. This bill will not bring down their premiums. We should try to help those doctors, but not by punishing the most severely injured victims of medical malpractice.

We need insurance reform. The law in California did not work to bring down premiums. When they put a \$250,000 cap on damages, the premiums continued to rise until they passed insurance reform in 1988 and mandated a reduction in premiums. That is what we need to be doing here.

At a minimum, we have got to put flexibility into these hard and inflexible caps. We ought to allow the trial judge at a minimum to allow something above the caps if circumstances on a case-by-case basis require that, but this House will not allow that to happen.

Let us look at the sad case of Linda McDougal, who was diagnosed with breast cancer and had both breasts removed because of the lab report. It turned out the lab was wrong. The good news for Linda McDougal is that she does not have breast cancer. The bad news is she does not have breasts anymore.

What is that worth? The proponents of this legislation would say that a woman's breasts are worth no more than \$250,000. I do not want my colleagues to make that decision. I want a jury to make that decision. I want to defeat this bill.

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

We have heard an awful lot about the impact on insurance premiums, and I just want to read from the CBO estimate, the cost of this bill. The CBO estimates that under this bill premiums for medical malpractice insurance ultimately would be an average of 25 to 30 percent lower than what they would be under the current law. However, other factors noted above may affect future premiums, possibly obscuring the anticipated effect of the legislation.

The effect of H.R. 5 would vary substantially across States, depending upon the extent to which a State already limits malpractice litigation. There would be almost no effect in malpractice premiums at about one-fifth of the States, while reductions in premiums would be substantially larger than the overall average at about one-third of the States.

What this means is that the reduction in premiums will be much greater in the States where there is a crisis, and what this bill does is that it provides access to medical care in States

where high risk specialists are closing their practices because they cannot make enough money to support themselves and to pay their liability insurance premiums.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 10 seconds.

The real point is that the insurance companies have specifically said they will not reduce premiums with the passage of H.R. 5.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois (Mr. DAVIS), who knows hospitals because they are in his district, an advocate for good health care for all Americans.

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, in Chicago, an electrocardiogram is misread and the patient dies of a heart attack. A rare heart disorder is mistaken for a back strain and kidney stone. The patient dies. Both of these cases are about real people and real pain. In both cases, the families were awarded decent sums of money by juries, but I can tell my colleagues, no sum of money will ever replace the loss and suffering of people's lives. Yes, there is a crisis in health care, but this one-size-fits-all \$250,000 cap on medical malpractice payoffs will not solve the problem.

I have a profound respect for doctors, nurses, hospitals and other health care professionals who provide services, some 25 of them in my Congressional district, five medical schools, but I am not prepared to leave to chance a \$250,000 cap on consumers.

Mr. SENSENBRENNER. 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 rise in support of H.R. 5, of which I am an original cosponsor. I cosponsored this bill because I believe that it will help ensure the availability of vital health services for patients in this country.

Listening to the debate today, the average citizen would assume that it is necessary to choose sides. Either one is for the docs and other health care providers or they are for the patients. I simply reject that premise and assert another, which is this. We must have a system where good doctors can practice good medicine if we are going to have healthy patients.

Does creating a good system mean that no doctor will ever fail again? No patient will ever again be injured through negligence or poor practice patterns? Of course not. But when those injuries occur through clearly bad behavior on the part of a health care team, I want the health care professionals to be responsible for their action.

I sympathize with the case examples brought to the floor by my colleagues

on my own side of the aisle. There are a great many tragedies which occur when health care is poorly delivered. I have no interest in removing appropriate avenues of redress for those injured people and their families, but I do not believe these cases have much, if anything, to do with the bill before us today because it retains a great deal of legal redress for plaintiffs.

No one can claim that the system we have now is good for the doctors or the patients when doctors must pursue expensive defensive medicine rather than doing what they think is right. No one can think it is good for places to have doctors leaving the profession in droves because of the financial and physiological strains of caring for people under current malpractice realities.

The bottom line is that the failure of the medical liability system is compromising patient access to care. More than half of Texas physicians say that they are considering early retirement due to skyrocketing insurance premium, and nearly one-third are reducing the kind of services they provide.

Spiraling medical liability insurance premiums are forcing many hospitals to consider difficult decisions from cutting services to closing clinics. Some hospitals find it difficult to appropriately staff emergency departments, recruit and retain physicians in high-risk specialties. Where is the victory for patients in that scenario?

This situation is further magnified in rural communities where there are fewer hospitals and health care professionals. These hospitals and clinics already operate on narrow profit margins, and skyrocketing medical liability insurance push them closer to the brink of closure.

Ignoring the litigation problems we have now is a recipe for disaster. Many States, like my own, are already on the precipice of disaster, especially in fields like obstetrics.

It is for these reasons I join my fellow colleagues as original cosponsor of the HEALTH Act of 2003. The bill is not perfect. It can be improved but it will not be improved if it is defeated today.

I urge my colleagues, especially those who represent rural America, to support H.R. 5, which will have a chance of stabilizing our Nation's shaky medical liability system.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Rhode Island (Mr. LANGEVIN), who has faced many issues that deal with the needs of hospitals and his own constituents and good health care, and I thank him for his leadership.

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

Mr. LANGEVIN. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Today, I rise in strong opposition to H.R. 5, the HEALTH Act, because this unhealthy act would severely limit the ability of patients to bring suits and

seek appropriate damage awards while failing to require insurers to lower their rates once the so-called reforms are in place. This misguided measure would unfairly impact women, low income families and children or have absolutely no impact on the affordability of malpractice insurance coverage.

Proponents of this legislation claim that it contains the right cure for the medical malpractice liability crisis. This elixir is nothing more than a placebo that will not lead to safer medicine, but rather protect egregious medical malpractice behavior.

Though not a victim of medical malpractice, the \$250,000 cap in this legislation could never compensate me for what I lost when I became paralyzed.

For these reasons, I would strongly urge my colleagues to oppose the underlying bill and to support the Democratic alternative, which would allow patients to seek redress while providing relief to physicians and hospitals in need while holding insurance companies more accountable.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Speaker, I thank the gentleman very much for yielding that time.

I am very delighted to stand before a distinguished House of Representatives to make this plea.

I support this measure. I come from Georgia and represent a new Congressional district that represents one of the fastest growing areas in this country. It is the 13th Congressional District. I am here because of that growth, and I am also here to tell my colleagues that there is no greater pressing issue facing my district and the people of Georgia than this health care crisis that we are faced with today in medical liability insurance.

Our doctors are suffering immensely, not only in terms of having to cut back on the quality of services that they have to offer but also in our medical schools, where they are preparing our doctors for the future. Many of the medical schools in my State are saying now that many of the students are having second thoughts about even coming into the medical profession; 17.8 of the 2,800 physicians in Georgia are already reporting that they are contemplating, contemplating cutting back in their critical services for at-risk procedures, and nearly 2 percent have even indicated that if things do not change they are moving out of the State of Georgia.

I think we all know that Georgia is one of 18 States that has the highest, most significant medical malpractice insurance premium costs, and it is costing our State dearly. I am here to speak for those doctors and the dentists and the hospitals in that 11-county area that I represent around the City of Atlanta that is faced with this crisis, and I hope that this Congress will hear us as we cry out in Georgia on behalf of our physicians, our dentists,

all of our health care providers, give us some relief.

I know this H.R. 5 before us is not a perfect bill. Nothing is perfect. Who amongst us or what amongst us is perfect? But it is a start. It is a beginning, and it is not incumbent upon us to complete the task, but neither are we free to desist from doing all we possibly can. That is what the American people are expecting of us.

Take this first step. Let us move this process forward. When it gets to the Senate we can work to perfect it even better. I urge my colleagues' vote on this very important matter, and let us bring better health care to our people of Georgia and the Nation.

I am here representing the patients, doctors, hospitals, and health care providers in the 13th Congressional District in Georgia. This is a new district, which encompasses parts of eleven counties due to the tremendous growth in this part of the state. It is also a diverse district, including county, regional, and private hospitals, several health care facilities, and hundreds, if not thousands of physicians and dentists, and other health care professionals. Georgia has been designated as one of 18 states facing a medical liability crisis and since Georgia's health care industry is being threatened by this crisis, I have decided to support the patients . . . and the doctors . . . and the hospitals . . . by supporting H.R. 5.

Earlier this year, the Georgia Board for Physician Workforce, the state agency responsible for advising the Governor and the Georgia General Assembly on physician workforce and medical education policy and issues, released a study showing the effects of the medical liability crisis on access to health care for Georgia's patients. For example, the study shows that 17.8 percent of physicians, more than 2,800 physicians in Georgia, are expected to limit the scope of their practices which is by far the largest effect of the medical liability insurance crisis on access to medical care. These physicians are expected to stop providing high risk procedures in their practices during the next year in order to limit their liability risk. Nearly 1 in 3 obstetrician/gynecologists and 1 in 5 family practitioners reported plans to stop providing high-risk procedures, indicating that access to obstetrical care may be significantly reduce during the next year as a result of the medical liability insurance crisis.

In addition, nearly 11 percent or 1,750 physicians reported that they have stopped or plan to stop providing emergency room services. 630 physicians plan to stop practicing medicine altogether or leave the state because of high medical malpractice insurance rates. About 13 percent of doctors reported that they had difficulty finding malpractice insurance coverage. In fact, at one particular Georgia hospital, the hospital could not give credentials to a surgeon and add that physician to its staff because the surgeon could not afford to buy medical malpractice insurance. In another instance, an obstetrician-gynecologist had to close his Georgia practice and work for a health care agency because he could not afford to buy medical malpractice insurance. What happens to the patients that his hospital could have treated but now it cannot because it does not have the surgeons that it needs? What happens to the mothers who need a

doctor to provide pre- and post-natal health care but cannot find one because doctors are leaving the profession due to the high cost of medical malpractice care?

I support H.R. 5 because doctors, hospitals, and the health care industry are caught in the middle between insurance companies and lawyers. Doctors are being squeezed by their medical malpractice insurance premiums and by the high amounts being awarded to injured patients. Doctors need to see results; they need to know that if this bill becomes law that their insurance premiums will go down. The message must reach the insurance companies that premiums have to go down so that the medical profession can survive and access to health care is improved. The health care industry must have relief and this bill, although not the final answer is the first step in addressing the problems that affect doctors and the health care industry.

We have to address the issue of medical malpractice insurance and the extremely high cost of health care. We have to do something. This bill is not the complete answer. It is not the final answer. It is not the best answer but it is a start. We do have to do something and we have to do it now. In 2000, Georgia physicians paid more than \$92 million to cover jury awards. That amount was the 11th highest in the nation despite the fact that Georgia ranks 38th in total number of physicians in the United States. Forty percent of the state's hospitals faced premium increases of 50% or more in 2002. St. Paul, the state's second largest insurance carrier, stopped selling medical liability insurance last year. Remaining insurers have reportedly raised rates for some specialties by 70 percent or greater. Some emergency room physicians, OB-GYNs and radiologists have not yet found a new carrier.

In addition, Georgia is heavily dependent on other states to train physicians. Approximately 70% of participating physicians in Georgia completed training in another state. High costs of medical malpractice liability insurance may reduce the attractiveness of Georgia as a location for medical practice. High professional liability insurance costs are a significant financial problem for teaching hospitals, reducing the already limited funding available for faculty, residents, and other medical education costs. The high cost of medical malpractice insurance for doctors and hospitals harms mostly those communities who serve minorities and low income patients. The physicians and hospitals who depend on Medicare reimbursements and who serve the 44 million uninsured Americans everyday cannot afford to pay higher insurance premiums. We need to ensure that these communities have access to quality health care and the best physicians or the health disparity that currently exists will continue to deepen and create a 2 tier health care system. We must do something now. We must support the patients who cannot speak for themselves. We must support our doctors and hospitals and we must pass relief for them today.

It is important for the House to pass a bill that can go to the Senate for consideration. I hope to perfect the bill even more as it moves through the legislative process. It would be a mistaken not to do anything. In fact, I have never seen a problem solved by doing nothing.

We must help doctors, physicians and dentists, hospitals, other health care providers,

and American patients who are suffering in untold ways. Immeasurable damage is occurring in our nation's health care delivery system because of the high cost of medical malpractice insurance. With the passage of this bill, we are sending a clear and salient message to the insurance industry, which sets the premium rates for medical malpractice insurance and that message is: Bring Down the Cost of Medical Malpractice Insurance for Physicians and Hospitals.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. TIERNEY), an individual who has stood firm on the rights of patients, the rights of victims.

Mr. TIERNEY. Mr. Speaker, I thank the gentlewoman for the time, and with due respect to our colleagues that have spoken on the other side of this issue, I want to say that we all understand the issues that are here and we understand the impact that premiums have on doctors, but it is a shame that we have to choose a vehicle in this bill that pits doctors against victims of malpractice.

The doctors that come into my office understand that if there is an error made they want the patient to be compensated. There is no offer in this bill to give us a system better than the jury system. There is an arbitrary amount set that even doctors, when they look at it, understand that there is not nearly enough to fully compensate people.

This is simply an insurance company bill, an HMO bill, a prescription drug manufacturing bill that will limit their liability, and in order to try to push it through, pits doctors, well-intended doctors, against patients, victims.

The fact of the matter is this legislation should be looking at ways to weed out undeserving suits so that doctors are not exposed to them, while making sure that we preserve a way for people that are injured to get their full compensation in a fair manner. We have to also add into that premium control because the insurance companies simply are not a well-run organization, and that is where the answer is for doctors, improve that with insurance reform.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I rise in strong support of the Help Efficient, Accessible, Low-cost, Timely Healthcare Act of 2003.

As I rise today, in the midst of a contentious debate, Mr. Speaker, I think of my family and my parents. I think of the good health that God has so mercifully given our family over the years. I think about this great country of ours and the cutting-edge research of universities and our hospitals, like those in Muncie and Anderson and Richmond, Indiana, that I serve here in Washington.

□ 1330

We undoubtedly have the best health care system in the world, the envy of

other nations. Yet, Mr. Speaker, the costs of health care are rising so much so, to the point where constituents of mine, like Gary Miller of Portland, Indiana, are in fear of losing access to health care due to its affordability. Gary Miller just called my office this morning as we began the debate on this bill to register his concern about the rising cost of health care in America. Well, I am here today, Mr. Speaker, to tell people like Gary Miller that help is on the way.

Physicians in this country are some of the finest people you will ever meet. It takes a special heart of compassion to help people that are hurting physically day in and day out. And no well-meaning compassionate physician, Mr. Speaker, should be forced to close the door of his or her practice just because they cannot afford to pay health care premiums caused by frivolous litigation. Even the most well-meaning trial lawyers in the country are filing litigation that is driving health care premiums through the roof.

The Good Book tells us: "You shall not muzzle the ox while it treads out the grain." And today I say to my colleagues, it is time to take the muzzle off physicians in this country and allow them to practice medicine and continue to heal our land. It is time to free doctors from the fear of bankruptcy and potential limitless litigation that currently hurts patients by causing doctors to engage in defensive medicine.

Mr. Speaker, I urge my colleagues to vote "yes" on this bill so people like Gary Miller do not have to live in fear of losing access to health care again. I urge a "yes" vote so we can get this country back on the road to affordable and available health care for all Americans.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington (Mr. INSLEE), who knows what it is like to have victims denied economic damages under this legislation.

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

Mr. INSLEE. Mr. Speaker, I think it is fair to say that this bill itself is a case of legislative malpractice. It is legislative malpractice because it will not deliver the goods to doctors in a reduction of their premiums because there is an outright total and utter failure to deal with insurance reform, which the evidence has shown is necessary to get a reduction in premiums.

We ought to listen to the story of a 23-year-old lady named Jennifer, a newlywed in Washington, who went in for a simple medical test and was told she had a rare form of cancer. She had an extended period of chemotherapy, she had a hysterectomy, and they then took out part of her lungs. She went through years of medical procedures and the test was faulty. She never had cancer.

Now, I do not know what the right dollar figure is for a woman's loss of

the ability to bear children, but I know it is not \$250,000. I know it is not what Ken Lay earned in about 2½ weeks, and I know that that decision should be made by 12 citizens sitting in a jury box rather than people answering to special interests in the United States Congress.

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

Mr. Speaker, I think there is a little bit of confusion around about the non-economic damage limit. There is a specific provision in H.R. 5 that says no provision of this act shall be construed to preempt any State law whether effective before, on, or after the date of enactment of this act that specifies a particular amount of compensatory or punitive damages or the total amount of damages in a health care lawsuit, regardless of whether or not such monetary amount is greater or lesser than that that is provided under this act.

Now, every one of the 50 States is free to adjust the \$250,000 limit on non-economic damages upwards or downwards by enactment of the State legislature. My State limits it at \$350,000. This is not touched by the HEALTH Act whatsoever. So if anybody thinks that this act is a straitjacket, the legislature is free to change it.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of this legislation.

Yesterday, on this House floor, we passed legislation that will reduce medical errors by enabling hospitals and other providers to develop systems that identify and present errors. In addition, it will enable us to build an interoperable system of technology that will, for example, eliminate mistakes in filling prescriptions. So yesterday we took a giant step forward toward reforming the very systems that will improve the quality of care we deliver to the people of America and, at the same time, reduce costs of health care.

Today, we need to pass this malpractice reform bill because, again, it will reduce costs by eliminating millions of defensive practices that have developed in our system simply for the purpose of enabling a physician to defend himself in court. By eliminating those defensive actions, we not only reduce costs but we will improve the quality of care patients have available to them.

It is ironic that when we are in a period of rapid change in medicine, where medical science is moving us toward ever-more sophisticated ways of diagnosing and treating illness, we are also reducing access to care through a liability system that cannot distinguish between error in a complex era and malpractice. So we are at the same time improving the quality of health people can get and denying them access to that care.

Ask any woman who has a high-risk pregnancy how hard it is to find an obstetrician who will take a woman with a high-risk pregnancy because of the cost of malpractice insurance. Talk to those doctors who are leaving practice or who are choosing to no longer do certain high-risk operations and procedures in order to keep their malpractice costs within some kind of reasonable bounds. Talk to those people out there in the real world who cannot see enough new patients to pay their gigantic malpractice premium increases, and you cannot help but conclude that malpractice costs have gotten so out of control, they are now denying access to people in America to advanced health care.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I wish this bill would help cure that problem.

Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ), one of our newest Members, and a new member on the Committee on the Judiciary, who we are very proud to have because she has been a real fighter for patients' rights.

Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts (Mr. DELAHUNT) be allowed to manage the balance of the time on the minority size.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentlewoman from Texas? There was no objection.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I thank the gentlewoman from Texas for yielding me this time, and today I rise in opposition to H.R. 5.

There is no doubt that most Americans have real problems accessing affordable health care in this country, and we need to find a solution. However, H.R. 5 is a deplorable bill. It is the most simplistic method for addressing problems that we are experiencing with our medical community. It is akin to trying to put out a forest fire with a squirt gun.

Placing a cap on a victim's recovery will not magically keep medical malpractice insurance rates from rising. It will not keep trauma centers from closing. It will not keep specialists from practicing in their areas. H.R. 5 simply restricts injured patients' access to justice. It is modeled after a California law affectionately known as MICRA.

As a representative from California, I happen to know a lot about MICRA. MICRA's caps on pain and suffering damages have not reduced insurance rates for doctors in my State, but rather it took Prop 103, an insurance reform initiative, to stabilize the rates there.

H.R. 5 without insurance reform is meaningless, and I urge a "no" vote.

Mr. DELAHUNT. Mr. Speaker, would the Chair indicate how much time is remaining?

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. DELAHUNT) has 3 minutes remaining,

and the gentleman from Wisconsin (Mr. SENSENBRENNER) has 2 minutes remaining.

Mr. DELAHUNT. Mr. Speaker, it pleases me to yield 1 minute to the gentleman from Ohio (Mr. RYAN), a new Member and someone we are particularly proud of.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we know that the premiums are high, and we know the doctors are suffering; but this bill is not going to address the problem. And I would like to just take a minute, Mr. Speaker, to point out some of the inconsistencies from the majority party, the party that says we need to give all the power to the States. In this bill they are taking power away from the States. This is the party that says we are for individual responsibility, unless that individual is in the jury box, then we do not want to give it to them. This is the party that is for less government and less regulation, but at the same time they are putting price controls on attorneys. That is not free market.

Like a leading malpractice insurer in California said, I do not like to hear insurance company executives say it is the tort system. It is self-inflicted. That, in this bill, is not going to address that problem.

Mr. Speaker, I am afraid that all the faces and the names have turned to numbers in Washington, DC. This is not the answer. Real people are going to get hurt. We would like to welcome everybody back to the era of caveat emptor, or buyer beware.

Mr. DELAHUNT. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SANDLIN), the chief deputy whip of the Democratic Caucus.

Mr. SANDLIN. Mr. Speaker, somebody in this Chamber needs to stand up for the doctors and somebody needs to stand up for the hospitals. Malpractice premiums are choking America's physicians, and H.R. 5 is nothing but a sham because H.R. 5 does not mention one time, from front to back, soup to nuts, does not ever even mention malpractice premiums. We need to do something about those premiums for the doctors. We need to do it now. We need to do it today. H.R. 5 will not do it.

And how about frivolous lawsuits? Frivolous lawsuits need to be ended. If a suit is filed with no basis in law or in fact, it should be dismissed at the cost of the plaintiff and the plaintiff should be sanctioned. But what does H.R. 5 say about frivolous lawsuits? It does not say one thing. That is a shame. That is outrageous.

We are only talking about benefits for insurance companies. We are talking about caps. The only people protected are insurance carriers. The only people celebrating today are executives in tall buildings owned by insurance companies.

This is not good for doctors, it is not good for hospitals, it is not good for pa-

tients. Let us stand up for them. Let us do the right thing.

Mr. DELAHUNT. Mr. Speaker, I yield 1 minute, the balance of my time, to the gentleman from New York (Mr. NADLER), who serves admirably on the Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, one thing that has not been remarked upon is that the cap of \$250,000 for pain and suffering, whether a baby is killed, a person is paralyzed for life, an old person is killed, regardless, aside from economic damages, they can only get \$250,000. But that cap is not inflated. When that was first written in 1975 in California, \$250,000 was worth what today is worth \$1.6 million. The \$250,000 now is worth what was then worth less than \$39,000.

If there is no inflater put into this bill, and the Republicans in committee voted against it, except a couple of them, and they would not let me bring it onto the floor, then what we are really saying is people should get no recovery at all for pain and suffering and lifelong anguish and death and dismemberment. None. Only for lost wages, if they are workers, or for medical bills. Because eventually that is what this \$250,000 will be worth, next to nothing.

Finally, on frivolous lawsuits. On contingency fees you cannot bring frivolous lawsuits, which is why this bill does not mention it and why talking about it is so dishonest.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I have been listening intently to this debate. Many of my friends on the other side of the aisle apparently have not been listening at all to the debate, and I just want to rebut a couple of their points.

First, they say this will not reduce insurance premiums. They were right in that it will not reduce insurance premiums by law, but the CBO says that overall insurance premiums will be reduced by 25 to 30 percent and more in States where there is a greater problem. That is the market working. That is the economics working on it. But those premiums are not going to be reduced if the current law stays where it is.

Then we have heard time and time again about \$250,000 in noneconomic damages. This bill gives each State the right to adjust that amount to a greater or a lesser amount. So the State legislatures can make a determination on whether \$250,000 is proper or not. If they fail to do so, then the \$250,000 in the HEALTH Act is the law for that State.

□ 1345

Finally, we have heard "Physician, heal thyself," and that a small number of physicians are responsible for the vast majority of malpractice claims. Let me say that the current tort liability system provides a huge disincentive for doctors to talk about problems

amongst themselves and to get the collective benefit of a number of doctors' opinions on how to treat a patient.

There has been a study that asked, "Generally speaking, how much do you think the fear of liability discourages medical professionals from openly discussing and thinking about ways to reduce medical errors?" Mr. Speaker, 59 percent of the physicians replied, "A lot."

If we pass this law, we will be seeing more collectively doctors' brains put together to deal with difficult cases, to talk about mistakes and make sure they do not happen again. This bill should be passed. I urge an aye vote on the bill.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the gentleman from Ohio (Mr. BROWN) will control the time for the gentleman from Michigan (Mr. DINGELL).

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

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

Mr. Speaker, I rise today in strong support of H.R. 5. I am joined by every major medical association representing the doctors of America across this country and across the very specialty organizations that are so deeply affected by the rising cost of medical malpractice insurance that many of them are leaving the practice that they were trained to do.

I thank the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from California (Mr. COX) for drafting this legislation. I certainly thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and the staff of the Committee on the Judiciary for working so closely with the staff of the Committee on Energy and Commerce to advance the cause of this very important bill.

We will hear many stories today about the victims and how they are harmed in the health care system. And, of course, we cannot dispute the fact that many doctors make human errors. In fact, yesterday we indicated that the To Err Is Human report encouraged us to pass a medical errors bill, which we passed yesterday on the floor, which is designed to begin sharing information to reduce the number of those errors and to make sure that doctors are not hauled into court every time they help one another when trying to reduce the number of errors in the system.

We know there are victims of medical errors, but we do not often hear about the victims of the medical malpractice system gone awry. They are the victims who get denied access to health care in very critical moments because some doctor could not get his insurance renewed because premiums were too high, some doctor left the practice, some medical clinic, some institute closed down in the community, the stories we heard from victims yesterday here in Washington, D.C.

One wife and children were here talking about how the husband and father was in a horrible automobile accident and went to the hospital, only to find out the neurosurgeon who should have been there to help him had lost coverage 4 days earlier and was no longer at the hospital to service them. That gentleman suffers massive brain disabilities as a result of not having someone there to serve him.

Many pregnant women look forward to a natural childbirth, only to find out that doctors are increasingly recommending C-sections, and doctors who deliver babies are getting out of the business because they cannot afford the skyrocketing liability coverage policies that they need.

60 Minutes did a piece on one of those doctors who gave his whole life, his career to delivering babies. He cannot do it any more. He is doing prenatal work now because he cannot afford the awful cost of liability coverage.

So not only are these doctors harmed because they cannot practice the professions they love and worked so hard to learn, but the patients that come to them are increasingly being harmed. Doctors are moving from one community to another, moving to States that have liability protection because they have learned that they cannot afford the liability coverage in the community they were raised and educated in. They have to move from Mississippi to Louisiana, for example, and Mississippi loses the availability of those good physicians.

Those hidden victims, patients who cannot get care, who suffer from a lack of access to health care, are just as real, just as injured as any victim who has been injured by medical error or malpractice in this country. We have to do something about this. It is a broken system. When the health care system breaks down, it is our responsibility to make sure that we fix it, and we fix it so it does not just work in California or Louisiana, it works across America.

Our families are spread all over. My children are living in all kinds of States. I want them to be able to walk into a hospital and find somebody ready to serve them. I do not want them to walk into a hospital in Mississippi and find out a needed doctor is not there. That is the task we have before us today. As we move this legislation forward, we will complete the task we started yesterday, on the one hand beginning to cure that awful problem of medical errors within the system, errors which produce injury, and recovery is possible under our legal laws; and, secondly, to make sure that the legal liability system is fixed.

What are we doing here? We are recommending to the Congress and to the Nation nothing more, nothing less than the experience of the great State of California, which in 1975 adopted the law upon which H.R. 5 is based, a law which has kept liability premiums in California at one-third the increase

level which has been experienced across the country. The other side of the aisle have been debating whether this will reduce insurance premiums. I tell them, go to CBO. CBO has estimated a 25 to 30 percent reduction in insurance costs across America if we pass H.R. 5.

Mr. Speaker, guess what, my State will not get that benefit. We already have the benefit of lower premiums because of reforms like this. Those premium reductions will go to States that do not have the benefit of a State law like California and Louisiana. Therefore, the reductions in premiums are likely to be higher in those States where there are no caps on liabilities.

One final thought. For those Members that are arguing that we are somehow capping the entire liability award, we are doing what California did with a Democratic governor and a Democratic legislature: We are only capping the noneconomic damages. That is the only thing we are capping. We are capping it at \$250,000, but we are telling California and Massachusetts and Louisiana, or any other State in the Nation, if they do not like that cap, they can adopt their own cap. They can adopt a higher or lower cap. This legislation preserves for the States the right to adopt the cap that works for them.

But this legislation for the first time will say to everyone in this country, we are all entitled to have a health care professional available to us when we need it who otherwise would not be here because of a liability system that is so broken that it drives decent health care workers out of business and out of their professions at our loss.

Mr. Speaker, this legislation has to get passed and has to get passed soon. I urge Members to adopt this legislation today.

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

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I want Members on both sides of the aisle to be aware of three unanswered questions about H.R. 5. First, if the authors of this bill are sure that it will reduce and stabilize medical malpractice premiums, why are insurers accountable for producing that result?

During the medical malpractice debate in Ohio, insurers said they do not know whether premiums would come down. During a recent hearing in Pennsylvania, the actuary witness said he could not say whether premiums would come down. Even Sherman Joyce, President of the American Tort Reform Association said, "We cannot tell you or anyone that the reason to pass tort reform would be to reduce insurance rates."

We are voting on a bill that overrides State law and undercuts compensation for victims of medical malpractice, yet we do not know whether medical malpractice premiums will come down. California passed tort reform in 1975. Medical malpractice premiums continued to go up. Not until California 13

years later demanded a reduction in premiums with insurance reform did the situation improve. Yet insurers have zero, no obligation under this bill.

We are supposed to take it on faith and trust the insurance companies that they will pass along the savings. Apparently we cannot trust patients, cannot trust juries, cannot trust lawyers, but we can trust the insurance industry.

My second question is: Why is there no single insurance reform in this bill? The authors of H.R. 5 refer again and again to MICRA. The gentleman from Louisiana (Mr. TAUZIN) did, other Members will. MICRA is the California law that sets a quarter-million-dollar liability cap. Members know it was not MICRA that brought down premiums in California, it was insurance reforms 13 years later. Malpractice insurance premiums rose 450 percent after MICRA went into effect, and only when California established a prereview of rate increases and automatic rollback of excessive premiums did the doctors get any relief, yet this bill has no insurance reforms, no premium rollback. Why? The insurance industry does not like it.

The third question is if H.R. 5 is a response to spiking medical malpractice insurance premiums, something we want to do something about and our substitute bill does, why does this bill shield HMOs, shield drug companies, shield medical device manufacturers, and shield insurance companies from liability? It might have something to do with the fact that those industries have given tens and tens and tens of millions of dollars to Republican candidates. The majority bristles at the notion that the curious omissions from this bill have something to do with helping their friends, the drug companies, the insurance industry, the HMOs and the medical device industry.

Mr. Speaker, if the majority wants Democrats and the American public to stop accusing them of catering to their corporate friends, then maybe the majority should stop catering to their corporate friends. Then we could write a bill that will help doctors, then we could write a bill that will help patients. This bill simply is not it.

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

Mr. TAUZIN. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, we would not help this debate by arguing that the other side is catering to trial lawyers. That is not going to help this debate. Let us argue on the facts for a change.

The gentleman from Ohio (Mr. BROWN) may not agree with what happened in California, but this is what Senator FEINSTEIN said. "I believe MICRA is the reason rates have gone down." That is a California Senator talking about her State.

Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I am pleased to see this bill on the floor

today. We will hear many reasons today why this is a problem that needs to be dealt with but some reason about why is not the time. Now is the time to deal with this issue. Now is the time to put patients first, to see that our delivery system begins to function again. There are a dozen States that are in crisis mode and a dozen others that are about to get there.

The gentleman from Louisiana (Mr. TAUZIN) mentioned the people we had in town yesterday to talk about the importance of this bill, the two families that were here talking about what had happened to their families, not because they were in some isolated spot where one would assume care would not be available, but care was not available because we do not have this situation under control.

We had one family, a mother, a wife, two teenage children whose husband and father is no longer able to care for that family because instead of care being available, as it would have been just months ago minutes from the accident, care was now available 6 hours later because that person had to be moved.

We had one person talk about her dad in Las Vegas, Nevada, one of the fastest growing communities in the country, was in a car accident and could not get care because the trauma center had just closed because of this problem. That family's father is gone.

Mr. Speaker, any of us who vote on this legislation today could find ourselves, no matter how urban and concentrated the area we are traveling to in the next few days would be, in the situation of those families.

□ 1400

Or we can see those we love and care about, no matter how we think they would be in imminent contact with health care, find that health care was not available because we have not dealt with this problem. Today we have a chance to do that. Chairman GREENWOOD and Chairman TAUZIN and our friends on the Committee on the Judiciary brought this bill to the floor. It is a bill we need to pass today. I am pleased we have this opportunity.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan (Mr. STUPAK), who cares about patients and physicians.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding me this time. The majority of our doctors are hardworking and professional and serve their patients with the utmost ability. Only a few doctors are bad actors who act in negligent or irresponsible ways. But the reality is that this bill will do nothing to help doctors. It does not address the high insurance rates or the plight of doctors. H.R. 5 is totally misguided. It does not address insurance costs for doctors. Instead, it caps meritorious lawsuits where a judge or jury has found for the victim.

H.R. 5 puts a cap of \$250,000 on non-economic damages. Many dismiss non-

economic damages as pain and suffering and imply that they are less important than economic damages. The true definition of noneconomic damages are those damages that are real, permanent harms that cannot easily be quantified or measured in terms of money, such as blindness, physical disfigurement, loss of fertility, loss of a limb, loss of mobility, loss of life, or loss of a child. These are horrific losses; and under this bill, they are capped at \$250,000.

I offered an amendment to remove the antitrust exemption for insurance companies. If this bill is truly designed to address the insurance crisis in this country, how is it that it does not contain a single provision about insurance? The insurance industry is the last industry left in the United States that is not subject to antitrust laws. If we really want to bring insurance rates down well, we must make insurance companies subject to government regulation and competition and subject to our antitrust laws.

Everyone in this House of Representatives believes that something needs to be done about the skyrocketing costs of medical malpractice insurance.

The majority of our Nation's doctors are hard working and professional, and serve their patients to the utmost of their ability. Only a few—a small minority—of doctors are bad actors, who act in negligent or irresponsible ways.

But the reality is that this bill will not help our nation's responsible and hard-working doctors. It does not address the high insurance rates or the plight of our doctors. Only the Conyers-Dingell motion to recommit will accomplish these goals. I believe that the Conyers-Dingell bill is a targeted and positive measure to address malpractice insurance in this country.

H.R. 5, on the other hand, is a boon to HMOs, to drug companies, and to medical device manufacturers, who receive the bill's protection from damages without any justification. I cannot understand why a bill that is supposedly designed to help our Nation's doctors would include these other groups—except to provide them with an unjustified windfall.

H.R. 5 is totally misguided—it does not address insurance costs for doctors—instead it caps those meritorious lawsuits where a judge or a jury has found for the victim.

H.R. 5 puts a cap of \$250,000 on non-economic damages. Many dismiss non-economic damages as being pain and suffering, and imply that these are less important than economic damages.

The true definition of noneconomic damages are those real, permanent harms that cannot be easily quantified or measured in terms of money.

Noneconomic damages include blindness, physical disfigurement, loss of fertility, loss of a limb, loss of mobility and the loss of a child. These are horrific losses—and under this bill they are capped at \$250,000.

And not only are they capped at this amount, but because this bill does not even allow an annual adjustment for inflation, each year that \$250,000 will lose more and more of its value, and be worth less and less.

I offered an amendment at the Rules Committee to allow an adjustment for the rate of

inflation, but my amendment was not made in order. I cannot believe that even this small and reasonable adjustment to help victims was denied.

I also offered an amendment to remove the antitrust exemption for insurance companies—that too was denied. If this bill is truly designed to address the insurance crisis in this country, how is it that it does not contain one single provision about insurance rates for doctors?

Democrats offered an amendment to require that insurance companies should pass on 50 percent of the amounts that they save as a result of this bill to doctors in the form of lower premiums. This would be a true way to ensure relief to doctors. Of course, this amendment was denied.

Medical insurers are the only industry left in America that is not barred from getting together and setting rates. If we really want to bring insurance rates down, we must make insurance companies subject to government regulation, to competition, and to antitrust law.

This bill will do nothing to help our doctors. Statistics have shown that even where caps exist, premiums are still inflated.

For example, my own state of Michigan has a cap in medical malpractice cases of \$280,000 on noneconomic damages, with some limited exceptions.

Neighboring Illinois has no cap on noneconomic damages in these cases. Yet, the average liability premium in internal medicine is 1/3 higher in Michigan than the premium is in Illinois.

I support our Nation's doctors and I want to help them in the crisis they are facing. But voting for H.R. 5 and its misdirected caps will not provide that help, and I cannot support this bill.

Mr. TAUZIN. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Florida (Mr. STEARNS), chairman of the Subcommittee on Commerce, Trade and Consumer Protection of the Committee on Energy and Commerce.

Mr. STEARNS. Mr. Speaker, I am here to give a clear example from my home congressional district, a Dr. Joseph Hildner, a board-certified family-practice specialist in Belleview, Florida. He had a patient that was overweight and smoked too much. He never followed the doctor's advice, missed many appointments all the time, and failed to take blood pressure prescriptions. Suddenly the patient gets a heart attack, right? Then he sues because he was not cared for. The trial attorney simply identified anything that could have been done, declaring that no standard care was done for this patient by Dr. Hildner.

Obviously, Dr. Hildner tried to settle this thing because the doctor felt that he would go through long litigation. As it turns out, the lawyer was suing well above the amount of money that the insurance company had for his patient. This is just an example. So what happens to Dr. Hildner? His premiums go from \$30,000 to \$70,000. How does he pay? How do the doctors in this country pay? They start to hustle through more patients and more patients. They practice what is called defensive medi-

cine; they have all these tests, just simply to protect themselves. He admits he is hustling through all these patients like cattle. He cannot give them the attention they need. So now he is giving unnecessary tests.

In the end, we need this bill. That is why I am an original cosponsor of H.R. 5.

I rise as an original cosponsor of, and in support of H.R. 5. This bill would help curb some of explosive noneconomic damage awards in medical liability cases, and resultant soaring malpractice insurance rates that lawsuits have been spurring.

Physicians in my home state of Florida, among other states, are already in a state of crisis, as evidenced by the "walk-out" earlier this year.

Dr. W. Herman Sessions of the Family Practice Associates in Orange Park, FL, wrote to me recently that his practice is considering exiting. He wrote,

I am telling my female patients to get their mammograms this year because I feel that we are not going to be having mammograms read in the state of Florida next year. A radiology friend told me that it was at the last minute that they were able to obtain insurance to read mammograms. He told me that he is not certain that when their policy expires in one year that they will be reading mammograms without some sort of resolution to the liability crisis.

We have had difficulty recruiting physicians to our hospital because nobody wants to practice in the state of Florida with our liability problem. These physicians are surgeons and surgical subspecialists. Our local neurosurgeon obtained liability insurance on the very last day of the year and he is able to practice for the calendar year of 2003. I asked him what his plans are for 2004. He told me that he will either retire, do strictly office consultation and no surgery, or move to another state.

And my constituent Johnny Beach from Bell, Florida, a young, married University of Florida senior worries about his wife's access to OB/GYNs.

Importantly, this legislation rightly does not cap economic damages, so that the tort system can continue to protect patients from malpractice as intended. I am pleased to cosponsor this bill, and urge its passage.

Joseph Hildner, M.D., a board-certified Family Practice specialist in Belleview, FL, writes: "We had a patient who is an obese smoker. Never followed our advice, missed many appointments, failed to fill blood pressure prescriptions. Patients suffered a heart attack, then sued for failure to arrange a stress test." The trial attorney simply identified anything that might have been done, declared that to be the "standard of care", threatened to sue for higher than the doctor's coverage limits, then settled for less. Even with a 90 percent chance of winning, a physician can't take the chance of going to trial and losing: the "excess verdict" would allow for seizure of his own personal assets. So the doctor settles. Actual negligence need not occur; an attorney only has to do is allege negligence.

But citizens of Belleview lose. Dr. Hildner is known for excellent clinical outcomes at controlled costs. He says,

I've always enjoyed the art of medicine in which I get to practice clinical judgment. As a primary care physician, I am a shepherd, getting those who need it expensive high

tech care, and protecting those who don't from unnecessary interventions. I'm also known for taking time to listen and explain. I don't have my hand on the doorknob while a patient is trying to talk.

Last year his insurance premium increased from \$30,000 to \$70,000. How does he pay? Now has to see more patients, and spend less time. "I'm now having to talk patients into "defensive medicine" tests they don't need, just so I can protect myself. I am beginning to hustle my patients through like cattle, to see enough to pay the bills. So this friendly country doctor known for using clinical judgment, and providing efficient, cost-contained, appropriate care, and known for taking time, is now talking patients into unnecessary tests (which is running up costs), and hustling them through."

Pass H.R. 5.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I just want to explain how this bill helps HMOs and hurts those patients that are victims of HMOs. Many of us for the last 4 years on a bipartisan basis tried to push a patients' bill of rights that basically would say that if you are denied care by your HMO, you can go to an outside maybe administrative agency and then finally can go to court and sue because of the denial of care and what the consequences of that were and actually get damages from a jury or a judge. This bill would kill that.

In many States, as well as in some Federal courts right now, patients have been given the right to sue an HMO, which is exactly what we were trying to do here in Congress when we supported a patients' bill of rights. But this bill says, no, you are not going to be able to do that anymore because it limits your ability to recover noneconomic damages as well as punitive damages against an HMO or another private insurance company.

I think there is a great deal of hypocrisy here. There are Members on the Republican side of the aisle that have said for years that they want to expand victims rights if they have been denied care or hurt in some way by an HMO, but they turn around today and they pass this bill which they are going to pass which basically limits those victims and their ability to sue an HMO even though the State courts and even though a lot of the Federal courts are now expanding victims' rights to sue.

What we are doing here is preempting the State law. If a State says, as mine in New Jersey says, that you can sue an HMO, this bill comes in and says, well, you can do it only under very limited circumstances. You cannot come here and say that you care about the victims. You do not care about the victims not only because you are putting a cap on them of \$250,000 but you are not even going to let them sue the HMO in a fair way.

Mr. TAUZIN. Mr. Speaker, I am delighted to yield 2 minutes to the gentleman from Florida (Mr. BILIRAKIS), chairman of the Subcommittee on

Health of the Committee on Energy and Commerce, who has done such great work on this bill.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding me this time. I, of course, rise in support of H.R. 5. I believe that the sensible reforms contained in this bill will go a long way toward alleviating the medical liability insurance crisis many States are facing and will also help prevent future crises from occurring.

On Tuesday of last week, the Energy and Commerce Subcommittee on Health, which I chair, approved H.R. 5, which was subsequently approved by the full committee on Thursday. In both cases, approval was by voice vote. The severity of the current crisis has necessitated that we act now. I would note that our committee has held numerous hearings over the past year to explore this issue and consider potential solutions.

That is why I continue to be disappointed with the rhetoric surrounding this debate. As chairman, I had wanted to focus a good deal of our last subcommittee hearing on how the insurance industry sets medical liability insurance premiums. In fact, the majority invited both the American Academy of Actuaries and the Physician Insurers Association of America to come testify at our hearing. Unfortunately, in spite of all the rhetoric on insurance, unfortunately the minority did not invite any insurance witnesses. Instead, they once again played politics, including inviting a witness to discuss something called Proposition 103, which he claimed is the real reason why California has been largely insulated from the current crisis. That struck me as somewhat odd, considering that the organizations working to defeat H.R. 5 never mentioned this ballot initiative during our debate on H.R. 4600 in the last Congress, even though this initiative passed in 1988.

What this tells me is that many people would rather play politics than work towards a real solution. I respect that some Members may feel that it is never appropriate to place any limit on subjective, unquantifiable, non-economic damages regardless of the cost to the health care system. However, I do not respect those who will do or say anything to derail this process. I am voting for this bill because by doing so I am moving us one step closer to a solution. The medical community and the patients they serve demand it.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. DOYLE), who has stood up for patients and doctors alike.

Mr. DOYLE. Mr. Speaker, I represent Pittsburgh, Pennsylvania; and in the great State of Pennsylvania, doctors are paying way, way too much for malpractice insurance. It is a crisis, and they need some immediate relief. Unfortunately, the bill we have before us today will do nothing to give any doctor in my State any immediate relief.

It will not do a single thing to reduce frivolous lawsuits. There is nothing in this bill that will reduce frivolous lawsuits.

So, Mr. Speaker, what should we do to address this situation? In Pennsylvania, we have just recently last year passed three laws that I believe are going a long way to address the problem. Number one, Pennsylvania has prohibited venue shopping for oversympathetic jury pools. We have established tough sanctions against lawyers who filed frivolous suits. We have reformed joint and several liability provisions to ensure all liable parties are truly responsible for their fair share of the judgment. We have established strict new standards for expert witnesses. We have allowed courts to reduce verdict amounts if the award will adversely impact access to health care. We have imposed a 7-year statute of limitations on filing of claims, and we have required insurers to offer patients safety discounts to medical facilities with good track records.

These are the types of reforms that will help deal with the situation. Putting a \$250,000 cap on noneconomic damages disproportionately hurts poor people. These damage awards, they are not the cause of the problem. Two-thirds of patients who file claims receive nothing. Only 7 percent of these cases go to court. Let us not cap damages on people who can least afford it. Let us let States like Pennsylvania enact meaningful reforms like we have already done.

Mr. TAUZIN. Mr. Speaker, I am delighted to yield 3 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD), chairman of the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce and the author of this legislation.

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman for yielding me this time. I would like to respond to some of the arguments made by the opponents. First off, there has been this constant drumbeat of accusations that somehow this legislation does not provide the care and the coverage for those who are harmed. Let us say it for the 15th time: this bill allows anyone who is injured by a doctor or a hospital or any other health care entity the ability to recover every single penny of economic damages, all their medical care, all their lost wages, lifetimes of lost wages. There are cases over and over again in the State of California that has this legislation in place where there are awards of \$50 million, \$80 million, et cetera. Plenty of money for the victims to cover their needs.

Secondly, there is this drumbeat that this is really about the insurance industry. Why are we not regulating the insurance industry? Listen carefully. Sixty percent of the physicians in this country buy their medical liability insurance from physician-owned companies. Those companies exist for one purpose, and that is to keep the price of medical liability insurance low.

They do not gouge their customers; they do not collude with one another, because they are the doctors. They are not doing anything to raise rates or to hold rates up high. They are doing everything to push rates down. Guess what? They cannot offer lower premium prices than commercial insurers. So if your whole thesis here is, oh, those insurance companies, they are overcharging, they are gouging, they are colluding, explain to me, I beg you, stand up and explain to me why it is that the physician-owned companies are in the same boat and are not able to provide affordable coverage?

The gentleman from New Jersey (Mr. PALLONE) talked about shielding pharmaceutical companies, shielding HMOs, device companies from lawsuits. This bill does nothing of the kind. If a pharmaceutical company is guilty of making bad medicine or overcharging medicine, they will be liable for millions of dollars, untold millions of dollars for economic damages. There is no shield whatsoever.

Then finally let me say this. We have heard over and over again from the opponents of this legislation, it does not really help doctors. Let us see who supports it: the American Medical Association, the American Association of Neurological Surgeons, the American Association of Nurse Anesthetists, the American Association of Orthopedic Surgeons, the American Association of Thoracic Surgery, the American Association for Vascular Surgery, the American College of Cardiology, the College of Chest Physicians, the College of Emergency Physicians, the College of Nurse Midwives, the College of Nurse Practitioners, the California Medical Association. Every doctors' group in America supports this legislation.

So do not stand up with a straight face, opponents of this legislation, and tell us that the doctors are not smart enough to figure out that this is exactly the prescription that they need.

Mr. BROWN of Ohio. Mr. Speaker, understand that physician-owned companies are still companies that practice business the way other businessmen and women do.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL), the ranking Democrat on the full Committee on Energy and Commerce.

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

Mr. DINGELL. I thank the gentleman for yielding me this time.

Mr. Speaker, we are witnessing a sorry spectacle today. Not only are we denied opportunity to properly debate but also to properly amend. And the doctors are being herded along in front of the HMOs and the insurance companies, because those insurance companies and HMOs are the beneficiaries of this legislation, not the doctors.

The Republican bill does nothing to limit frivolous lawsuits. It does, however, limit responsible lawsuits. The

Republicans would restrict the rights of doctors by protecting HMOs, not by assuring that HMOs are subject to the discipline of the court.

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Republicans limit awards for meritorious claims. Republicans impose hurdles on aggrieved patients.

This is an outrageous piece of legislation. It is brought to the floor under outrageous proceedings. Thirty-one Members have asked for opportunities to offer amendments. They were denied. We are not even given a chance to offer a substitute to this legislation.

I can understand how my Republican colleagues are all looking sheepish and why they are thoroughly embarrassed. I would be embarrassed if I were engaged in this kind of practice myself, because, quite honestly, it is shameful, and it is totally inconsistent with the practices, rules and traditions of the House of Representatives. It is, indeed, a blow to the heart of the legislative process and responsible legislating. It is also a bite on the throat of the right to free debate and the right to amend and perfect legislation.

One of the important responsibilities of this body is to be able to amend legislation, for the House to work its will, for us to represent our people, for them to hear not only responsible debate, but to know that their will is heard and that their concerns are met, not only by debate, but by proper use of the amendment process. That is denied to us today, and I say to my Republican colleagues, shame on you. You have brought shame upon the House of Representatives. You have embarrassed me. I hope you have embarrassed yourselves.

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

Mr. Speaker, I only want to point out to the House that the substitute offered by the gentleman from Michigan (Mr. DINGELL) in subcommittee and full committee was defeated on a bipartisan vote in full committee of 30 noes to 20 yeas.

Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. COX).

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

We are here today because patients are losing, many have lost, access to care. People are dying as a result of not being able to see doctors in emergency rooms. Doctors who have never been sued are quitting the practice of medicine, and talented young men and women are not seeking careers in medicine because of what is happening.

Today there are billionaire lawyers. There is no such thing as a billionaire doctor. All of these billionaire lawyers have made their money in health care lawsuits.

The opponents of this legislation would have us believe that the phenomenon of billionaire lawyers is a reflection of social justice, but it is not. This money is coming out of our health

care system. It is taking doctors out of emergency rooms. It is preventing women who are trying to deliver babies from having OB/GYNs available. There are not enough neurosurgeons to provide emergency care.

In Florida, the Orlando Regional Medical Center, which serves 33 counties, is planning to close its Level 1 trauma unit this month. Patients with serious head and neck injuries will have to be diverted to other hospitals. But in Florida those other hospitals in Tampa and Jacksonville, those trauma units are already overcrowded. The reason patients, particularly poor patients in Medicaid and in emergency rooms, cannot get care is the liability crisis caused by runaway lawsuits.

Doctors and hospitals now spend more on liability insurance than on medical equipment. The Chicago Tribune reports that in Illinois liability insurance premiums are rising 100 percent or more for high risk specialties. Our intention is that no more patients are denied the care that they need because the doctors who wish to serve them cannot afford liability insurance.

The solution, H.R. 5, the HEALTH Act, which I have introduced in this Congress since 1993 and am now co-authoring with the gentleman from Pennsylvania (Mr. GREENWOOD), is based on California's law, written by a Democratic legislature and signed by Jerry Brown, a Democratic Governor.

We have these reforms in our State, and they work. California's medical liability insurance premiums in constant dollars have fallen by more than 40 percent, while the rest of the country is in crisis. Injured patients in my State of California receive compensation more quickly than in the U.S. as a whole. Injured patients receive a greater share of the recoveries in lawsuits. California no longer suffers from the flight of doctors and needed services that we have seen in so many other parts of the country.

By passing this legislation, we will bring these California reforms nationwide, making health care more accessible for patients who are today denied care. I urge this House to pass the HEALTH Act, H.R. 5.

Mr. BROWN of Ohio. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Missouri (Ms. MCCARTHY), a member of the committee and an advocate for patients.

(Ms. MCCARTHY of Missouri asked and was given permission to revise and extend her remarks.)

Ms. MCCARTHY of Missouri. Mr. Speaker I rise in opposition to H.R. 5 and in favor of the motion to recommend.

Mr. Speaker, I rise today in opposition to H.R. 5, a measure which restricts the rights of legitimately injured patients harmed by medical malpractice, restricts the rights of doctors in favor of insurance companies and does nothing to curtail frivolous law suits nor restrains insurance rates.

In addition to trampling on patient rights, this bill tramples on state's rights. H.R. 5 takes the

constitutional concept of federalism to the extreme by severely limiting the traditional rights of plaintiffs seeking damages, a matter that should not be decided by Congress because it proposes tort reforms that are traditionally, and possibly constitutionally, areas to be decided by state legislatures and state courts.

Twenty-five states including Missouri cap non-economic damages to victims. The average Missouri award is \$81,000 well below the \$250,000 cap presented in H.R. 5, as well as Missouri state law. Twenty states courts have ruled that caps on damages are unconstitutional. H.R. 5 enacts a statute of limitations which 18 state courts have ruled unconstitutional. It is inappropriate for Congress to limit the rights of individuals when state courts have ruled that their rights are protected under state constitutions.

Missourians Jay and Sue Stratman have a son, Daniel Lee Stratman, who is only 11 years old. In July of 1996 Daniel was checked into the hospital for "minor" outpatient hernia repair surgery. Daniel was set to be released that same evening. Daniel was not released until November 8 of that year and nothing has been the same for either Daniel or his family.

Daniel is permanently disabled due to severe brain damage, which was a result of multiple repeated anesthetic errors during the supposedly routine surgery for inguinal hernia repair. As a result of the medical errors, Daniel has suffered profound neurological damage including severe cognitive deficits, a decreased level of awareness, diminished bowel and bladder control, and severe gross and fine motor skill injury. He is cortically blind due to the lack of oxygen and perfusion to his brain during surgery. His comprehension level and communication capability have been severely diminished. Daniel requires 24-hour vigilance and this will be true for all of his remaining 70-year life expectancy.

The cap in H.R. 5 unjustly penalizes those individuals without income, like Daniel. Others that fall into that category include: stay-at-home moms and the elderly. When a stay-at-home mom dies, or a child dies, or a senior citizen suffers irreparable harm, there is no economic loss because it is impossible to prove damages from loss of income.

By capping punitive damages, H.R. 5 limits protection for injured patients like Daniel. Instead the bill before us protects HMOs and big insurance companies from legal responsibility. HMOs and big health insurers, who are also big campaign contributors, should not receive special treatment under the law.

Further, H.R. 5 does nothing to reduce insurance premiums for doctors—the very thing Congress needs to address. Currently, medical malpractice insurance rates are rising because insurance companies are squeezing doctors to make up for investment losses over the last few years, investment loses most citizens have also experienced. Instead of penalizing doctors, hospitals and patients Congress should make major reforms to the insurance industry.

I support the Conyers-Dingell motion to recommend because it rightly focuses on giving Americans quality healthcare and weeding out frivolous lawsuits while maintaining the rights of patients with legitimate claims, and respect for the humanitarian doctor's perform.

I urge my colleagues to oppose H.R. 5 and support the motion to recommend to include patient's rights and state's rights.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. ALLEN), who has pointed out in USA Today that the malpractice premiums are only 3 percent of revenue, actually less than the rent that physicians pay.

Mr. ALLEN. Mr. Speaker, this bill will not reduce health care spending significantly. If you add up all the malpractice premiums in this country, they represent one-half of 1 percent of the \$1.4 trillion we spent on health care last year.

Now, some States have problems. Maine does not impose caps on non-economic damages, yet we have comparatively low insurance premiums. Maine has a mandatory pre-litigation screening panel for every medical malpractice case. The panel consists of one attorney, one doctor and one retired judge. This panel process weeds out the frivolous lawsuits and encourages legitimate cases to come to a fairly quick resolution. Sixteen other States have similar screening panels.

States with screening panels should be exempt from the cap on non-economic damages. There is no reason to impose this law on States which have figured out how to deal with this problem on their own. But this bill imposes a one-size-fits-all Federal rule in a traditional area of State jurisdiction.

And this bill does something else. This bill sticks individual plaintiffs, particularly those who are children or unemployed or elderly, with perhaps a huge lifetime cost because of severe injuries, instead of sharing those costs through our insurance system. So, once again, the Republican majority is basically saying it is better to stick the loss on those who suffer it than to share that loss broadly through insurance.

A \$250,000 cap does not mean \$250,000 will ever go to a plaintiff, because they always have expenses and attorney's fees and all of that. It seems to me that this cap is unbelievably low, it is imposed arbitrarily on States which have figured out another way to deal with this problem, it is bad policy, and I urge my colleagues to vote down H.R. 5.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, if H.R. 5 passes, we will be committing legislative malpractice, in my view. Listen to my constituents. If you were on a jury, you just might feel they deserve more than \$250,000 for the pain and suffering they have suffered and will suffer. H.R. 5 would take that right away from you and other citizens.

"On May 19, 2000," writes my constituent, "I went for an outpatient surgery. During the surgery, the oxygen ignited, unbeknownst to the surgeon, the anesthesiologist and three to four other highly-trained medical personnel in the room. While the surgery continued, my entire face was burned.

"After a year of failed treatment to deal with the scarring, essentially I lost my entire upper lip, the front of my nose, the floor of the nose and immediate interior of my nose. I was referred to a specialist in Boston for reconstructive treatment. For these past three years I have been in a mask covering my face and I have nasal tubes to stent open my nose for 23 hours a day. With my mask on, I can only drink through a straw. My breathing was entirely cut off for almost 2 years, and is still not stable due to the scarring inside my nose. I have to travel to Boston monthly. I have been through eight surgeries and have two to four more pending, plus oral surgery and orthodontics.

"My claim is not frivolous, in spite of the rhetoric of the medical insurance and political spokespersons favoring legislation to cap awards for pain and suffering at \$250,000.

"Legislation to cap damages fundamentally punishes again the victims of these horrendous medical mistakes. It is astonishing that federally proposed legislation would first target the victims of these errors before addressing the errors themselves."

The other one is from a grieving father of Rabbi Josef Yitzchak Lefkowitz, 28-years-old, who went into the hospital for an adjustment to his bite. In the recovery, the breathing tube fell out of his nose, but his jaw was wired shut and they could not find wire cutters to open his mouth. He died an agonizing and painful death.

These are not lottery winners. These are not people who won the jackpot. They deserve better than H.R. 5.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I believe we can all acknowledge that rising medical malpractice premiums are hurting doctors and patients. But I heard earlier from the other side that trauma centers are closing, and they are closing in Los Angeles. But it is not because of frivolous lawsuits, it is because we have not provided adequate reimbursement for Medicaid for those poor hospitals. That is why, and we are not even addressing that.

I have to say, with all due respect, that the bill will not lower insurance premiums. Caps in California did not lower premiums. Insurance reform did, Proposition 103, and only slightly, because we are still above many other States in the country.

We need to bring insurance providers to the table and we need to have that kind of discussion, not one that talks back and forth here on the floor.

Caps on noneconomic damages unfairly penalize children, retirees and stay-at-home moms. And you know why? Because they do not make an income.

Mr. Ed Whiddon, a retired lieutenant colonel in the Air Force, was a victim of malpractice at the hands of an anesthesiologist who left him a paraplegic.

His compensation was almost entirely for pain and suffering damages because he was retired, no income, did not qualify for lost wages.

The bill would unfairly limit damages for retirees like this former member of our Armed Forces and others who earn no wages, like poor moms and children.

Let us protect patients' rights. Let us help those poor people. Let us open up those trauma centers by really addressing the issue adequately. This way is the wrong way. I urge my colleagues to oppose H.R. 5 and to support the Conyers-Dingell alternative.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from Houston (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, my Ohio colleague could not say Texas. He just wanted to say Houston.

Mr. Speaker, I rise in opposition to H.R. 5, and I am frustrated like a lot of Members, one because we do not have an opportunity to have additional amendments. I thank our chairman for allowing us to let democracy work its will in our committee. We had a long hearing all day. But here on the floor we do not have that option. The same thing happened last year on prescription drugs. It is frustrating.

We are fighting for democracy all over the world, but we do not get to have a voice here on the floor of the House with an alternative.

I have a district in Texas, and we have a medical malpractice crisis. Of course, we have gone in and out of this for the last 30 years, but it has been dealt with by our State legislature in Texas, and literally as we stand here today, there is legislation that is out of the committee on the floor of the House for consideration that will solve our problem in Texas where it should be dealt with.

Thirty-seven States, including my home State of Texas, are considering legislation that would address the malpractice situation. We do not need Congress to tell us what to do. We can deal with it.

If Congress makes a mistake with H.R. 5, and I consider it a mistake, it is one-size-fits-all, Washington-knows-best for all 50 States, instead of letting the States deal with it.

The California experience that my colleagues on the Republican side talk about so successful, it was California, as hard as it is for a Texan to say they did something good, but it works. We do not need to tell California or Texas or any other State what they can do. They can deal with it, instead of us dealing with it here.

But let me talk about H.R. 5 just a little bit. It does not deal with medical errors, we have separate legislation on that; it does not stem the tide of frivolous lawsuits; and it does not help us deal with physician shortages. That is why it should be voted down.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. WAXMAN).

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

Mr. WAXMAN. Mr. Speaker, I am going to put a longer statement in the RECORD, but I want to say this, that this bill is a flawed approach. It has a one-size-fits-all approach to every State, and it ought to be up to the States to decide how to deal with these issues.

California has a law that California's legislature adopted. But California and other States have jurisdiction over liability laws and licensure of medical professionals and disciplining those who are conducting malpractice. We ought not to take this whole thing over here in Washington. States ought to be able to adopt their own laws.

Secondly, the tort laws are to serve two purposes. First, to make people whole who are injured. By putting a cap on damages, it denies individuals the ability to be made whole through the court system.

Secondly, the idea of the tort law is to deter future malpractice, and I am afraid we are not going to deter future malpractice by this legislation.

I want to lastly point out, this bill goes beyond California law. It gives special treatment to HMOs, to pharmaceutical manufacturers and medical device manufacturers in a way that is completely inappropriate through an FDA approval process that then insulates them from liability for punitive damages, which I think is way out of line and wrong.

Mr. Speaker, I rise in opposition to this bill because it is fundamentally flawed and will do far more harm than good. It imposes a one-size fits all solution on every state. It imposes arbitrary caps on liability that defeat the purpose of compensatory and punitive damages. It gives legal protections that go far beyond the legitimate needs of doctors, benefiting profitable pharmaceuticals, HMOs, and insurance companies. And to add insult to injury, all of this comes at the expense of the injured victims of medical malpractice.

States have traditionally handled every aspect of the medical malpractice insurance problem, and are better equipped than the federal government to respond to skyrocketing insurance premiums in some areas of the country. States establish the applicable standards of care for health care professionals and are responsible for their licensure. States are responsible for boards of discipline and criminal laws to deter and punish professional misconduct. States are responsible for the rules governing lawsuits and the functioning of their civil justice system. And states are responsible for the regulation of the insurance industry. Like the State of California, which the supporters of this legislation hold up as a model for the country, other states are perfectly capable of enacting appropriate liability and insurance reform.

This bill, however, establishes a one-size-fits-all solution on the entire country and overrides state laws. For example, if this bill is enacted, states cannot elect to have a longer statute of limitations. States cannot opt out of liability caps. States cannot choose to inform injuries of caps on liability or impose the tradi-

tional rule of joint and several liability. States cannot allow punitive damages in cases involving drugs and medical devices approved by the FDA.

H.R. 5 also takes the wrong approach to tort damages, which are designed to make victims of medical malpractice whole and punish those who have engaged in egregious misconduct. H.R. 5 allows unlimited recovery for objectively quantifiable damages, such as lost wages or medical bills, but it caps non-economic damages at \$250,000. Non-economic damages are difficult to quantify, but they nonetheless compensate victims for real injuries such pain and suffering, the loss of the child, the loss of a limb, or permanent disfigurement. This bill's cap of \$250,000 is clearly not enough to make victims whole in every case. H.R. 5 also takes the wrong approach to punitive damages, which are capped at two times the amount of economic damages or \$250,000. Many wrongdoers protected by this bill—including HMOs, insurance companies, and pharmaceuticals—could absorb such a penalty with absolutely no impact on their bottom line. This defeats the very purpose of punitive damages in our system of justice, which is to punish wrongdoers and deter future misconduct.

In addition to these problems, this bill is a blatant give-away to special interests. It conspicuously ignores the business practices of insurance companies, which are certainly a cause—if not the primary cause—of the medical malpractice insurance crisis. And the bill gives special liability protection to large, profitable corporations such as MHOs and the manufacturers, suppliers, and distributors of drugs and medical devices. While these corporations have been major contributors to the Republican party, they have done little else to make a case for the protections they've won in H.R. 5.

I urge my colleagues to oppose the bill.

□ 1430

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Ohio (Mr. BROWN) has 2½ minutes remaining; the gentleman from Louisiana (Mr. TAUZIN) has 1½ minutes remaining.

Mr. TAUZIN. Mr. Speaker, I have only one additional speaker to close, so I would urge my friend to use up the balance of his time.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman. We have two more speakers.

Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. ENGEL).

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

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

Mr. Speaker, let me say up front that I think we need to help doctors with unconscionable medical malpractice rates. I mean this most sincerely, and I pledge to do everything I can to help them; but this bill is not the way to go. It will adversely impact patients who are injured. These are people whose lives are irreparably harmed and this legislation, in my opinion, punishes them even further.

We can find a balance, but the majority is ramming this legislation through

the House without regard to how it will hurt victims of negligent practices.

A \$250,000 cap on economic damages disproportionately affects those who do not earn a lot of money. Someone with a minimum-wage job or a stay-at-home mom or dad cannot place a value on their work, but a corporate executive will walk away with millions in economic damages. This is not what we should be advocating in the House.

Further, the legislation limits the statute of limitations to 3 years from the day the injury occurred or 1 year from the day the injury is discovered. This is not fair. I had an amendment which I tried to put forward in the Committee on Rules in the hope that they would allow us an up-or-down vote on the floor. It was turned down. There are some injuries, for instance, HIV/AIDS or blood transfusions, where people do not find out about their injuries for more than 3 years.

So I believe this bill is not the way to go. It should be voted down, and I hope we can come back with good compromise legislation that helps doctors with malpractice rates.

Mr. BROWN of Ohio. Mr. Speaker, I would point out that we will have a motion to recommit, since the majority would not allow us any other amendments of the 31 requested.

Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, this bill has one huge flaw that even its proponents concede: that the benefits, if any, flow directly to the insurance companies, not to the doctors. Therefore, I tried to perfect this bill. During the Committee on Energy and Commerce markup, I offered an amendment to ensure that the savings from the bill's caps on damages for patients' pain and suffering would be passed along to the doctors in the form of reductions in their liability insurance premiums. Every Republican voted no. They each voted with the insurance industry.

This bill deserves to be defeated, as long as there is no effective guarantee that savings from the bill's caps on damage will go not to doctors, but to the insurance industry.

This bill claims to be a cure for the high cost of insurance premiums paid by doctors, but it is really just insurance for insurance companies. It is a public policy placebo that only offers the illusion of relief from sky-high insurance premiums, while pumping cash into the bottom line of insurance companies.

Capping damages may save insurance companies money when their policyholders are sued, but the bill does not require insurers to pass along one cent of savings to the doctors so that they can stay practicing in local communities across this country.

We can all agree that health care liability insurance is a critical issue that has significant impact on patients, on doctors, on insurance; but

this bill leaves out one critical link: the doctors who will not receive the benefits of the lower premiums that have been promised.

Vote "no" on this gag bill that does not allow for a full debate on the House floor.

Mr. TAUZIN. Mr. Speaker, I want to quickly point out, our own Congressional Budget Office estimates a 25 to 30 percent reduction in malpractice insurance costs and a savings to the U.S. Government alone of \$18.1 billion if this bill passes.

Mr. Speaker, I yield the balance of our time for closing to the gentleman from New Jersey (Mr. FERGUSON).

Mr. FERGUSON. Mr. Speaker, congratulations to the chairman for all of his good work on this bill.

I rise in strong support of this legislation. I am proud to be a cosponsor, and I am pleased that today we finally move forward with meaningful, structural reforms that will have a tremendous impact on the medical liability crisis looming before our country.

Over the past few months I have seen health care providers, doctors, hospitals, nursing homes, all of our caregivers, curtail services to the community and to people in need. Why? They have done so because of the fear of frivolous lawsuits and these lawsuits which have caused insurance costs to skyrocket.

What amazes me is the misinformation that is out there on this issue and that has recklessly entered this debate. In fact, there is so much misinformation that some individuals in this body, I think, have forgotten what it is that we are trying to accomplish here.

Just the other day, I read an article claiming that medical liability reforms that we are going to pass with this bill will make it more difficult for patients to find lawyers. That is right. Is that the crisis that we are facing today? Not enough lawyers? Of course not. That is not what we are here for.

We are here because of patients, because we want to preserve patient access to care. All patients, whether a senior or a newborn baby, deserve the highest quality of care. But at the current rate, we cannot keep this promise.

My family has personally experienced the effects of this liability crisis in New Jersey with the recent birth of our third child. My wife's doctor lost her partner. The other OB whom she practices with had to leave the State because her insurance costs were too high. Our doctor was there for us, but I fear for other moms and dads, fathers and mothers, and loved ones in the future.

Frivolous lawsuits have never healed anyone. I have never met a trial lawyer who was developing a new treatment for AIDS. I have never seen a frivolous lawsuit treat someone with diabetes. I have never heard of a multimillion dollar jackpot reward that served a disabled veteran in a wheelchair. What they have done is driven patients away from their doctors.

Mr. Speaker, these are reasonable reforms. It is time that we ensure that our health care system serves patients and not trial lawyers. Vote "yes" on the HEALTH Act.

Ms. LEE. Mr. Speaker, for a nation that boasts about being the wealthiest in the world, claiming liberty and justice for all, the fact that there are over 40 million people without health insurance is a contradiction and a shame. And instead of addressing this crisis head on, this Administration and House Republican leadership continues to talk about health care and do nothing.

The bulk of the uninsured are low-income and minorities. These are the Americans who too often are ignored. The uninsured have lived a campaign of survival, and deserve a voice today and every day on this floor.

As I stand before you on this floor, I would like to introduce you to these voiceless constituents. They are the men and women who have jobs in our stagnant economy. Most Americans receive health insurance through their employers, but millions lack coverage because their employers do not offer insurance or simply cannot afford to pay for it.

Many of these working Americans qualify for Medicaid. Medicaid covers 40 million low-income people and their families, but millions more do not meet its limiting income and eligibility requirements because of savage welfare reform restrictions crafted by the Republicans, leaving the most vulnerable uninsured.

The numbers speak volumes. Fifty-six percent of the uninsured population are low-income and nearly one in five of the uninsured are low-income children. Although minorities comprise only 34 percent of the population, over half of the nation's uninsured are minorities. Twenty percent of these uninsured are African American and 34 percent are Hispanic.

Minorities and the underserved bear a disproportionate burden of mortality and morbidity across a wide range of health conditions. Mortality is a crude indicator of health status and demonstrates how critical these disparities are for minorities. For African Americans and Latinos, these disparities begin early in life and persist. African American infant mortality rates are more than double those of whites, 14 percent vs 16 percent, and the rate for Latinos is 9 percent compared to 6 percent for whites. The death rate for African Americans is 55 percent higher than for whites, with AIDS being the 6th leading cause of death for African American males. I could go on with a multitude of statistics that clearly illustrate the stark disparities in health care that exist for minorities. Yet the point remains that these disparities are a result of lack of insurance and lack of access to health care.

Health insurance is important because it impacts health outcomes. Nearly 40 percent of the uninsured have no regular source of health care and use emergency care more due to avoiding high cost regular visits. This situation creates an ongoing cycle of adults and children skipping routine check-ups for common conditions, recommended tests, and treatments because of the financial burden, resulting in serious illnesses that are more costly. The uninsured are more likely than those with insurance to be hospitalized for conditions that could have been avoided.

The message we must send is that universal health care that provides high quality health care should be provided without dis-

crimination. That is why today I am introducing H.R. 3000, the U.S. Universal Health Service Act (U.S. UHSA). This proposal challenges us as Americans to take another look at the fundamental role government will have to play if we are ever to achieve an equitable and rational health care system.

Universal health care is the only way we can provide equal access and fairness to our health care system. The uninsured are suffering; if we don't acknowledge health care as a basic human right soon, it will be too late for some, and our society's most vulnerable will continue to suffer. Our nation is the only industrialized nation that does not have a health insurance program for everyone, and our health care system is failing. Make health care accessible! Make health care affordable! Make health care a guarantee! I encourage all of my colleagues to cosponsor H.R. 3000 and support health care for all.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in strong opposition to H.R. 5, the "Medical Malpractice and Insurance Reform Act of 2003." Furthermore, I fervently object to the House Rules Committee's prohibition of amendments to this controversial measure, a decision that does not allow for open objective debate or consideration of any worthy alternatives. The rule governing this measure smacks of partisan politics, favors the corporate insurance industry over the health and well-being of the American population, and effectively subverts our great nation's democratic process. Denying us the opportunity to discuss this openly is absolutely unacceptable and exposes what this legislation is all about.

H.R. 5 is purportedly designed to lower the high costs of physicians' medical malpractice insurance rates. We all agree that skyrocketing insurance premiums for medical malpractice are spiraling out of control and demand immediate attention. This bill, however, will not guarantee lower rates for doctors. Instead, it will severely limit victims' ability to recover compensation for damages caused by medical negligence, defective products and irresponsible insurance providers. In other words, H.R. 5 does not fix the problems plaguing the nation's health care system: it rewards insurance companies for bad investment decisions, offers minimal deterrence to doctors practicing bad medicine, and seriously restricts the rights of injured patients to be compensated for their injuries caused by such practices.

It is clear that the House leadership is not really trying to help doctors, but rather their friends in the insurance industry. H.R. 5 would usurp the role of the jury by empowering the Congress to determine the rate of compensation due to malpractice victims. The insurance industry often ridicules the rare million-dollar "windfall" jury awards given, asserting that the victim must feel like they have won the lottery. Do you suppose the parents of the 17-year-old transplant patient who died after being given the wrong blood type, or the Wisconsin woman who had a double mastectomy, only to discover after the operation that the lab had made a mistake and she did not have cancer after all, feel as if the jury-awarded compensation has enriched their lives? I think not. It is doubtful that any person or family that loses a loved one, or suffers years of pain and suffering because of a medicinal mistake or oversight, feels like celebrating, especially after fighting their way through the court system and finally receiving compensation.

The insurance industry continually asserts that recent hikes in malpractice premiums are caused by excessive jury awards, and that the only remedy is to cap damage awards in malpractice lawsuits at \$250,000—no matter how egregious or irresponsible the case. Capping damage awards will not lower insurance rates nor address the real problems in the medical liability system primarily for two reasons—First, the cyclical nature of the insurance industry, that is, raising premiums to recoup losses due to bad investments in the stock market, and second, the number of medical errors made by the medical profession.

Instead of enabling insurers, we should reject the one-size-fits-all cap that will restrict the ability of those most severely affected by a medical mistake—Americans who struggle daily to make ends meet—to be properly compensated.

I am sympathetic to those good doctors and care givers who must pay soaring insurance bills or be forced to shut down their practices because of the exorbitant cost of liability insurance. Currently, malpractice premiums in my state of New Mexico are relatively low in comparison to those in some other states. However, due to increased concern over other economic and health related issues, we are already feeling the effect of our best physicians leaving the area to work elsewhere. Accordingly, I am extremely sensitive to the impact that increased premiums would present to this already delicate situation.

The vast majority of doctors serve the public well. Instead of a real solution for these reputable doctors, the Leadership's plan punishes the innocent victims of medical malpractice, and does not reduce the premiums for good doctors. To reduce the malpractice premiums physicians pay, reforming the insurance industry and implementing programs to reduce medical errors and cracking down on negligent doctors would be a better solution than the liability caps and tort reform initiatives the Leadership supports today, legislation that directly and adversely affects the victims of medical malpractice and their loved ones.

As our nation's lawmakers, I firmly believe that we must pledge to continue to work with doctors and patients to find equitable solutions for the numerous problems that plague access to quality health care in this country. We must act now to ensure that our good doctors are not unjustly punished for the malfeasance of others, and that everyone who deserves just compensation for wrongful acts or omissions receives adequate remedy.

Regrettably, the Leadership denies us today the opportunity to openly debate the issue or offer alternatives to H.R. 5 on the House floor. Accordingly, I reiterate my opposition to H.R. 5, and state my intent to support a motion to recommit the issue for further consideration.

Mr. FLAKE. Mr. Speaker, today I voted "no" on final passage of H.R. 5, the Help Efficient, Accessible, Low-cost, and Timely Healthcare (HEALTH) Act. My vote was a difficult one, but I am not convinced that the federal government should preempt state law in this area.

Those supporting this bill have made some compelling arguments as to why Congress should step in and institute these reforms. They cite the national nature of insurance plans, whereby a doctor in Arizona might have to pay more for malpractice insurance due to an over-the-top jury award in Texas. They also note that, as doctors close up shop or stop

providing high-risk care in specialties such as emergency medicine and obstetrics and gynecology, patients are forced to cross state lines in order to seek out treatment. We have all watched with dismay as hospitals have been forced to shut their doors and doctors have opted to treat patients without malpractice insurance due to the high costs of premiums. Certainly, the trial attorneys who line their pockets with egregious fees aren't suffering as a result of the mess they've made with unscrupulous lawsuits. These arguments only underscore an already evident need for the states to pursue medical malpractice reforms. However, as one who believes firmly in federalism, I am unwilling to support legislation that would, in effect, preempt the constitution of the state of Arizona, which prohibits caps on damages.

The natural evolution of health care delivery suggests that a federal solution such as H.R. 5 may one day be necessary. Even today, we need tort reform badly. It's up to the states to begin that process, and I plan to be part of those efforts. The states should follow California's example, which has been an undeniable success over the past 25 years.

Mr. CUMMINGS. Mr. Speaker, I rise today in opposition to the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act.

Each year tens of thousands of people die or suffer needless pain and deformity from preventable medical errors. I believe, as I am sure many of my colleagues believe that these Americans, whose families suffer tremendously as a result of these injuries and deaths are entitled to compensation. This compensation should not be decided by Congress but rather by a jury or judge in the prevailing jurisdiction which has made a decision based on the merits and facts of those cases.

Mr. Speaker, I think we need to focus on what's at stake here. We are talking about limiting meritorious claims. Claims of those like the little girl in North Carolina who received the improper blood type during her transplant and died shortly thereafter. Claims from innocent victims in my district and districts around the country who have received improper treatment or care and will suffer immeasurably as a result.

Mr. Speaker, for every \$100 spent on health care in America, only \$.66 has been spent on malpractice insurance. As patients are most often victimized by repeat offending doctors, this bill does nothing to reduce negligence by doctors and hospitals, but decreases incentive to improve patient safety.

Mr. Speaker, we are not talking about frivolous claims as the Republicans would have us believe. In fact, this bill will not limit any frivolous claims nor will it lower insurance premiums. Instead it is a band-aid approach to a huge problem. The Conyers-Dingell bill would have implemented the type of reform necessary to lower medical liability premiums for doctors through imposing anti-trust regulations on the insurance industry, but unfortunately the American people will not ever hear of this comprehensive plan. Again, the Republican-led House Rules Committee has muzzled the voice of the people.

Mr. Speaker, I have heard many members speak of the California plan—also known as MICRA plan. However, the results of California are mixed at best. It is reported that in fact after passing MICRA, the actual premiums of California doctors are 8 percent higher than in

states without caps and health care costs continue to rise. In fact the state of California subsequent to MICRA had to pass insurance reform to stop skyrocketing premiums that helped only fatten the pockets of the insurance companies. That is exactly what H.R. 5 will do, fatten the pockets of the insurance companies, who are trying to compensate for the investment losses made in the stock market.

Finally Mr. Speaker, H.R. 5 will also preempt state law—which sets its caps or sets no caps based on the input of its people. I would like to point out that in my own State of Maryland which as a cap on non-economic damages, over three times higher than that in H.R. 5 I might add, that the medical insurance premiums are still higher than those in the adjacent District of Columbia which has no caps. This is the shell game that the insurance companies are playing—and the American people are the losers.

It is for these reasons that I will vote against H.R. 5, and I urge my colleagues to vote against H.R. 5.

Ms. HARMAN. Mr. Speaker, I support California's MICRA, but H.R. 5 is not MICRA and I rise with some reluctance to oppose it.

As the daughter and sister of medical doctors, I understand better than most the chilling effect unlimited medical liability awards have on the practice of medicine.

Indeed, my father, who had a practice in Culver City, California, retired from practicing medicine in the mid-1970s because of the alarming increase in premiums. Only after his retirement did California enact its Medical Injury Compensation Reform Act—or MICRA.

MICRA is an experiment in limiting non-economic and punitive medical liability damage awards—and it has succeeded. For medical doctors, MICRA has provided stability in insurance premiums. For patients, it reduced meritless claims and accelerated the time in which settlements can be reached.

I strongly support MICRA, although before extending it to the entire nation, I would propose adjusting the \$250,000 cap on punitive and non-economic awards, first enacted in 1975, to reflect its current value.

Though H.R. 5 adopts the structure of MICRA, it is weighted down by dubious procedural and substantive roadblocks for a variety of causes of action against HMO's, nursing homes, and insurance companies—areas where the California legislature has enacted significant protections for patients. California's medical professionals oppose the inclusion of these provisions under H.R. 5's MICRA-like caps and procedures.

Last year, I voted for H.R. 5—with the hope and expectation that improvements would be made in conference with the Senate to narrow its egregious provisions. This did not happen, and constructive amendments offered in the Energy and Commerce Committee were opposed on near-party line votes.

The closed process by which we are considering this important bill today belies any desire by the majority to make the improvements I believe are necessary.

I cannot support the bill again in its present form. Hopefully, changes will be made in the Senate to align it more closely with California's MICRA, with the modification of the caps I noted earlier. If this happens, I will support the conference report.

Medical professionals should be able to practice in a climate of certainty, and patients

should be charged reasonable rates for quality care. This is what I support for every community in the country. This is not what H.R. 5, in its present form, delivers.

Mr. OXLEY. Mr. Speaker, medical malpractice lawsuits are increasingly being used to enrich lawyers at the expense of patients and doctors. We would never close the doors of our legal system to people who have legitimately suffered. But the abuse of the system is threatening the quality of care delivered by our doctors and hospitals. According to the Ohio State Medical Association, 76 percent of Ohio doctors say insurance costs have affected their willingness to perform high-risk procedures. I've met with doctors in my district who say these high costs might force them to retire. My rural district cannot afford to lose quality physicians.

This is clearly an issue of tort reform, not insurance regulation. State insurance commissioners strictly regulate liability insurers. Companies are not permitted to raise their premiums to make up for past losses. Malpractice insurance premiums are skyrocketing because over the last decade there has been an explosion in the number of lawsuits and particularly large awards, some reaching lottery proportions. That's something the market will reflect.

Reasonable limits on non-economic damages are a sensible way to make sure that malpractice lawsuit awards address actual damages. They work, without compromising legal rights or physician vigilance. Ohio is a case in point. When my state placed caps on these awards in 1975, insurance premiums dropped. When this cap was overturned, lawsuits . . . and therefore, costs . . . went up almost immediately. What changed was the behavior of lawyers, not doctors.

H.R. 5, the HEALTH Act, is a surgical solution to a crisis that spans from the operating room to the court room. I urge its adoption.

Mrs. BIGGERT. Mr. Speaker, I rise in support of H.R. 5, the HEALTH Act.

Frivolous 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, procedures and treatments out of fear.

Those were the primary issues a panel of experts highlighted at a medical malpractice forum I hosted last summer in my congressional district.

At this forum, the doctors, hospital administrators, and other medical personnel that deal with these issues on a daily basis said these cracks in our medical system are driving physicians and hospitals out of business. They simply cannot afford the exorbitant malpractice insurance rates that result from these frivolous lawsuits. As a result, they are forced to close their doors, limiting patients' access to care.

Even if doctors can afford to stay in business, they cannot make decisions based solely on their patient's best interest. With the threat of malpractice suits constantly hanging over their heads, they must act in ways to protect themselves from being sued.

Take for example, the case of a five-year-old boy in my district who was hit by a car and sustained a broken leg, along with a minor skull fracture. Usually, in these sorts of cases, a neurosurgeon would monitor the patient, to make sure his brain injury remained stable. Because of malpractice concerns and excessive insurance premiums, no neurosurgeons

at that hospital or in the area could afford to treat patients under the age of 18. In Illinois, a staggering 85 percent of neurosurgeons are sued for malpractice at least once in their careers.

Without a neurosurgeon to follow the patient, the child had to be transferred to another hospital and undergo an ambulance ride with a broken leg. Once he reached the other hospital, there was no pediatric neurosurgeon available, so the orthopedic trauma surgeon had the child placed in traction. This involved inserting a pin into the patient's leg just above his knee to hang the weights that pulled on the leg, and keeping him in traction for a few weeks.

After two days, his parents wanted their child to be transferred back to the original hospital closer to home. This meant that the child had to endure another ambulance ride in vulnerable condition.

My point here is not that frivolous lawsuits hurt doctors; it's that they end up hurting patients—in this case, a five-year-old.

Are some malpractice lawsuits necessary? Absolutely. Patients must have access to justice and restitution. But it is wrong when trial lawyers can exploit the system through frivolous or unlimited suits. And it is wrong to jeopardize patients' access to healthcare.

Mr. Speaker, Congress has twice before had the opportunity to fix the malpractice system and I have supported these attempts. The good news is that we have another chance today to take a big step toward preserving the long-term viability of the medical system in Illinois and around the country.

I urge my colleagues to join me in supporting H.R. 5. It is time for Congress to enact common sense liability reforms that safeguard patients' access to care.

Mr. STARK. Mr. Speaker, I rise in strong opposition to H.R. 5, 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 designed to protect bad doctors, HMOs, and other health care providers from being held accountable for their actions. Either way, this bill is harmful to consumers and should be defeated.

The Republican Leadership has once again brought forth a bill that favors their special interests at the expense of patients and 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. Unfortunately, this bill attempts to achieve that goal solely on the backs of American's patients. I said, "attempts to achieve that goal" intentionally.

Despite the rhetoric from the other side, there is absolutely nothing in H.R. 5 that guarantees a reduction in medical malpractice premiums. There is not one line to require that the medical malpractice insurance industry—in exchange for capping their liability—return those savings to doctors and other providers they insure through lower malpractice premiums. To quote one of many economists on this matter, Frank A. Sloan, an economics professor from Duke, recently said, "If anyone thinks caps on pain and suffering are going to work miracles overnight, they're wrong." In

fact, the outcome of this bill could have zero impact on lowering malpractice premiums and instead go into the pocketbooks of the for-profit medical malpractice industry. Of course, the bill's proponents avoid mentioning that very real possibility.

Proponents of this bill like to say that they are taking California's successful medical malpractice laws and putting them into effect for the nation. This is also hyperbole. California did not simply institute a \$250,000 cap on medical malpractice awards. The much more important thing that California did was to institute unprecedented regulation of the medical malpractice insurance industry. This regulation limits annual increases in premiums and provides the Insurance Commissioner with the power and the tools to disapprove increases proposed by the insurance industry. It is this insurance regulation that has maintained lower medical malpractice premiums. Yet the bill before us does absolutely nothing to regulate the insurance industry at all.

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 can be attributed to medical malpractice costs—that's one half of one percent. So, supporters are spreading false hope that capping medical malpractice awards will reduce the cost of health care in our country by any measurable amount. It won't.

What supporters of this bill really 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 reasonably compensate victims for the harm that has been done to them.

H.R. 5 caps non-economic damages. By setting an arbitrary \$250,000 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 artificially and arbitrarily lower awards for those without tremendous earning potential. This means that a housewife or a senior would get less than 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.

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.

This Congress has been unable to pass a Patients' Bill of Rights to protect the rights of patients enrolled in managed care plans. Thankfully states have not been similarly immobile. They have moved ahead and enacted numerous laws to hold HMOs and other health plans accountable for the care they provide to patients—and any harm they may cause in that process. My home state of California has enacted strong legislation in this regard. If H.R. 5 becomes law, those laws will be overridden. It is not just consumer advocates who

are concerned about this. Steven Thompson, lobbyist for the California Medical Association, was recently quoted in the Sacramento Bee as saying, "The California law we supported was intended to protect doctors and hospitals—people who deliver care, but the health plans would benefit from the way the House bill is laid out." In other words, this bill is anti-Patients' Bill of Rights. Despite years of fighting in Congress to hold health plans accountable for their abuses, this bill actually protects them! I will not support any bill that precludes states from moving ahead to protect consumers—especially when Congress has proved incapable of addressing their needs.

The issue of rising malpractice insurance costs is a real concern. I support efforts by Congress to address that problem. That's why I would have voted for the Democratic alternative legislation that Representatives CONYERS and DINGELL brought to the Rules Committee last night. Unlike H.R. 5, the Dingell-Conyers alternative would not benefit the malpractice insurance industry at the expense of America's patients. Instead, it addresses the need for medical malpractice insurance reform—learning from the experience of California—to rein in increasing medical malpractice premiums. Rather than enforcing an arbitrary \$250,000 cap, the bill makes reasonable tort reforms that address the problems in the malpractice arena—penalties for frivolous lawsuits and enacting mandatory mediation to attempt to resolve cases before they go to court. It also requires the insurance industry to project the savings from these reforms and to dedicate these savings to reduced medical malpractice premiums for providers. The Dingell-Conyers bill (H.R. 1219) is a real medical malpractice reform bill that works for doctors and patients alike.

The Democratic alternative bill is such a good bill that the Republican leadership refused to let it be considered on the House floor today. They were afraid that if Members were given a choice between these two bills, they would have voted for the Democratic bill. Once again the House Republican leadership has used their power to control the rules to stymie democratic debate.

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 provides vital patient 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. LANGEVIN. Mr. Speaker, I rise today in strong opposition to H.R. 5, the Help Efficient, Accessible, Low Cost, Timely Health Care (HEALTH) Act, because this unhealthy act would severely limit patients' rights to sue for medical injuries while having virtually no impact on the affordability of malpractice insurance coverage. Because there is no provision in this measure requiring insurers to lower their rates once these so-called reforms are in place, it would leave countless patients deprived of relief while failing completely to help our struggling health providers.

Like many of my colleagues, I am deeply troubled by the rising cost of malpractice in-

surance. Doctors across the country are being adversely affected by an increase in medical liability insurance premiums. These increases are making it more costly for physicians to practice, and rising insurance rates could eventually mean that patients no longer will have easy access to medical care. Doctors completing residencies in expensive areas are seeking better rates elsewhere, and physicians already in the market are leaving.

There is wide agreement that something must be done to ensure reasonable rates and protect access to health care. Unfortunately, nothing in this legislation would decrease premium costs or increase the availability of medical malpractice insurance. Instead, it would make detrimental changes to the health care liability system that would extend beyond malpractice and compromise the ability of patients and other health care consumers to hold pharmaceutical companies, HMO's and health care and medical products providers accountable.

For example, the three-year statute of limitations on malpractice suits contained in this legislation is more restrictive than most state laws, and could cut off legitimate claims involving diseases with long incubation periods. Thus, a person who contracted HIV through a negligent transfusion but learned of the disease more than three years after the procedure would be barred from filing a claim.

In addition, H.R. 5 would arbitrarily limit non-economic damages to \$250,000 in the aggregate, regardless of the number of parties against whom the action is brought. This cap would hurt patients like Linda McDougal, whose breasts were needlessly amputated due to a doctor's carelessness, and Jessica Santillan, who died after her doctor transplanted organs with an incorrect blood type into her body. It would disproportionately impact women, children, elderly and disabled individuals and others who may not have significant economic losses from lost wages or other factors but are still suffering very real injuries, such as the loss of a limb, pain and disfigurement, the loss of hearing or sight, or the loss of mobility or fertility. Surely, the impact of these injuries on their lives cannot be quantified at less than \$250,000.

As an individual who was paralyzed at the age of sixteen when a police officer's gun accidentally discharged and severed my spine, I find this provision particularly offensive and callous. After my accident, my medical expenses were outrageously high, and amounted to more than most people make in a year. Although there is no amount of money that can ever return what was taken from me, I was awarded non-economic damages in the lawsuit my family filed shortly after my accident. Granted, my condition was not the result of medical malpractice, but had the non-economic damages in my case been capped, my life would have been profoundly affected because I would not have been fully compensated for my future health care needs. Likewise, I would not have been afforded the opportunity to attend college or had the hope of beginning a new life. While our civil justice system has determined that it is the injured party who deserves the greatest measure of protection, I find it a great disappointment that attempts to limit remuneration to victims of malpractice still persist.

In 1976, California enacted the Medical Injury Compensation Reform Act, MICRA, which limits non-economic damages to \$250,000,

and is similar to the cap being proposed in this legislation. However, in the twelve years following the enactment of MICRA, California's medical malpractice liability premiums actually increased by 190 percent. It took enactment of insurance reform in 1988 that mandated a 20 percent rate rollback to finally lower and stabilize malpractice premium rates. It is important to note, however, that California's rates are no lower than the national average. Moreover, California's 1976 cap on non-economic damages is now worth only \$40,389, in 2002 dollars. As a result, a patient would need to recover \$1,547,461 in 2002 for the equivalent medical purchasing power of \$250,000 in 1976.

Further, H.R. 5 would completely eliminate joint liability for economic and non-economic loss, preventing many injured patients from being compensated fully. Joint liability enables an individual to bring one lawsuit against multiple entities responsible for practicing unsafe medicine or manufacturing a dangerous, defective product and have the defendants apportion fault among them, if the jury finds for the plaintiff.

Rather, our top priority in reforming America's health-care system should be reducing the shameful number of preventable medical errors that kill nearly 100,000 hospital patients a year—the equivalent of three fatal plane crashes every two days. In fact, only five percent of doctors account for 54 percent of malpractice payments. Earlier this year, the New England Journal of Medicine reported that surgical teams leave clamps, sponges and other tools inside about 1,500 patients nationwide each year. Making it more difficult for these victims to seek compensation will not lead to safer medicine; it will only protect egregious medical malpractice behavior.

Moreover, there is no evidence that the tort reforms proposed in H.R. 5 would guarantee a decrease in insurance rates. In fact, the average liability premium for both internal medicine and general surgery in 2001 was actually higher in states with caps on damages than in states without caps. The proponents of this measure claim that limiting "frivolous lawsuits" will lower premiums. However, a study that appeared in the New England Journal of Medicine in 1991 concluded that only about 2 percent of those injured by physicians' negligence ever seek compensation through a lawsuit. Recent studies show that this figure remains unchanged. That means that even completely eliminating medical liability would have virtually no impact on the cost of health care. Do we need to find a way to lower insurance and health care costs? Absolutely. Is H.R. 5 the way to do it? Absolutely not.

Instead, I plan to support the Democratic motion to recommit, which would allow patients to seek redress and provide assistance to physicians and hospitals in need. Specifically, this alternative would end frivolous lawsuits by requiring affidavits to be filed by qualified specialists certifying that the case is meritorious. It would also establish an independent advisory commission to explore the impact of malpractice insurance rates, particularly in areas where health care providers are lacking. Again, I would urge my colleagues to oppose the underlying bill, and to support the Democratic alternative.

Mr. EVANS. Mr. Speaker, in my tenure in Congress, I have been dedicated to reforming many aspects of the health care system to

promote the highest quality health care benefiting the greatest number of Americans. Mr. Speaker, I do not believe that the HEALTH Act would contribute to this goal.

This legislation blatantly advances the political agenda of the insurance companies. It does nothing to address the looming health care crisis we face where over 40 million Americans are without health insurance, access to quality care, or an ability to afford even basic screenings and medicines. This legislation would place a \$250,000 limit on non-economic damages in malpractice suites brought against medical professionals. I cannot support limiting non-economic damages awards because I do not believe we have the authority to place an arbitrary dollar amount on the value of a person's health or life.

These payments compensate patients for very egregious injuries, such as the loss of a limb, vision impairment, and infertility. The loss of a child or spouse can also fall under the limiting category of non-economic damages. These damages are so wide and varying that a one-size-fits-all approach just will not suffice. Further, limiting payments would disproportionately affect women, children, the elderly, the disabled and others that may have endured indescribable suffering, yet cannot claim a loss of wages or salary. To limit payments on meritorious cases involving legitimately injured patients is a step in the wrong direction for both the best interests of patients and for the discussion on truly lowering malpractice insurance costs.

I do not believe that this legislation is particularly effective. These severe limitations would do little to lower insurance rates. For example, California, which has an equivalent cap on non-economic damages, has medical malpractice rates that are 19 percent higher than the countrywide average. It is crucial that a number of factors must be addressed to find an acceptable, working solution to this problem.

I support the alternative bill on which the Republican Congress refused to allow us to deliberate. That we are not allowed to debate on the Democratic alternative erodes the democratic process of which our government was founded and of which rules this House.

The Conyers-Dingell substitute would repeal the federal anti-trust exemption for medical malpractice insurance. This would increase competition and lower premium costs. The bill I support reduces the amount of frivolous lawsuits filed by providing severe penalties to lawyers who submit cases either without certification of merit or with a false certification of merit. I find the mandatory mediation provision in the Democratic substitute to be especially pertinent and of tantamount importance in approaching a viable solution to this complex problem. Mediation and the establishment of an alternative dispute resolution system will allow both defendants to reduce their litigation costs and victims to gain fair compensation.

I urge my colleagues to vote down H.R. 5 and demonstrate their support for a Democratic alternative which will truly begin to curtail ghastly expensive medical malpractice insurance costs.

Mrs. CHRISTENSEN. Mr. Speaker, H.R. 5 is but another wolf in lamb's clothing pretending to help doctors and patients, but really only helping the large healthcare corporations while doing nothing to help lift the malpractice burden from doctors and other providers or to

ensure fair treatment to their patients. Health care professionals need to see through this sham.

I am a family physician. I see my classmates and other doctors, excellent ones, many who have never been sued, struggling to keep their offices open under the pressure of outrageously high malpractice insurance premiums. Physicians are desperate for relief from their premiums. Unfortunately, the organizations representing physicians have been strongly supporting H.R. 5 possibly thinking that it is the best they can get, but it is not.

It is truly a disservice to all of us that the Conyers-Dingell bill was not allowed consideration and debate. H.R. 5 does not even compare and is a poor attempt at a solution to this complicated problem.

In fact, H.R. 5 is not of any help at all as has been proven in several states. This is politics and special interest legislation pure and simple, and our patients and us should not be the pawns in this game.

This bill is another assault on the poor and minorities as well because regardless of their needs their awards will be capped at low levels. The cornerstone of H.R. 5 is a \$250,000 cap on non-economic damages modeled after the arbitrary \$250,000 cap instituted in MICRA. Compensation for economic damages for minorities is often much less than those awarded to white males, and \$250,000 in 1975 is the equivalent of \$855,018 in 2003. H.R. 5 puts values on human life and suffering that none of us can measure. H.R. 5's severely restricted the statute of limitations would further hurt minorities because they often have less exposure or access to medical care which causes them to often discover their injuries later.

What my physician colleagues and all health providers need is real reform. We need to address all of the factors that cause the rise in premiums. We need to create legislation that includes the measures which have worked in the states that have successfully addressed this issue and brought relief to their health providers. H.R. 5 doesn't do any of this.

I call on my colleagues to defeat this bill, and then join with our colleagues JOHN CONYERS and JOHN DINGELL to pass a bill that incorporates the measures that will most effectively reduce premiums, and bring relief not to HMO's, but to those who really need it, the health professionals and the patients who depend on their services.

Mr. BLUMENAUER. Mr. Speaker, I am convinced action is needed to stabilize the delivery of health care, particularly for small communities and for medical specialties plagued by extraordinarily high premium rates. It is unacceptable to have prices spiraling so out of control that care is prohibitive for many doctors and patients. I am open to a range of alternatives to provide a long-term solution. This bill focuses only on capping damages to lower premiums, citing California's MICRA legislation as its model. Unfortunately, it ignores the other methods used in California, which may have had more impact over the long-term. The cap is eroding patients' rights by failing to provide for inflation and H.R. 5 suffers the same flaw.

The Republican alternative is simply an attempt to provide a partisan political response, rather than a serious effort at bipartisan legislative action. This bill is being rushed through the legislative process without an opportunity

for amendment and with little relationship to the proposal that is likely to emerge from the Senate. Last fall, I voted against the same bill when it came to the floor. Unfortunately, the Republican proposal is still just a bargaining position, not a legislative solution.

It's very unlikely that this bill will be enacted into law, and if it was, it would be highly unfair to the people that I represent. I will continue to work with physicians and others in the health care community, and those who are involved and interested in patients' rights. We've missed an opportunity to advance more carefully crafted bipartisan solutions at this juncture, but there will be a time to do so in the future, and I look forward to participating in that fashion.

Mrs. BONO. Mr. Speaker, I rise today in support of H.R. 5 and the physicians that work tirelessly to care for the sick and injured.

I have witnessed first-hand the crux of the issue about which we debate today. My father worked as an ENT surgeon for 19 years in Southern California, both before and after California's MICRA law was enacted. He has also helped me to better understand the issues that those in private practice face and we both have an appreciation for the problems our doctors face. Living in Southern California my entire life has also allowed me to witness the changes that have taken place with regard to medical liability reform.

Numerous doctors from Southern California have contacted me about the benefit that they have seen from the liability laws that exist in our state and realize how much it has affected their ability to treat more patients effectively. Still, other states are witnessing a serious reduction in care, particularly in vital specialties including those that affect expectant mothers.

We face a vote today on an issue that centers on the ability of our doctors to practice the science that saves lives daily in our country. Currently physicians in many states face the reality of not being able to keep their practice running. Our problems cannot be solved by the trend of defensive medicine, as they can only lead to higher costs to the patient, the insurer, and the doctor. The ultimate price is paid when a defensive procedure costs not only money but the life of a patient.

It is unfortunate that many frame this debate in terms of political ideology. How can we continue to demoralize our doctors from working in the field that they love and providing care for those who are suffering? H.R. 5 is about tempering skyrocketing insurance premiums across the country. H.R. 5 is about providing real access to care and the continued ability for our health care system to run effectively in times of state and national budget deficits.

But, most importantly, Mr. Speaker, H.R. 5 is about allowing our doctors to help millions of people every year in the practice that they know better than any trial lawyer or bureaucrat in Washington, DC.

Mr. Speaker, I encourage my colleagues to support H.R. 5.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise in strong support of H.R. 5, the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act. I would also like to thank Chairman TAUZIN for his excellent work on this vital subject.

Mr. Speaker, it is unfortunate that we have to take this action today. I am a firm believer that everyone should have their day in court if they feel they have been wronged. However,

inherent in this right is the assumption, if not the obligation, that this course of action will be used judiciously. However, that is not what has occurred. Medical malpractice litigation has become an industry in and of itself, with trial lawyers seeking out sympathetic courtrooms and juries where frivolous claims will be given undue credence. The courts should be forums to redress wrongs, not lotteries.

We are now reaping the results of this litigious behavior, and the main result is that patients no longer have access to the healthcare they always assumed would be there. Doctors are leaving the communities they have served for decades. Try to get pre-natal care in Las Vegas. Try to see a neurosurgeon in Mississippi. They aren't there anymore. We have seen the doctors in West Virginia and New Jersey actually go on strike to protest the absurd rise in malpractice premiums due to frivolous lawsuits. I have spoken to doctors in my district that simply cannot afford their malpractice premiums anymore, and they are looking to us for help. We can have it one way or the other—we can continue on the current path, where every visit to the doctor is seen as a potential windfall, or we can take these necessary actions to return an element of sanity to the malpractice equation.

I support H.R. 5 because I believe it will ultimately allow many doctors to continue practicing medicine, and thus ensure our constituents continue to have access to the care they need. This legislation does not let anybody off the hook—bad doctors will still be held accountable for their actions and patients injured through negligence will still have fair recourse. It simply prevents the trial bar from completely ruining our health care system. I urge my colleagues to give H.R. 5 their support.

Mr. BACHUS, Mr. Speaker, under Alabama law, punitive damages are the only damages available in wrongful death actions. Therefore, under H.R. 5, absence action by the Alabama Legislature, the maximum recovery for wrongful death (of, say, a 30-year-old father of three) resulting from medical malpractice would be limited to (no more than) \$250,000. In good faith, I could not support such a result.

Mr. JONES of Ohio, Mr. Speaker, this past December in West Virginia, doctors at four hospitals went on a 30-day strike to protest climbing malpractice insurance rates. Following, in January 2003, Pennsylvania narrowly averted a strike only after a last-minute deal was made between the doctors and then governor-elect Ed Rendell. Similar occurrences in other states have made me shudder about the possibilities of similar events occurring in Northeast Ohio. The Cleveland Clinic, University Hospitals, and their affiliates serve as Ohio's premier medical facilities and I recognize the value that professionals working at those institutions provide to the Greater Cleveland community. Recent editorials in newspapers across the country have highlighted the frustrations experienced by medical professionals. These serve as a sounding call to Congress to readdress tort reform and medical malpractice.

Although I am greatly concerned about the rising costs of insurance premiums, especially for certain high-risk medical procedures, and the subsequent decline in the availability of health care that results from doctors retiring or moving their practices, I am not convinced that tort reform is the panacea to the spiraling increase in medical malpractice premiums.

Studies and anecdotal evidence clearly show an absence of correlation.

In 1995, Texas passed a series of tort law restrictions that advocates claimed would lower the cost of insurance in Texas by \$864 million a year. Legislation was also passed mandating that any savings from such tort law restrictions be passed on to consumers. Despite claims made by proponents of the legislation, overall insurance premium savings in Texas, including any that might be attributed to changes in tort law, have been minimal. Yet since that legislation was passed, insurance company profits have skyrocketed in Texas. This pattern has been evident in several other states that have initiated tort reform legislation.

In March 2002, the American Insurance Association (AIA) commented that lawmakers who enact tort reform should not expect insurance rates to drop further. The AIA is a major trade group of the insurance industry and their comment strengthens my belief that tort reform is not the solution to higher insurance premiums. Furthermore, in a response to a study by the Center for Justice & Democracy, the AIA stated, "the insurance industry never promised that tort reform would achieve specific premium savings."

Although I am troubled by the possibility of insurers not issuing policies to medical practitioners in Ohio, it would be a mistake to simply credit lack of tort reform as the reason. For example, Missouri found itself in a similar situation several years ago and instituted tort reform legislation in the form of caps on non-economic damages for medical malpractice suits. Yet Missouri continues to have fewer insurers offering services to doctors. In addition, insurance companies that issue policies have not lowered premiums and have continued to enjoy hefty profits.

Differences in the price of identical policies between different states can be attributed to factors other than whether that state has enacted tort reform measures. For example, comparable premiums in Ohio are lower in California primarily due to the fact that California has one of the strictest sets of insurance regulations in the nation as a result of Proposition 103.

Tort reform advocates often call for caps on punitive damages and pain and suffering awards as one of their top priorities. These calls are usually accompanied by citing some of the outrageously high verdicts awarded to plaintiffs. But they neglect to cite the fact that judges often exercise their authority to reduce these verdicts or that they are reduced in the appeals process. Further, calls for tort reform are often just a form of scorn toward trial lawyers who may receive fees of between 30 and 40 percent of verdict amounts. But those advocates fail to note that trial lawyers typically take cases knowing that they could lose—and not receive any compensation for their work.

Finally, the tort reform argument often neglects to mention an important party in any malpractice suit—the injured plaintiffs or their families. A recent report by the Institute of Medicine estimates that as many as 98,000 hospitalized Americans die each year as a result of medical errors. This is more than the number of deaths attributable to breast cancer or car accidents. Tort reform advocates, in their zeal to denounce trial lawyers and boost insurance company premiums, are tacitly saying that grievously injured victims of medical errors or their families deserve only minimal

compensation for their injuries. Passage HR 5 will have an arbitrary and cruel effect on legitimate victims of medical malpractice.

Since 1994, the House of Representatives have passed bills limiting malpractice awards. Some of these bills take the further step of removing state malpractice claims into the Federal courts. Each time, however, these bills have failed to get the 60 Senate votes necessary for passage. As expected this issue has arisen with full force in the 108th Congress. Yet the facts remain the same: This legislation neglects plaintiffs' rights, limits state trial court judges' discretion, and fails to show any tangible net benefit to doctors who purchase premiums while simultaneously result in higher profits for insurance companies.

Rather than focusing on implementing malpractice caps legislation that will not solve the problem of rising premium rates, Congress (and doctors and their regulatory boards) should be more vigilant in enforcing laws that cap the numbers of hours worked by residents (fatigue is often cited as a major contributor to medical errors), adopting a uniform system for reporting and analyzing errors nationwide, and coordinating patients records (while taking care to protect privacy) so that doctors can easily gain access to a patient's complete medical history.

But while I cast my vote against H.R. 5, I remain committed to ensuring that the medical practitioners and facilities in this country remain a viable part of their communities' health care system. My alarm at the possibility of a medical practitioner talent drain caused by ever increasing medical malpractice premiums is real but I am committed to the conclusion that federal tort reform is not the solution.

Ms. LINDA SACHEZ of California, Mr. Speaker, I rise in opposition to H.R. 5 and to the rule that cut off any debate on a highly controversial bill with far-reaching consequences. The Majority has refused to permit consideration of any amendments whatsoever, going so far as to deny Democrats the opportunity to offer a substitute to the underlying bill.

There is no doubt that most Americans have a real problem accessing affordable health care. And it is true that we have some serious problems keeping specialists in practice and keeping trauma centers open. However, in seeking to address these problems, my Republican colleagues have come up with H.R. 5, a bill that caps a medical malpractice victim's recovery.

H.R. 5 is a deplorable bill. It is the most simplistic and useless method for addressing very real problems with our medical community. It is a ridiculous piece of legislation that is akin to trying to put out a forest fire with a squirt gun.

Supposedly, the goal of H.R. 5 is to stabilize medical malpractice insurance rates. But contrary to my colleagues' assertions, placing a cap on victim's recovery will not magically keep medical malpractice insurance rates from rising. It will not keep trauma centers from closing. It will keep specialists practicing medicine.

H.R. 5 only focuses on restricting injured patients' access to justice. H.R. 5 is modeled after California's Medical Injury Compensation Reform Act, known as "MICRA". My Republican colleagues love to sing the praises of MICRA.

However, as a Representative from California, I happen to know a lot about MICRA.

MICRA's caps on pain and suffering damages have not reduced insurance rates for doctors in my state. MICRA was signed into law in 1975, but stability in medical malpractice insurance rates did not occur after MICRA was passed. Between 1975 and 1993, in fact, health care costs in California rose 343 percent, nearly twice the rate of inflation. Not only that, but the California costs exceeded the national average each year during that period by an average of 9 percent per year.

Any rate stabilization that has occurred in California is not due to caps, but to Proposition 103, which went into effect in 1990. Proposition 103 was an insurance reform initiative that changed California's insurance laws from a so-called "open competition" to a "prior approval" regulatory system. Prop. 103 requires insurers to obtain approval of rate increases. But even with enactment of Proposition 103, rates in California have stayed close to national premium trends.

Medical malpractice insurance rate hikes are cyclical. They tend to be at their highest when insurance companies' investment income is at its lowest. Tort caps have not and do not eliminate this cyclical pattern.

I'm not the only one who has said that tort caps alone will not lower insurance rates. I would like to quote just a few other individuals who have made similar statements:

"Insurers never promised that tort reform would achieve specific savings."—American Insurance Association

"We wouldn't tell you or anyone that the reason to pass tort reform would be to reduce insurance rates."—Sherman Joyce, president of the American Tort Reform Association

"Many tort reform advocates do not contend that restricting litigation will lower insurance rates, and I've never said that in 30 years."—Victor Schwartz, general counsel to the American Tort Reform Association

Insurance companies are reluctant to look at any role they may play in the increasing liability insurance rates. Yet, their investment practices have made it nearly impossible for them to balance paid claims with premiums. Capping damages for plaintiffs is only one part of the stabilization equation. In order to bring about true stabilization, we must reform the insurance industry.

H.R. 5, without insurance reform is meaningless. H.R. 5 simply re-injures the legitimate victims of medical malpractice.

Had we been given the opportunity, Democrats would have offered a substitute crafted by Representative DINGELL and CONYERS. That substitute takes concrete steps to eliminating frivolous lawsuits. It requires insurance companies to share their savings with doctors and patients. It evaluates the causes of insurance rate increases and proposes solutions. In short, it seeks to deal with the problem of rising medical malpractice insurance rates by addressing all aspects of the problem—insurance companies, doctors, patients, and the tort system. It would have been the comprehensive and fair way of fighting the real problem. This legislation would have prevented the forest fire before it began.

The Members of this House—and the general American public—deserve the opportunity to consider a real proposal to address the medical malpractice insurance rate crisis. I urge a no vote on this rule.

Mr. UDALL of Colorado. Mr. Speaker, I regret that I cannot support this legislation.

I do think that high premiums for malpractice insurance are a serious problem for doctors in many states. And I agree with the bill's supporters that this is a problem for those who need medical services, because it tends to make health care less available.

I would like to do something about that problem—but I think that if Congress is going to act, it should do so in a way that is both better balanced and better focused than the bill the House is debating today.

The need for balance and focus is all the greater when Congress considers legislation that would apply everywhere and would override a number of different State laws, including laws related to the relations between Health Maintenance Organizations (HMOs) and individual patients.

Over the years, many of our colleagues—particularly those on the other side of the aisle—have been outspoken about the problems associated with that kind of top-down, one-size fits-all approach to a problem that can be addressed by State legislators who are in a better position to respond to the particular circumstances of their constituents.

I haven't always agreed with those criticisms, but in this case I think they are appropriate.

For example, Colorado law places limits on the amounts that can be awarded in some lawsuits against doctors. I do not think the Colorado law is perfect, but I do think that our legislature is in a better position to judge such matters than the Congress—especially when we are forced to act under the kind of restrictive rules the one that applies to this bill.

I hoped the Republican leadership would let the House consider amendments that could have made this bill more effective and better balanced. However, that did not happen, and now we are forced with a take-it-or-leave-it choice—a "my way or the highway" approach to legislating that is unworthy of this House.

Under those circumstances, and after careful consideration, I have decided I cannot support the bill. I am not persuaded that it will have a significant effect on the premiums doctors have to pay for malpractice insurance—or at least an effect great enough to warrant the reduction in the ability of injured people to win redress of their damages.

We have heard much about "frivolous" lawsuits—and I think there really are some. But not every lawsuit is frivolous—some are well-founded, because sometimes people really are hurt by negligence or other improper conduct. If I were persuaded that this bill struck the right balance, reducing the risks of frivolous lawsuits without unduly affecting the others—and if I were persuaded that as a result escalating insurance premiums would be effectively restrained—I would support it.

But as it is, I am not persuaded of those things and so, given the sole choice of a yes or no vote, I must regretfully vote no.

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 women unable to find a qualified obstetrician in their city. Therefore, I am pleased to see Congress address this problem.

However this bill raises several questions 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. 5 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. 5 does contain some positive elements. For example, the language limiting joint and several liabilities to the percentage of damage someone actually caused, is a reform I have long championed. However, Mr. Speaker, H.R. 5 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. Ironically, H.R. 5 actually increases the risk of frivolous litigation in some states 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. 5 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. 5 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 no reason why questions of the assessment of liability and compensation cannot be determined by a private contractual agreement between physicians and patients.

I have introduced the Freedom from Unnecessary Litigation Act (H.R. 1249). H.R. 1249 provides 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, such as my Quality Health Care Coalition Act (H.R. 1247), 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 losses in the stock market.

In conclusion, Mr. Speaker, while I support the efforts of the sponsors of H.R. 5 to address the crisis in health care caused by excessive malpractice litigation and insurance premiums, I cannot support this bill. H.R. 5 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. STRICKLAND. Mr. Speaker, I speak on the floor today in opposition to H.R. 5 and in opposition to the closed rule under which we are debating the bill.

I have heard from doctors and hospitals throughout my district that they are struggling with high malpractice rates. I think we all recognize that this is a big problem in many regions of the country, and I believe we must take action to ensure patients can continue to access quality and timely health care. In my rural Ohio district, access to care is a constant problem for many of my constituents. I hear the voices of the family practice physicians who tell me they no longer may be able to afford to deliver babies. In some cases in Ohio, pregnant women must travel long distances for prenatal care and delivery services because there is only one doctor providing these services throughout a county. Something must be done, but I do not think H.R. 5 gets it done.

These are the reasons I have cosponsored H.R. 1124, which has been introduced by Rep. DINGELL. H.R. 1124 would address high malpractice rates through moderate tort reforms, requiring attorneys to submit a certificate of merit declaring a case to be meritorious, and requiring medical malpractice insurance companies to dedicate at least 50 percent of the savings from these tort reforms to reducing the insurance premiums paid by physicians and other health professionals. In addition, H.R. 1124 attempts to look at the broad issues that may have contributed to the high malpractice rates doctors across the country are facing by establishing an independent advisory commission on medical malpractice insurance. I wish Congress had acted quickly and in a bipartisan fashion last year—had we done so, we may already have more answers about why rates are now as high as they are. And finally, H.R. 1124 would create a grants program through the Department of Health and Human Services to ensure that areas affected by high malpractice rates do not suffer a shortage of providers. However, we will not even hear debate about these provisions or others because the Leadership passed a closed rule that limits debate to the base bill. This does a disservice to the American people, to the House, and to the health care providers we want to help.

I believe H.R. 5 will not address the high malpractice rates our doctors are confronting. H.R. 5 fails to address or even acknowledge the complicated nature of this problem: my colleagues who have introduced H.R. 5 haven't considered how the insurance industry may have contributed to the high rates or considered how individual states' systems have affected malpractice rates.

Throughout the Energy and Commerce Committee's consideration of H.R. 5, I spoke about two provisions in H.R. 5 that I strongly oppose.

First, H.R. 5 would limit the liability of HMO's, drug companies, and nursing homes. These companies have never come to me to explain why their liability should be limited; in fact, I strongly believe consumers should have the right to use every tool possible to collect damages if they are injured by a drug or device company whose product is defective. My constituents have access to prescription drugs—the drugs are there in the pharmacy, ready to be purchased, and the drug companies aren't going out of business. Unfortunately, many of my constituents, especially seniors, can't afford to pay the prices these companies are charging. Since the drug companies are doing quite well, I think it's safe to say that they don't need the further protections H.R. 5 would afford them.

Second, I cannot support H.R. 5 because of its \$250,000 limit on noneconomic damages. Noneconomic damages are awarded by a jury to compensate a victim for intangible pain and suffering. These noneconomic damages compensate for real, permanent harms that are not easily measured in terms of money, including blindness, physical disfigurement, loss of fertility, loss of limb, loss of mobility, and the loss of a child.

Noneconomic damages are often very important to low income adults, women, and children who often would not recover a large economic damage award when they are injured. In addition, someone whose injury is purely cosmetic may not have economic damages

because the injury doesn't directly affect his or her ability to work. For example, the facial disfigurement 17-year-old Heather Lewinski has had to live with for the past 9 years because when she was 8 years old a plastic surgeon committed clear malpractice and scarred her for life. The years of pain and suffering Heather has lived with and testified to before the Energy and Commerce Committee two weeks ago are real. Heather's lawsuit against the plastic surgeon who injured her resulted in zero economic damages, but she did receive compensation in the form of noneconomic damages. H.R. 5 would have limited her award to \$250,000. I cannot vote for legislation that would arbitrarily limit the damages that might be so important to the average American who finds themselves injured through medical malpractice. Although proponents of H.R. 5 contend that the bill will limit frivolous lawsuits, I believe it will not do so; instead, this provision would arbitrarily cap meritorious claims of malpractice.

I ask my colleagues: if we trust our jury system to make decisions about life and death, I believe we must be able to trust that jury system to make decisions about money.

The increase in malpractice rates is a huge problem for doctors and hospitals, and that is why I wish this bill had been crafted with input from the leaders of both parties. At the least, I wish we had the benefit of an open rule that would allow real debate here on the floor. I will not support this bill because I think it fails to prevent frivolous lawsuits, fails to address the problems with the insurance industry, and fails to provide direct relief to communities that are struggling with access problems resulting from high malpractice rates.

Mr. SHAYS. Mr. Speaker, I rise in support of the medical malpractice reforms contained in H.R. 5, the HEALTH Act. This legislation will help prevent frivolous litigation and significantly limit the practice of "defensive medicine," which has contributed to spiraling health care costs.

H.R. 5 caps noneconomic at \$250,000, but doesn't place any limit on the economic damages which plaintiffs can recover. Excessive jury awards have driven the cost of health care up for everyone, so in my mind, there has to be a limit on how much juries can award victims in non-economic and punitive damages. The HEALTH Act is critical to retarding the explosion in health costs and making insurance more affordable to the 41 million Americans who lack it.

The dramatic increases in insurance rates which many physicians have experienced over the past year also prevent them from actually practicing medicine. Many physicians I have spoken to are at wits' end trying to figure out how to maintain their practice and pay these exorbitant costs.

On March 4, the American Medical Association added Connecticut to the list of states facing crises in their medical malpractice insurance rates. The organization also cited Connecticut as a state where a large number of physicians have ended their practices because of the high medical malpractice insurance rates.

These malpractice reforms, which are based on a proven California law, will make much-needed changes to the federal civil justice system without denying the legal rights of legitimate plaintiffs. It is imperative we move forward on this reform to discourage abuse of

our legal system and curb the unsustainable growth of medical costs in our country.

Mr. Speaker, I strongly support the HEALTH Act because it will bring meaningful reform to a flawed system. I urge my colleagues to vote for this legislation.

Ms. KILPATRICK. Mr. Speaker, H.R. 5 is the Republican's quick fix to the health care crisis across the nation. They address the problem of increased insurance cost for medical malpractice, but have proposed a contorted theory for fixing it. An in-depth look at H.R. 5 shows that it does absolutely nothing to implement ways to decrease insurance premium costs, and furthermore, it does initiate means to increase the availability of medical malpractice insurance. For the foregoing reasons, I voted "no" on this passage.

H.R. 5 will limit the amount of non-economic damages that a patient can recover in a malpractice suit and it sets a bar for punitive damage recovery that is nearly impossible to reach. Overall, this bill limits the amount of recovery for all patients by providing a one-size-fits-all solution. How can we limit what a jury can award to an individual who has lost her/his right to reproduce because of a doctor's or medical manufacturer's negligence? How can we limit damage awards to an individual who has been paralyzed as a result of their negligence? How can we set a standard that is so difficult to meet that it will reduce the opportunity that plaintiffs will have to punish these defendants for their malicious acts? H.R. 5 is moving away from fixing the crisis in our health care industry and leaning towards making it worse by essentially punishing the victims.

Mr. Speaker, we need a bill that acts fast to help doctors and the medical industry sustain themselves financially. Right now, as we debate H.R. 5, thousands of doctors are leaving their respective states because they cannot afford the high insurance premiums. Doctors are now taking on much heavier loads of patients, much more than some of them can handle. To such an extent, some say that their situation is ripe for potential negligence cases, as they are not able to devote the attention necessary for the patient. They need our help now, Mr. Speaker, and we cannot change their situation by selling unfounded limits on non-economic damages.

Additionally, we must work to curb rogues from bringing fraudulent malpractice claims that flood our courtrooms, which are factored into the issue of high insurance premiums. For example, we should not prohibit a justified victim from receiving \$750,000 in non-economic damages, but rather, we should aim to deter those rogues from each bringing fraudulent claims for non-economic damages worth \$250,000. H.R. 5 does not provide for any differentiation between legitimate claims and the many unwarranted claims that bring a halt to judicial economy every day.

The Democratic substitute is superior because it would have sought and punished rogues for bringing fraudulent cases. It would not have capped non-economic damages or punitive damages. The substitute commissioned a study to assess the medical malpractice issue and determine how we can better address and then eliminate the problem. As for the current crisis, the substitute would authorize the Department of Health and Human Services (HHS) to provide grants to geographic areas that experienced extreme

shortages of health providers due to the high premiums.

Although the Democratic substitute was superior for this crisis situation, the Republicans used their control of the House to prevent the substitute from being brought to the floor for a debate, along with any amendments that Democrats would have offered. This is undemocratic and an irresponsible use of leadership. The House floor is where all members should have the opportunity to discuss various ideas, views or bills from both sides of the aisle. To preclude that possibility is undemocratic. Mr. Speaker, I do not agree with the Republicans regulation of this very important issue and I also vehemently disagree with H.R. 5.

Mr. COSTELLO. Mr. Speaker, I rise today in opposition to H.R. 5, the HEALTH Act. There is no question that medical liability insurance rates are out of control. These high insurance costs are threatening to put many doctors and other health care professionals out of business and limit access to health care. However, I cannot in good faith support legislation that limits the rights of patients, victims, and their families while protecting the health insurance industry. HMOs and big health insurers should not receive special treatment; they are not above the law and should not be exempt from responsibility through this legislation.

Under H.R. 5, insurance carriers can still raise rates any amount, at anytime. The Republican Leadership refused to allow free and fair debate by not allowing a substitute or any amendments to be debated and voted upon by the House of Representatives. The substitute would reform malpractice insurance carriers, which is essential in solving the medical liability crisis. It would also weed out frivolous lawsuits without restricting the rights of legitimate claims.

H.R. 5 is a one-size-fits-all approach that places caps on non-economic and punitive damages and does not address the issue of frivolous lawsuits. When a stay-at-home mother, child, or senior citizen dies or suffers irreversible harm, there is no economic loss because it is impossible to prove damages from loss of income. H.R. 5 takes away the rights of parents who lose children, husbands who lose wives, children who lose parents, and patients who have very real losses that are not easily measured in terms of money. These caps imposed in H.R. 5 unfairly take away the rights of victims of medical malpractice to receive compensation for their injuries.

H.R. 5 is modeled after the state of California's 1975 reform laws; however, my Republican colleagues give a false impression of the ramifications of that law. For more than a decade after California passed the 1975 law limiting damages in medical malpractice lawsuits, doctors' premiums continued to rise faster, overall, than the national rate of inflation. Once voters enacted Proposition 103, a measure to cap all insurance rates in California, premiums leveled off. The ballot initiative curbed the premiums, not the law implementing caps.

Physicians in Illinois and across the country are facing skyrocketing medical liability premiums, and for many providers, medical liability insurance is either unaffordable or completely unavailable. I believe something needs to be done to derail frivolous lawsuits and reform the insurance industry. Insurers' business practices for accounting and pricing have con-

tributed sharply to the current problem. H.R. 5 does not reform the insurance industry, places unfair, restrictive caps on victims, and does not address frivolous lawsuits. For these reasons, I oppose H.R. 5.

Mr. GARRETT of New Jersey. Mr. Speaker, it's always easier to fix blame than to find a solution. That's certainly true when it comes to the health care accessibility crisis we have right now in America.

In state after state, including my home state of New Jersey, doctors are closing down or limiting their practices. Trauma centers are shutting their doors, and overall health care costs are rising dramatically because of medical liability problems. Who suffers? Thousands upon thousands of individual patients who need care—some who need critical care.

Rather than solve this problem, some people want to distort the facts and point fingers to serve a large political agenda. They'd sacrifice access to medical care as part of their effort to prevent tort reform of any kind.

Today, I have heard allegations that the real culprit is the lack of regulation over insurance company investment practices and pricing. As the former chairman of the New Jersey Assembly Insurance Committee, I can assure you that this is simply not the case. Insurance is a highly-regulated industry, where state insurance departments oversee nearly every aspect of the marketplace, including product pricing and insurer investment practices.

To be more specific, state insurance laws do not allow insurance companies to raise rates to make up for past investment losses. As Steve Roddenberry, a top Florida insurance official, said recently, and I quote, "We cannot permit it." Furthermore, the stock market has very little influence on companies who write medical malpractice insurance. In 2001, stock market investments made up just 9 percent of the industry's portfolio. Just 9 percent.

So it's simply not true that the lack of insurance regulation is causing premium increases. But what is causing those increases?

In large part, it's because the insurers are paying out more than they're taking in. That's right—insurance is an income-and-expense business just like any other. And in today's medical malpractice marketplace, companies are being forced to spend more on claims than they can collect in premiums.

The bottom line? The average medical malpractice insurance company is paying out \$1.50 for every dollar it collects. That's not a recipe for success in the business world.

And that's why we have this crisis.

As long as insurance companies, many of which, by the way, are owned directly by their insured doctors, are faced with these losing scenarios, pressures on rates will continue unless something is done about what causes those companies to lose money.

This leads me back to my original point. If the doctors and nurses and hospitals who care for our children, our seniors, and the neediest among us cannot afford to deliver that care, we have a much bigger problem than who's making some money in the stock market. And rather than point fingers, it's time we address the real issue of lawsuit abuse, so we can solve the problem and let the health care system start working again.

Mr. Speaker, patient access to care in jeopardized. Physicians are being forced to limit services and practice defensive medicine and patients are bearing the burden, often being

forced to travel hundreds of miles to the next available doctor in order to receive life-saving care.

I strongly encourage my fellow members to pass the HEALTH Act, providing a much-needed, common sense solution toward reforming America's medical justice crisis. Together, let's ensure that patients get quality care first rather than going to court.

Mr. DEFAZIO. Mr. Speaker, I attempted to offer three of the thirty-one amendments to H.R. 5, the HEALTH Act, last night. Inexplicably, these were disallowed out of hand.

This rule is an abuse of the process. Yes, it might be payback to the Democrats based on some revisionist history, but more importantly, it's a payoff to the Republicans' generous benefactors in the insurance industry, and through this bill, a payoff to the pharmaceutical industry.

The Republicans claim that the underlying bill, H.R. 5, will control insurance costs through so-called "tort reform." This bill won't do that. In fact, in 1999, a senior executive at the American Tort Reform Association conceded that "We wouldn't tell you or anyone that the reason to pass tort reform would be to reduce insurance rates."

This is the third crisis in medical malpractice in 25 years. Each of these "crises" happens to coincide with recessions, stock market downturns, and insurance industry investment losses.

The insurance industry is an equal opportunity market abuser. They legally can and regularly do collude to raise rates and limit availability of all lines of insurance. If this "crisis" in medical malpractice insurance is due to a malpractice crisis then why also is there a crisis in health insurance, homeowners' insurance, auto insurance, and general liability insurance? Health insurance costs are up 13 percent, homeowners insurance, 8 percent, and auto insurance, 8.5 percent. Maybe it's time the insurance industry was subject to the same laws as other industries.

Mr. Speaker, the solution that will bring relief and improve access to our nation's physicians will start with a repeal of the antitrust exemption of the insurance industry. Legislation like H.R. 5 simply allows the insurance industry to profit off the backs of both doctors and patients.

Mr. KIND. Mr. Speaker, I rise today in opposition to the HEALTH Act, H.R. 5. Although I support the concept of sensible medical malpractice laws, this bill goes too far in defending negligence and not far enough in protecting patients.

In my home state of Wisconsin, we have medical malpractice laws that work. The components of this successful law include a cap on non-economic damages of \$442,000, which is indexed annually for inflation; a requirement that all providers carry malpractice insurance; and a victims' compensation fund.

The victims' compensation fund is a unique entity that has served both patients and health care providers well. The fund operates by collecting contributions from Wisconsin health care providers and paying the victims once an award has been determined. The physicians are liable only for the first \$1 million in an award. If the award exceeds \$1 million, the compensation fund will pay the remainder of the award.

A major problem with H.R. 5 is that it goes beyond medical malpractice law by including

the provisions regarding pharmaceutical and medical devices. The bill completely exempts from liability medical device makers and distributors as well as pharmaceutical companies, as long as the product complies with FDA standards. These provisions would have no effect on medical malpractice insurance rates. Instead, they would leave victims with little recourse and render them unable to hold pharmaceutical companies and the makers of defective medical products accountable for faulty or unsafe products.

Another problem with H.R. 5 is that it overrides some state laws. While the bill would not override Wisconsin's own cap on non-economic damages, it would supersede our state laws regarding statute of limitations, attorneys' fees, and the criteria for punitive damages. This bill is a one-size fits all solution that is not right for Wisconsin.

Although I oppose H.R. 5, I agree that medical malpractice issues must be addressed. Unfortunately, H.R. 5 is modeled after California's law, not Wisconsin's statutes. The successful components of Wisconsin's medical malpractice laws could be the basis for a much better bill. I urge my colleagues to go back to the drawing board to craft a consensus piece of legislation that both protects patients and keeps physicians in business. In Wisconsin, we are proud to have laws that effectively accomplish both of these goals. These laws are threatened, however, by the current proposal. Therefore, I oppose H.R. 5.

Mr. SHAW. Mr. Speaker, I rise today in strong support of H.R. 5, the HEALTH Act. America's doctors are facing a full blown crisis. What's at stake is nothing less than the survival of the profession. What's to blame is astronomical medical liability insurance rates.

Patients have watched helplessly as physicians have had to limit services or close their doors altogether and flee the state in search of more business friendly environments. Even worse, many young people who dreamed of studying medicine are choosing not to, realizing they won't be able to reconcile their dream with the reality of making a living.

In my state of Florida, the situation is among the worst in the nation. The American Medical Association has labeled Florida as one of 19 "in crisis" regarding medical liability which can reach sums of over \$200,000 annually. When it's easier to sue a doctor than to see a doctor, something has to be done.

We know that the reforms in the HEALTH Act will actually lower the overall cost of healthcare. Doctors, laboring under a constant fear of being sued, have a natural tendency to practice defensive medicine—ordering tests that may not be needed or refusing to perform more risky procedures. The direct cost of malpractice insurance and the indirect cost from defensive medicine raise the federal government's health care cost by at least \$28 billion a year.

It is clear that the current system of dispute resolution is not working. The entire industry suffers for the few bad eggs out there. Only 5% of doctors account for more than half of all the money paid out in malpractice suits, but all doctors pay the costs in their premiums. I believe it will take reform on the federal level to get the country's health system back on course and out of the courtroom and I therefore, support the HEALTH Act. I urge a "yes" vote on H.R. 5.

Mr. BISHOP. Mr. Speaker, I rise today to oppose H.R. 5.

Mr. Speaker, this bill is dangerous because it proposes a one-size-fits-all limit, regardless of the circumstances. It supersedes the laws of all fifty states and will not solve the problem of high insurance costs.

The real culprit is the insurance industry. All insurance premiums—including medical malpractice, automobile and homeowner policies—have seen a drastic increase in the past few years. These increases are not unique to medical malpractice. When the stock market returns and interest rates are high, malpractice premiums go down. When investment income goes down insurance companies increase premiums and reduce coverage. This is a fabricated "liability insurance crisis." What we actually have is an "insurance malpractice crisis."

Those who support restrictions on medical malpractice awards must explain these arbitrary limits to the parents of Jessica Santillan, the young girl who died after receiving the wrong organs from a heart and lung transplant operation at Duke University Hospital.

Because of cases like this, Congress must expand, not limit patient's rights.

This bill does not address the high cost of insurance. Instead it limits meritorious cases and valid judgments. An exhaustive study of the court system by the University of Georgia concluded that "there is no evidence of an explosion in tort filings, and there are few signs of run-a-way juries." In contrast, this bill will hurt real people with real losses. I urge my colleagues to vote against this bill and defeat this fraud on the public.

Mr. CROWLEY. Mr. Speaker, a lot of people on the other side have one crucial fact wrong—capping medical malpractice awards does not mean insurance rates will fall.

I have charts here that compare the average insurance premium for states with damage caps versus the average insurance premium for states with no caps.

For OB/GYN doctors, supposedly a group especially hard hit by medical malpractice awards—we find that OB/GYNs in states without caps on damages pay \$44,485 in insurance. OB/GYNs in states with caps on damages pay \$43,010—a "whopping" 3.4 percent difference.

For general surgery doctors, they pay \$26,144 in premiums if they are in a state with no caps on damages. They pay \$602 more—not less—if their state caps malpractice awards.

Look, if we want to decrease medical malpractice insurance costs for doctors, then let's talk about that.

Let's talk about investigating insurance company pricing practices.

Or, if we want to cap something, then let's cap the actual problem, insurance rates.

But to put the blame for rising insurance costs on victims—that's not only cruel, it's completely false.

Mrs. MCCARTHY of New York. Mr. Speaker, I rise today in strong opposition to H.R. 5, the HEALTH Act. As a nurse, I understand all too well the high cost of malpractice insurance and I recognize the crisis this is creating in our healthcare system, particularly in areas of high-risk procedures. I want a solution to fix this problem, but H.R. 5 is not the solution to helping this crisis.

H.R. 5 will only make this crisis worse. H.R. 5 exempts HMOs, pharmaceutical companies, and the FDA from punitive damage awards.

This means that HMOs will continue to make medical decisions for patients based on what's best for their bottom line and not what is best medicine for the patients they serve. Under this legislation, a pharmaceutical company manufactures a drug or the FDA approves a product that proves to be harmful or deadly, a patient's family is limited in their recourse. After last year's Congressional debate, on the need to hold HMOs accountable for their actions I am shocked that anyone who supported the Patient's Bill of Rights can vote for this legislation.

In addition, by capping the punitive damages to \$250,000, this bill unfairly penalizes children, the elderly, and mothers who stay at home since it is impossible to prove economic damages from lost wages. The only compensation these patients have is non-economic or punitive damages.

Mr. Speaker, I am appalled at the arrogance of the Republican leadership, for prohibiting Members from offering any amendments to improve this legislation in any way shape or form.

Mr. Speaker, had I been allowed to offer an amendment, I would have offered the following to improve this legislation:

Reducing frivolous lawsuits.—We need to limit the amount of time during which a patient can file a medical malpractice action to no later than three years from the date of injury, or three years from the date the patient discovers the injury. And require an affidavit by a qualified specialist before any medical malpractice action may be filed. This "Qualified Specialist" would be a health care professional with knowledge of the relevant facts of the case, expertise in the specific area of practice, and board certification in a specialty relating to the area of practice.

Reducing premiums.—We should require medical malpractice insurance companies to annually project the savings that will result from the anti-price fixing mechanisms required by the Democrat substitute. Insurance companies must also develop and implement a plan to annually dedicate at least 50 percent of those savings to reduce the insurance premiums that medical professionals pay.

Solving healthcare professionals shortage.—We need to provide grants or contracts through the Health Resources and Services Administration (HRSA) to geographic areas that have a shortage of one or more types of health providers as a result of dramatic increases in malpractice insurance premiums.

Mr. Speaker, I urge all my colleagues to vote against H.R. 5.

Mr. WYNN. Mr. Speaker, the issue of high premiums for medical malpractice insurance is an important issue to doctors and patients. It is important that we lower insurance premiums, giving patients greater access to care. However, I am opposed to H.R. 5, the HEALTH Act.

First, tort reform has historically been the province of the States. All but 14 States, have some form of caps on medical malpractice suits. Thus, there is no need for Federal intervention.

However, I am not convinced that medical malpractice litigation alone has caused the increase in medical malpractice premiums. There is convincing evidence that suggests that the rise in medical malpractice liability premiums stems from poor business practices by many insurance companies. Insurance car-

riers in several cases appear to have relied on the investments in the booming stock market of the 1990s to price premiums at levels below the market price. Today's premiums seem designed to offset losses suffered when the market soured.

Meanwhile, it is unclear that even capping noneconomic damages in medical malpractice cases would lower premiums. Since California passed MICRA and capped noneconomic damages in the 1970s, their premiums have risen at rates above inflation.

Lastly, it took the 1985 passage of Proposition 103, which imposed price controls on premiums, to control the rising costs of premiums in California. Even with caps, California premiums are eight percent higher than in States without caps.

When considering this issue, we should not just consider tort reform, but examine the business and accounting practices of medical malpractice insurance carriers.

In committee, I introduced a substitute amendment to the underlying bill. The amendment would have created a medical malpractice commission to study the rising costs of medical malpractice insurance.

Last year, the Health Subcommittee held a hearing on the rising premiums. However, the committee never adequately considered the impact of the business practices employed by carriers on the rising cost of medical malpractice insurance. That is the real issue.

To date, the government has not fully examined all of the possible root causes for the rise in medical malpractice insurance.

My amendment in committee would have stripped the underlying bill and created a Federal bipartisan commission of eight members to study the cause of rising medical malpractice premiums during the last 20 years.

Specifically, the commission would look at the investment, accounting, and pricing practices of carriers, as well as jury awards in medical malpractice cases to determine what is causing the rise in premiums.

We all deserve our day in court; the case for caps on noneconomic damages has not yet been made. Before placing an unreasonably low cap on noneconomic damages in medical malpractice suits, let's sufficiently study the issue and determine the root cause for the rising premiums.

Mr. PITTS. Mr. Speaker, I rise today in support of H.R. 5.

Medical liability reform is one issue on which we cannot afford to waste time. In my home State of Pennsylvania, medical liability is not just a problem; it's a crisis. Medical liability rates are up 81 percent in Pennsylvania, and higher for some specialties. Every year, \$22 billion is sucked out of the American economy due to excessive medical liability claims. In Pennsylvania alone, there are \$1.2 billion in payouts each year. That's \$1,000 for every man, woman, and child in the Commonwealth. As a result, insurance companies are fleeing and many doctors cannot afford—financially nor professionally—to continue to practice medicine in the State.

Last year, Chester County Hospital, in my district, came very close to taking the drastic step of closing its maternity ward when insurance for the obstetricians skyrocketed. The doctors reported that they would have to discontinue offering care at that hospital. Thankfully, the hospital stepped in at the last minute with a temporary solution and actually put

these independent physicians on their payroll in order to provide coverage for them through the hospital captive insurance company. Since Chester County Hospital does twenty-one hundred or so deliveries a year, this load was too big for other providers in the area to pick up. Women would have had to leave Chester County to have their babies.

Lancaster General Hospital, also in my district, had to abandon plans to open a new clinic to serve the poor in Lancaster City when it learned that it would have to pay \$1.5 million more for malpractice insurance. This is unacceptable. We cannot wait any longer to address this crisis.

Pennsylvania is not alone. In fact, most States face this same crisis. Patient access to health care is on the decline. It is alarming. Unless we can reign in the costs of medical liability, men, women, and children across the country will suffer from lack of access to health care. Our health care system cannot support nor afford the big payouts of medical liability lawsuits.

H.R. 5 is not simply an important bill, but a critical one. It will inject predictability and fairness into the medical liability process.

The bottom line is this: If you care about patient access to health care and are concerned about the rampant increase in the cost of health care, vote for this bill that is before us today.

Vote for H.R. 5.

Mr. NEY. Mr. Speaker, I rise today to express my support for H.R. 5, the Help Efficient, Accessible, Low-Cost, Timely Healthcare Act of 2003. Our healthcare system is currently in a crisis. Medical malpractice insurance rates have risen to epidemic levels in many areas of the country—so much so that it is a national problem, not just a state or local issue. For many physicians, their rates have risen at factors of over four times the level that they experienced when they began practicing medicine.

Mr. Speaker, imagine having to pay upwards of \$130,000 to \$150,000 out of your own pocket to do business. This is what our doctors are experiencing.

Statistics such as these have far reaching implications and effects on our Nation's healthcare system. As insurance rates rise, the costs to do business rise, and the costs to consumers and patients rise. The end result is that hardworking Americans are paying the tab for unwieldy lawsuits. The HEALTH Act will help to lessen the medical liability of healthcare professionals and will thus lower the costs of healthcare to all Americans. It will reduce these lottery style lawsuits and will improve the protections for victims of malpractice.

This bill allocates damages fairly by holding a party liable only for his or her degree of fault. It also requires that a jury be informed of any payments already made, allowing for consideration of payment by other tortfeasors. The act does provide for full compensation of economic damages, such as future medical expenses and loss of future earnings, and it does not limit damages recoverable for physical injuries resulting from a provider's care nor does it cap punitive damages.

Instead, it places reasonable limits on punitive damages. They would be limited to the greater of: Two times a patient's economic damages, or \$250,000. The HEALTH Act does limit unquantifiable, noneconomic damages,

such as pain and suffering, to \$250,000. Patients will also be ensured that there will be funds to cover future medical expenses, and that a damage award will not risk bankrupting the defendants. The bill achieves this by allowing payments for future medical expenses to be made periodically, rather than in a single lump sum.

In conclusion, Mr. Speaker, for the sake of America's patients and healthcare system, I urge my colleagues to put partisanship aside and to pass this important piece of legislation.

Mr. Baca. Mr. Speaker, I come to the floor today in opposition to H.R. 5. I oppose this legislation because it will do nothing to change the current liability rates for doctors and it will punish America's senior, children, and poor people.

People must realize that if this bill is passed, patients will be limited to actual damages only. That means a child or senior citizen who doesn't have income would receive only \$250,000 for their injuries but a CEO with the same injury could be compensated millions simply because his income is higher.

I just don't see the difference. Under this bill if a homemaker or a waitress from my district who works just as hard as a CEO goes into the hospital and is permanently disabled, she would receive \$250,000. But if Bill Gates or Donald Trump goes into the hospital and experiences the same injury, a jury can award them millions.

Why don't the Republicans believe that the waitress or the homemaker deserve just compensation? Why do Republican's believe that a CEO's injury is worth more than our daughter's, son's, parent's, or grandparent's? Once again, we are seeing legislation from the Republicans that benefits only the wealthy.

Insurance companies are currently gouging our Nation's doctors and it needs to stop. But, capping punitive damages at \$250,000 will not help doctors—it will only hurt patients.

I am horrified that my colleagues on the other side of the aisle want to trump the decisions made by juries and tell an injured patient who has just lost their eyesight or a limb due to gross negligence that their injury is worth only \$250,000.

The patient could be in pain for the rest of their life. The Republicans want to take the power to decide away from the jury and tell everyone that their pain and suffering is only worth a mere \$250,000—no matter how painful the injury, no matter how permanent the damage.

And the Republicans think that once medical malpractice claims are capped at \$250,000 that insurance rates will drop. I hate to break it to the Republicans, but we tried that system in California. Over a 12-year-period rates rose 190 percent. It wasn't until we passed sensible insurance reform that doctors experienced relief from staggering insurance rates.

We need to get a grip on insurance rates to help the doctors, but not at the expense of injured patients. H.R. 5 does not make sense, we need to stop further punishing injured patients and pass sensible legislation that really helps doctors.

Mr. MOORE of Kansas. Mr. Speaker, I rise in opposition to H.R. 5.

Last year, when the House approved legislation virtually identical to H.R. 5, I expressed my strong belief that Congress should address the medical malpractice insurance system as a whole. My calls went unheeded.

I believed last year, as I believe now, that a solution to the problem of rapidly rising medical malpractice insurance premiums must address all of the factors that contribute to premium cost. I have spoken with many physicians in my congressional district about this problem, and almost to a person, they agree with my assessment that Congress should look at the entire health care system for a solution to this very complex problem. Neither this legislation nor the hearings held in House committees addressed the pricing and accounting practices of medical malpractice insurance companies. The legislation before us addresses neither the responsibilities of the medical profession, through state medical boards, to police itself, nor the barriers that exist in some states to keep the profession from doing so. This legislation does not provide solutions to address the problem of medical errors nor does it provide one dollar to help hospitals and physicians purchase existing technology that could dramatically reduce those errors. It is also clear that Congress has not clearly thought through the consequences of preempting the traditionally state-regulated and state-monitored field of health care professions.

I truly share the concern of many of my colleagues and those in the medical profession about the rising rate of medical malpractice premiums. Last week, in my office, representatives of the Kansas Medical Society expressed their concern that this legislation is overreaching and a threat to state laws in states like Kansas, where they believe that a delicate balance has been achieved between the interests of injured patients and the medical profession. Notably, many States, including those considered to be in "crisis," have acted or are now acting to get their own houses in order.

Mr. Speaker, I call on my colleagues to reject spurious, ill-conceived and overtly political solutions, and join with me in an effort to attain a comprehensive understanding of our Nation's health care system. Then we can truly find a solution to this very real crisis.

Mr. DELAHUNT. Mr. Speaker, the sponsors of this bill have assured the physicians of America that the bill will lower their insurance premiums. Yet it includes none of the provisions that would be necessary to bring about such a result.

The bill does nothing to reduce the staggering number of medical errors that kill so many thousands of Americans each year.

It does nothing to weed out the five percent of the medical profession who are responsible for 54 percent of the claims.

It does nothing to regulate the rates that insurance companies charge for their policies.

Instead of adopting any of these measures, the Republican majority has chosen to blame the victims—capping jury awards at artificially low levels that are insufficient to meet their needs, and that makes it difficult for them to find a qualified attorney who is willing to take their case.

The cap on non-economic damages is cruellest to the most vulnerable: children and mothers who stay at home. They have no economic damages. No loss of employment. No loss of past and future earnings. No loss of business opportunities. Apart from their medical bills, all of their losses are non-economic—for pain and suffering. Physical impairment. Disfigurement.

It's unconscionable for Congress to deprive these victims of the right to have a jury decide what their pain and suffering is worth.

Stephen Olson was left blind and brain-damaged after an HMO refused to give him an \$800 CAT scan when he was two years old. He'll need round-the-clock supervision for the rest of his life. The jury awarded him \$7.1 million for his pain and suffering. But California has a cap of non-economic damages, so the judge was forced to reduce the award to \$250,000. Is that really all he is owed for the irreversible damage that was done to him?

Linda McDougal receive an unnecessary double mastectomy after doctors mixed up her lab results and erroneously told her that she had breast cancer. Under this bill, would receive a maximum of \$250,000 for her lifetime of pain and disfigurement. Is that really all she is owed? Is that really all the compensation we would wish for our own mothers, sisters, and wives?

The irony is that despite the claims of the bill's supporters, there is no reason to believe that the cap on non-economic damages will have a serious impact on insurance premiums. A report by the New Jersey Medical Society estimated that a state cap of \$250,000 on non-economic damages might result in reductions of, at most, five-to-seven percent. Other studies suggest that insurance rates are affected less by the level of non-economic damages than by the amounts paid out for economic losses.

And in California, whose 1975 Medical Injury Compensation Reform Act, known as MICRA, was the model for many of the provisions of this bill, there is little persuasive evidence that the law has brought about any reduction in premiums. Indeed, a 1995 study concluded that premiums increased dramatically during the decade following enactment of MICRA, and only stabilized once the voters imposed rate regulation under a 1988 ballot measure known as Proposition 103.

The sponsors of the bill are unwilling to take that step. Far be it from them to impose regulation on the insurance industry! Yet when it comes to litigation, these apostles of free markets opt for wage and price controls. They are horrified at the thought that Congress would cap the amount of assets that wealthy bankrupts can shelter from their creditors, but have no compunction about capping the amount that malpractice victims can recover from their injuries.

I suppose it's all a question of priorities. If medical care were really a priority for the majority, we'd be talking about increasing reimbursement rates. Improving the quality of medical training. Providing incentives for doctors to practice in underserved communities. Reducing the paperwork burden that drives dedicated physicians out of the profession. But we can't talk about any of these things. They cost money. And with new tax cuts promised and deficits mounting, investments in the health care system are simply not a priority.

That's why we're debating a bill like this one instead. A bill that does nothing to address the legitimate concerns of physicians, while inflicting further harm on patients who have suffered enough.

Mr. SHUSTER. Mr. Speaker, the rising costs of medical liability insurance in Pennsylvania are among the worst in the country. In fact, Pennsylvania physicians faced a 50 percent increase in insurance costs in 2002, with

an additional 50 percent hike expected this year. Physicians have moved from my district to other States to continue practicing medicine. Recently, one of the most efficient hospitals in my district was literally within an hour of closing its doors when its pathology department could not secure medical liability insurance the 11th hour. The threat of rising medical liability costs to quality patient care in central Pennsylvania is beyond a crisis situation. The time for the House to act is now.

H.R. 5 is common-sense legislation aimed at reducing the skyrocketing medical liability costs that are threatening the availability of quality patient care in Pennsylvania and throughout the country. In addition, H.R. 5 protects the rights of patients with legitimate claims to receive compensation for economic losses, medicals costs, and lost wages.

Mr. Speaker, the threat of frivolous medical liability litigation is endangering the ability of physicians in my district to provide quality patient care. Congress must do its part to ensure access to care is not jeopardized at the expense of lining the pockets of trial lawyers.

I urge my colleagues to vote in favor of H.R. 5.

Ms. MALONEY. Mr. Speaker, I rise today in opposition to H.R. 5, the Medical Liability Limitation Act.

I represent many of the nation's premier health care and biomedical research institutions in the nation. As such, I have worked diligently to represent the interests of my district on health matters.

On this issue in particular, I have met with numerous doctors and I agree, they need relief from the high cost of insurance premiums. Rising health costs are not just impacting doctors. High health costs are hurting consumers, hospitals, employers and the economy, in general.

But H.R. 5 is not the right prescription!

Because of the strict caps for pain and suffering, H.R. 5 will especially harm women, children, the elderly and disabled individuals who may not have significant economic losses to recover. Stay-at-home moms and caregivers for children or the elderly, in particular, will be denied the ability to seek adequate compensation for damages inflicted upon them. H.R. 5 also will be especially punitive to women because many kinds of injuries that happen mostly to females—like those that affect the reproductive system, that cause a loss of fertility, or that are inflicted through sexual assault—are largely compensated through pain-and-suffering awards and other non-economic loss damages.

I met recently with a constituent who was a victim both of medical malpractice and pharmaceutical negligence. When she was in her mother's womb, her mother was prescribed DES at a time when reports about its ineffectiveness and its potential harmful effects on the fetus had already been circulated. Almost two decades later, she developed an adenocarcinoma, an aggressive cancer affecting her reproductive organs. Not only was she then misdiagnosed, her doctor prescribed treatments that were contraindicated and that hastened the growth of her cancer. The misdiagnosis resulted in extensive surgery and reconstruction resulting in her infertility and a lifetime of intense emotional and physical suffering. The pharmaceutical negligence, which was not accurately diagnosed for years—long after the statute of limitations would have ex-

pired under the terms of H.R. 5—has resulted in a lifetime of pain and a mountain of bills for follow-up medical care. If H.R. 5 had been the law when her mother had been prescribed DES, she would never have been awarded enough even to pay her extensive medical bills, let alone compensate her for years of pain and suffering.

For several Congresses, we have worked to pass a patient's bill of rights, to make sure that doctors and patients make medical decisions, not bureaucrats. H.R. 5 is an anti-patient's bill of rights.

H.R. 5 is too broad. Beyond the issue of medical malpractice, H.R. 5 includes severe liability limitations for pharmaceutical companies, medical device manufacturers, nursing homes and assisted living facilities, and insurance companies.

Unlike the Conyers/Dingell alternative which I strongly support, H.R. 5 promises no relief from the high malpractice insurance rates paid by doctors and hospitals and serves as nothing more than a bailout for insurance companies who are passing on their investment losses to doctors.

Vote "no" on H.R. 5.

Ms. DEGETTE. Mr. Speaker, I think we all agree that there is a crisis in medical malpractice insurance rates. Unfortunately, this bill does not mention insurance rates or offer solutions for the doctors who are feeling the burden of high premiums.

H.R. 5 relies on the misconception that savings from malpractice litigation reforms will relieve high insurance premiums. However, litigation is not the cause of high malpractice insurance rates. There has been no increase in the rate of malpractice claims filed in recent years and the average payout has remained steady over the past decade. In fact, the one state that proponents of malpractice litigation reform continually cite as a success is California. What they don't say is that California's malpractice insurance rates only stabilized after the state reformed its insurance system.

Despite this evidence, proponents of H.R. 5 have continued to represent this bill as a relief for physicians, rather than what it really is—a bill that will add additional injury to patients who have suffered from medical malpractice.

H.R. 5 would cap non-economic damages at an arbitrary amount of \$250,000 for people who have been injured by malpractice. Non-economic damages compensate people for injuries that are very real, like permanent disfigurement, loss of sight or a limb, loss of fertility, and wrongful death. The cap on non-economic damages is unfair and should not become law.

This bill tells people like Heather Lewinski, a 17 year old girl who suffered permanent facial disfigurement at the hands of a plastic surgeon who lied to her and her family, that the severe pain, trauma, and suffering that she went through is worth \$250,000. The bill tells people like Linda McDougal, whose breasts were amputated after she had been misdiagnosed with cancer, that the loss of her breasts and dignity is only worth \$250,000. And it tells the family of Jessica Santillan, the little girl who died because the hospital failed to ensure that the heart and lungs she was about to receive would be compatible with her blood type, that their little girl's life was only worth \$250,000.

Some advocates of H.R. 5 say that the bill only caps non-economic damages, not eco-

nomical damages and that a person can receive full economic compensation for their injuries. Yet, this is unfair to the millions of Americans who do not work—retirees, stay-at-home moms, children, and seniors because they do not have economic damages. For example, Heather Lewinski, who underwent surgery when she was only 8 years old, did not have any economic damages. Linda McDougal's medical bills were already paid for and her loss would not directly affect her future earning potential. Yet, she suffered emotional trauma and a loss of dignity. Is her loss worth an arbitrary amount that was determined by a group of politicians? I certainly don't think so.

By adopting strict monetary caps on damages, Congress is creating a solution for a problem that does not exist. Medical malpractice claims are not increasing and juries are not making outrageous awards. According to the National Center for State Courts, there was no increase in the volume of medical malpractice claims between 1997 and 2001. Additionally, of the 16,676 medical malpractice cases with awards in 2001, only 5 percent were for \$1 million or more. Clearly, this represents an extraordinarily small number of cases. I do not believe we should be restricting the rights of patients to receive fair and adequate compensation for their losses because of this very small number of large awards.

If we truly want to fix the real crisis that is plaguing our nation's doctors, we need to take a good look at the insurance industry. According to a study using the insurance industry's own data and conducted by Americans for Insurance Reform, while the total amount paid out over the past decade by malpractice insurers directly tracks the rate of medical inflation, the premiums that insurance companies charge doctors increase or decrease depending on the economy. In my state of Colorado, which has certain caps on damages, insurance companies took in over \$119 million in premiums in 2001. Yet, they only paid out \$36 million.

We should be taking a comprehensive approach to this crisis instead of placing unfair burdens on patients. We should be looking at the insurance cycle, how insurers manage investments and reserves, and financial pressures that health care payers place on providers and how that affects the way care is delivered.

Instead, we are considering a bill that is akin to curing a headache by amputating an arm. Arbitrarily limiting patients' rights is not fair and it will not solve the problem.

Stand up for the rights of patients and oppose this bill.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in opposition to the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act. Tens of thousands of people die each year from preventable medical errors. But rather than reform the medical system to prevent needless deaths and injuries, doctors and big insurance companies are lobbying to limit the rights of injured patients to seek full recovery in the courts. This measure unfairly impacts women and low income patients.

The HEALTH Act (H.R. 5) attempts to address the problem of high insurance costs for doctors by limiting punitive damages in medical malpractice cases to \$250,000 and caps attorneys' fees under the guise of addressing

the rising cost of medical malpractice insurance. H.R. 5 caps non-economic damages in the aggregate—regardless of the number of parties involved in the dispute.

Despite its claim, H.R. 5 does nothing to directly address the problem of rising medical malpractice insurance rates for doctors. Malpractice insurance companies can expect a huge windfall from this legislation because it limits how much they have to pay out in claims, but does not address how much these insurance companies charge in premiums to doctors. The insurance industry has said that there is no guarantee of any specific savings from passage of this type of legislation.

The major malpractice problem facing Texans is the unreliable quality of medical care being delivered, which is a result of frequent medical mistakes and a lack of doctor oversight by the state medical board.

Government data show that “repeat offender” doctors are responsible for the bulk of malpractice payments. Between September 1990 and September 2002, 6.5 percent of Texas’ doctors made two or more malpractice payouts worth a total of more than \$1 billion. These represented 51.3 percent of all payments, according to information obtained from the federal government’s National Practitioner Data Bank. Just 2.2 percent of the doctors made three or more payments, representing about a quarter of all payouts.

For every \$100 spent on health care in America, only \$.66 has been spent on malpractice insurance. As patients are most often victimized by repeat offending doctors (a mere six percent of doctors in Texas are responsible for 46 percent of all malpractice), this bill does nothing to reduce negligence by doctors and hospitals, but decreases incentive to improve patient safety.

Medical errors cause 3,260 to 7,261 preventable deaths in Texas each year. These errors cost families and communities \$1.3 billion to \$2.2 billion annually in lost wages, lost productivity and increased health care costs. In contrast, medical malpractice insurance costs Texas’s doctors less than \$421.2 million annually.

One more time the patient (consumer) gets the lump for being victimized. Vote against this rule and this bill under consideration..

It is for these reasons that I will vote against the rule and the bill, H.R. 5, and I urge my Colleagues to vote against H.R. 5.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 139, the previous question is ordered.

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. I am, Mr. Speaker.

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. 5 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 amendments:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Medical Malpractice and Insurance Reform Act of 2003”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—LIMITING FRIVOLOUS MEDICAL MALPRACTICE LAWSUITS

Sec. 101. Statute of limitations.

Sec. 102. Health care specialist affidavit.

Sec. 103. Sanctions for frivolous actions and pleadings.

Sec. 104. Mandatory mediation.

Sec. 105. Limitation on punitive damages.

Sec. 106. Use of savings to benefit providers through reduced premiums.

Sec. 107. Definitions.

Sec. 108. Applicability.

TITLE II—INDEPENDENT ADVISORY COMMISSION ON MEDICAL MALPRACTICE INSURANCE

Sec. 201. Establishment.

Sec. 202. Duties.

Sec. 203. Report.

Sec. 204. Membership.

Sec. 205. Director and staff; experts and consultants.

Sec. 206. Powers.

Sec. 207. Authorization of appropriations.

TITLE I—LIMITING FRIVOLOUS MEDICAL MALPRACTICE LAWSUITS

SEC. 101. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—A medical malpractice action shall be barred unless the complaint is filed within 3 years after the right of action accrues.

(b) ACCRUAL.—A right of action referred to in subsection (a) accrues upon the last to occur of the following dates:

(1) The date of the injury.

(2) The date on which the claimant discovers, or through the use of reasonable diligence should have discovered, the injury.

(3) The date on which the claimant becomes 18 years of age.

(c) APPLICABILITY.—This section shall apply to any injury occurring after the date of the enactment of this Act.

SEC. 102. HEALTH CARE SPECIALIST AFFIDAVIT.

(a) REQUIRING SUBMISSION WITH COMPLAINT.—No medical malpractice action may be brought by any individual unless, at the time the individual brings the action (except as provided in subsection (b)(1)), it is accompanied by the affidavit of a qualified specialist that includes the specialist’s statement of belief that, based on a review of the available medical record and other relevant material, there is a reasonable and meritorious cause for the filing of the action against the defendant.

(b) EXTENSION IN CERTAIN INSTANCES.—

(1) IN GENERAL.—Subject to paragraph (2), subsection (a) shall not apply with respect to an individual who brings a medical malpractice action without submitting an affidavit described in such subsection if, as of the time the individual brings the action, the individual has been unable to obtain adequate medical records or other information necessary to prepare the affidavit.

(2) DEADLINE FOR SUBMISSION WHERE EXTENSION APPLIES.—In the case of an individual who brings an action for which paragraph (1) applies, the action shall be dismissed unless the individual (or the individual’s attorney) submits the affidavit described in subsection (a) not later than 90 days after obtaining the information described in such paragraph.

(c) QUALIFIED SPECIALIST DEFINED.—In subsection (a), a “qualified specialist” means,

with respect to a medical malpractice action, a health care professional who is reasonably believed by the individual bringing the action (or the individual’s attorney)—

(1) to be knowledgeable in the relevant issues involved in the action;

(2) to practice (or to have practiced) or to teach (or to have taught) in the same area of health care or medicine that is at issue in the action; and

(3) in the case of an action against a physician, to be board certified in a specialty relating to that area of medicine.

(d) CONFIDENTIALITY OF SPECIALIST.—Upon a showing of good cause by a defendant, the court may ascertain the identity of a specialist referred to in subsection (a) while preserving confidentiality.

SEC. 103. SANCTIONS FOR FRIVOLOUS ACTIONS AND PLEADINGS.

(a) SIGNATURE REQUIRED.—Every pleading, written motion, and other paper in any medical malpractice action shall be signed by at least 1 attorney of record in the attorney’s individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer’s address and telephone number, if any. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

(b) CERTIFICATE OF MERIT.—(1) A medical malpractice action shall be dismissed unless the attorney or unrepresented party presenting the complaint certifies that, to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,—

(A) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(B) the claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(C) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

(2) By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person’s knowledge, information and belief, formed after an inquiry reasonable under the circumstances—

(A) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(B) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(C) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are reasonable based on a lack of information or belief.

(c) MANDATORY SANCTIONS.—

(1) FIRST VIOLATION.—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated, the court shall find each attorney or party in violation in contempt of court and shall require the payment of costs and attorneys fees. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit, and sanctions plus interest, upon the person in

violation, or upon both such person and such person's attorney or client (as the case may be).

(2) **SECOND VIOLATION.**—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated and that the attorney or party with respect to which the determination was made has committed one previous violation of subsection (b) before this or any other court, the court shall find each such attorney or party in contempt of court and shall require the payment of costs and attorneys fees, and require such person in violation (or both such person and such person's attorney or client (as the case may be)) to pay a monetary fine. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit and sanctions plus interest, upon such person in violation, or upon both such person and such person's attorney or client (as the case may be).

(3) **THIRD VIOLATION.**—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated and that the attorney or party with respect to which the determination was made has committed more than one previous violation of subsection (b) before this or any other court, the court shall find each such attorney or party in contempt of court, refer each such attorney to one or more appropriate State bar associations for disciplinary proceedings, require the payment of costs and attorneys fees, and require such person in violation (or both such person and such person's attorney or client (as the case may be)) to pay a monetary fine. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit, and sanctions plus interest, upon such person in violation, or upon both such person and such person's attorney or client (as the case may be).

SEC. 104. MANDATORY MEDIATION.

(a) **IN GENERAL.**—In any medical malpractice action, before such action comes to trial, mediation shall be required. Such mediation shall be conducted by one or more mediators who are selected by agreement of the parties or, if the parties do not agree, who are qualified under applicable State law and selected by the court.

(b) **REQUIREMENTS.**—Mediation under subsection (a) shall be made available by a State subject to the following requirements:

(1) Participation in such mediation shall be in lieu of any alternative dispute resolution method required by any other law or by any contractual arrangement made by or on behalf of the parties before the commencement of the action.

(2) Each State shall disclose to residents of the State the availability and procedures for resolution of consumer grievances regarding the provision of (or failure to provide) health care services, including such mediation.

(3) Each State shall provide that such mediation may begin before or after, at the option of the claimant, the commencement of a medical malpractice action.

(4) The Attorney General, in consultation with the Secretary of Health and Human Services, shall, by regulation, develop requirements with respect to such mediation to ensure that it is carried out in a manner that—

(A) is affordable for the parties involved;
(B) encourages timely resolution of claims;
(C) encourages the consistent and fair resolution of claims; and
(D) provides for reasonably convenient access to dispute resolution.

(c) **FURTHER REDRESS AND ADMISSIBILITY.**—Any party dissatisfied with a determination

reached with respect to a medical malpractice claim as a result of an alternative dispute resolution method applied under this section shall not be bound by such determination. The results of any alternative dispute resolution method applied under this section, and all statements, offers, and communications made during the application of such method, shall be inadmissible for purposes of adjudicating the claim.

SEC. 105. LIMITATION ON PUNITIVE DAMAGES.

(a) **IN GENERAL.**—Punitive damages may not be awarded in a medical malpractice action, except upon proof of—

(1) gross negligence;
(2) reckless indifference to life; or
(3) an intentional act, such as voluntary intoxication or impairment by a physician, sexual abuse or misconduct, assault and battery, or falsification of records.

(b) **ALLOCATION.**—In such a case, the award of punitive damages shall be allocated 50 percent to the claimant and 50 percent to a trustee appointed by the court, to be used by such trustee in the manner specified in subsection (d). The court shall appoint the Secretary of Health and Human Services as such trustee.

(c) **EXCEPTION.**—This section shall not apply with respect to an action if the applicable State law provides (or has been construed to provide) for damages in such an action that are only punitive or exemplary in nature.

(d) **TRUST FUND.**—

(1) **IN GENERAL.**—This subsection applies to amounts allocated to the Secretary of Health and Human Services as trustee under subsection (b).

(2) **AVAILABILITY.**—Such amounts shall, to the extent provided in advance in appropriations Acts, be available for use by the Secretary of Health and Human Services under paragraph (3) and shall remain so available until expended.

(3) **USE.**—

(A) Subject to subparagraph (B), the Secretary of Health and Human Services, acting through the Director of the Agency for Healthcare Research and Quality, shall use the amounts to which this subsection applies for activities to reduce medical errors and improve patient safety.

(B) The Secretary of Health and Human Services may not use any part of such amounts to establish or maintain any system that requires mandatory reporting of medical errors.

(C) The Secretary of Health and Human Services shall promulgate regulations to establish programs and procedures for carrying out this paragraph.

(4) **INVESTMENT.**—

(A) The Secretary of Health and Human Services shall invest the amounts to which this subsection applies in such amounts as such Secretary determines are not required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(B) Any obligation acquired by the Secretary in such Secretary's capacity as trustee of such amounts may be sold by the Secretary at the market price.

SEC. 106. USE OF SAVINGS TO BENEFIT PROVIDERS THROUGH REDUCED PREMIUMS.

(a) **IN GENERAL.**—Notwithstanding any other provision of this title, a provision of this title may be applied by a court to the benefit of a party insured by a medical malpractice liability insurance company only if the court—

(1) determines the amount of savings realized by the company as a result; and

(2) requires the company to pay an amount equal to the amount of such savings to a trustee appointed by the court, to be distributed by such trustee in a manner that has the effect of benefiting health care providers insured by the company through reduced premiums for medical malpractice liability insurance.

(b) **DEFINITION.**—For purposes of this section, the term "medical malpractice liability insurance company" means an entity in the business of providing an insurance policy under which the entity makes payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim.

SEC. 107. DEFINITIONS.

In this title, the following definitions apply:

(1) **ALTERNATIVE DISPUTE RESOLUTION METHOD.**—The term "alternative dispute resolution method" means a method that provides for the resolution of medical malpractice claims in a manner other than through medical malpractice actions.

(2) **CLAIMANT.**—The term "claimant" means any person who alleges a medical malpractice claim, and any person on whose behalf such a claim is alleged, including the decedent in the case of an action brought through or on behalf of an estate.

(3) **HEALTH CARE PROFESSIONAL.**—The term "health care professional" means any individual who provides health care services in a State and who is required by the laws or regulations of the State to be licensed or certified by the State to provide such services in the State.

(4) **HEALTH CARE PROVIDER.**—The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(5) **INJURY.**—The term "injury" means any illness, disease, or other harm that is the subject of a medical malpractice action or a medical malpractice claim.

(6) **MANDATORY.**—The term "mandatory" means required to be used by the parties to attempt to resolve a medical malpractice claim notwithstanding any other provision of an agreement, State law, or Federal law.

(7) **MEDIATION.**—The term "mediation" means a settlement process coordinated by a neutral third party and without the ultimate rendering of a formal opinion as to factual or legal findings.

(8) **MEDICAL MALPRACTICE ACTION.**—The term "medical malpractice action" means an action in any State or Federal court against a physician, or other health professional, who is licensed in accordance with the requirements of the State involved that—

(A) arises under the law of the State involved;

(B) alleges the failure of such physician or other health professional to adhere to the relevant professional standard of care for the service and specialty involved;

(C) alleges death or injury proximately caused by such failure; and

(D) seeks monetary damages, whether compensatory or punitive, as relief for such death or injury.

(9) **MEDICAL MALPRACTICE CLAIM.**—The term "medical malpractice claim" means a claim forming the basis of a medical malpractice action.

(10) **STATE.**—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico,

American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and any other territory or possession of the United States.

SEC. 108. APPLICABILITY.

(a) IN GENERAL.—Except as provided in section 104, this title shall apply with respect to any medical malpractice action brought on or after the date of the enactment of this Act.

(b) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this title shall be construed to establish any jurisdiction in the district courts of the United States over medical malpractice actions on the basis of section 1331 or 1337 of title 28, United States Code.

TITLE II—INDEPENDENT ADVISORY COMMISSION ON MEDICAL MALPRACTICE INSURANCE

SEC. 201. ESTABLISHMENT.

(a) FINDINGS.—The Congress finds as follows:

(1) The sudden rise in medical malpractice premiums in regions of the United States can threaten patient access to doctors and other health providers.

(2) Improving patient access to doctors and other health providers is a national priority.

(b) ESTABLISHMENT.—There is established a national commission to be known as the "Independent Advisory Commission on Medical Malpractice Insurance" (in this title referred to as the "Commission").

SEC. 202. DUTIES.

(a) IN GENERAL.—(1) The Commission shall evaluate the effectiveness of health care liability reforms in achieving the purposes specified in paragraph (2) in comparison to the effectiveness of other legislative proposals to achieve the same purposes.

(2) The purposes referred to in paragraph (1) are to—

(A) improve the availability of health care services;

(B) reduce the incidence of "defensive medicine";

(C) lower the cost of health care liability insurance;

(D) ensure that persons with meritorious health care injury claims receive fair and adequate compensation; and

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

(b) CONSIDERATIONS.—In formulating proposals on the effectiveness of health care liability reform in comparison to these alternatives, the Commission shall, at a minimum, consider the following:

(1) Alternatives to the current medical malpractice tort system that would ensure adequate compensation for patients, preserve access to providers, and improve health care safety and quality.

(2) Modifications of, and alternatives to, the existing State and Federal regulations and oversight that affect, or could affect, medical malpractice lines of insurance.

(3) State and Federal reforms that would distribute the risk of medical malpractice more equitably among health care providers.

(4) State and Federal reforms that would more evenly distribute the risk of medical malpractice across various categories of providers.

(5) The effect of a Federal medical malpractice reinsurance program administered by the Department of Health and Human Services.

(6) The effect of a Federal medical malpractice insurance program, administered by the Department of Health and Human Services, to provide medical malpractice insurance based on customary coverage terms and liability amounts in States where such in-

surance is unavailable or is unavailable at reasonable and customary terms.

(7) Programs that would reduce medical errors and increase patient safety, including new innovations in technology and management.

(8) The effect of State policies under which—

(A) any health care professional licensed by the State has standing in any State administrative proceeding to challenge a proposed rate increase in medical malpractice insurance; and

(B) a provider of medical malpractice insurance in the State may not implement a rate increase in such insurance unless the provider, at minimum, first submits to the appropriate State agency a description of the rate increase and a substantial justification for the rate increase.

(9) The effect of reforming antitrust law to prohibit anticompetitive activities by medical malpractice insurers.

(10) Programs to facilitate price comparison of medical malpractice insurance by enabling any health care provider to obtain a quote from each medical malpractice insurer to write the type of coverage sought by the provider.

(11) The effect of providing Federal grants for geographic areas that have a shortage of one or more types of health providers as a result of the providers making the decision to cease or curtail providing health services in the geographic areas because of the costs of maintaining malpractice insurance.

SEC. 203. REPORT.

(a) IN GENERAL.—The Commission shall transmit to Congress—

(1) an initial report not later than 180 days after the date of the initial meeting of the Commission; and

(2) a report not less than each year thereafter until the Commission terminates.

(b) CONTENTS.—Each report transmitted under this section shall contain a detailed statement of the findings and conclusions of the Commission.

(c) VOTING AND REPORTING REQUIREMENTS.—With respect to each proposal or recommendation contained in the report submitted under subsection (a), each member of the Commission shall vote on the proposal or recommendation, and the Commission shall include, by member, the results of that vote in the report.

SEC. 204. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General of the United States.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, medical malpractice insurance, insurance regulation, health care law, health care policy, health care access, allopathic and osteopathic physicians, other providers of health care services, patient advocacy, and other related fields, who provide a mix of different professionals, broad geographic representations, and a balance between urban and rural representatives.

(2) INCLUSION.—The membership of the Commission shall include the following:

(A) Two individuals with expertise in health finance and economics, including one with expertise in consumer protections in the area of health finance and economics.

(B) Two individuals with expertise in medical malpractice insurance, representing both commercial insurance carriers and physician-sponsored insurance carriers.

(C) An individual with expertise in State insurance regulation and State insurance markets.

(D) An individual representing physicians.

(E) An individual with expertise in issues affecting hospitals, nursing homes, nurses, and other providers.

(F) Two individuals representing patient interests.

(G) Two individuals with expertise in health care law or health care policy.

(H) An individual with expertise in representing patients in malpractice lawsuits.

(3) MAJORITY.—The total number of individuals who are directly involved with the provision or management of malpractice insurance, representing physicians or other providers, or representing physicians or other providers in malpractice lawsuits, shall not constitute a majority of the membership of the Commission.

(4) ETHICAL DISCLOSURE.—The Comptroller General of the United States shall establish a system for public disclosure by members of the Commission of financial or other potential conflicts of interest relating to such members.

(c) TERMS.—

(1) IN GENERAL.—The terms of the members of the Commission shall be for 3 years except that the Comptroller General of the United States shall designate staggered terms for the members first appointed.

(2) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) COMPENSATION.—Members of the Commission shall be compensated in accordance with section 1805(c)(4) of the Social Security Act.

(4) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General of the United States shall designate at the time of appointment a member of the Commission as Chairman and a member as Vice Chairman. In the case of vacancy of the Chairmanship or Vice Chairmanship, the Comptroller General may designate another member for the remainder of that member's term.

(5) MEETINGS.—

(A) IN GENERAL.—The Commission shall meet at the call of the Chairman.

(B) INITIAL MEETING.—The Commission shall hold an initial meeting not later than the date that is 1 year after the date of the enactment of this title, or the date that is 3 months after the appointment of all the members of the Commission, whichever occurs earlier.

SEC. 205. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

Subject to such review as the Comptroller General of the United States deems necessary to assure the efficient administration of the Commission, the Commission may—

(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties;

(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission;

(4) make advance, progress, and other payments which relate to the work of the Commission;

(5) provide transportation and subsistence for persons serving without compensation; and

(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

SEC. 206. POWERS.

(a) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

(b) DATA COLLECTION.—In order to carry out its functions, the Commission shall—

(1) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section;

(2) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate; and

(3) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

(c) ACCESS OF GENERAL ACCOUNTING OFFICE TO INFORMATION.—The Comptroller General of the United States shall have unrestricted access to all deliberations, records, and non-proprietary data of the Commission, immediately upon request.

(d) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the Comptroller General of the United States.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this title for each of fiscal years 2004 through 2008.

(b) REQUESTS FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General of the United States submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

Amend the title so as to read: "A bill to limit frivolous medical malpractice lawsuits, to reform the medical malpractice insurance business in order to reduce the cost of medical malpractice insurance, to enhance patient access to medical care, and for other purposes."

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit 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 (Mr. CONYERS) is recognized for 5 minutes in support of his motion.

Mr. CONYERS. Mr. Speaker, this is the Conyers-Dingell motion to recommit. It started out originally as the Conyers-Dingell substitute motion which, in the wisdom of the Committee on Rules and the chair of the Committee on Energy and Commerce, was determined not to be necessary. We did not need to waste this much time worrying or going over the same matter twice. So let us just have a 5-minute discussion on each side about a multi-billion-dollar measure that affects every man, woman, and child in the United States of America. So I will

take a couple of minutes and ask the dean of the House to spend the rest of the time making sure that we all understand what it does.

First of all, we do something about the problem that has been complained of grievously by every Member that has taken to the floor today. We do something about it. That is, we limit frivolous lawsuits by requiring that there is mandatory mediation for every malpractice lawsuit filed in the United States of America and that we require that attorneys' certificates of merit and mandatory sanctions occur. We require that affidavits of merit be provided from qualified medical specialists. We attempt to, in short, weed out frivolous lawsuits that will not restrict the rights of those with legitimate claims. Of course, finally, it is very important to realize that we reexamine the antitrust exemption that has been enjoyed by the insurance industry all of these years.

Mr. Speaker, I am delighted now to yield the balance of the time to the dean of the House, the gentleman from Michigan (Mr. DINGELL).

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

Mr. DINGELL. Mr. Speaker, the bill before us is a bad bill. The motion to recommit is forced upon us by the recalcitrance of the Republican leadership which has not permitted us to offer a substitute. This is the package that we could go home and talk with pride of to our people and to our doctors. It weeds out frivolous lawsuits. It does not restrict the rights of legitimate claimants. It establishes an equitable, 3-year statute of limitation that protects children, the aged, the poor.

It requires affidavits of merit from qualified medical specialists and attorneys' certificates of merit with mandatory sanctions. It requires mandatory mediation. It also allows health care providers to challenge malpractice premium increases. It provides direct assistance to physicians in crisis areas through Federal grants, and it provides direct assistance to medical centers in danger of closing. It repeals the antitrust exemption for malpractice insurance, and it establishes Federal malpractice insurance and a reinsurance program. This is a program that will work.

Under a House in which we had a decent opportunity to debate and amend, Members of this body would understand that this is the package for which they want to vote. They would understand that this is a package which their people wish them to vote for, and I include in that the health care providers. It is a bill, or rather an amendment, which would assure that health care providers would receive the help that they need while, at the same time, not providing unnecessary shelters for HMOs and other undeserving persons who have contrived to leap aboard a vehicle which they think is going out and a situation which per-

mits the doctors to be used as frontmen for a bunch of iniquitous rascals who do not deserve relief.

Mr. CONYERS. Mr. Speaker, we yield back any time that may be remaining.

The SPEAKER pro tempore. Does the gentleman from Louisiana (Mr. TAUZIN) seek time in opposition to the motion?

Mr. TAUZIN. I do, Mr. Speaker.

I first yield to the gentleman from Nevada (Mr. GIBBONS) for a colloquy.

Mr. GIBBONS. Mr. Speaker, I would like to ask the gentleman from Louisiana (Mr. TAUZIN) a question which concerns the relationship of Nevada law and H.R. 5.

In my State of Nevada, we have recently passed a law that sets forth a \$350,000 cap for noneconomic damages, but it has some exceptions. I would like to know how this legislation applies in this circumstance.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman. Subparagraph 11(c)(1) says: "Any State law, whether effective before, on, or after the dates of the enactment of this Act that specifies a particular monetary amount of compensatory or punitive damages, or the total amount of damages, that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided under this Act."

Nevada's \$350,000 cap generally fits the terms of this subparagraph and would generally apply. The handling of the exceptions is not specifically stated in the legislation. I would be prepared to work with the gentleman to discuss these exceptions as we move further in the process of this legislation.

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for his response, and I look forward to working with him on this matter.

Mr. TAUZIN. Mr. Speaker, the Dingell motion offers us a different solution than H.R. 5. Interestingly enough, not a single one of the 175 health care organizations and associations, doctors across America, endorses that solution.

□ 1445

But they have all endorsed H.R. 5. And let me explain to you why the doctors and the health care organizations have not endorsed the Dingell solution and have endorsed H.R. 5. By the way, the Committee on Energy and Commerce took a vote on the general substance of this motion to recommit and voted 30 to 20 against it and it was not a party line vote. Let me tell you why it was defeated, why so many organizations opposed it. Because what it generally offers is not insurance reform but a Federal commission, another bureaucracy to study the problem and to make recommendations one day to us.

We have studied this problem ad infinitum. We have held numerous hearings. The States have experienced this problem going back 25 years and they

have offered us a solution. We are following their lead after 25 years of experience. Do we really need another Federal commission? No insurance reform, just a commission? And then to solve the problem of high malpractice liability coverage, this is the Dingell motion to recommit solution, not a single limitation at all on recoveries, unlimited recoveries as in current law, not a single cap on any kind of damages. Instead we get an attorney's certificate of merit. An attorney's certificate of merit. We get the trial lawyer to say, I think I have got a good lawsuit, and that is the solution.

Mr. Speaker, when an attorney signs a petition, when he signs the most egregiously incorrect, horribly drafted, when he signs the most inappropriate false petition, when he signs his name on it he is attesting to the validity of that petition. It may be a bad petition. It may be the most horrible lawsuit ever filed. It may get dismissed on the first motion to have it dismissed, but when he signed his name on it, he said it was a good petition.

So what does the Democratic motion to recommit tell us? We are going to solve this problem in America by having the same attorney sign a certificate that he has got a good suit, that he has got a good petition. Wow, that will really solve the problem.

I think you see why now that solution has been rejected by 175 organizations representing the doctors, the nurses, all the organizations across America who are crying to us for relief, who are telling us we are tired of petitions signed by lawyers that have no merit, that drive up medical malpractice suits, that drive us out of business and deprive the citizens of our country needed medical care when their loved ones need it the most. They are crying to us for help and the victims that came to us in our committee room and said, for God's sake, it is horrible when somebody commits a medical error, but it is also terrible when the doctor is not there when my child is sick, when my husband has been horribly mutilated in an automobile accident, when my daughter is trying to deliver her first child and there is no doctor there willing to do it because the cost of liability insurance is too high. They are crying to us to do something today. The motion to recommit tells us, well, let us just trust the lawyers and create a Federal commission. Whoopie-ding.

What do we tell those victims when we said all we did was trust the lawyers and created another Federal commission? I did not come here to create new Federal commissions to tell us what the problems were and what the solutions were. I came here like the rest of you, to figure out what the problems were and to solve them. H.R. 5 solves this program and deserves to be passed. This motion to recommit needs to go down.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the pre-

vious 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 191, nays 234, not voting 9, as follows:

[Roll No. 63]

YEAS—191

Abercrombie	Grijalva	Napolitano
Ackerman	Gutierrez	Neal (MA)
Alexander	Hall	Oberstar
Allen	Harman	Obey
Andrews	Hastings (FL)	Olver
Baca	Hill	Ortiz
Baird	Hinchev	Owens
Baldwin	Hinojosa	Pallone
Ballance	Hoeffel	Pascrell
Becerra	Holden	Pastor
Bell	Holt	Payne
Berman	Honda	Pelosi
Berry	Hooley (OR)	Peterson (MN)
Bishop (GA)	Hoyer	Price (NC)
Bishop (NY)	Insee	Rahall
Blumenauer	Israel	Rangel
Boswell	Jackson (IL)	Reyes
Boucher	Jackson-Lee	Rodriguez
Boyd	(TX)	Ross
Brady (PA)	Jefferson	Rothman
Brown (OH)	Johnson, E. B.	Rothbal-Allard
Brown, Corrine	Jones (OH)	Ruppersberger
Capps	Kanjorski	Rush
Capuano	Kaptur	Ryan (OH)
Cardin	Kennedy (RI)	Sabo
Cardoza	Kildee	Sanchez, Linda
Carson (IN)	Kilpatrick	T.
Carson (OK)	Kind	Sanchez, Loretta
Case	Kleczka	Sanders
Clay	Kucinich	Sandlin
Conyers	Lampson	Schakowsky
Cooper	Langevin	Schiff
Costello	Lantos	Scott (VA)
Cramer	Larsen (WA)	Serrano
Crowley	Lee	Sherman
Cummings	Levin	Skelton
Davis (AL)	Lewis (GA)	Slaughter
Davis (CA)	Lipinski	Smith (WA)
Davis (IL)	Lowe	Solis
Davis (TN)	Lynch	Spratt
DeFazio	Majette	Stark
Delahunt	Maloney	Strickland
DeLauro	Markey	Stupak
Deutsch	Marshall	Tanner
Dicks	Matsui	Tauscher
Dingell	McCarthy (MO)	Thompson (CA)
Doggett	McCarthy (NY)	Thompson (MS)
Dooley (CA)	McCollum	Tierney
Duncan	McDermott	Towns
Edwards	McGovern	Turner (TX)
Emanuel	McIntyre	Udall (CO)
Engel	McNulty	Udall (NM)
Eshoo	Meehan	Van Hollen
Etheridge	Meek (FL)	Velazquez
Evans	Meeks (NY)	Visclosky
Farr	Menendez	Waters
Fattah	Michaud	Watson
Filner	Millender-	Watt
Ford	McDonald	Waxman
Frank (MA)	Miller (NC)	Weiner
Frost	Miller, George	Wexler
Gephardt	Mollohan	Woolsey
Gonzalez	Moore	Wu
Gordon	Moran (VA)	Wynn
Green (TX)	Nadler	

NAYS—234

Aderholt	Gillmor	Oxley
Akin	Gingrey	Paul
Bachus	Goode	Pearce
Baker	Goodlatte	Pence
Ballenger	Goss	Peterson (PA)
Barrett (SC)	Granger	Petri
Bartlett (MD)	Graves	Pickering
Barton (TX)	Green (WI)	Pitts
Bass	Greenwood	Platts
Beauprez	Gutknecht	Pombo
Bereuter	Harris	Pomeroy
Berkley	Hart	Porter
Biggett	Hastings (WA)	Portman
Bilirakis	Hayes	Pryce (OH)
Bishop (UT)	Hayworth	Putnam
Blackburn	Hefley	Quinn
Blunt	Hensarling	Radanovich
Boehlert	Hergert	Ramstad
Boehner	Hobson	Regula
Bonilla	Hoekstra	Rehberg
Bonner	Hostettler	Renzi
Bono	Houghton	Reynolds
Boozman	Hulshof	Rogers (AL)
Bradley (NH)	Hunter	Rogers (KY)
Brady (TX)	Isakson	Rogers (MI)
Brown (SC)	Issa	Rohrabacher
Brown-Waite,	Janklow	Ros-Lehtinen
Ginny	Jenkins	Royce
Burgess	John	Ryan (WI)
Burns	Johnson (CT)	Ryun (KS)
Burr	Johnson, Sam	Saxton
Burton (IN)	Jones (NC)	Schrock
Buyer	Keller	Scott (GA)
Calvert	Kelly	Sensenbrenner
Camp	Kennedy (MN)	Sessions
Cannon	King (IA)	Shadegg
Cantor	King (NY)	Shaw
Capito	Kingston	Shays
Carter	Kirk	Sherwood
Castle	Kline	Shimkus
Chabot	Knollenberg	Shuster
Choccola	Kolbe	Simmons
Coble	LaHood	Simpson
Cole	Larson (CT)	Smith (MI)
Collins	Latham	Smith (NJ)
Cox	LaTourette	Smith (TX)
Crane	Leach	Souder
Crenshaw	Lewis (CA)	Stearns
Cubin	Lewis (KY)	Stenholm
Culberson	Linder	Sullivan
Cunningham	LoBiondo	Sweeney
Davis (FL)	Lofgren	Tancredo
Davis, Jo Ann	Lucas (KY)	Tauzin
Davis, Tom	Lucas (OK)	Taylor (MS)
Deal (GA)	Manzullo	Taylor (NC)
DeLay	Matheson	Terry
DeMint	McCotter	Thomas
Diaz-Balart, L.	McCrery	Thornberry
Diaz-Balart, M.	McHugh	Tiahrt
Doolittle	McInnis	Tiberi
Dreier	McKeon	Toomey
Dunn	Mica	Turner (OH)
Ehlers	Miller (FL)	Upton
Emerson	Miller (MI)	Vitter
English	Miller, Gary	Walden (OR)
Everett	Moran (KS)	Walsh
Feeney	Murphy	Wamp
Ferguson	Murtha	Weldon (FL)
Flake	Musgrave	Weldon (PA)
Fletcher	Myrick	Weller
Foley	Nethercutt	Whitfield
Forbes	Ney	Wicker
Fossella	Northup	Wilson (NM)
Franks (AZ)	Norwood	Wilson (SC)
Frelinghuysen	Nunes	Wolf
Gallely	Nussle	Young (AK)
Garrett (NJ)	Osborne	Young (FL)
Gerlach	Ose	
Gibbons	Otter	

NOT VOTING—9

Clyburn	Doyle	Istook
Combest	Gilchrest	Johnson (IL)
DeGette	Hyde	Snyder

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. REHBERG) (during the vote). There are 2 minutes left in this vote.

□ 1508

Messrs. MCHUGH, QUINN, BUR-
GESS, HOUGHTON, TANCREDO,
BRADY of Texas and SAXTON changed
their vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. SIMPSON). 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.

RECORDED VOTE

Mr. CONYERS. Mr. 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 229, noes 196, answered “present” 1, not voting 8, as follows:

[Roll No. 64]

AYES—229

Aderholt	Ferguson	McHugh
Akin	Fletcher	McInnis
Baker	Foley	McKeon
Ballenger	Forbes	Mica
Barrett (SC)	Fossella	Miller (FL)
Bartlett (MD)	Franks (AZ)	Miller (MI)
Barton (TX)	Frelinghuysen	Miller, Gary
Bass	Gallegly	Moran (KS)
Beauprez	Garrett (NJ)	Murphy
Bereuter	Gerlach	Murtha
Biggett	Gibbons	Musgrave
Bilirakis	Gillmor	Myrick
Bishop (UT)	Gingrey	Nethercutt
Blackburn	Goode	Ney
Blunt	Goodlatte	Northup
Boehlert	Gordon	Norwood
Boehner	Goss	Nunes
Bonilla	Granger	Nussle
Bonner	Graves	Osborne
Bono	Green (WI)	Ose
Boozman	Greenwood	Otter
Boyd	Gutknecht	Oxley
Bradley (NH)	Hall	Pearce
Brady (TX)	Harris	Pence
Brown (SC)	Hart	Peterson (MN)
Brown-Waite,	Hastings (WA)	Peterson (PA)
Ginny	Hayes	Petri
Burgess	Hayworth	Pickering
Burns	Hefley	Pitts
Burr	Hensarling	Platts
Burton (IN)	Herger	Pombo
Buyer	Hobson	Pomeroy
Calvert	Hoekstra	Porter
Camp	Holden	Portman
Cannon	Hostettler	Pryce (OH)
Cantor	Houghton	Putnam
Capito	Hulshof	Quinn
Cardoza	Hunter	Radanovich
Carter	Isakson	Ramstad
Castle	Issa	Regula
Chabot	Janklow	Rehberg
Chocola	Johnson (CT)	Renzi
Cole	Johnson, Sam	Reynolds
Collins	Jones (NC)	Rogers (AL)
Cox	Keller	Rogers (KY)
Cramer	Kelly	Rogers (MI)
Crane	Kennedy (MN)	Rohrabacher
Crenshaw	King (IA)	Ros-Lehtinen
Cubin	Kingston	Royce
Culberson	Kirk	Ryan (WI)
Cunningham	Kline	Ryun (KS)
Davis (TN)	Knollenberg	Saxton
Davis, Jo Ann	Kolbe	Schrock
Davis, Tom	LaHood	Scott (GA)
Deal (GA)	Latham	Sensenbrenner
DeLay	LaTourette	Sessions
DeMint	Leach	Shadegg
Diaz-Balart, M.	Lewis (CA)	Shaw
Dooley (CA)	Lewis (KY)	Shays
Dreier	Linder	Sherwood
Duncan	LoBiondo	Shimkus
Dunn	Lucas (KY)	Simmons
Ehlers	Lucas (OK)	Simpson
Emerson	Manzullo	Smith (MI)
English	Matheson	Smith (NJ)
Everett	McCotter	Smith (TX)
Feeney	McCrery	Souder

Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry

Tiaht
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)

Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

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

S. 3. An act to prohibit the procedure commonly known as partial-birth abortion.

The message also announced that pursuant to section 276d-276g of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Idaho (Mr. CRAPO) as Chairman of the Senate Delegation to the Canada-United States Interparliamentary Group conference during the One Hundred Eighth Congress.

The message also announced that in accordance with section 1928a-1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Delaware (Mr. BIDEN) as Vice Chairman of the Senate Delegation to the North Atlantic Treaty Organization Parliamentary Assembly during the One Hundred Eighth Congress.

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING H.R. 975, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of March 17 to grant a rule which could limit the amendment process for floor consideration of H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003. Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation to the Committee on Rules up in room H-312 of the Capitol by noon on Tuesday, March 18. Members should draft their amendments to the bill as reported by the Committee on the Judiciary on March 12, 2003. Members are advised that the text should be available for their review on the Web sites of the Committee on the Judiciary and the Committee on Rules by Friday, March 14.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be sure their amendments comply with the rules of the House.

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of March 17 to grant a rule which could limit the amendment process for the concurrent resolution on the budget for fiscal year 2004. Any Member who wishes to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the

NOES—196

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Coble
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doolittle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Green (TX)
Grijalva
Gutierrez

Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda
 T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Terry
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED “PRESENT”—1

Bachus

NOT VOTING—8

Combest
DeGette
Doyle

Shuster
Snyder

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1516

So the bill was passed.
The result of the vote was announced as above recorded.

amendment to the Committee on Rules in room H-312 of the Capitol no later than 6 p.m. on Tuesday, March 18.

As in past years, Mr. Speaker, the Committee on Rules intends to give priority to amendments offered as complete substitutes. Members are advised that the text of the concurrent resolution, as ordered reported by the Committee on the Budget, should be available on the Web sites of both the Committee on the Budget and the Committee on Rules no later than Friday, March 14. Members should use the Office of Legislative Counsel to ensure their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

LEGISLATIVE PROGRAM

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

Mr. HOYER. Mr. Speaker, I wish to inquire of the distinguished majority leader the schedule for the coming week.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the distinguished whip for yielding to me.

Mr. Speaker, the House will convene on Tuesday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules, and a final list of the bills will be sent to the Members' offices early next week.

I might alert the Members, Mr. Speaker, that in a change from our traditional schedule, I would like to put the Members on notice that we plan to vote one-half hour earlier than usual on Tuesday, at 6 p.m. Members from both sides of the aisle have asked for flexibility this Tuesday because a number of them and their spouses are involved in the annual March of Dimes Dinner Gala, which begins at 6:30. So Members should be aware that we are still trying to work it out with the minority, but be aware that they could be notified that votes will start at 6 p.m. Tuesday rather than the normal 6:30.

Next week we expect to consider H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003, as well as the 2004 Budget Resolution.

Earlier this week, the Subcommittee on Crime of the Committee on the Judiciary marked up H.R. 1104, the Child Abduction Prevention Act. Nearly identical legislation passed the House last Congress with close to 400 "yea" votes. Chairman SENSENBRENNER has announced that the Committee on the Judiciary will report the bill out from a markup on Tuesday.

This important legislation would codify a current judicial program to implement a nationwide Amber Alert System. In addition, this bill elimi-

nates the statute of limitations for child abduction and sex crimes, prohibits pretrial release in cases of rape or child kidnapping, provides for mandatory minimum sentencing for child kidnapping, and establishes a "two strikes and you're out" for child sex offenders.

We hope to work with the minority to find a way to bring this important legislation to the floor next Wednesday, realizing that the House rules require a 2-day layover, after committee markup, to allow the minority to express their dissenting and minority views on legislation. But I hope we can work together in expediting this very important legislation to the floor.

Mr. Speaker, I thank the gentleman for yielding to me, and I am happy to answer any questions.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for the information he has provided us, and I will have a number of questions.

Mr. MATHESON. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Utah who would like to address the Amber Alert System and events that have occurred in his district.

Mr. MATHESON. Mr. Speaker, I thank the minority whip.

Mr. Speaker, I would suggest that we saw the benefits of an Amber Alert-like program yesterday in the State of Utah. We had a wonderful event occur, and it occurred because information got out to the public.

What concerns me, Mr. Speaker, is that the Senate has already passed national Amber Alert legislation unanimously. It has been in the House for 2 months now, about; and I would submit that the legislation referred to that is going to be in the Committee on the Judiciary contains a number of other provisions which are worthy of consideration, but I would suggest it might be worthwhile for us to take a look at the Frost-Dunn bill, the straight Amber Alert bill passed through the United States Senate. We could take it up on a unanimous consent request right now and get it on the President's desk right away.

Every day we delay is a day when another abducted child may have less access to an Amber Alert System that gets the information out to people. We learned a lesson in Salt Lake City. We are very proud of the miracle that occurred yesterday. Mr. Smart, in his time of triumph, still is emphasizing the need for Congress to move forward on this, and I would suggest that that is something this body ought to consider.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas, the ranking member of the Committee on Rules.

Mr. FROST. Mr. Speaker, I thank the gentleman for yielding. As the gen-

tleman knows, the Amber bill, the Amber Alert plan, was named after a little girl, Amber Hagerman, who was abducted and murdered in my district in Texas, in Arlington, Texas; and the Senate, as previously mentioned, has passed this as a stand-alone bill, unani- mously, and has sent it to the House.

I would ask my friend, the distinguished majority leader, what is the objection to bringing the Amber bill as a stand-alone matter, that has already been passed by the Senate, to the House either under unanimous consent or under suspension of the rules?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I will be glad to yield to the majority leader.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman's question, and I might point out that the gentleman, as well as many other Members around here, are always calling for regular order and we are expediting regular order.

The bill that the gentleman refers to is a bill that has just been marked up this week, even before, thank goodness, Mr. Smart's daughter was returned to him, and was on its way to full committee to be marked up later on next week. Because of the situation, the chairman of the Committee on the Judiciary feels very strongly that they can expedite the matter, actually hold an unusual markup before Members return, and hopefully have this bill on the floor on Wednesday.

There are a lot of provisions in this bill that help. And I might also point out to the gentleman that the Justice Department is running an Amber Alert System in 38 States. They are up and going. There are over 80 systems, Amber Alerts, operating as we speak. So it is not a situation where there will not be coverage of Amber Alerts out there. But I think this legislation is important to get at these criminals that are kidnapping these children, to help the police departments find them quicker and easier and be able to put them away, away from our children, along with codifying what the Justice Department is already doing.

Mr. FROST. If the gentleman from Maryland will continue to yield, my friend, the gentleman from Texas (Mr. DELAY), understands that by putting the Amber Alert legislation into a larger omnibus bill, this delays for a very substantial period of time the passage of the Amber Alert bill. There are a number of controversial provisions that have been added to it by the Committee on the Judiciary, provisions that were passed last year and were found unacceptable by the Senate.

I would repeat my question: What is the objection simply to bringing the Amber Alert bill itself as a stand-alone matter that has already been passed by the Senate? What is the objection to bringing that to the floor of the House?

Mr. HOYER. Reclaiming my time, Mr. Speaker, and before the majority leader answers that question, I would

say to him that I have had consultation with the Democratic minority leader; and the Democratic leader and myself, I would say on behalf of our side of the aisle, we would agree to a unanimous consent request today to bring the Senate bill, which as I understand is Senate Bill 121, which essentially is the base bill.

I, frankly, do not interpose objections to that which the gentleman has outlined in his statement will be added to the bill. I do not necessarily find any one of those individual items objectionable; and as I understand, in the committee they were not particularly controversial. But we obviously could accelerate that.

The gentleman is correct. We do want to go by regular order. Regular order is obviously seeking from both sides a unanimous consent to take some action, and I say to the gentleman that consistent with what the gentleman from Texas (Mr. FROST) has said, this side of the aisle would be prepared to give a unanimous consent agreement to passing that bill before we go home today.

Mr. DELAY. Well, if the gentleman will continue to yield, I am not sure I remember the question of the gentleman from Texas.

Mr. FROST. Mr. Speaker, I would repeat my question, if I may.

Mr. HOYER. I yield to the gentleman for that purpose.

Mr. FROST. Mr. Speaker, my question is, What is the objection on the majority side to bringing the stand-alone Amber bill to the floor which has already been passed by the Senate, to bring it to the floor as a separate item and not part of a larger bill?

Mr. DELAY. I appreciate the gentleman's continuing to yield; and, Mr. Speaker, let me just say that I do not agree with the assessment of the gentleman from Texas as to how slow this process can be. And if we honor what this House has already expressed itself on, I remind the gentleman that this bill that he is talking about that got so bogged down, passed this House with over 400 votes and went to the other body where the other body killed it in the last Congress.

So this House has expressed itself that it thinks it is important not only to codify the Amber Alert System that is being run by the Judiciary Department but also to eliminate the statute of limitations for child abduction and sex crimes, to prevent pretrial release in cases of rape or child kidnapping, to provide for a mandatory minimum sentence for child kidnapping, and we also would like to see a "two strikes and you're out" requirement for child sex offenders. I think all of these issues are vitally important when it comes to dealing with children that are being kidnapped in this country.

□ 1530

Mr. HOYER. Mr. Speaker, reclaiming my time.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, if the gentleman from Texas (Mr. DELAY) did not see the press conference earlier today carried on CNN, I would advise the gentleman that the senior Republican Senator from Texas, Senator KAY BAILEY HUTCHISON, who was a cosponsor of the Amber bill in the Senate, urged that the House take up the Senate passed Amber bill as a clean bill with a separate vote.

Mr. Speaker, I would inquire, did the gentleman see Senator HUTCHISON's statement?

Mr. HOYER. Mr. Speaker, reclaiming my time.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. I did not see the press conference, but I just ask the question, what did she do to pass the bill out of the Senate in the last Congress?

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, she introduced the Amber Plan in this Congress and had it passed unanimously 92-0, she and Senator DIANNE FEINSTEIN. That is all we are asking, that there be a separate stand-alone vote on the Amber bill in the House, just as there was in the Senate, so it can be sent to the President and signed into law.

If the gentleman would indulge me further, I would like to very briefly read part of a letter that I received today from a city Councilman in my district, Councilman Joe Bruner from the City of Arlington, Texas.

Dear CONGRESSMAN FROST: I understand you have sponsored a bill which will take Arlington's own Amber Plan nationwide. In this day of turmoil and terror, I cannot think of any other means which would better cause the minds of moms and dads to return to normalcy. Doreen and I have always had a special place in our heart for little Amber and defy anyone to ever hinder the implementation of the Amber Plan. As councilman for the district here in Arlington where her body was found, I take exception to Congressman SENSENBRENNER's refusal to let your bill go through.

Then the letter continues.

This really speaks to the fact that the gentleman from Wisconsin (Chairman SENSENBRENNER) and the majority leader insists that the Amber Plan be combined with a larger piece of legislation that has had difficulty in the Senate.

I strongly urge my friend on the other side of the aisle, who has demonstrated an interest in children's issues, to persuade the chairman of the Committee on the Judiciary to permit this bill to go forward.

Mr. HOYER. Mr. Speaker, reclaiming my time.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. I appreciate the gentleman's concern. I have the same concern the gentleman has. I have convinced the chairman to accelerate the process. We are going to have this bill on the floor. With the cooperation of the minority, we will have this bill on the floor next week.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments.

At some point in time perhaps we can discuss further the regular order. I observe only that it is my understanding there is a bill coming over from the Senate that will not be referred to committee, will not be subject to amendment, will be taken up and passed as the Senate passed it, and it is my understanding that will be done because of the view of the majority how important it is to pass that bill immediately. That is the partial birth abortion bill.

Am I correct that is the procedure which the majority intends to follow?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I doubt that. I have not had an opportunity to see that the Senate has even passed the partial birth abortion bill yet. If they have, we will take a look at it. The last I checked, there was an amendment put on the bill that would cause it to go to conference under regular order.

Mr. HOYER. It has not passed the House yet. It is coming from the Senate, and obviously there may be amendments on it. It is our understanding that will be taken in effect from the desk as the Senate bill, voted on, and sent to the President.

Mr. DELAY. Mr. Speaker, if the gentleman will continue to yield, actually the gentleman from Wisconsin (Mr. SENSENBRENNER) intended to mark up a partial birth abortion bill next week, but under the circumstances he wanted to accelerate the Amber alert bill and take it up earlier, and so he is putting off the markup on the partial birth abortion bill that we would bring to the floor, and then hopefully go to conference with the Senate under regular order.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for that comment.

The gentleman indicated that next week we will be taking up the budget. Can the gentleman tell me whether or not all substitutes that are requested from the Congressional Black Caucus, from the Progressive Caucus, from the Blue Dogs and from the Democrats on the Committee on the Budget will be made in order? I see the distinguished chairman of the Committee on Rules is standing.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I know the chairman of the Committee on Rules is a very fair man and the Committee on

Rules tries to be as fair as they can. I would presume that the committee will be inclined to follow historic practice for the consideration of the budget next week.

Mr. HOYER. Mr. Speaker, I respectfully inform the majority leader, we were very concerned about the fact that we were shut down today in terms of offering amendments or substitutes. I will respectfully advise the majority that if that continues to occur, there will be actions on our side of the aisle to try to express our deep concern about that.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I simply will say as the distinguished majority leader has said, I actually made the announcement just a few minutes ago about the request that we have proposals submitted to the Committee on Rules by early next week so we will be able to consider this measure on Wednesday. It is our intention, as has been our intention in the past, to do everything we possibly can to make substitutes in order and as many substitutes as we possibly can.

I want to assure the gentleman that is the goal of the Committee on Rules, and we will look forward to testimony from our many colleagues who would like to offer proposals.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman and express the fervent hope that the committee will be able to reach its goals. They are commendable goals to achieve, and I hope they are achieved.

Mr. Speaker, we have been talking about the Amber bill and adding things to it. We had a bill a week and a half ago on the floor. That was to aid our men and women in the armed forces whom we are sending in harm's way. We were not able to pass it the week before. We have not passed it this week. Can the gentleman advise us as to the status of that bill.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, the Committee on Ways and Means held a markup of the Social Security bill yesterday, and I expect to consider that legislation under a rule in the next week or so.

On the Armed Services Tax Fairness Act, the committee is still reviewing options for potential changes to that bill, but we also expect to consider that legislation in the very near future.

Mr. HOYER. Mr. Speaker, reclaiming my time, I advise the distinguished majority leader that I am authorized on behalf of the minority to tell the gentleman that if that bill were reported out without any additional items attached to it, we would be prepared to give unanimous consent so it could be passed either next Tuesday night or Wednesday.

Mr. Speaker, lastly, it is my understanding that we obviously want to accommodate those who want to go to that dinner, but am I correct in observing that the normal practice on Tuesdays will continue to be 6:30?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, the gentleman is correct. This is a special and rare occurrence where we would not be starting votes on legislation at 6:30 on a day that we come back into session. There are extenuating circumstances, and we are trying to accommodate our Members. Yes, we hope to stick to 6:30 as much as possible.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments.

ADJOURNMENT TO MONDAY, MARCH 17, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent when the House adjourns today, it adjourn to meet at noon on Monday, March 17, 2003.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, MARCH 18, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 17, that it adjourn to meet at 12:30 p.m. on Tuesday, March 18, 2003, for morning hour debates.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. 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 Texas?

There was no objection.

HONORING KATHLEEN CASEY AND ALL IRISH AMERICANS ON ST. PATRICK'S DAY

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

Mr. ROHRABACHER. Madam Speaker, with St. Patrick's Day only a few days away, it is appropriate for us to recognize and, yes, celebrate the role that Irish Americans have played in our history and in the development of our national character.

So many Irish Americans came here seeking refuge from tyranny and hunger in their own homeland. They never forgot that suffering that they left behind, which helped ensure that America has, over the years, sided with the oppressed and cared for the less fortunate.

Irish Americans passed on these values, along with a sense of decency and a commitment to justice, as well as a love of song and humor, from generation to generation. One of those proud Americans of Irish descent is Kathleen Casey of Orange County, California, who turns 80 years old today. We wish her a happy birthday, and will join her and other Irish Americans in the celebration of St. Patrick's Day this coming Monday.

NO STRATEGIC PETROLEUM RESERVES TO BE RELEASED

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

Mr. DEFAZIO. Madam Speaker, I urge Members to read the Wall Street Journal today wherein the Secretary of Energy, appointed by President Bush, assured Ali Naimi, the Saudi Minister, the man in charge of manipulating oil supply and heading up their negotiations with the cartel to control prices and to constrain supply, he assured him, Mr. Abraham, the Secretary of Energy, assured him the United States would not release oil from its Strategic Petroleum Reserve to help control the prices being gouged out of Americans by the Saudis and others.

That is outrageous. I cannot believe that the Secretary of Energy appointed by President Bush has cut a deal with the Saudis that we will not release our Strategic Petroleum Reserve to help the American consumers, to help keep our airlines from going bankrupt, to help keep our truckers from going bankrupt, and to help keep American families not being able to put food on the table so they can buy a tank of gas for their car. There is something wrong with that. I have sent the Secretary of Energy a letter to ask him to explain his position to the American people.

EXPRESSING REGRET FOR ASSASSINATION OF SERBIAN PRIME MINISTER ZORAN DJINDJIC

(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, I rise today to express my deep regret at the tragic assassination yesterday of Serbian Prime Minister Zoran Djindjic. Prime Minister Djindjic worked closely with my friend, Jim Denton, and my chief of staff, Brad Smith, in pursuing democratization in Serbia. In a country that has seen more than its share of autocratic governments, the Prime Minister promoted democratic ideals

throughout his political career. He was one of the founding members of the Centrist Democratic Party in 1989, one of the leading anti-Milosevic parties. He was also instrumental in fostering the mass protest that ultimately ended Slobodan Milosevic's rule in 2000.

Since that time, he served as the Prime Minister of Serbia, promoting economic development and democratization within the former Yugoslavia. Prime Minister Djindjic was instrumental in delivering Slobodan Milosevic to face the war crimes charges before The Hague Tribunal.

It may be well that Mr. Djindjic's unabashed support for governance and his efforts to end corruption led to his tragic death. As we here in the United States continue to take advantage of our freedom and representative government, we must remember that there are fragile democracies all around the world.

Our Nation learned long ago that liberty does not come without a price. As other nations learn that same unfortunate lesson, the United States must continue to promote international democratization so the sacrifices of Prime Minister Djindjic and other revolutionaries will not have been in vain.

□ 1545

MOURNING ASSASSINATION OF SERBIAN PRIME MINISTER DJINDJIC

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

Mr. HOYER. Mr. Speaker, I want to join the gentleman from California (Mr. DREIER) in his comments about Mr. Djindjic, the Prime Minister of Serbia. Serbia in the 1990s, like Iraq has gone through, was under the heel of a despot who was vicious and who in my opinion was a war criminal. When the United States acted to displace the Milosevic regime and ultimately Milosevic was voted out of office because we went into Kosovo, it was Mr. Djindjic who showed the courage and the moral commitment to ensure that Mr. Milosevic would be transferred to The Hague to answer for his crimes. That trial currently is going on. It is going on because Mr. Djindjic had the courage to facilitate the transfer out of Serbia to The Hague of the alleged war criminal Slobodan Milosevic.

He has now been assassinated. We do not know yet who the perpetrator of that assassination is. Suffice it to say, we have lost someone whose courage and commitment to freedom and human rights was an important aspect for his country and for the international community. We are a lesser international community for his loss.

APPOINTMENT OF MEMBER TO MEXICO-UNITED STATES INTER- PARLIAMENTARY GROUP

The SPEAKER pro tempore (Mrs. BLACKBURN). Pursuant to 22 U.S.C.

276h, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the Mexico-United States Interparliamentary Group:

Mr. KOLBE, Arizona, Chairman.

APPOINTMENT OF MEMBER TO CANADA-UNITED STATES INTER- PARLIAMENTARY GROUP

The SPEAKER pro tempore. Pursuant to 22 U.S.C. 276d, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the Canada-United States Interparliamentary Group:

Mr. HOUGHTON, New York, Chairman.

APPOINTMENT OF MEMBER TO BRITISH-AMERICAN INTER- PARLIAMENTARY GROUP

The SPEAKER pro tempore. Pursuant to 22 U.S.C. 276l, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the British-American Interparliamentary Group:

Mr. PETRI, Wisconsin, Chairman.

APPOINTMENT OF MEMBERS TO HOUSE COMMISSION ON CON- GRESSIONAL MAILING STAND- ARDS

The SPEAKER pro tempore. Pursuant to 2 U.S.C. 501(b), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the House Commission on Congressional Mailing Standards:

Mr. NEY, Ohio, Chairman;
Mr. ADERHOLT, Alabama;
Mr. SWEENEY, New York;
Mr. LARSON, Connecticut;
Mr. THOMPSON, Mississippi;
Mr. HOLT, New Jersey.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that on February 10, 2003, the Speaker delivered to the Clerk a letter listing Members in the order in which each shall act as Speaker pro tempore under clause 8(b)(3) of rule I.

CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108-46)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency is to continue in effect beyond March 15, 2003, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on March 14, 2002 (67 FR 11553).

The crisis between the United States and Iran constituted by the actions and policies of the Government of Iran, including its support for international terrorism, efforts to undermine Middle East peace, and acquisition of weapons of mass destruction and the means to deliver them, that led to the declaration of a national emergency on March 15, 1995, has not been resolved. These actions and policies are contrary to the interests of the United States in the region and pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to Iran and maintain in force comprehensive sanctions against Iran to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, March 12, 2003.

PERIODIC REPORT ON NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108-47)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9(c), I am transmitting a 6-month periodic report prepared by my Administration on the national emergency with respect to Iran that was declared in Executive Order 12957 of March 15, 1995.

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SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

AUTISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Madam Speaker, a few minutes ago, the majority and the minority leaders of the House, or the minority whip and the majority leader of the House, discussed the Amber Alert System and how important it was that we do everything we can to protect our American children. This lectern, or this stand, holds the faces of about 55 or 60 children who have been damaged, their parents believe, by vaccines that contain mercury and they have become autistic. One of those is my grandson.

It is very interesting, Madam Speaker, that today we found out that there is a just-published report in the "Journal of the American Association of Physicians and Surgeons" that involves a research study on autism. The research, conducted by Drs. Mark Geier and David Geier, analyzed mercury doses children received from thimerosal, which contains mercury in childhood vaccines in comparison to Federal safety guidelines. The doctors concluded that mercury from thimerosal did exceed Federal safety guidelines and that the study provides strong epidemiological evidence for a link between increasing mercury from thimerosal-containing childhood vaccines and neurodevelopmental disorders such as autism which has reached epidemic proportions. The authors stated, "A causal relationship between thimerosal-containing childhood vaccines and neurodevelopmental disorders appears to be confirmed."

The Geier research confirms the findings of an unreleased CDC study, Centers for Disease Control, obtained through the Freedom of Information Act, which found a relative risk of 2.48 between thimerosal exposures and autism. Courts of law have generally held that a relative risk of 2.0 or higher is sufficient to substantiate that a given exposure causes diseases.

So there is no doubt, no doubt, that the mercury that has been injected into our children is a cause, a contributing cause at the very least, but a cause, of the autism that these children are suffering. I have asked the parents of these children from across the country to write to me, to give me information on how their child became autistic and how close it was to when the child was vaccinated with vaccines containing mercury.

We had a big problem in the last session. Right at the end in the homeland security bill, there was an amendment

stuck in at the 11th hour which took away any liability that the pharmaceutical companies might incur because of mercury-related damage done to children. We were able to get that out early this session. But now in the other body they are trying to put that back in in a bill that was introduced today by the majority leader. That is something that is intolerable. It is something that cannot be tolerated by this body or the other body.

I want to tell you why real quickly. Here is one example, a letter from a lady named Sue McManus from Kenesaw, Georgia. She says:

"Eight years ago, in 1994, I adopted a lovely daughter, Jessica, from Paraguay at age 5 months. Jessica was not identified as a special needs child at the time of adoption and was in fact seen by pediatricians in Paraguay who were U.S. trained as well as in this country and given a clean bill of health. Being a responsible parent and following directions from my doctors, I had her vaccinated within a few weeks of bringing her home. On 11/15/94, she received OPV, DPT, HIB and hepatitis B. On January 17, 1995, she received her second series of shots. Within 4 hours of the second series of shots, she reacted with severe infantile spasm seizures and she became autistic. She had three seizures that week and had never had any form of seizure prior to the second shot. Per medical recommendation, she received several shots that day. I don't have any doubt that my daughter reacted severely and directly as a result of this DPT shot or combination of shots."

She goes on to say that "she has not developed normally, she has become autistic, she stares at the walls, she flaps her arms like my grandson does and she has chronic diarrhea or constipation and it is a problem that will not go away." If you saw the movie "Rain Man," you know how bad autism can be. If we do not deal with this problem now, we are going to deal with it in 15 to 20 years when these people all become dependent on society.

Let me just say to my colleagues, this is something this House is going to have to address. It is not a partisan issue. Both Democrats and Republicans have said they want to protect America's children. The President said he does not want to leave any children behind. These kids are being left behind and their parents are being saddled with \$50,000, \$100,000, \$200,000 bills. They are selling their homes, they are going bankrupt to take care of their children, and the people who are responsible for the damage to them, the pharmaceutical companies, are being left high and dry with no damage whatsoever being attributed to them. There is a responsibility here for this government to make sure these children are treated properly.

In the next few weeks I am going to be reading every night letters from these parents talking about how their child was damaged and in what prox-

imity it was to the shots they received containing mercury. We can no longer turn our backs on this. We went from one in 10,000 children who are autistic to one in 150 right now. It is an absolute epidemic. We cannot sweep it under the rug.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

(Mr. GEORGE MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. PALLONE. Madam Speaker, I ask unanimous consent to take the time of the gentleman from California (Mr. GEORGE MILLER).

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

There was no objection.

CYPRUS TALKS COME TO AN END

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. Madam Speaker, first let me tell the gentleman from Indiana that I would like to join in his remarks and I want to commend him for taking to the floor to talk about this issue. I agree with him wholeheartedly in what he has been saying tonight and previously.

Madam Speaker, I come to the floor this evening to express my supreme disappointment with Turkish Cypriot leader Rauf Denktash for his unwillingness to compromise, an action that led to the end of the Cyprus peace negotiations earlier this week.

Yesterday, after some 20 hours of continuous negotiations, U.N. Secretary-General Annan declared they had reached the end of the road.

Madam Speaker, let there be no doubt that Turkish Cypriot leader Denktash is to blame for this sorry conclusion. Yesterday, State Department spokesman Richard Boucher said he found it regrettable that, quote, "Mr. Denktash has denied Turkish Cypriots the opportunity to determine their own future and to vote on such a fundamental issue." Lord David Hannay, Britain's special envoy for Cyprus, also blamed Denktash when he stated, and I quote, "I am sad about it but I do not think that Mr. Denktash left him, Secretary Annan, any alternative."

Finally, in today's Washington Post, columnist Jim Hoagland writes, and I quote, "The defiance of one grumpy old man derailed peace plans put forward by diplomats from the United States and the European Union because this grumpster would not see multilateral

reason. The stubborn, self-defeating unilateralist I have in mind is Ralph Denktash."

□ 1600

Madam Speaker, despite yesterday's giant setback, the President of the Republic of Cyprus, Tassos Papadopoulos, stressed that the Greek Cypriot side "will continue the efforts for reaching a solution to the Cyprus question both before and after Cyprus joins the EU."

Furthermore, President Papadopoulos pledged one more time to continue the efforts for a Cyprus settlement that would properly serve the interests of both Cyprus communities.

On the other hand, after the peace talks ended yesterday, Turkish-Cypriot leader Denktash continued his obstructionist actions threatening that if Cyprus accedes to the European Union on May 1, 2004, that there will be a disaster. He went on to say that talks would be suspended until Turkey joins the European Union.

Madam Speaker, Turkey's accession to the European Union was seriously undermined yesterday with the failure of a peace agreement. The Turkish government also bears blame for yesterday's developments after giving its full support to Denktash. New Turkish Prime Minister Erdogan said on Monday that it was impossible for Turkey to accept the U.N. plan in its current form.

Both the Turkish government and Denktash refused to listen to the thousands who have taken to the streets over the last couple of months in the occupied section of Cyprus and voiced support for a solution based on the U.N. plan.

The leader of the Republican Turkish Party in Turkey accused both the Turkish government and Denktash of bringing the talks to a deadlock, and he stated, "Mr. Denktash persuaded Turkey as well. Having the support of the powerful circles in Turkey he influenced the decision-making mechanism and foiled them. He used the indecisiveness for not making a serious decision. Not being able to decide, Turkey decided to preserve the status quo."

Madam Speaker, I continue to believe that the Bush administration did not put enough pressure on the Turkish government to force Denktash to negotiate in good faith. Turkey must finally realize that by supporting Denktash's intransigence, it is causing harm to its own long-term interest as a potential full member of the European Union.

After the setback of the U.N. efforts, the Bush administration must redouble its efforts to persuade Turkey and the Turkish-Cypriot leader to work constructively within the U.N. process to achieve a negotiated settlement to end the division of Cyprus.

Madam Speaker, Turkey's 28 year illegal occupation of 37 percent of Cyprus has to come to an end. It is time for all the citizens of Cyprus to be reunited so they may all reap the eco-

nomical rewards available with the nation's accession to the European Union. It is very unfortunate this occurred, but I continue to believe that we can somehow achieve a situation where the Turkish Cypriots will join with the Greek Cypriots in a unified Cyprus that would join the European Union at the time that is scheduled next year. I am still optimistic that can be achieved.

The SPEAKER pro tempore (Mrs. BLACKBURN). Under a previous order of the House, the gentleman from Virginia (Mr. WOLF) is recognized for 5 minutes.

(Mr. WOLF 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 North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ONE NATION UNDER GOD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. RENZI) is recognized for 5 minutes.

Mr. RENZI. Madam Speaker, on March 10, our children who attend public schools in the jurisdiction of the Ninth Circuit Court, including my home State of Arizona, were told not to start their day with the real Pledge of Allegiance. An absurd ruling made by the Ninth Circuit Court of Appeals last June held that the 1954 Federal act that added the words "under God" to the Pledge of Allegiance violated the Establishment Clause of the first amendment.

Madam Speaker, our great Nation rests upon the wisdom of our Founding Fathers. Our Founding Fathers created a Nation based upon spiritual beliefs, and yet judges continually misinterpret this founding principle by citing the Establishment Clause.

So what really is the Establishment Clause? Within our Constitution, the Establishment Clause was created to protect American citizens against religious persecution, so that the government would not impose one religion, the government religion, so that a government or king would not impose his own spiritual or personal beliefs.

The Establishment Clause was not created by our Founding Fathers to sterilize this Nation, to not allow this

Nation to utter the name of God. Just the opposite. The Constitution of the United States of America, written by our Founding Fathers, states this clearly in Article VII, in the year of our Lord one thousand seven hundred and eighty-seven.

So how ridiculous is it that the Ninth Circuit Court of Appeals can prohibit our teachers and children from reciting the Pledge of Allegiance in the public schools of nine western states, when the Constitution itself speaks of God?

Using this perverted logic, the Ninth Circuit Court of Appeals must now find our Constitution unconstitutional. This holding is a new low for our Nation, a low that will harm our children.

A good teacher, Mr. Byron Bolen, who teaches American government in Round Valley, Arizona, is concerned that we are undermining our national traditions and taking focus away from our Founding Fathers by not allowing the real Pledge in our classrooms. He believes this issue has become more an issue not of separation of church and state, but an issue that directly negates the patriotism that our children need to learn towards their country.

As a teacher in the First District of Arizona, Mr. Bolen asked me how far our courts will go to sterilize and remove God from our classroom and public places.

Our Founding Fathers created a Nation based on truth and morality and a love for democracy based upon a person's desire to conform to laws which they revere. Our good natural tendencies as human beings is to repel from evil and to be drawn towards goodness.

When hippie generation judges impose their own sterile secular beliefs on the American people, they are establishing their agnostic beliefs on Americans.

To go one step further, on February 28 the Court of Appeals in the Ninth Circuit refused numerous requests by our President, the Congress and local school districts to overturn their prior decision.

Twice now this court has ruled that reciting the real Pledge of Allegiance is unconstitutional. Yet in the House of Representatives we start our day with the real Pledge of Allegiance. Our institution writes and debates our laws only after we recite the real Pledge of Allegiance. We must act to allow our children to start their day the way we start our day here in the House.

Therefore, I call upon the Supreme Court to review this case, to review it expeditiously, and allow our children to honor our Nation by reciting the real Pledge, and let them start their school day the way we start our day.

MAKE WAR A LAST-CASE SCENARIO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Madam Speaker, interestingly enough, as a member of the Committee on the Judiciary and also a Member of the other side of the aisle, I happen to agree with the gentleman from Arizona that the First Amendment protects freedom of religion and freedom of speech, and that the Pledge of Allegiance is protected sufficiently for us to be able to say "under God." I hope we will be able to move forward to give the sense and the obvious position that the Pledge of Allegiance is still a very legitimate expression of loyalty to this country.

Interestingly enough, those of us who have stood fast against the war in Iraq have been accused of being disloyal to the United States of America and unpatriotic. That is why it is important to come to the floor of the House and try to express the voice of millions and millions of Americans and millions and millions of the world family and to again say to the singular voice that is resounding out of Washington and into the airwaves that I thought a democracy represented practice over words; that we would practice the idea that when the people speak, or when the people question, the leaders of government should entertain their concerns, particularly since the people of the United States send their young men and young women to far away shores to defend us. And might I say to the troops that are stationed abroad, there is not one divide amongst us in support of those very loyal troops.

The Constitution clearly enunciates the principle that the Congress has the duty and responsibility to declare war. We well recognize that in the Constitution it also acknowledges that the President is the Commander in Chief, and if and when those troops are deployed, the United States of America will be unified. That is why the judgment of making that decision is so very important.

We have gotten ourselves in a foreign policy shambles. Many people blame it on the United Nations, partly because they do not understand that the United States has consented to be a part of the United Nations through the U.N. Charter 51. And we have lived in peace for almost 50 years because, as much as you malign the United Nations, it has kept a sense of world decorum and order. It means that one nation does not lift up arms against another. It means that the friendship and affection for the United States has been because it has been a leader for peace over war. It has been a defender as opposed to an offender.

Now we have thrown all of that to the winds. We have cast Syria against Iran, and Iran against Syria, and Turkey against Syria, and Turkey against Iraq. We have potentially created a destabilizing situation in that region.

We have not focused on solving our problems with Israel and the Palestinians, a strong effective peace, an abhorrence of suicide bombings, a recognition of the importance of that region

for us. We have totally overlooked North Korea, pointing missiles at Japan and South Korea.

I was in China a few weeks ago asking the President of China to engage. He said, you, the United States, needs to engage in bilaterals with North Korea.

What are the real ways we could engage in true, meaningful debate and respect of the United Nations? First of all, we have been not listening to them as they have argued vigorously for more vigorous U.N. inspections. It does not mean the United States is a wimp, that we cannot defend ourselves. What it means is that you understand the cost of war.

Over \$1 trillion is expected we would have to pay out in this war, now that we have a \$283 billion deficit, and the President is cutting \$470 billion in child care and special education and, most of all, what a horror, veterans benefits. A veterans hospital that I have in my district is closing the door to those veterans who are trying to enroll, those men and women who offered themselves, who wanted to, or if they had to would have sacrificed their lives. We cannot let them get in the hospitals because this administration is cutting \$470 billion on top of a \$600 billion tax cut and disrespecting the fact they have given us no monies and no dollars to account for how much we will have to spend for this war.

So I believe we need action. And what is the action I propose? First of all, I hope we will be debating soon a resolution that I have to ask the question whether this Congress has abdicated its duty to declare war.

Second, I want the U.N. Security Council to have a tribunal and to try Mr. Saddam Hussein as a war criminal. And I want humanitarian aid for Iraq, democracy for Iraq. And we should focus, Madam Speaker, on the Mideast peace solution and have troops, a small number, to ensure the investigation and inspection of the U.N. inspectors.

Madam Speaker, I say there is another way. War should be the last option, and our voices should be heard.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FOLEY) is recognized for 5 minutes.

(Mr. FOLEY 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 Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

(Mr. CUMMINGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

CONTROLLING AMERICA'S BORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes.

Mr. TANCREDO. Madam Speaker, as we rightfully address the issues that are confronting us overseas and the possibility of sending American troops into harm's way, I think it is also important for us to think about those people who are here in the United States, those citizens, who every day, as a matter of fact, face almost warlike conditions at places on our borders, a place on our southern border especially, that I think there is no other way to describe the activities down there, with the number of people coming through that border illegally. That it is a battle zone, and there are people there who daily deal with this particular problem. I am periodically going to bring several of these folks to the attention of the House.

Today I would like to identify Mr. Roger Barnett and his wife Barbara, who own a 22,000-acre ranch located only 2 miles from the U.S.-Mexico border near Douglas, Arizona. Mr. Barnett also owns and operates a towing and propane gas business with branches in Phoenix, Tucson, Wilcox and Sierra Vista.

Almost any evening after dark, Mr. Barnett can get in his truck, ride a short distance across his own land and personally witness groups of 20, 30, 40, 50, even 100 illegal aliens crossing the property. Sometimes, of course, they cross in daylight also.

□ 1615

Mr. Barnett, his brother, and his wife have personally been responsible over the course of the last year for detaining, calling the INS, and being able to actually take off of his property over 2,000, I say 2,000, people who are trespassing, who are coming across his property illegally and, in fact, coming into the United States illegally.

Now, of course, that in and of itself is a challenging experience for anybody who lives on that border, but along with it goes a whole lot of other problems that are created. Mr. Barnett and all of the other ranchers in the area find that their fences are cut. They are constantly, and I mean constantly, challenged with the responsibility of going out and repairing the fences that have been cut, trampled, gates left open, cattle disappearing, cattle being butchered and eaten right on the spot by the people who are coming through. The water on the property being damaged, the water wells being damaged; the amount of trash that accumulates on these properties is enormous, and it accumulates at something called lay-over sites and these are simply sites where a large number of illegal aliens will gather and they will prepare to be picked up by a truck, by some sort of vehicle in a road not too far away from the site. They discard all of their belongings because they want to pack as many into these vehicles as possible, so they will discard all of the trash that they have been carrying with them and

certainly a lot of the water bottles, even articles of clothing. It is a place of enormous trash and human waste, as a matter of fact. This also gets into the water on the ranch when, after a rain, it destroys the wells; it becomes something that the cattle cannot drink.

The trucks and the buildings on this gentleman's property, as well as many people in the area, have been vandalized. The grasslands needed for food for the cattle are continually trampled by the aliens crossing and making new paths across the land. They discard, as I say, water bottles and trash and plastic bags. The cattle eat the plastic bags and die.

Recently, Mrs. Barnett, Barbara, was driving her truck near her home and saw three illegal aliens crossing her farm. She called her husband, and he and his brother came out and tried to locate them. After following the trail for a period of time, they found a stash of 220 pounds of marijuana hidden in the mesquite bushes.

The Border Patrol has told him that some part of his land is used every single night by drug traffickers, but the Border Patrol does not have the manpower to stop it. Lately, these illegal groups have been coming closer to his ranch house using a creek bed hiding spot not 100 yards from his home. A few months ago, he found a group of 30 and called the Border Patrol to come and get them.

This is happening day after day after day to the people who live in this area. This is not a unique story. I identify these people as homeland heroes, because they are fighting a war on their own land, on their own property, and on the border of the United States; and they are doing it certainly without the help of this government. They turn to their own government, to the Federal Government and say, what can you do? How can you help? What is happening to our property and to our lives? Our lives are essentially being destroyed.

They have to travel everywhere armed. They keep a rifle by the door, a loaded rifle by the door in almost every one of these houses up here because of the number of vandals that have come in, the number of times they have personally been threatened. People have been accosted. Their cars have been stolen, hijacked. The illegal aliens will put rocks up on the dirt road, stop the vehicles, and then hijack the vehicles.

Again, this is something that they put up with every single day. Madam Speaker, what would we do if that was the way we had to face every single day of our lives? I mean, would we not turn to somebody for help and say, what is going on here? This is incredible. This is, by the way, a relatively recent phenomenon, maybe 4 or 5 years. It is a result of a whole lot of things, including the fact that the Mexican Government has chosen to help move people into the United States illegally to serve some of their own needs in the country, Mexico, that is to say.

These are travesties, Madam Speaker, and they cannot be justified in any

way, shape, or form. These people are homeland heroes. I want to bring them to the attention of my colleagues, and I will continue to do so.

SUPPORT VOTING RIGHTS LEGISLATION FOR THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore (Mrs. BLACKBURN). Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Madam Speaker, today I have introduced a D.C. voting rights bill here in the House, and in the Senate it has been introduced by Senator LIEBERMAN with seven sponsors besides Mr. LIEBERMAN; Mr. FEINGOLD, Ms. FEINSTEIN, Mr. SCHUMER, Mr. DODD, Mr. KENNEDY, and Ms. LANDRIEU. I will be seeking cosponsors here in the House from both sides of the aisle beginning next week, and I will be seeking it on this eve of war. I am asking Members of the House to consider what it means to send people to war when those same people have no vote in the House and no Senators whatsoever. We, of course, are second per capita in Federal income taxes. Unless one comes from Connecticut, your constituents do not pay as much in Federal income tax as we do. Most of our residents pay income taxes.

The difference this year is that we are emphasizing something that most of our residents and most of my colleagues' residents have not had to do. On the eve of war, we honor 50,000 veterans of the District of Columbia who live here now. Three distinguished veterans who are also Washingtonians stood with me to announce that we are introducing the No Taxation Without Representation Act. They were former Secretary of the Army, Clifford Alexander, Harvard College, Yale Law School; Wesley Brown, a native Washingtonian, the first black person ever to graduate from the Naval Academy. He is also a graduate of Rensselaer Polytechnic, served in Korea in World War II, and is the former chair of my Service Academy Nominating Board that nominates young people from the District, selects people from the District for me to nominate to go to the academies. George Keyes, native Washingtonian, Air Force Academy, Yale Law School, Rhodes Scholar, just finished as chair of my nominating board for the service academies.

The present Chair, Kerwin Miller, was to be here. A West Point graduate, he could not attend for a completely outrageous reason. The House has attached a rider that forbids anybody who happens to be an employee of the District government from lobbying for voting rights. This man is head of the D.C. Veterans Affairs Office. What an outrage, Madam Speaker. This veteran, this West Point graduate, could not come here to plead for his own freedom because of a rider that has been attached to an appropriations bill that

should not even be here in the first place because it consists of money raised in the District of Columbia.

The Revolutionary War "Taxation without Representation" slogan has been with us since District residents fought in that war and have fought in every war since. The people I represent have indeed had more casualties in many wars than many others in this House. In World War I, more casualties than three States; in World War II, more casualties than four States; in Korea, more casualties than eight States; and in Vietnam, more casualties than 10 States. And no vote, Madam Speaker.

Since I have been in the House, three wars have taken place: the Persian Gulf War, Afghanistan, and now we are on the verge of war with Iraq. I have spoken at all three, sent all three off to war, all with no vote.

Madam Speaker, it is one thing to give your taxes to your government without a vote. It is quite another to lay your life on the line for your country without a vote.

Everyone in the military today is a volunteer. There is a freeze so one cannot even get out, making it really a draft. Taxes without a vote in return is awful, particularly in this body that does not want people to pay taxes in the everyday sense of the word. But patriotism without a vote for it is a shame and a shame on us, particularly given the kind of war we now want to fight, a war for democracy in Iraq and in the Middle East.

I am pleased that there are Republicans who have said to me, This is wrong and I am not for it.

Voting is not a partisan issue, except in undemocratic countries. It cannot be a partisan issue in our country today when we are sending young men and women off to war, yes, even from the Nation's Capital. So the people I represent, in whose name I submitted this bill today, standing with three veterans who live in the District of Columbia, I ask this question of this House: how much longer are you going to ask the residents of your Nation's Capital, 600,000 of them, to pay taxes more than most of my colleagues do per capita and to go to war without the right to vote? How long? I hope not very long.

SUPPORT H.R. 5

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Madam Speaker, today I rise to commend the House on the passage of H.R. 5 and to encourage the other body to immediately take up meaningful medical liability reform, the lack of which constitutes the number one health care problem in America today.

Doctors are being driven out of their practices by staggering medical liability insurance premiums, a direct result

of the incredible increase in medical liability lawsuits and the mind-boggling sums of money paid in jury awards and settlements, much of which ends up in the pockets of personal injury trial attorneys.

In the last 10 years in Texas, my home State, we have seen a 500 percent increase in medical liability awards. But the money is not going to the injured. Studies show that 57 percent of medical malpractice premiums go towards attorneys' fees. Frivolous lawsuits have caused professional liability premiums to jump anywhere from 50 percent to 200 percent in Texas, and the amazing fact is that most of these suits are frivolous. In fact, more than three out of four liability claims against Texas doctors are simply dismissed, dismissed for no merit. Yet, in all cases, doctors are forced to spend tens of thousands of dollars to defend themselves.

Because of the skyrocketing cost of insurance, many physicians are simply closing their doors, moving away from high-risk specialties, refusing to perform certain medical procedures or, frankly, taking early retirement. For example, in Mexia, Texas, in my district, the regional hospital had four family practitioners 1 year ago. But because of the increased costs of their liability insurance, three doctors are now lost. This will leave the hospital with only one OB-GYN in a service area of 70,000 people.

Madam Speaker, this is unacceptable. In this same town in my district, another practitioner closed her clinic and ended up filing bankruptcy, principally due to the skyrocketing cost of liability insurance.

Madam Speaker, I fear without meaningful reform we will lose the best and brightest. They will avoid or exit the medical profession altogether, and where are we going to be 10 years from now if we do not have enough quality doctors to serve our patients?

I know personally how important it is to have the best and brightest practicing medicine. One year ago, our first child was born, a daughter we named Claire Suzanne; and I honestly believe she is the most beautiful baby in the world. But there was a point last year when I was not certain she would be with us, because after almost 12 hours of labor, at 4:30 a.m. in the morning, our baby was in a breech position, apparently undeliverable. Losing her heartbeat with every contraction of my wife, the atmosphere in the delivery room turned very serious. Fortunately, due to a greatly skilled OB-GYN, an immediate C-section was performed in time to save our precious child's life. I do not want to contemplate what might have happened to my child or what could happen to someone else's child if the best and brightest are no longer there to practice medicine and save lives.

There are further problems, Madam Speaker. Doctors are being forced to practice defensive medicine just to pro-

tect themselves from being sued, ordering extra tests, invasive procedures and medications that they do not believe are medically necessary. Hospitals, doctors, and nurses are reluctant to provide care, even in emergency situations, because they live in fear of lawsuits. As one of my House colleagues recently noted, "Something is wrong with the system when it is easier to sue a doctor than it is to see one."

□ 1630

Madam Speaker, we know that there are 40 million people in this country without health insurance. Most simply cannot afford it. But for every 1 percent increase in individual health care premiums, 300,000 people nationwide are forced to go without medical insurance.

Madam Speaker, the answer to a medical tragedy or a grossly negligent medical act is not to pay personal injury trial lawyers millions of dollars, it is not to drive up the costs of health care for the rest of us, it is not to add more Americans to the ranks of the uninsured. The simple answer is to pull the license of the grossly negligent physician.

Madam Speaker, medical liability reform as we passed today will lower cost, improve quality, and provide more access to health care for all Americans.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BLACKBURN). The Chair would remind Members not to urge Senate action.

RECALL DESIGNEE

The SPEAKER pro tempore laid before the House the following communication from the Speaker of the House of Representatives:

OFFICE OF THE SPEAKER, HOUSE OF
REPRESENTATIVES,
Washington, DC, March 13, 2003.

Hon. JEFF TRANDAHL,
Clerk, House of Representatives,
Washington, DC.

DEAR MR. CLERK: Pursuant to House Concurrent Resolution 1, and also for purposes of such concurrent resolutions of the current Congress as may contemplate my designation of Members to act in similar circumstances, I hereby designate Representative Tom DeLay of Texas to act jointly with the Majority Leader of the Senate or his designee, in the event of my death or inability, to notify the Members of the House and the Senate, respectively, or any reassembly under any such concurrent resolution. In the event of the death or inability of that designee, the alternate Members of the House listed in the letter bearing this date that I have placed with the Clerk are designated, in turn, for the same purposes.

Sincerely,

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. MCDERMOTT. Madam Speaker, I ask unanimous consent to take the time allocated to the gentleman from Oregon (Mr. DEFAZIO).

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

There was no objection.

AMERICA BETTER WAKE UP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Madam Speaker, as we inch closer to Mr. Bush's unprovoked and unjustified invasion of Iraq, I come to the floor to talk about an issue that I think the American people should be aware of and Members of House should be very concerned about, and that is the type of news coverage they get about this war.

I see in today's Roll Call that the Republicans are setting up a spin room that will be briefings from the White House on a regular basis, but it is only on one side. It is all being coordinated through the gentleman from California (Mr. COX).

Now, in addition to that the question is then about reporters, and there are going to be two kinds of reporters in this war. The first are the embedded reporters. Those are the American reporters who are brought in and put in military uniforms and put in units of the military. They will be under constant censorship by the leadership of the unit that they are with. They have to sign an agreement to that effect. It is called the Coalition Forces Land Component Ground Rules Agreement, and that means they cannot write anything that the commander of that unit does not say is all right to go out.

Now it is pretty clear that the Secretary of War, Mr. Rumsfeld, is trying to deal with the problems of the Vietnam War. The press played an enormous role in stopping that war by reporting what is going on over there. Had there not been free press, there is no telling how long it might have gone on because the official reports were all bogus and we now know it. But, in the last couple of wars we have controlled the press, and this is the real best control I have ever seen.

There is a second kind of reporter, and that is the unembedded reporter, the international reporters. There is an article in today's paper from the Irish radio, an interview with a woman by the name of Kate Adie, who is the chief news correspondent for the BBC. She said when asked if there were any consequences of fatal actions, the Pentagon officers said we do not care. They have been warned, stay out of

there. She says, "I am enormously pessimistic of the chance of decent, on the spot reporting as the war occurs."

Another man on the same program, Phillip Knightley, who is a war historian, said, "The Pentagon has also threatened they 'may find it necessary to bomb areas in which war correspondents are attempting to report from Iraq.'"

Now, Miss Adie was told the Americans, and I have been talking to the Pentagon, their attitude is "entirely hostile to the free spread of the information." I have been told by a senior officer in the Pentagon that if uplinks, that is television and electronic links, that is the television signals, were detected by any planes, the military would fire on them, even if they were journalists, she said. And the man said, "Who cares?"

Well, the fact is those smart bombs, they tell us a lot but they cannot tell the difference between a radio link, a cell telephone or a radar. They are going to do everything they can to stamp out any kind of information about this war that they do not want to have to have processed.

Now the American people are being taken into a war which is, we are going to be told it is going to be short and quick and sweet, and we were told that about the last war. We were told that only 147 people died in Iraq. But the fact is that 10,000 people have died since, and there are 221,000 claims of disability in the Veterans Administration due to depleted uranium and other toxins that were experienced by our troops. That was not reported at the time. It was not reported now. You have to go to the foreign press.

I would say to all Americans, you should be watching the BBC. Read the French papers, the German papers, any other paper besides the United States. The reporters in the White House are lap dogs to the White House. They stood up there in a press conference the other day and watched the President of the United States with a script on the podium saying, "I will call on Joe. Joe. I will call on Sally. Sally."

He knew what the questions were that they were going to ask and he took exactly what he wanted. He would not take any question that was off his list. That is what the American people are supposed to make a decision about. You cannot have a democracy when the people are ignorant. They have to have information, and this administration is determined not to tell people what is going on. America better wake up quickly.

[From GuluFuture.com, Mar. 10, 2003]

PENTAGON THREATENS TO KILL INDEPENDENT REPORTERS IN IRAQ (BY FINTAN DUNNE)

The Pentagon has threatened to fire on the satellite uplink positions of independent journalists in Iraq, according to veteran BBC war correspondent, Kate Adie. In an interview with Irish radio, Ms. Adie said that questioned about the consequences of such potentially fatal actions, a senior Pentagon officer had said: "Who cares. . . . They've been warned."

According to Ms. Adie, who twelve years ago covered the last Gulf War, the Pentagon attitude is: "entirely hostile to the free spread of information."

"I am enormously pessimistic of the chance of decent on-the-spot reporting, as the war occurs," she told Irish national broadcaster, Tom McGurk on the RTE1 Radio "Sunday Show."

Ms. Adie made the startling revelations during a discussion of media freedom issues in the likely upcoming war in Iraq. She also warned that the Pentagon is vetting journalists according to their stance on the war, and intends to take control of US journalists' satellite equipment—in order to control access to the airwaves.

Another guest on the show, war author Phillip Knightley, reported that the Pentagon has also threatened they: "may find it necessary to bomb areas in which war correspondents are attempting to report from the Iraqi side."

Audio Transcript follows below:

Tom McGurk: "Now, Kate Adie, you join us from the BBC in London. Thank you very much for going to all this trouble on a Sunday morning to come and join us. I suppose you are watching with a mixture of emotions this war beginning to happen, because you are not going to be covering it."

Kate Adie: "Oh I will be. And what actually appalls me is the difference between twelve years ago and now. I've seen a complete erosion of any kind of acknowledgment that reporters should be able to report as they witness."

"The Americans . . . and I've been talking to the Pentagon . . . take the attitude which is entirely hostile to the free spread of information."

"I was told by a senior officer in the Pentagon, that if uplinks—that is the television signals out of . . . Baghdad, for example—were detected by any planes . . . electronic media . . . mediums, of the military above Baghdad . . . they'd be fired down on. Even if they were journalists . . . Who cares! 'said . . . [inaudible]."

Tom McGurk: ". . . Kate . . . sorry Kate . . . just to underline that. Sorry to interrupt you. Just to explain for our listeners. Uplinks is where you have your own satellite telephone method of distributing information."

Kate Adie: "The telephones and the television signals."

Tom McGurk: "And they would be fired on?"

Kate Adie: "Yes. They would be 'targeted down,' said the officer."

Tom McGurk: "Extraordinary!"

Kate Adie: "Shameless!"

"He said . . . 'Well . . . they know this . . . they've been warned.'"

"This is threatening freedom of information, before you even get to a war."

"The second thing is there was a massive news blackout imposed."

"In the last Gulf war, where I was one of the pool correspondents with the British Army. We effectively had very, very light touch when it came to any kind of censorship."

"We were told that anything which was going to endanger troops lives which we understood we shouldn't broadcast. But other than that, we were relatively free."

"Unlike our American colleagues, who immediately left their pool, after about 48 hours, having just had enough of it."

"And this time the Americans are: a) Asking journalists who go with them, whether they are . . . have feelings against the war. And therefore if you have views that are skeptical, then you are not to be acceptable."

"Secondly, they are intending to take control of the Americans technical equipment . . . those uplinks and satellite phones I was talking about. And control access to the airwaves."

"And then on top of everything else, there is now a blackout (which was imposed, during the last war, at the beginning of the war), . . . ordered by one Mr. Dick Cheney, who is in charge of this."

"I am enormously pessimistic of the chance of decent on-the-spot reporting, as the war occurs. You will get it later."

USA: CPJ SENDS LETTER TO SECRETARY RUMSFELD

EXPRESSES CONCERN ABOUT EMBEDDING RULES AND NONEMBEDDED JOURNALISTS

MARCH 6, 2003.

Hon. DONALD H. RUMSFELD,
Secretary of Defense,

The Pentagon, Washington, DC.

DEAR SECRETARY RUMSFELD: The Committee to Protect Journalists (CPJ) is encouraged that the administration is making efforts to accommodate journalists who are seeking to cover a possible U.S. military action in the Gulf. We welcome the Pentagon's plan to embed as many as 500 journalists with U.S. forces as a positive step that will improve frontline access to combat operations.

However, based on a 10-day trip, which CPJ senior program coordinator Joel Campagna recently completed to Kuwait, Qatar, and Jordan, we have a number of concerns regarding both the embed system's implementation and the ability of the many reports who plan to report outside the system to conduct their reporting duties freely.

During his recent trip, CPJ's Campagna visited U.S. military bases in Qatar and Kuwait, meeting with military officials in both places to discuss the Pentagon's media policy. CPJ is particularly concerned by the specific language in the recently released Public Affairs guidance document on embedding and the Coalition Forces Land Component Command Ground Rules Agreement, which embedded journalists will be required to sign. The language could be used to justify unreasonable limits on coverage.

For example, among the information deemed "not reasonable" in the agreement is that which pertains to "on-going engagements." According to the guidelines, such information will not be released unless authorized by an on-scene commander. What constitutes an ongoing engagement is not clear from this document, and unit commanders could interpret it in an extremely broad manner as a basis to restrict reporting.

We, of course, recognize the need to protect certain kinds of information to ensure the safety of U.S. forces. However, we are concerned that under the embedding guidelines, unit commanders have the authority to request that embedded reporters refrain from reporting on a number of broadly defined categories of information. Despite explicit guarantees that journalists' material will not be censored, the guidelines state that when a unit commander believes a reporter may be in a position to reveal sensitive information, he or she may ask a reporter to submit copy for security review. The commander may then ask the reporter to remove information that is classified or sensitive. Access to such information would be contingent on agreeing to this review.

Moreover, despite general assurances from Pentagon officials that they will limit reporting only in cases where operational security would be jeopardized, reporters have expressed fears that officials will restrict coverage by limiting movements or delaying journalists' ability to file stories. The current guidelines grant broad discretion to

unit commanders to limit the dissemination of information likely to be contained in news reports.

Perhaps more important than the embed plan itself is the extent to which journalists not embedded with U.S. troops will be allowed to move and gather news freely. To date, U.S. officials have offered no convincing guarantees that "unilateral" reporting, or reports by nonembedded journalists, will be allowed to proceed without interference. Pentagon officials have stated that they anticipate the presence of unilateral reporters in a potential military theater, and military units that encounter journalists will treat them "like any other civilian person found on the battlefield." Officials, however, have never provided details or assurances about the kind of access unilateral reporters would experience on or around the battlefield but instead have warned journalists about the dangers associated with not embedding.

Lastly, CPJ is concerned for the safety of the significant number of journalists who will likely be working in Baghdad should conflict erupt. While we are worried about possible threats from Iraqi authorities, who detailed and imprisoned several international correspondents during the 1991 Gulf War, we also fear that foreign reporters working in Baghdad could be endangered by U.S. air strikes. We note with concern that U.S. and NATO forces have targeted local broadcast facilities in previous conflicts, including the 1999 strike on the offices of the Yugoslav state broadcaster RTS television. Furthermore, your office has failed to assuage the concerns highlighted in our January 31, 2002, letter requesting clarification on the November 2001 U.S. military strike that destroyed the offices of the Arabic language broadcaster Al-Jazeera in Kabul, Afghanistan. We remind you that statements made by Pentagon officials to U.S. media representatives on February 28, 2003, warning of the potential dangers to unilateral reporters operating in Iraq do not absolve U.S. forces of their responsibility to avoid endangering media operating in known locations.

Today, hundreds of journalists are preparing to cover what could be a potentially hazardous assignment in Iraq and the Persian Gulf should the U.S. decide to attack Iraq. Despite these inherent dangers, journalists have an obligation to report the news, especially in times of war, when public information is crucial. Any U.S. military action must take into account the safety of working journalists and their ability to work freely. As an independent organization of journalists dedicated to defending press freedom worldwide, we urge you to take the following actions to make certain that journalists covering a possible war with Iraq can do so freely and safely: Ensure that journalists operating within the embed system be allowed the maximum possible freedom to report; provide public assurance to journalists who will be reporting outside the embed system that the U.S. military will not interfere in their work and will impose only those restrictions absolutely necessary to ensure the safety of U.S. military personnel and operations; refrain from targeting broadcast and other media operating in Baghdad; and ensure that maximum precaution is taken to avoid harm to journalists operating in known locations in potential military theaters.

Thank you for your attention to these important matters. We await your response.

Sincerely,

JOEL SIMON,
Acting Director.

CHILD ABDUCTION PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Madam Speaker, surely he came to save that which was lost.

As the father of two beautiful daughters, I was elated last night to see a little girl by the name of Elizabeth Smart lost 9 months ago to her family and her community restored to hearth and home. It was an awesome sight and a reunion that is difficult to imagine in its joy this side of eternity.

As a member of the Committee on the Judiciary and as the author of legislation protecting children from Internet pornographers, Madam Speaker, I am delighted to report this week against the backdrop of that awesome news Congress was caught doing something. It is truly astonishing.

In the midst of the disappearance of Elizabeth Smart and far too many others, last year Congress passed the Child Abduction Prevention Act, taking strong action to prevent child kidnappings in the future. It included a national Amber alert. But sadly, the Senate failed to act on that important legislation. Undeterred, the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENBRENNER), was already moving this bill last week when public vigilance restored Elizabeth Smart to her family.

Different from action in the other body earlier today, that creates a national coordinator that already exists within the Justice Department and a voluntary national Amber alert. The Child Abduction Prevention Act that was already marked up last week and scheduled for consideration in the Committee on the Judiciary this coming week creates a national Amber alert communication network. It gives the judicial branch the ability to impose life sentences for child sex offenders, creates a mandatory life sentence for two strike offenders. It eliminates the statute of limitation for child abduction and it doubles Federal funds to the National Center for Missing and Exploited Children.

There is real substance in the Child Abduction Prevention Act. This is a time against the backdrop of this extraordinarily joyous news that we in Washington need legislation, not symbolism and photo ops. To the family of Elizabeth Smart and her brave and courageous parents, may the Lord bless your reunion. But to my colleagues, let us seize this historic occasion of joy to pass meaningful legislation. Let us move the Child Abduction Prevention Act among my colleagues on the Committee on the Judiciary, and as swiftly as is possible, let us move it to the floor of the House of Representatives and to the President's desk. Our children, including Elizabeth Smart, deserve no less.

PUBLICATION OF THE RULES OF THE COMMITTEE ON HOUSE ADMINISTRATION, 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. NEY) is recognized for 5 minutes.

Mr. NEY. Mr. Speaker, pursuant to clause 2(a)(2) of Rule XI, I hereby submit for the RECORD the Committee on House Administration's Rules for the 108th Congress. The Committee Rules were adopted by the Committee on House Administration on February 5, 2003.

RULES OF THE COMMITTEE ON HOUSE ADMINISTRATION

RULE NO. 1: GENERAL PROVISIONS

(a) The Rules of the House are the rules of the Committee so far as applicable, except that a motion to recess from day to day is a privileged motion in the Committee.

(b) The Committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under House Rule X and, subject to the adoption of expense resolutions as required by House Rule X, clause 6, to incur expenses (including travel expenses) in connection therewith.

(c) The Committee is authorized to have printed and bound testimony and other data presented at hearings held by the Committee, and to distribute such information by electronic means. All costs of stenographic services and transcripts in connection with any meeting or hearing of the Committee shall be paid from the appropriate House account.

(d) The Committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of the Committee under House Rules X and XI during the Congress ending at noon on January 3 of such year.

(e) The Committee's rules shall be published in the CONGRESSIONAL RECORD not later than 30 days after the Committee is elected in each odd-numbered year.

RULE NO. 2: REGULAR AND SPECIAL MEETINGS

(a) The regular meeting date of the Committee on House Administration shall be the second Wednesday of every month when the House is in session in accordance with Clause 2(b) of House Rule XI. Additional meetings may be called by the Chairman of the Committee (hereinafter in these rules referred to as the "Chairman") as he may deem necessary or at the request of a majority of the members of the Committee in accordance with Clause 2(c) of House Rule XI. The determination of the business to be considered at each meeting shall be made by the Chairman subject to Clause 2(c) of House Rule XI. A regularly scheduled meeting may be dispensed with if, in the judgment of the Chairman, there is no need for the meeting.

(b) If the Chairman is not present at any meeting of the Committee, or at the discretion of the Chairman, the Vice Chairman of the Committee shall preside at the meeting. If the Chairman and Vice Chairman of the Committee are not present at any meeting of the Committee, the ranking member of the majority party who is present shall preside at the meeting.

RULE NO. 3: OPEN MEETINGS

As required by Clause 2(g), of House Rule XI, each meeting for the transaction of business, including the markup of legislation, of the Committee, shall be open to the public except when the Committee, in open session and with a quorum present, determines by record vote that all or part of the remainder of the meeting on that day shall be closed to

the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House: Provided, however, that no person other than members of the Committee, and such congressional staff and such departmental representatives as they may authorize, shall be present in any business or markup session which has been closed to the public.

RULE NO. 4: RECORDS AND ROLLCALLS

(a) The result of each record vote in any meeting of the Committee shall be transmitted for publication in the Congressional Record as soon as possible, but in no case later than two legislative days following such record vote, and shall be made available for inspection by the public at reasonable times at the Committee offices, including a description of the amendment, motion, order or other proposition; the name of each member voting for and against; and the members present but not voting.

(b)(1) Subject to subparagraph (2), the Chairman may postpone further proceedings when a record vote is ordered on the question of approving any measure or matter or adopting an amendment. The Chairman may resume proceedings on a postponed request at any time.

(2) In exercising postponement authority under subparagraph (1), the Chairman shall take all reasonable steps necessary to notify members on the resumption of proceedings on any postponed record vote.

(3) When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

(c) All Committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as Chairman; and such records shall be the property of the House and all members of the House shall have access thereto.

(d) House records of the Committee which are at the National Archives shall be made available pursuant to House Rule VII. The Chairman shall notify the ranking minority party member of any decision to withhold a record pursuant to the rule, and shall present the matter to the Committee upon written request of any Committee member.

(e) To the maximum extent feasible, the Committee shall make its publications available in electronic form.

(f) All Committee resolutions and Committee motions (other than procedural motions) adopted by the Committee during a Congress shall be numbered consecutively.

RULE NO. 5: PROXIES

No vote by any member in the Committee may be cast by proxy.

RULE NO. 6: POWER TO SIT AND ACT; SUBPOENA POWER

(a) For the purpose of carrying out any of its functions and duties under House Rules X and XI, the Committee, is authorized (subject to subparagraph (b)(1) of this paragraph)—

(1) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings; and

(2) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents; as it deems necessary. The Chairman, or any member designated by

the Chairman, may administer others to any witness.

(b)(1) A subpoena may be authorized and issued by the Committee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. The power to authorize and issue subpoenas under subparagraph (a)(2) may be delegated to the Chairman pursuant to such rules and under such limitations as the Committee may prescribe. Authorized subpoenas shall be signed by the Chairman or by any member designated by the Committee, and may be served by any person designated by the Chairman or such member.

(2) Compliance with any subpoena issued by the Committee may be enforced only as authorized or directed by the House.

RULE NO. 7: QUORUMS

No measure or recommendation shall be reported to the House unless a majority of the Committee is actually present. For the purposes of taking any action other than reporting any measure, issuance of a subpoena, closing meetings, promulgating Committee orders, or changing the rules of the Committee, one-third of the members of the Committee shall constitute a quorum. For purposes of taking testimony and receiving evidence, two members shall constitute a quorum.

RULE NO. 8: AMENDMENTS

Any amendment offered to any pending legislation before the Committee must be made available in written form when requested by any member of the Committee. If such amendment is not available in written form when requested, the Chair will allow an appropriate period of time for the provision thereof.

RULE NO. 9: HEARING PROCEDURES

(a) The Chairman, in the case of hearings to be conducted by the Committee, shall make public announcement of the date, place, and subject matter of any hearing to be conducted on any measure or matter at least one (1) week before the commencement of that hearing. If the Chairman, with the concurrence of the ranking minority member, determines that there is good cause to begin the hearing sooner, or if the Committee so determines by majority vote, a quorum being present for the transaction of business, the Chairman shall make the announcement at the earliest possible date. The clerk of the Committee shall promptly notify the Daily Digest Clerk of the Congressional Record as soon as possible after such public announcement is made.

(b) Unless excused by the Chairman, each witness who is to appear before the Committee shall file with the clerk of the Committee, at least 48 hours in advance of his or her appearance, a written statement of his or her proposed testimony and shall limit his or her oral presentation to a summary of his or her statement.

(c) When any hearing is conducted by the Committee upon any measure or matter, the minority party members on the Committee shall be entitled, upon request to the Chairman by a majority of those minority members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearings thereon.

(d) Committee members may question a witnesses only when they have been recognized by the Chairman for that purpose, and only for a 5-minute period until all members present have had an opportunity to question a witness. The 5-minute period for questioning a witness by any one member can be extended as provided by House Rules. The

questioning of a witness in Committee hearings shall be initiated by the Chairman, followed by the ranking minority party member and all other members alternating between the majority and minority. In recognizing members to question witnesses in this fashion, the Chairman shall take into consideration the ratio of the majority to minority members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the members of the majority. The Chairman may accomplish this by recognizing two majority members for each minority member recognized.

(e) The following additional rules shall apply to hearings:

(1) The Chairman at a hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the Committee rules and this clause shall be made available to each witness.

(3) Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The Chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the Committee may cite the offender to the House for contempt.

(5) If the Committee determines that evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, it shall—

(A) afford such person an opportunity voluntarily to appear as a witness;

(B) receive such evidence or testimony in executive session; and

(C) receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (e)(5), the Chairman shall receive and the Committee shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Committee.

(8) In the discretion of the Committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Committee.

RULE NO. 10: PROCEDURES FOR REPORTING MEASURES OR MATTERS

(a)(1) It shall be the duty of the Chairman to report or cause to be reported promptly to the House any measure approved by the Committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(2) In any event, the report of the Committee on a measure which has been approved by the Committee shall be filed within 7 calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the Committee a written request, signed by a majority of the members of the Committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the Committee shall transmit immediately to the Chairman notice of the filing of that request.

(b)(1) No measure or recommendation shall be reported to the House unless a majority of the Committee is actually present.

(2) With respect to each record vote on a motion to report any measure or matter of a

public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the Committee report on the measure or matter.

(c) The report of the Committee on a measure or matter which has been approved by the Committee shall include the matters required by Clause 3(c) of Rule XIII of the Rules of the House.

(d) Each report of the Committee on each bill or joint resolution of a public character reported by the Committee shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution.

(e) If, at the time of approval of any measure or matter by the Committee, any member of the Committee gives notice of intention to file supplemental, minority, or additional views, that members shall be entitled to not less than two additional calendar days after the day of such notice, commencing on the day on which the measure or matter(s) was approved, excluding Saturdays, Sundays, and legal holidays, in which to file such views, in writing and signed by that member, with the clerk of the Committee. All such views so filed by one or more members of the Committee shall be included within, and shall be a part of, the report filed by the Committee with respect to that measure or matter. The report of the Committee upon that measure or matter shall be printed in a single volume which—

(1) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(2) shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under subparagraph (c) are included as part of the report. This subparagraph does not preclude—

(A) the immediate filing or printing of the Committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by paragraph (c); or

(B) the filing of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by the Committee upon that measure or matter.

(3) shall, when appropriate, contain the documents required by Clause 3(e) of Rule XIII of the Rules of the House.

(f) If hearings have been held on any such measure or matter so reported, the Committee shall make every reasonable effort to have such hearings published and available to the members of the House prior to the consideration of such measure or matter in the House.

(g) The Chairman may designate any member of the Committee to act as "floor manager" of a bill or resolution during its consideration in the House.

RULE NO. 11: COMMITTEE OVERSIGHT

The Committee shall conduct oversight of matters within the jurisdiction of the Committee in accordance with House Rule X, clause 2 and clause 4. Not later than February 15 of the first session of a Congress, the Committee shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plans for that Congress in accordance with House Rule X, clause 2(d).

RULE NO. 12: REVIEW OF CONTINUING PROGRAMS: BUDGET ACT PROVISIONS

(a) The Committee shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, en-

sure that appropriation for continuing programs and activities of the Federal Government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirement, and objectives of the programs and activities involved. For the purposes of this paragraph a Government agency includes the organizational units of government listed in Clause 4(e) of Rule X of House Rules.

(b) The Committee shall review, from time to time, each continuing program within its jurisdictions for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefore would be made annually.

(c) The Committee shall, on or before February 25 of each year, submit to the Committee on the Budget (1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions, and (2) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year.

(d) As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, the Committee (after consulting with the appropriate committee or committees of the Senate) shall subdivide any allocation made to it, the joint explanatory statement accompany the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 of the Congressional Budget Act of 1974.

(e) Whenever the Committee is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process it shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974.

RULE NO. 13: BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS

Whenever any hearing or meeting conducted by the Committee is open to the public, those proceedings shall be open to coverage by television, radio, and still photography, as provided in Clause 4 of House Rule XI, subject to the limitations therein. Operation and use of any Committee Internet broadcast system shall be fair and non-partisan and in accordance with Clause 4(b) of rule XI and all other applicable rules of the Committee and the House.

RULE NO. 14: COMMITTEE STAFF

The staff of the Committee on House Administration shall be appointed as follows:

A. The Committee staff shall be appointed, except as provided in paragraph (B), and may be removed by the Chairman and shall work under the general supervision and direction of the Chairman;

B. All staff provided to the minority party members of the Committee shall be appointed, and may be removed, by the ranking minority member of the Committee, and shall work under the general supervision and direction of such member;

C. The Chairman shall fix the compensation of all staff of the Committee, after consultation with the ranking minority member regarding any minority party staff, within the budget approved for such purposes for the Committee.

RULE NO. 15: TRAVEL OF MEMBERS AND STAFF

(a) Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, the provisions of this rule shall govern travel of Committee members and staff. Travel for any member or any staff member shall be paid only upon the prior authorization of the Chairman. Travel may be authorized by the Chairman for any member and any staff member in connection with the attendance of hearings conducted by the Committee and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the Chairman in writing the following:

(1) The purpose of the travel;

(2) The dates during which the travel will occur;

(3) The locations to be visited and the length of time to be spent in each;

(4) The names of members and staff seeking authorization.

(b)(1) In the case of travel outside the United States of members and staff of the Committee for the purpose of conducting hearings, investigations, studies, or attending meetings and conferences involving activities or subject matter under the legislative assignment of the committee, prior authorization must be obtained from the Chairman. Before such authorization is given, there shall be submitted to the Chairman, in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(A) the purpose of the travel;

(B) the dates during which the travel will occur;

(C) the names of the countries to be visited and the length of time to be spent in each;

(D) an agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of committee jurisdiction involved; and

(E) the names of members and staff for whom authorization is sought.

(2) At the conclusion of any hearing, investigation, study, meeting or conference for which travel outside the United States has been authorized pursuant to this rule, members and staff attending meetings or conferences shall submit a written report to the Chairman covering the activities and other pertinent observations or information gained as a result of such travel.

(c) Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, or regulations of the House and of the Committee on House Administration pertaining to such travel.

RULE NO. 16: POWERS AND DUTIES OF SUBUNITS OF THE COMMITTEE

The Chairman is authorized to establish appropriately named subunits, such as task forces, composed of members of the Committee, for any purpose, measure or matter; one member of each subunit shall be designated chairman of the subunit by the Chairman. All such subunits shall be considered ad hoc subcommittees of the Committee. The rules of the Committee shall be the rules of any subunit of the Committee, so far as applicable, or as otherwise directed by the Chairman. Each subunit of the Committee is authorized to meet, hold hearings, receive evidence, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems

necessary, and to report to the full Committee on all measures or matters for which it was created. Chairmen of subunits of the Committee shall set meeting dates with the approval of the Chairman of the full Committee, with a view toward avoiding simultaneous scheduling of Committee and subunit meetings or hearings wherever possible. It shall be the practice of the Committee that meetings of subunits not be scheduled to occur simultaneously with meetings of the full Committee. In order to ensure orderly and fair assignment of hearing and meeting rooms, hearings and meetings should be arranged in advance with the Chairman through the clerk of the Committee.

RULE NO. 17: OTHER PROCEDURES AND REGULATIONS

The Chairman may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the committee.

RULE NO. 18: DESIGNATION OF CLERK OF THE COMMITTEE

For the purposes of these rules and the Rules of the House of Representatives, the staff director of the Committee shall act as the clerk of the Committee.

HONORING ERNIE BARKA

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

Mr. BRADLEY of New Hampshire. Madam Speaker, I rise today to pay tribute to a dedicated New Hampshire resident who has devoted over 30 years of his life to public service, Mr. Ernie Barka.

Ernie passed away Monday, March 10, at the age of 80. He was a true civic leader in his community, devoting his life to others and improving the quality of life for residents, not only in his hometown but all over southern New Hampshire. He worked tirelessly to help those less fortunate and was a champion for the elderly and for children.

The son of Lebanese immigrants, Ernie learned strong family values and the importance of respect for others while working in his parents' grocery store. The strong work ethic instilled by his parents during his childhood carried over to all aspects of his adult life, particularly in his community and civic involvement.

Ernie served most recently as Rockingham County Commissioner and was a former State representative and former school board member in the town of Derry.

Ernie is credited with launching the Meals on Wheels program in Rockingham County. Leaders like Ernie exemplify the true spirit of civic responsibility and he will be truly missed. His efforts to make New Hampshire a better place to live have made a lasting impact on the people of New Hampshire that both knew him and knew of him. I am happy to have called Ernie my friend.

FINANCIAL CHALLENGES FACING THE NATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes as the designee of the majority leader.

Mr. SMITH of Michigan. Madam Speaker, with this early session today it seemed like an appropriate time to talk about what I think are maybe three of the greatest problems that we are facing in the United States Congress in America outside of our economic security and our physical security with the wars going on in Iraq, with the challenge from the terrorists around the world. However, the financial problems that we are facing in Congress are also very serious, and I think we must reverse the rapid descent that we have been taking into extra deficits and overspending. So today I will talk about three areas: One, spending; two, the resulting debt; and, three, some of the financial challenges that face this Nation in the future.

The first chart I have is the a chart representing the last 10 years of spending; and discretionary spending has increased an average of 6.3 percent, 6.3 percent each year since 1996, and 7.7 percent each year since 1999. So it is somewhat flat. It starts going up in 1996 and then it really takes off from 1998, 1999 averaging 7.7 percent a year. That is two, three, depending on the year, sometimes almost four times the rate of inflation. So you can imagine if you project that on in this kind of growths of costs, government is going to be eating up more of our income, more of our gross domestic product in the years ahead.

□ 1645

Why is this? How can we control ourselves from the overzealousness and the attractiveness to spend more money? Of course, politicians in this Chamber get elected every 2 years. The politicians in the other Chamber get elected every 6 years, and the tendency has been when a Member of Congress takes home more pork barrel projects, when they are doing something to solve some of the problems that we face in this country, then they get on television. They get on the front page of the paper. They become popular, especially with those people that need those services, and there is a greater propensity that they are going to get reelected.

So the tendency has been to spend more and more money, and we have changed our income tax system so that most of the people in the United States do not pay much of any income tax. It is the top 14 percent of taxpayers that pay something like 90 percent of the total income tax, and the bottom 50 percent of income taxpayers only pay about 1 percent of the income tax. So it is easy to understand that that bottom 50 percent is not outraged by increased

taxes and increased spending and increased borrowing, and this is the next issue I wanted to talk about is borrowing.

Three years ago, in the year 2000, we had a budget surplus of \$236 billion. This year we are approaching a \$500 billion deficit. So over \$700 billion changed from surplus to deficit in a total Federal spending budget that we are looking at this year of \$2.1 to \$2.2 trillion. Huge points, and again, that is because of the overzealousness to spend.

Let us look at what has happened as a result of that spending, and I think it is good to remind ourselves of the definitions. When we say "deficit" that means a year in which we are spending more money than the Federal Government has in revenues coming into the Federal Government, and "debt" is the accumulation of that annual overspending. So what does government do? We borrow more money.

As a safeguard to try to hold the line on borrowing, what we did many, many years ago is said, look, we cannot borrow, in fact, the Constitution prescribes it, we cannot borrow any extra indebtedness for this country unless it is a law passed by the Senate, the House and signed by the President, to try to put some restraints on the temptation to simply borrow more and more money and spend more and more of that money, and of course, this chart is an explanation, as best as we could portray it, in a blue line, a green line and a purple line, if you will, on the gross Federal debt and its components.

As we look at the bottom purple line, this is the debt held by government accounts. It is the money that we ask workers in this country to pay into the FICA tax, into the Social Security tax, designed in 1934, to be a forced saving so that while we are working, some of that money is taken out. FDR, Franklin Delano Roosevelt, said instead of having to go over the hill to the poor house, we are going to have mandatory savings during those years when a person is working, and then when they retire they will have more security, more Social Security. They will not have to go over the hill to the poor house.

So we came up with a Social Security system, and when we started, it was a situation where current workers paid in their taxes to pay for the benefit of current retirees. That is the same today.

Also, the extra money that is paid in by all Federal workers for their retirement programs, the money for the pensions of the military, our armed service members who pay in part of their wages for their retirement, that is all accounts held by the government, and what we assume in this Chamber, in the Senate and the White House, is that it is okay simply to write out an IOU and spend that money for other government services, but it technically is part of the debt, and as we see over the years, this debt held by government services continues to go up, at

least past into the future, as far as we can see almost.

The green line in the middle is the debt held by the public, the Treasury auctions that we have, the so-called Wall Street debt, the debt that is held by retirement funds, insurance companies, banks, anybody that wants to buy those Treasury bills. That is the debt that is held by the public.

We saw a period in 2001 and 2002 and 1999 where we were having a little surplus in terms of paying down some of that debt held by the public, and so, to me, I think it was a little bit misleading, maybe a little bit hoodwinking in terms of telling people we were paying down the Federal debt at a time when actually the total debt of the country continued to go up. The total debt never went down during our brag sessions of having a lock box, that we are going to take and pay down the public debt of this country.

Yet what was happening is we were to pay down that debt, we were taking extra money coming in from Social Security and the other trust funds and using that money to pay down some of the public debt. So, therefore, as my colleagues can see and as we have tried to portray by this chart, the debt has never really decreased.

Why is this bad policy? Why is it unfair to our kids and our grandkids and future generations to keep piling up this debt?

If we will, sort of pretending that our debt and our problems today are greater than maybe the needs of our kids and our grandkids, probably not so. They are going to have to somehow come up with the extra tax effort to pay off this debt but absolutely to pay the cost of servicing this debt.

Right now we have got a downturn and a sluggish economy, and so, therefore, there are less revenues coming in. The demand for extra money is not out there in the private sector, and so the effect of extra government borrowing does not hurt the economy so much, but when it is going to start to hurt is when we have this economic recovery. When individuals say it is time, I want to buy a new car, what is the interest rate; it is time I want to buy my house and my home for my family, how much is it going to cost me; and a business that decides to employ more and expand and buy the equipment and the facilities they need for expansion and business, and then they find out that who is at that marketplace, buying up available money, is the Federal Government.

The Department of Treasury has auctions every week, and based on the total indebtedness and how much extra we are spending over and above what is being brought into the Federal Government, it is a situation where government says, well, look, whatever it costs we are going to have our money. If we have to bid up the interest rate to make sure that we get the money we need, we are going to do that, and of course that results in the potential for

higher interest rates and that is what is going to happen.

When the economy recovers, interest rates are going to go up. Interest rates right now are a little over 3 percent. So government can borrow money at about 3 percent, and yet even with that low interest rate, the servicing that debt, the interest that government pays on that borrowing represents 11.4 percent of our total Federal spending budget.

What would happen if we hit interest rates that were in existence in the late seventies and early eighties when we saw interest rates go as high as 17 percent, sometimes higher than 17 percent? Then that 11.4 percent becomes five times greater, and 60 percent of our budget would be used paying interest, and that is just the situation with the current debt today.

What if we project ourselves to the debt that is going to happen if we are not able to have the intestinal fortitude, if you will the guts, to stand up and say no, we are going to slow down spending, we are going to prioritize some of the Federal spending, government cannot be responsible to all of the problems of the country and we go back to the basics of our United States Constitution?

When Republicans took the majority in this Chamber in 1994 and starting in 1995, Newt Gingrich, the then Speaker of the House, asked me if I would be chairman of the Debt Limit Task Force, and so we got what I considered some of the really good thinkers in terms of trying to come together to analyze how do we start having a balanced budget, how do we start living within our means, how do we start convincing Members of Congress and the country that government cannot solve all the problems and that it is unconscionable just to keep spending more and more money, and of course, politically it is not wise to increase taxes to cover those expenditures, because people reach in and they feel their billfold and they feel the money going out of that billfold to pay the income tax but not so with borrowing. So the tendency has been to increase more and more borrowing.

What if interest rates, and they will, what if interest rates simply are forced up by 2 percent because of the extra demand that government has for borrowing? A person goes out and buys a \$28,000 car and they amortize it over 5 years, pay it off in 5 years, it is going to cost them \$3,000 more to buy that vehicle because government has pushed up interest rates in the marketplace.

What if they want a home, what if they are going to go out and buy an \$80,000 to \$100,000 home, amortized, let us say, over 25 years? Then they are going to end up paying \$13- or \$14,000 more for that home because government is in the marketplace bidding for available funds and driving up the bid on what that interest rate is going to be. So it is going to affect each one of us individually eventually if we are not able to hold the line on spending.

Our debt today amounts to about \$24,000 per individual in this country. The total debt is \$6.4 trillion.

Let me tell my colleagues another safeguard that our task force on holding the line on debt did. We said that there was a rule in this House, it was called the Gephardt rule, and the Gephardt rule stated in the rules of this Chamber that every time we passed a budget, if that budget spent more money than what was coming in in revenues, then automatically, without another vote, the debt limit of this country would be raised in legislation that would automatically be passed and sent on to the Senate. Why was that? That was so this Chamber was not embarrassed by having to take a vote and a debate on should we increase the debt for our kids and our grandkids.

I am a farmer from Michigan, and it has been our goal to pay off the mortgage, to give our kids a little better chance, but that is not what we are doing in this Chamber. That is not what we are doing across the hall at the Senate. It is not what we are doing at the White House. We are saying our problems must be so great that it justifies us making the wages and earnings of our kids and our grandkids and our great-grandkids to pay off that debt. That is sort of the spending part of the problem on debt.

Another task force that I have been chairing is a bipartisan task force made up of Republicans that sit on this side of the aisle, Democrats that sit on that side. So it was a task force on Social Security, and after we studied the problem and challenge of Social Security, we pretty much all agreed, Democrats and Republicans, that something has to be done because Social Security is going broke, and just let me review a couple of charts that I have on why Social Security is going to grow.

The coming Social Security crisis, and it is coming very quickly, our pay-as-you-go retirement system will not meet the challenge of demographic change. Pay-as-you-go is back to where it was. It is the same as when it started in 1934, existing workers pay in their Social Security tax. That money immediately goes out to current or existing retirees.

□ 1700

So there is no savings account. Nothing is being saved up for your retirement. It is simply a situation where whenever there were not enough workers and enough revenue coming in for the Social Security to cover promised benefits, then what did government do? And I am sure you can guess what government did. They either raised the tax, Social Security tax, and/or they cut benefits. And most often, throughout the years since 1934, they have done both, raised taxes and cut benefits.

That is why when we looked at the chart on how much debt held by the government accounts kept going up, it is because in 1983, on Social Security, the Greenspan Commission raised taxes

so high that ever since that law was enacted, there has been more money coming in to Social Security than was needed to pay out Social Security benefits. And like I said, government said, this is a good deal. We are going to take this money, write an IOU, and we are going to use the Social Security money to pay for other government programs.

That is why some of us said, look, we need something. We need private accounts. We need some way to get it out of the hands of spenders in Congress that would like to take that extra money and instead of saving it, somehow investing it. Every year, Congress has simply spent that money.

So what is in the Social Security trust fund? It is a nice name, but it is a misnomer because there is no real trust fund. There is no money there. So young people are at risk of trying to figure out ways on how they are going to do maybe without Social Security, or with much less Social Security; but more importantly, during their working life, they are going to probably be asked to pay more towards current benefits of retirees.

Look at this chart a minute with me. Demographics is the word. That is the problem. When we started this pay-as-you-go program, it worked very well. The working population was growing in relation to the number of retirees. In fact, back when we started the program, there were 36 workers working, paying in their taxes, for every one retiree. By 1940, it got down to 24 workers working, paying in their taxes, for every retiree. By the year 2000, three workers. Three workers paying in their taxes for every retiree. So their taxes, of course, had to go up. And what the actuaries at the Social Security Administration are predicting is that by 2025 there are only going to be two workers for every one retiree in this country.

And why is that? That is the demographics. The baby boomers. The increase in the birthrate has always been sufficient to keep an increased number of workers in relation to retirees. But now, after the baby boomers, those born after World War II, and the big increase in workers in this country, we are seeing a reduced birthrate; and at the same time we are seeing older people living longer. So where the average age of death when we started this program was 62 years old, which meant most people never got to 65 and collected Social Security benefits, now the average age of death is 86 years old, and it is going up.

Let me conclude by pointing out what we know about Social Security. Insolvency is certain. We know how many people there are, and we know when they are going to retire. We know that people will live longer in retirement. We know how much they will pay in and how much they will take out, and we know the results. The fact is payroll taxes will not cover benefits starting in 2015 and that the shortfalls

will add up to, and listen to this, \$120 trillion between 2015 and 2075. Our annual budget is only \$2.1 trillion; but over those years, in excess of the tax money from Social Security coming in, we are going to need an additional \$120 trillion.

That is why it is so important that we deal with this; that we step up to the plate; that we deal with this problem now instead of putting it off. Because we have a surplus now coming in from Social Security. If we can use that surplus, it is going to help.

The bipartisan task force on Social Security came to the conclusion that there has to be a better investment for that extra Social Security revenue coming in to the Federal Government. Private accounts are good, for a two-fold reason. One, you take it out of the hands and you get it off the table in terms of having it available to be spent by Congress. So it is an assurance that that money is in the name of the American worker and they can depend on it. If they happen to die before age 65, then it goes into their estate.

Now, some have argued, well, we cannot let the individual decide how to invest that money. I say if it is a compromise, fine, let us do it the same as the government's Thrift Savings Plan, where there is a government manager with indexed funds and that you have the choice of some of those safe index funds and you invest in that variety of funds as you might choose. But, still, it is government saying these are the safe funds where you are going to be least likely to lose any of that money. And so somehow it is a good idea.

Because let me tell you, the Supreme Court, on two occasions now, has said that there is no entitlement to Social Security money. I mean, if you work all your life, you pay in all those Social Security taxes, the Supreme Court, on a couple of cases, has said, look, Social Security tax, the FICA tax, is simply a tax and your entitlement to get benefits is simply legislation that has been passed by Congress and signed by the President.

In conclusion, let me say that the biggest risk is doing nothing at all; to do nothing to set aside the Social Security trust fund money and to not use it. And the lockbox that we heard about 3 years ago was a farce. It did not do anything to save Social Security. It was just sort of rhetoric that became politically popular. That money really needs to be invested in some fashion, in such a way to make sure that it is not available to the rest of government to spend as they might choose in other areas.

Social Security has a total unfunded liability of over \$9 trillion. Now, the \$9 trillion is what we need to come up with today if we are going to keep Social Security solvent. The \$120 trillion that I mentioned is future-years money with inflation, et cetera. So between the years 2015 and 2075 we are going to need that extra \$120 trillion over and above the Social Security tax that is coming in from payroll.

And I need to mention that right now 75 percent of American workers pay more in the FICA tax, the payroll tax, than they do in the income tax. And it would be, I think, extremely unfair to increase that tax again. Over the years, we have done it dozens of times. It started out at 1.5 percent tax on your income, and that included the employer's share; and now it is up to 12.4 percent.

The Social Security trust funds contain nothing but IOUs. So if we do nothing, somehow government is going to have to raise taxes someplace or increase borrowing or cut down on other government expenses to accommodate what we promised in Social Security. To keep paying promised Social Security benefits, the payroll tax will have to be increased by nearly 50 percent or benefits will have to be cut by 30 percent. Too much. It would be bad. It would be terrible. With so many seniors that depend on Social Security for over 90 percent of their total income in their old age, it would be inconceivable to make those kinds of cuts.

So I ask my colleagues, Madam Speaker, to stand up to this great challenge. Even in the midst of the tremendous challenges that we have with the terrorists, the challenge of what we do with Saddam Hussein in Iraq, we have to stand up and make some hard decisions to make sure that we save Social Security and we do not keep putting it off until it becomes a crisis. And that crisis is rapidly approaching, because sometime between the year 2015 and 2017 there is not going to be enough money coming in from the Social Security tax to pay benefits.

So back to my three areas that I thought were very important. One is spending. We cannot continue to spend. And there will be a lot of criticism on this budget that came out, because we are cutting back on spending. For the first time since I have been here, and I came in in 1993, the budget resolution that we are going to be looking at over the next couple of weeks actually says in the discretionary part of spending, which represents less than half of the total spending, but in some discretionary spending we are going to have to cut back because we want to hold the total spending of this Congress down.

And you know what I think? I think even a lot of grandpas and grandmas, if they knew that it just meant extra borrowing to accommodate some of their needs, even to the extent of prescription drugs, they would say, look, if it is going to be borrowing that my grandkids have to pay back, hold off a little while. Try to hold the line on spending, because that is going to result in holding the line on the total debt that we are passing on to our grandkids.

Mr. BOYD. Madam Speaker, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Florida.

Mr. BOYD. Madam Speaker, I thank the gentleman for yielding. I have been

watching from my office, and I came to the floor to tell him that I agree with everything he has said. And as a matter of fact, I and some others have control of the second hour, but I know the gentleman has some time left so I thought maybe before they get here he and I could talk.

Mr. SMITH of Michigan. Let us solve the Social Security problem. Let us solve the spending problem.

Mr. BOYD. I hope we can do that. Because the Social Security and the spending problems are the major problems that face our children and our grandchildren. We are hanging an albatross around their necks.

But I wanted to say to the gentleman from Michigan how pleased I was to hear the points that he has made. I did not realize he was a farmer from Michigan. I happen to be a farmer from Florida, as the gentleman may know; and I was very interested to hear the gentleman talk about the fact that as a farmer he knows that at the end of the day his revenues have to match his expenditures or he does not stay in business. I think all of the farmers around the country know that, and all of our small business people and even all of our constituents know that.

At the end of the day they have to have enough revenue to match their expenditures. And if they do not do that, they are bankrupt.

Mr. SMITH of Michigan. Reclaiming my time for just a moment, before the gentleman says it, I say if we cannot hold the line on spending, then we should not have a tax cut. And I yield to the gentleman.

Mr. BOYD. And I thank the gentleman for yielding. I could not agree with him more. I think that is why the gentleman will see, when the Blue Dogs, who are going to be here in the next hour to talk to the Nation, that the gentleman will find that our plan is to reduce spending too and to hold the line and defer the tax cuts until we get a handle on this thing.

But I just wanted to say that our constituents understand that if they cannot hold their spending down to a level that matches their revenue, that they are bankrupt. And they go to a court and they ask the court for relief. And the court will say, well, do you have a reorganization plan? And if they do not have a reorganization plan, the judge will require them to sell their house and their car and that new piece of property they bought, their stocks and so forth. And I think that is the situation we find ourselves in.

Mr. SMITH of Michigan. Madam Speaker, what I am a little nervous about on this reorganization plan that government might have is what some might call monetizing the debt, just printing more money, causing inflation, so it is easier to pay back. That would be terrible.

Mr. BOYD. That would be. That would be terrible. We have to figure out how to discipline ourselves, to quench our thirst for having programs

that we are not willing to pay for in our generation.

So I just want to commend the gentleman for his coming to the floor on his own, by himself, and saying what he has said. I think there is a lot of opportunity here for us to work together, and I hope that we can to solve this long-term fiscal problem.

Mr. SMITH of Michigan. Well, Madam Speaker, the rumor is the gentleman might be going to the Senate before we get this worked out. I do not know if he wants to tell the 5 million listeners that we have tonight about that.

Mr. BOYD. Well, wherever we are, we need to work on it together.

Mr. SMITH of Michigan. Exactly right.

THE BLUE DOG BUDGET

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. BOYD) is recognized for 60 minutes as the designee of the minority leader.

Mr. BOYD. Madam Speaker, I appreciate the opportunity to speak, and I appreciate the remarks of the gentleman from Michigan who preceded me. I think I see a great glimmer of hope here, that those of us who are in different parties can come to the floor of the House of Representatives and essentially preach the same message.

That is what I want to do here today. I want to follow up on what the gentleman from Michigan (Mr. SMITH) says and tell the House that I believe that it is unconscionable that we are entering this time of war, this pending war, when we are economically in the doldrums. We have higher unemployment rates than we have had for years and years. Just 2 short years ago we had a surplus in our Federal budget, and in a very short 2 years we have managed to deplete that surplus and create the biggest deficit in the history of this Nation.

□ 1715

I think the results of that, the consequences of that, are certainly unacceptable to me and should be unacceptable to most Americans because I think what it does for us in the long run, the long-term economic consequences of it are very serious. It will stagnate our economy. It will make it impossible to solve the long-term Social Security problem that we have that the gentleman from Michigan (Mr. SMITH) spoke about. It will make it almost impossible for us to put in place a prescription drug program.

Both presidential candidates on the campaign trail talked about that as one thing that this Congress should do, reform Medicare to include a prescription drug program. But sometimes as a Congress and as an administration, we seem so fixated on revenue reductions that we have to pay for the priorities that we may list as a Federal Government.

Those priorities are pretty simple. Our primary responsibility is national security. There is a new buzzword, homeland security, that has been created since 9/11, and we know that the world is changing and we have to react to that. That is the primary responsibility of the Federal Government is national security.

We have Social Security, which is a very important program to the success of this society over the last 40 or 50 years. I tell my constituents often that in 1964 about the time of the creation of the Medicare program, if an American reached the age of 65 in this Nation, there was a 58 percent chance they would be below the poverty level. In other words, 58 percent of our citizens that reached that age, retirement age, did fall below the poverty level.

That figure today is a single digit figure, less than 10 percent reach the age of 65 and fall below the poverty level. There are many reasons for that sort of success in having the retired generation of this Nation live in comfort, but the least of those reasons certainly is not that we have a great Social Security and Medicare program in place. We know those programs have long-term funding problems, and we have to find solutions for them.

I think many of us in the Blue Dogs felt we had that opportunity 2 years ago when we had a surplus to fix those programs long term so that our children and grandchildren would not be hung with the responsibility of fixing those programs because it is going to be a much, much more difficult fix 15 or 20 years down the road. The fixes are painful now, but not nearly as painful as they will be in 15 or 20 years.

The Blue Dogs have always focused on fiscal responsibility and tried to convince this Congress that the best thing we can do for this economy is to set our priorities, spending priorities, and be willing to pay for those in our own generation. That is really what our Blue Dog budget is all about, it is about getting the Federal Government back onto a glide path of fiscal responsibility.

We spent the whole decade of the 1990s trying to bring us out of the huge deficit years of the 1970s and 1980s. It was a long, difficult battle. There were spending cuts. We ratcheted down spending at every level of government. The facts, if they are spoken accurately, will bear that out. Now in just a few short years of fiscal irresponsibility, we put ourselves back into a deep, deep ditch.

Madam Speaker, we have some other folks joining us today, and I would like at this time to yield to the gentleman from Tennessee (Mr. TANNER), who is a very effective member of the Committee on Ways and Means, who will discuss a few details of the Blue Dog budget.

Mr. TANNER. Madam Speaker, I think the gentleman is correct in his assessment that our generation ought to be willing or have the courage to

pay the bills that we are incurring for our protection and for the protection of our children and not pass on a debt that we have been working on to the extent that we are.

Let me give Members a few facts which are painful to even read. Right now we, the people of the United States, owe about \$6.4 trillion as represented by our national debt. Even worse, 8 months ago Congress was called on to raise the debt ceiling; that is the amount of money that the people of the United States borrow. Eight months ago, we raised that debt ceiling \$450 billion, which represents almost 10 percent of the then-\$6 trillion debt. Do Members realize that 8 short months later we are told by the Secretary of the Treasury we are going to hit that ceiling in the next few days or weeks. That means we have run through in 8 months \$450 billion of additional debt.

It gets worse. The Congressional Budget Office last week reported that the deficit for this year would be \$287 billion, and that does not include any monies for a potential war in Iraq. CBO further predicted that the deficits over the next 10 years if we continue to follow the economic model that we are operating under right now and do the things the President has suggested with regard to the Tax Code, that over the next 10 years we will rack up almost \$2 trillion of additional debt.

Now any rational businessperson understands that such an economic business plan, either in their business or for the country's business, is unsustainable; and the reason it is unsustainable is because interest must be paid on this debt. Last year we, the people of this country, paid \$332 billion, paid and accrued \$332 billion of interest on the national debt. The revenue of the Federal Government last year was \$1.8 trillion. That means we have a debt tax, D-E-B-T, debt tax of 18 cents out of every dollar. Said another way, we have an 18 percent mortgage on our country and this debt tax, as we continue to borrow more and more money, is the only tax increase on the American people that cannot be repealed because interest has to be paid.

This does not even touch the moral argument of what we are doing to the next generation. I told somebody the other day, I said I do not think any of us in this room want to leave our children a country where the rivers and streams are so polluted that fish cannot live in it, kids cannot swim in it, and people cannot drink from them. I do not think anyone wants to leave our children a country where the air is so foul and smog infested that our children have to wear a surgical mask to ride their bicycle, and I do not think any of us want to leave our children a nation that is so burdened with debt that they will not be able to make the public investments that only the government can make to enable private enterprise to grow, expand and flourish.

If there is any businessperson in this country who thinks for one moment

that private enterprise can flourish and grow without public infrastructure investment, whether it be in bricks and mortar, airports, railroads, harbors on our rivers and streams, or anything else, interstate highways. If they think private business can grow and flourish without that kind of public investment, then they have never been to a country that does not have any government because in those countries, nobody is doing any good. I have been there, seen that.

So I want to just say that under our present scheme if we listen to some, the deficits do not matter, that this is just a short-term problem. People have tried since the dawn of civilization and the invention of something we call money to borrow themselves rich. It has never worked then, and it is not working now, and anybody who thinks that we can borrow ourselves rich expects what never was and never will be.

We have a serious problem in this country. We are not doing our children right by passing on such a debt to them because we do not have the courage to either raise the necessary revenue for what we want, or we do not have the political courage to cut spending where we can. Something has got to be done, and that is why the Blue Dogs came today with a new budget for this fiscal year that will get us back on a glide path to balance. The biggest gift we could give to our country and to our children is a country that is debt free.

Just think, if we did not pay \$332 billion in interest last year what we could do, either cut taxes or make the investments in education, in a world class military, in all of those things without ever raising taxes again. That is the kind of financial management I think people expect us to exhibit up here, rather than trying to borrow ourselves rich and tell them everything is going to be all right.

Madam Speaker, I just want to say that I hope people will give some consideration to the God-awful debt that this country possesses now and what is forecast for the future, and will help us as we try to wrestle with it.

Mr. BOYD. Madam Speaker, I thank the gentleman from Tennessee. Members can tell he is truly our leader on these kinds of budget issues, and a very thoughtful member.

□ 1730

THE BLUE DOG BUDGET PLAN

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentlewoman from California (Ms. LORETTA SANCHEZ) is recognized for the remainder of the minority leader's hour.

Ms. LORETTA SANCHEZ of California. Madam Speaker, I was sitting in a military congressional hearing and could not get out in time, but we are here now and really excited about having so many of our Blue Dogs come

here today to talk about the real problem on our hands.

And what is the problem on our hands? The problem is that a couple of years ago, many of us who were here in the Congress understood that we were in a surplus situation. We were getting more money in taxes than we were spending. And so we had a surplus. In just 2 years, under the Bush administration, we are in a deficit situation, a projected deficit, anybody that you talk to in this year's budget, of anywhere between about \$300 billion and \$350 billion. That does not include the war on terrorism, the war in Iraq, our work going on in Afghanistan; that is above and beyond the \$300 billion-plus deficit that we are running this year.

Add that to almost a \$6 trillion debt load that we are already carrying, and this becomes a major problem. Yet everything else seems to be going wrong. People are being laid off. There are no jobs being created under this administration with the plan that he had, his great tax cut that was supposed to stimulate the economy. It has not. Businesses are closing; bankruptcies are up. We read that in today's newspaper. That is despite all the other problems that we are having in the international world and with respect to a war. So our economy is weak and in many cases, like in California, is getting smaller as we speak.

So what do we do? The President's proposal has been to put forward a budget with stated aims of saying that the economy should get moving, that this budget of his would create jobs and that they would balance the budget. Strike one, strike two, strike three. This budget misses all marks of these three aims. I am going to go through that a little, and then we have got some Blue Dogs here who want to talk about what our proposal is for the budget of 2004.

First of all, economic stimulus. The way that the President has structured his tax cut does not and will not stimulate our economy in the short term. It does very little. In fact, even the President's plan when you look at it, only 5 percent of his projected stimulus package would have any impact now. Now, while people are being laid off. Now, while unemployment benefits are running out. Simply put, the President's stimulus plan is not stimulative at all. In contrast, we Democrats, and in particular the Blue Dog budget, would help to expand the economy. It would help those who have lost their jobs, and it would call for immediate tax rebates. That puts money in the pockets of those people who will spend it, not the people who already have money, but the people who need it to live on a day-to-day basis. It is going to create jobs.

Let us take a look at the President's tenure. Unemployment went from 4 percent to its current 5.8 percent. In other words, he has not created jobs. We have been losing them. He has done a round of tax cuts, over \$1 trillion

worth of tax cuts. It did not work. It has not worked. And now he proposes to do the same thing, another tax cut. But if his first one did not work, his second one certainly will not work. We need job creation, and we want it to include small business. Small business is where jobs in America are created today. The stimulus effort needs to be focused in part on small business. The Blue Dog plan calls for immediate aid to small businesses by calling for increases in small business expensing from \$25,000 to \$75,000 for equipment purchases in 2003 and 2004, right now. If businesses invest right now, we are going to give them a tax break, and that is going to stimulate the economy.

Finally, the President's plan, he says, would bring down the debt. But it will not. It would increase the national debt far into the future. As my colleague, the gentleman from Tennessee (Mr. TANNER), said, when we include the service on the debt, or the interest payment that we have to make that the President's plan would generate, his plan will cost at least \$925 billion through 2013 alone, with no end in sight. The Democrats, and the Blue Dogs in particular, believe that the main thing we have to get under control is the debt, because when we do that, when we bring down the debt, then the interest payment that we make on that borrowed money becomes smaller and smaller.

When I first got to the Congress, it was about 17 cents of every dollar was spent on interest on the debt. By the time President Clinton got out of office, it was only 11 cents. We were bringing down the debt. The Republicans, when President Bush came in, they were having a hard time deciding, my God, what does the world look like when the Federal Government does not have any debt? They were worried. They were actually worried that we might bring down the debt and there would be no debt in the United States. But they fixed that. They fixed it by giving tax cuts, they fixed it with a bad economy, and now we are back up to 18 cents of every dollar we bring in as tax revenue to the Federal Government gets spent on the debt. We need to reduce the public debt. It is a debt tax.

We as Blue Dogs believe that we cannot simply stand around and criticize, but that we must present our own solution to the problem, that it has to be credible, that it has to be based in principles. The Blue Dog principles are to bring down the debt, stimulate the economy, create jobs, and get the economy moving again. That is why I am for the Blue Dog enforcement bill, which we call Assuring Honesty and Accountability in 2003.

All of the provisions in our budget enforcement bill are for debt and deficit reduction. In very black and white terms, we have a plan of how to bring down the debt and how to stimulate the economy. A handful of my fellow Blue Dogs will be here tonight to speak

about that. I believe the next one that we have is the gentleman from Mississippi (Mr. TAYLOR), who will give his version of what Blue Dogs are trying to do to help bring down the debt, create jobs, and put more money in America's pockets.

Mr. TAYLOR of Mississippi. I thank the gentlewoman. I think it is important that we remind the American public where we are now. When we passed the Bush tax cuts in May, just 2 years ago, our Nation was \$5,643,680,010,418 in debt. Less than 2 years later we are \$6,445,790,102,749 in debt. That is an increase of over \$800 billion. If you were to track the American debt from the founding of the American Revolution through the Vietnam War, our Nation had borrowed that much money in about 180 years. In less than 2 years, our Nation has borrowed that much money. What is particularly frustrating I think for all of us is the complete flip-flop on the part of our Republican colleagues.

The gentleman from Illinois (Mr. HASTERT) has been the Speaker of the House now for, I believe, 1,500 days or something very close to it. In those 1,500 days, he has never scheduled a vote on a balanced budget amendment. I find this a bit ironic, because on March 17, 1994, then-Member Hastert said clearly, "Until our monstrous \$3.4 trillion deficit is eliminated, interest payments will continue to eat away at the important initiatives which the government must fund. I will not stand by and watch Congress recklessly squander the future of our children and grandchildren."

As I pointed out, the debt has increased \$2 trillion since the Speaker said that, then-Member HASTERT. Yet he will not allow a vote on a balanced budget amendment, and we are not even sure he is going to allow a vote on the Blue Dog budget. As we know last year, it was so thoroughly convoluted in the Committee on Rules that we were not given a clear opportunity to offer it as an amendment. I hope, Mr. Speaker, you will do so this year.

I would also remind you that on that same day, you said, "The American people have wanted a balanced budget amendment for a long time, because they know it's the only way to force Congress to make spending choices."

Mr. Speaker, if you meant what you said in 1994, we are willing to help you do just that, but you have got to give us a vote on it.

There are some other interesting quotes. The next year, January 25, the Speaker said, "Mr. Chairman, a national debt of \$4.5 trillion, you can see how it's growing, should finally convince every Member in this Chamber that Congress has got no discipline to solve its own problems. This balanced budget amendment will put discipline upon us."

Mr. Speaker, I wish you would live by those words and give us a vote.

Here a few days later, "The American people want their government to be fis-

cally responsible. They want us to balance the budget in order to lower our debt and make our children's future brighter."

We could not agree with you more. You were right in 1995. Why are you not for a balanced budget now?

Some other friends of mine on the other side of the aisle have said similar things. Now Majority Leader TOM DELAY, it has been a while, March 11, 1994:

"We are showing what we would do. If the Republicans were in charge of this House and in charge of the Senate, it would be a much different America. It would be a much different government."

In the past 2 years, or less, you guys have run up \$800 billion in new debt. It is obviously different. I do not think it is better, but there is always time to change. I think one of the ways that you can change is to allow a vote on the floor next week of the Blue Dog budget, which would get us back on the path to a balanced budget.

The gentleman from Texas (Mr. DELAY) had some interesting statistics. This is from a speech that he gave on the House floor in 1995:

"In 1980, each child born that year immediately inherited a debt of \$4,000. That is government debt. By 1985, because no balanced budget had been adopted, the children that year had inherited a \$7,600 debt. By 1990, our children were burdened with almost \$12,800 in debt."

This is again from Majority Leader DELAY's floor speech from 1995:

"Each year every child born in America this year will begin life with a debt of more than \$16,700. Is it any wonder that young families have trouble saving money for a down payment on a house? Is it any wonder that the Federal Government's consumption of more than one-quarter of all our economic activity is driven in interest rates and stifling economic growth?"

When the majority leader made that comment, our Nation was about \$4.3 trillion in debt. We are now \$2 trillion further in debt, so I think it is fair to say that your \$16,000 debt that you made reference to is now a \$25,000 debt for every American man, woman and child. Yet what really troubles me, and I could go on and on pointing out very important Members of the Republican Party: the gentleman from California (Mr. THOMAS), the gentleman from Illinois (Mr. HASTERT), the gentleman from Texas (Mr. DELAY), the gentleman from California (Mr. DREIER).

One thing that strikes me as an American who tries to be objective about all of this and who kind of enjoys watching other people's political races, I remember distinctly then-candidate Al Gore being severely beaten about the head and shoulders for flip-flopping on the abortion issue. I know many people in this Chamber have different opinions on this, but my Republican colleagues reminded the American people that Al Gore ran as a pro-life candidate only to change to a pro-choice

and accused him of flip-flopping. That is probably true. But if that is true, then how can the Speaker and the majority leader, the gentleman from California (Mr. THOMAS) and others who came to this floor and gave eloquent speeches, and they were eloquent speeches, about the importance of balancing the budget, the importance of a balanced budget amendment, that deficits are bad, that interest payments on the debt are bad, how can they now look the American people in the eye and say they are good?

□ 1745

It is a fair question to each of you. It is a fair question the American people ought to be asking my Republican colleagues. Do not try to tell me that you never said it, because it is in the CONGRESSIONAL RECORD.

So the question is, what did you really believe in? Did you believe it when you said it then, or do you believe it when you are saying deficits are not important now? Because they are totally opposite. And all I think the American people are asking for is some honesty, some honesty in budgeting, and some concern about the future of this country, and that we quit sticking our kids with the bills.

The last thing I am going to say, and it is the analogy I use back home because everyone understands it, there is not a Member in this body who would go out and buy a car, and say, "I don't care what it costs, I don't care what the payments are, because my 6-year-old child is going to pay the bill."

There is not a Member in this House that would go out and buy a house and tell the realtor, "I want the nicest house in the county. I don't care what it costs, I don't care what the payments are, because I am going to stick my grandkid with the bill." That is precisely what we have been doing as a Nation, and in less than 2 years we have stuck our kids and grandkids with an \$800 billion bill.

The Blue Dogs will give you an opportunity next week to start turning that around. We are going to give you an opportunity to be men of your words. I hope you will join us in trying to balance the budget.

Mr. Speaker, I would hope that you would live by your own words and give us a vote on a much-needed balanced budget amendment to the United States Constitution.

Ms. LORETTA SÁNCHEZ of California. Mr. Speaker, I thank the gentleman from Mississippi.

Mr. Speaker, now to join us on the House floor is the gentleman from Texas (Mr. TURNER), who has been a leader of the Blue Dogs and has some nifty charts here, to really explain, in case any of you have just joined us, that the Blue Dogs are about bringing down the deficit and creating jobs and bringing the economy back, in contrast to what the President and his Republican majority in the House and in the Senate have presented with their 2004

budget. We have a different budget in mind. We have a timeline to bring down the debt and bring this country back into surplus.

I yield to the gentleman from Texas.

Mr. TURNER of Texas. Mr. Speaker, I thank the gentlewoman for hosting this hour for our Blue Dog group for the presentation of our budget proposal.

The Blue Dog Democrats in the House are 35 members strong. We come from all over the United States. Tonight we have had Members from California, Mississippi, Tennessee and Florida. We will hear from the gentleman from Arkansas (Mr. ROSS) shortly.

This is a group that is united by one theme, and that is we believe that our country must return to balanced budgets, we must try to pay down our debt, which now stands at over \$6.3 trillion, and, in order to do so, we have to adopt a fiscally responsible budget in this Congress this year.

Back in January the President revealed his budget plan, and we have had the opportunity to look very carefully at his plan. As you know, his plan calls for tax cuts and acceleration of tax cuts that were implemented 2 years ago when we passed the largest tax cut in the history of the country. That tax cut was to be phased in over a period of about 10 years. Those tax cuts have been phasing in, and the Blue Dog Democrats believe that the tax cuts that we have all received need to remain in place.

We also believe that the future tax cuts that will accrue to the benefit of low and middle income families need to be implemented immediately in an effort to bring about a short-term stimulus.

But the Blue Dog Democrats disagree with our President on two important points of his plan. First of all, we believe that it is wrong for half of his tax cut plan to be dedicated to the elimination of the taxation of dividends.

Now, there are many wealthy Americans who have a lot of stock and who would greatly benefit from eliminating the tax on dividends. But most Americans have very modest stock investments, and we believe it is wrong to dig the deficit hole deeper and to increase our national debt by proposing at this time the elimination of the taxation of dividends.

We also believe that at a time when our Nation is on the verge of war, that we as Members of Congress need to call upon the American people to share in the sacrifice that is being made by the young 18, 19, 20, 21-year-olds who are now gathered around the borders of Iraq, poised for military conflict.

In time of war, all Americans must share in the sacrifice. By eliminating the part of the President's budget plan that eliminates the tax on dividends, we believe we are calling upon those Americans who are best able to share in the sacrifice to postpone that part of the President's plan.

We also believe that American families who have incomes over \$170,000 a

year should be willing to defer the tax cuts that they would get under the President's plan in order to share in the sacrifice necessary to fight and pay for the war in Iraq.

That is the Blue Dog plan: Accelerate the tax cuts for the lower and middle income families, for all families who have incomes below \$170,000 a year; but those who have greater incomes than that, they will get the tax cuts that would naturally accrue to the cuts in the lower tax brackets. They will get the benefit of the Blue Dog plan for accelerating the child tax credit and eliminating the marriage penalty, as will all Americans. But as far as a reduction of the top rates, those families at \$170,000 and above should be willing to wait, wait until we get through this war, wait until our budget situation improves.

The difference in those two plans, the Blue Dog plan and the President's plan, has a dramatic impact upon our Federal budget. If you look at the chart to my right, you see the President's plan will dig the budget deficit hole deeper to the tune of \$2.7 trillion in debt over the next 10 years. Our present \$6.3 trillion debt under the President's plan at the end of 10 years will stand at \$10 trillion. We think that is wrong. We think that is bad for the country. We think that is digging a hole that we will have a very difficult time getting out of.

The second chart I have shows that the amount of interest that every American family of four will have to pay just to service that debt that we will have under the President's plan. As you can see by the chart, currently every family in America pays \$4,624 in interest just to service that \$6.3 trillion national debt. That is what we call the interest tax, and the interest tax is the only tax that you cannot repeal, because the interest obligation on the \$6 trillion debt must be paid every year by the taxpayers of this country.

So if you look at the President's plan, by the year 2013, 10 years from now, every American's debt tax will double. Every American family will be paying \$8,458 every year, just to pay the interest on the ever-increasing national debt.

We believe that is wrong. We believe it is a tremendous waste of taxpayer dollars to invest that much in interest.

Ms. LORETTA SÁNCHEZ of California. If I may ask the gentleman a question on that, right now you are telling us we are paying about \$4,400 for a family of four just on the debt that this Nation carries in 2003, and if the President's budget gets passed and signed by him, we are going to be looking at increasing that geometrically, basically?

Mr. TURNER of Texas. That is correct. As we said, by 10 years, the end of the budget period that we are now looking at, the tax paid by every family would be \$8,458, just in interest. Today, 18 percent of every tax dollar collected by the Federal Government goes to pay interest.

To look at it another way, if you took only the Federal personal income tax, about 25 percent of every dollar we pay, 25 cents out of every dollar that we pay, goes just to interest on the national debt.

What a waste. We talk about wasteful spending, there is no greater waste in any area of spending than what we waste every year just paying interest on this debt that we have accumulated. The Blue Dog plan is to stop that hemorrhaging.

Ms. LORETTA SANCHEZ of California. I would say to the gentleman from Texas, this does not include what it costs for us to go to war with Iraq.

Mr. TURNER of Texas. That is correct. All of the discussion currently ongoing about the Federal budget, the levels of spending, do not include the cost of a conflict with Iraq or the cost of rebuilding Iraq once the conflict is over. The President has said that is a separate item, that it should be treated as a separate item. He has promised he will send a supplemental request to the Congress to pay for that if and when it occurs.

So we are actually talking about very conservative estimates of the size of the national debt, and the Blue Dog budget plan we are contrasting tonight with the President assumes the President's levels of total spending.

There are a lot of folks around here who believe very strongly, as I do and the Blue Dogs do, that we spend too much money and we have to be conservative in our spending. The President has sent us a budget that calls for significant reductions in the levels of spending that we have seen over the years. But even if you abide by the President's spending recommendations, which our budget does, his tax cut policies will increase our national debt to the level to the tune of \$10 trillion by the end of this decade.

So, what we say is as long as we are facing war, facing growing deficits, those who are most blessed economically in our country should be willing to defer the future tax cuts they have yet to receive in order to help us dig our way out of this ever-deepening hole of debt and deficit.

The chart I have to my right shows in a line graph the differences and the surplus under the Blue Dog defense budget and the deficit that will occur over the next 10 years in the President's budget. The blue line shows the President's budget. The red line shows the path to a surplus under the Blue Dog budget.

As you can see, after 10 years, our Blue Dog budget has seen several years of improved fiscal condition of the Federal Government, and we have returned to surplus. We will have returned to a surplus by 2009. By the end of the decade, we will have returned to what we call a true surplus that does not account for the influx of Social Security funds, which we are currently spending, just to run the rest of the government.

This Congress a few months ago voted on several occasions never again to borrow money from the Social Security Trust Fund to run the rest of the government. We had 1 year, the last year of the Clinton administration, when we did that, when we accomplished that. But now we are back into deficit spending, we are using Social Security money once again to run the government, and the Blue Dog plan is a plan that will get us back to a point where we will no longer do that. The President's plan, to the contrary, does not accomplish that goal.

Just in the last 2 months, the Congressional Budget Office in revising its economic forecast on Federal income said that the Federal debt at the end of the 10-year period would be half a trillion dollars larger than they have said it would be in just January of this year. So the slide into ever-deepening debt has been dramatic.

The Blue Dogs call upon our President to take a look at the same numbers that his Office of Management and Budget produces, which are very similar to the numbers that our bipartisan Congressional Budget Office produces, and acknowledge and recognize that our picture, our financial picture, has changed dramatically, even since he announced his budget recommendations in January of this year.

I think, based on those changed numbers, the President should join with the Blue Dogs in trying to move toward a balanced budget within this decade, rather than continuing to dig this deficit hole deeper and deeper.

So, I hope tonight as the Blue Dogs have gathered on this floor, that we will be able to persuade not only our Democratic colleagues, who are well aware of this severe deteriorating budget situation, but our Republican colleagues, that they should take a good, hard look at the Blue Dog budget alternative.

It should be appealing to many of them, because for many years Republicans were known to be fiscal conservatives, and it has only been in the last 2 years when we have seen Republicans abandon that, and in fact on many occasions tell us that deficits really do not matter.

The truth is, common sense still prevails, and as you go along spending more money than you take in, eventually it is going to catch up with you. I have never seen a family that could sustain itself for very long incurring debts that they could not repay, and neither can your Federal Government.

□ 1800

So we believe Republicans will be attracted to our plan because we do not dig the deficit hole deeper. We believe that our spending levels, which are the same levels as the President's, will also be attractive to Republicans because they, I hope, would follow their President's recommendations on spending.

So we hope this plan will be well received, and we look forward to the op-

portunity to debate it when this House considers the budget resolution for this year.

Ms. LORETTA SANCHEZ of California. Madam Speaker, I thank the gentleman. Congratulations, by the way, at being named the ranking member of the new Committee on Homeland Security, another area of government that we will see, undoubtedly, some spending happening this year. I know with the gentleman's fiscal conservative principles that he will really hold the line and try to make America safe, but do it within a budget and without too much overspending, as we see the Republicans are attempting at this point. I thank the gentleman for being here tonight.

Next we have the gentleman from Arkansas (Mr. ROSS), who has been a Blue Dog now, I do not know, maybe 4 years, or maybe 2 or 3. He is going to talk about the Blue Dog budget. I yield to the gentleman from Arkansas (Mr. ROSS).

Mr. ROSS. Madam Speaker, I thank the gentlewoman from California. We have heard a lot of talk tonight about the Blue Dogs. There are 35 of us in the United States Congress who are conservative Democrats that make up the Democratic Blue Dog Coalition. We have one mission as a coalition, and that mission is to promote fiscal discipline, fiscal responsibility, and to bring common sense to our Nation and its budget process.

We rise tonight because we are concerned about this country and its future. This country is \$6 trillion in debt; and under President Bush's budget that he just released to Congress, over the next 10 years, this country will go from \$6 trillion in debt to \$9 trillion in debt.

This country spends \$1 billion every single day simply paying interest on the national debt. What does that mean to all of us? It means a lot. Madam Speaker, \$1 billion a day. We could build 200 brand-new elementary schools every single day in America just with the interest that we are paying on the national debt. I have several interstate highway programs under construction in my congressional district back home that will create jobs while the roads are being built and will create jobs long term because of an improved infrastructure which will allow more industry to come and locate in the Delta region, one of the most impoverished regions of the country. I could finish those highways in less than a week just with the interest that we are paying on the national debt. I call it a debt tax. The gentleman from Texas (Mr. TURNER) had it right. That is one tax that cannot go away because as the debt grows, the amount of interest that we as a Nation are required to pay on that debt also grows.

The first \$2,559 that every single taxpayer in this country pays each year does not go to educate our children, it does not go to improve roads or to create jobs or improve health care, or to make it affordable and accessible, or to

provide prescription drug coverage as a part of Medicare for our seniors, no. The first \$2,559 that every taxpayer in this country pays each year simply goes to pay interest on the national debt. We have got to get this debt under control. But now it is getting worse.

From 1997 through 2001, this country did not deficit spend. Last year, President Bush's budget put us back in the days of deficit spending to the tune of \$199 billion. This year it will be \$300 billion. It is projected to be \$307 billion next year. We are headed in the wrong direction. We must get out of the days of deficit spending, and we must begin to pay down this debt.

Social Security. The President's budget for fiscal year 2004, he wants over a 10-year period to borrow \$2.3 trillion from the Social Security trust fund. Our government has already borrowed \$1 trillion from the Social Security trust fund, and I think it is time for the politicians in Washington to keep their hands off the Social Security trust fund.

There are those in government who will tell us that we must invest that money until the time that we need it somewhere, and that may be true. But let me tell my colleagues something. When I go to the bank to get a loan, they want to know how much I am going to pay back and when I am going to pay it back. This country has already borrowed \$1 trillion, getting ready to borrow an additional \$2.3 trillion from the Social Security trust fund with absolutely no provision on how it ever gets paid back. Guess what? Assuming it does get paid back, Social Security as we know it today is still broke in 2041, because beginning in 2011, we will have more people earning Social Security benefits than paying into the system.

Medicare as we know it today is broke in 2030.

Now, the President wants another tax cut for the wealthiest people in America. I am not here to beat up wealthy people. This is America. Many people grow and realize the American dream of being successful, and there is nothing wrong with that. But we are asking our men and women in uniform to now make a sacrifice. We are asking people all across America to sacrifice during this heightened time with the potential for war and terrorism. I think now is not the time to pass additional tax cuts.

Let me say this, Madam Speaker. I was one of 28 Democrats to vote with President Bush for his tax cut about a year ago. It was the biggest tax cut in 20 years, \$1.3 trillion. But a lot has happened since then. We have gone from a \$5.6 trillion projected surplus to a \$215 billion debt over the next 10 years. We have had 2.5 million people in America, 2.5 million in America lose their jobs; and anyone who has a retirement plan, a 401(k) plan or invests in the stock market knows exactly what has happened there. We may need dividend tax

reform, but now is not the time to do it.

Madam Speaker, as I travel my district back home, I have people come up to me and they talk about how they are unemployed for the first time in their lives. They talk about how they are trying to get by on a \$600 Social Security check with a \$400-, \$500-, \$600-, even \$700-a-month drug bill. People come up to me and talk about how they are struggling to figure out how they are going to afford to send their kids to college; but never has anyone walked up to me back home or anywhere, for that matter, and said, you know, I am having trouble feeding my kids because I am paying too many dividends, too many taxes on my dividends.

Now is not the time for that reform. Now is the time to be fiscally responsible. Now is the time to begin to get out of the days of deficit spending and to pay down, to begin to pay down this debt.

Here is why it is so important, and here is why the Blue Dog budget addresses those things, and here is why the Blue Dog budget is the right answer during these difficult times to begin the process of getting us out of deficit spending and beginning to pay down the debt. The reason is simple. My grandparents left this country just a little bit better off than they found it for my parents, and my parents left this country just a little bit better off than they found it for our generation. And I think we have a duty; no, I think we have an obligation to leave this country just a little bit better off than we found it for our kids and for our grandkids.

Ms. LORETTA SANCHEZ of California. Madam Speaker, I thank the gentleman from Arkansas. I think there was a point that the gentleman made that is so important for America to understand, and that is that when one comes to this country or when one is born in this country and one realizes their potential, one is in the greatest market economy the world has known, and so it is great if one can use their talents and make money. It is the American way. My father did it coming to this country, my brothers and sisters and I have done it in this country. We want the same thing for everybody. And I tell people all the time who make good money, I say, when they complain to me about paying taxes, I say to them, is it not a great country, where you can make \$1 million, \$2 million, \$500 million a year? Is it not a great marketplace? Is it not great to see the infrastructure we have, the communication that we have? The way our market works, the way people can come here with nothing and make something? Is it not a great place?

Madam Speaker, one has to make money to pay taxes. I think it is a great thing that we pay taxes, because I see the improvements, I see what we have. We have a market economy where we can succeed. So we are not

against rich people. We just want to tell people who are making money, there are the troops sacrificing, there are the unemployed sacrificing. There are teachers in classrooms sacrificing, taking out of their own pocket to buy supplies right now. Can you wait? Can you wait on your next tax cut? Would the gentleman not agree?

Mr. ROSS. Well, let me say that this is not a partisan issue for me. I was one of those who supported President Bush's tax cut about a year ago. I just think now is not the time for additional tax cuts, not at a time when we are asking our men and women in uniform to sacrifice, and not at a time when we return to the days of deficit spending, and this country is \$6 trillion in debt. Again, we are spending \$1 billion a day just paying interest on the national debt. Now is the time to restore fiscal discipline to our national government, to pay down this debt, and to get out of the days of deficit spending.

Let me tell the gentlewoman two things that concern me. If the President is just dying to spend \$700 billion on something, let me tell my colleagues some things we ought to do in this country. We ought to quit talking about modernizing Medicare to include medicine for our seniors and we ought to do it, and we ought to fund it to where seniors can walk into the pharmacy of their choice, pull out their Medicare card and be treated just like they are when they go to the doctor and when they go to the hospital.

We hear a lot about homeland security. We hear a lot of talk about it, but it is way underfunded. On February 7, four members of the Cuban Coast Guard on a 30-foot boat made the trip across the waters from Cuba to Key West. They docked at the marina at a hotel in Key West with two machine guns, and they walked the streets of Key West for a number of minutes trying to find somebody to defect to. Thank God it was the Cuban Coast Guard, and thank God they were here to defect. What if it had been terrorists? We have to quit talking about homeland security, and we have to fund it. We have to keep America safe. We have to keep our children safe. We have to keep our grandchildren safe.

Ms. LORETTA SANCHEZ of California. Madam Speaker, the gentleman is right. We need to protect and invest in America. Because we know what happens when we invest in America, when we invest in education, when we invest in a health care system, when we invest in our infrastructure and our communications system. When we invest, we reap more. And when we spend and drive up the debt, we get ourselves in trouble.

When we are talking about 18 cents of every dollar going to pay down the debt, it is credit card amounts. It is what one would anticipate as being the highest cost of borrowing. And imagine if we have to go to war. That is outside

of the President's budget. It is not included in the spending that he is proposing. So we will be even higher. And the Blue Dogs feel that the first thing we need to do is get down to basics. Hold down our spending, be good about that, tighten our belts in these tight times, spend on the right things, on investment, on homeland security, on education of our children, on our military. But we also believe it is not time for a tax cut. We believe that everyone must sacrifice during this time; and if we sacrifice and we do it right, we will bring down the debt that we see spiraling out of control. And when we do that, we will have more money, more money in the long run to spend on the things that make this country great.

So I would encourage my colleagues, in particular on the Republican side, to come and ask us about the Blue Dog budget, because we think it will work and it will bring down the debt. And when we bring down the debt, we will see ourselves where we were 2 years ago: in a surplus situation.

□ 1815

CONTROLLING THE TYRANT IN IRAQ

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. INSLEE) is recognized for 60 minutes.

Mr. INSLEE. Madam Speaker, I have come to the floor tonight to discuss our Nation's policy in Iraq and before I discuss that most important issue I would like to make a couple of preparatory comments.

First, I would I want to express my respect, admiration and appreciation for the men and women of our Armed Services who are today deployed in the service of their country, who are already assisting the security and freedoms of our country today, regardless of the outcome of our national policy in Iraq. And I think it is important to note in any discussion of our national policy that the very reason we have the opportunity to discuss and debate these issues on the floor of the House of Representatives are the contributions past, present and future of the men and women of the America's armed forces. Because the very right of freedom of speech would not exist without the courage and dedication of our soldiers and sailors and Air Force personnel, Marines and Coast Guard and there are others.

We would not have the ability and other Americans would not have the ability to protest, to question their government's policy but for the dedicated courage of these individuals. And I have a particular personal connection and admiration for them. In the last 2 weeks I have gone to two deployments of citizens and my neighbors to the Middle East. I went to the deployment in Bremerton, Washington of the 8th Navy Hospital Unit who left about 2½

weeks ago and watched them say good-bye to their husbands and wives and children for the service of this country. And I have them in mind when I am deciding what position to take in Iraq.

I have the sailors of the U.S.S. *Rodney Davis*, a U.S.S. frigate that shipped off last weekend from Everett, Washington now bound for the Middle East and watched them say good-bye to their loved ones on that dock, and I have them in minds when I think about what our policy ought to be in Iraq.

Regardless of what Americans think their policy should be in Iraq, I think we should stand absolutely unanimously as we did in Congress here, in the House last week when we passed a resolution respecting and pledging our support and our prayers, which the brave men and women have tonight and today, in the sands of the Middle East, and we have should not forget them in any stretch.

Second, I want to say that I think that the U.S. Congress needs more discussion, not less, of America's policy in Iraq. And I think it is very disappointing to many Americans that there has been a pall of silence in the House about Iraq for the last several months. It is disappointing because while every democratically elected legislative body around the world or many of them have been debating this subject, the very citadel of democracy, the U.S. House of Representatives right here, the People's House, has been almost absolutely silent on this issue, and I think that is not in the best traditions of democracy.

To that end, we have invited some of my Republican colleagues, the gentleman from Texas (Mr. DELAY), to lead an effort to debate what should be our policy here in the House of Representatives, and to date we have not convinced them to agree to that type of debate in the House and I think it is very unfortunate. I hope that some of my Republican colleagues will engage with us in that discussion in the near future, and we have hope the gentleman from Texas (Mr. DELAY) would reconsider and would allow debate to occur on the floor of the House in this regard.

And the reason I say that is while this House did cast a vote, which I believe unwisely abrogated our constitutional authority to make the decision on war to the executive branch, a lot has happened since that decision months ago. This Chamber should be debating what the right course of action is in Iraq. We owe it to the soldiers and sailors of the 8th Hospital Unit in the Navy and the people of the U.S.S. *Rodney Davis* and all Americans to decide and debate this subject. And I think it is most unfortunate that the House has derogated its responsibility to make that decision and punted it over to the White House down on Pennsylvania Avenue. So I hope that we can inspire additional debate. I have come to discuss this today. I wish we had others to join us who has a different view about Iraq.

Now to the substance of Iraq, I will pose about 8 or 10 questions that I think that we need to have answered before a war starts in Iraq.

The first question I would pose is, is a policy of inaction in Iraq the right and acceptable policy for America and the international community? And I will answer that with a resounding no.

Inaction is not an accepted policy when it comes to Iraq. And fortunately inaction is not what we have at this moment. We have a policy of keeping this thug, this tyrant, this diabolical dictator in a tight little box and that is where we ought to keep him, and we ought to continue and promote and make stronger our inspection protocol to find and root out and disarm this tyrant. And we have been having success in that regard in the last several weeks. And we ought to continue and enhance and strengthen our no-fly zone, which denies that dictator effective control of 70 percent of his country. And fortunately, and this is very difficult to the Iraqi innocent citizens under this tyrant's control, but we ought to continue this economic sanction policy as well to keep this tyrant in his box.

The gentleman from Wisconsin (Mr. KIND) has joined us and I yield to him.

Mr. KIND. Madam Speaker, I appreciate my friend from Washington State for yielding to me.

I just wanted to commend the gentleman for having this discussion this evening. I think it is perhaps the most important decision that the President is about to make on behalf of our Nation, and it is a decision that is going to affect our relationship with the Arab world and the rest of the international community for decades to come. But one of my concerns is for the past several months Congress has been AWOL on this issue, absent without leave. And I think there is still time for us to engage on this fundamentally important decision, and that is what will be the future course of events in dealing with Saddam Hussein and Iraq. And somehow, some way I think we need to come to grips with the new reality of the international order, and that is there are some bad people out there that pose security threats against the safety of our citizens, but it is imperative that we figure out a way of distinguishing between those individuals who are deterrable and those who are undeterrable.

Certainly I would put Osama bin Laden, the al Qaeda regime in the undeterrable category. Those are the ones we need to focus on, we need to get after in order to enhance the security of our people in this country.

I think there is still a debate going on in regards to Saddam Hussein and whether he, in fact, can be deterred. But what is most disconcerting in all this is that we have lost a lot of good will in the international community. The international coalition of support that the President said he would work hard to try to achieve last fall has not

come together and we are dealing with a different set of circumstances in an entirely different context today than when the first Iraq resolution came up last fall: The security threat that North Korea now poses against us, which I think is still the most imminent threat against our Nation's security today, even more than Saddam Hussein.

The fact that we do not have this coalition of support to do it the right way, not the military operation which we can pretty well do on our own but the rebuilding afterwards. I am afraid we could win the war but lose the peace. And that is why international support is so crucial. But also the domestic implication. The President a couple weeks ago submitted a budget calling for the largest deficit in our Nation's history, and it does not include a dime for the cost of the military build-up in the Middle East or the possible military action or the rebuilding that will have to come afterwards. These are issues that all of us in this Congress should be engaged in in having a national discussion, however unpleasant that might be. That is what a great democracy needs to do.

And that is why I earlier this week called on the gentleman from Illinois (Mr. HASTERT) and Majority Leader FRIST to allow the United States to have a renewed discussion, to give our constituents back home an opportunity through their representatives to voice their opinions and their concerns in regard to this very important decision. And that is why, again, I want to just thank my friend from Washington State (Mr. INSLEE) for trying to have a dialogue on this very important issue, because a lot of folks back home feel that they are wondering where Congress is in all of this. And instead of having these meaningful discussions, we are instead discussing about changing French fries to freedom fries. I mean, how trivial can you get?

So as we move forward, and I still think there is time to engage the country but also the international community in regard to this important decision, hopefully we will have more of an opportunity for Congress to get back involved in this and get the policy right. And regardless of what decision the President makes, and if it is a decision to send the troops in, I would hope at a minimum there would be consensus in the country that we need to support our troops.

I have been to a lot of deployment ceremonies for Guard and Reserve units in Wisconsin, and I had a chance to meet a lot of those who are being called up today, and let me tell you they are impressive individuals. Well-trained, well-motivated, very patriotic. They love and believe in their country, and we need to give them support in their mission. But it is our task as policymakers to make sure we get the policy right, and there is where the conversation should take place, and there is why we need to have these type of discussions.

So I thank my friend again for the opportunity to speak on this important issue, for the leadership he has shown on this important issue. And hopefully we will be able to work and engage together on this. That it is not just one individual here in this country making such a profound decision that will affect our position on the global scene for many years to come.

Mr. INSLEE. I appreciate it. We will continue to get our efforts to get a dialogue going in the House. The gentleman has written the gentleman from Illinois (Mr. HASTERT). I have written the gentleman from Texas (Mr. DELAY). We will continue these efforts.

Before the gentleman goes, I will note just a little problem we will be working on. I met with a group of reservists last weekend because we are having these longer deployments and longer call-ups and one of the things we need to work on is make sure they get adequate health care when they switch from one coverage to another as well as adequate travel reimbursement because, unfortunately, we will have longer deployments. I will be talking with the gentleman.

I thank the gentleman for joining me and I thank him for his leadership on this work.

Madam Speaker, we are talking about inaction is not an option when it comes to Iraq. And I point this out because I feel that in the debate, those who have supported a largely unilateral war, which is the situation we are in with very little international support, those who support that position have suggested that there is only two decisions here, war or passivity, war or inaction.

I think it is very important to note that the course we are advocating is that we continue to squeeze down on this tyrant. And that it is important to realize that we ought to engage the power of the international community to isolate him and to continue this disarmament program, and I think just in the last few days we have continued to see success in the inspection process, and it is important to realize no inspection process is going to be totally effective in the first 24 hours or the first 30 days. It took us years in the 1990s but the disarmament program and the inspection protocol, although it was not absolutely foolproof, in fact destroyed more weapons of Saddam Hussein than were destroyed in the Persian Gulf War. That is a significant fact that is sometimes forgotten. It ought to give us some degree of optimism about continuing the inspection protocol which is so important, which we ought to make stronger.

By the way, when it comes to these inspections, if we have to double the number of inspectors, if we have to triple the number of inspectors, if they need to go up a factor of ten, it is cheap at twice the price. Because frankly this inspection protocol is costing us a few million dollars a year. A war will cost somewhere between 60-

and \$120 billion a year to the United States taxpayers. And we ought to advocate with the United Nations to have a more rigorous inspection protocol and accomplish that.

The second question I would ask and I think is important to answer in this debate, is the President's assertion, his implicit assertion, that Saddam Hussein was behind the horrendous attack on our Nation September 11 supported by the evidence of our intelligence services? And I am afraid to say that that assertion is wholly unsupported by the evidence.

□ 1830

If Saddam Hussein were connected with the September 11 attack on this Nation, I would not hesitate for 5 seconds to vote for an action by the United States, even largely unilaterally, as we did in Afghanistan, because the Taliban was directly behind the attacks of the United States of America. It was responsible for thousands of deaths.

I have listened closely for months now for some shred of meaningful evidence that Saddam Hussein had broken with his decade of failing and refusing to ally with the al Qaeda, and all of the sudden the September 11 attack, and that has been wholly missing in this debate. I have gone to repeated classified briefings; and I obviously will not disclose what were in those briefings, but I have come away from a review of the entire record and not seen meaningful evidence of a connection between Saddam Hussein and September 11.

Frankly, it is not too surprising, because anyone who has studied the Middle East understands that there is a dramatic difference between the thinking of al Qaeda and Osama bin Laden and the type of tyranny and oppression that Saddam Hussein has advocated, because al Qaeda has been a fundamentalist Islamic group, and they have called Saddam Hussein, as recently as several weeks ago, an apostate, who is a secular tyrant; and they have been oil and water, and it is a good thing that they have been.

I serve on the Committee on Financial Services, and as recently as yesterday we had the Homeland Security Department, the Department of Justice, and the Department of Treasury; and we were looking at money laundering and issues about the financing of terrorism. I asked our three agencies whether there was any evidence that they would share with us that there was any financing by Saddam Hussein of the September 11 attacks, and I asked them a very specific question, because this is fundamental to the President's argument. They did not present one shred of evidence that there was a connection between Saddam Hussein and September 11, and this is very important in this debate.

It is not important to know whether Saddam Hussein is a despicable, loathsome human being who has been a tyrant, who has tortured his citizens,

who has started wars, who one can find no virtue in whatsoever. That is an accepted fact, and we should not be naive enough to think otherwise.

When it comes to deciding whether America should go to war, it would be a huge mistake to go to war based on an illusion that this is the person responsible for September 11; and unfortunately, and it is unfortunate, I think, I saw a poll the other day that the President has convinced 42 percent of Americans that Saddam Hussein was behind September 11 when his own intelligence agencies know otherwise. That is unfortunate in this debate.

The third question I would ask that is important to ask is what is the relative threat posed by Iraq relative to the threats posed by other nations and non-nations around the world, and that is an important question, because there are an unlimited number of threats to our personal security. It is unlimited, and there is a hierarchy of how imminent and how dangerous they are, and if we simply focus on Iraq and if we are willing to go to war in Iraq, to the detriment of our ability to deal with other threats that I believe are more imminent and potentially more lethal, it will be a bad decision by the United States. So if I can, for a moment, talk about some of these other threats.

The President has indicated that Saddam Hussein has attempted to obtain fissionable materiel and nuclear weapons. This is true. It is clear that Saddam Hussein has tried for decades to obtain a nuclear device, and he has been spectacularly unsuccessful in his multiple-decade efforts, but other countries have not been unsuccessful.

North Korea, the country that the President of the United States told us is not creating a crisis, a country that has probably got fissionable materiel and is on the course to have several nuclear weapons in several months, that recently intercepted our reconnaissance aircraft, which has been involved in infiltration of various other countries, who is acting in a fanatical, totally unpredictable manner, who may have or will have shortly nuclear weapons that can reach Japan, who is developing missiles that can reach the western coast of the United States in a few years, that is an imminent threat to this country. Unfortunately, America's response to North Korea has been damaged, hindered and limited due to the President's concentration on Iraq, and I have to stand here to sadly say that if Saddam Hussein could, potentially, I do not know how with the inspection process, but with our inspection process under way, he is decades away from a nuclear weapon.

North Korea is months away from nuclear weapons that are deliverable to other nations and potentially the Western United States in several years. That is the number one threat to the security of this Nation and the President, who only has 24 hours in the day, has been making a lot of calls about Iraq, and has not had time to make

calls about North Korea; and we have to be aware of the presence of these other threats.

Second threat, Iran. I was in Israel about a year and a half ago, and I met with the number three or five person in the Israeli defense force, and I asked him what he was most concerned about in threats in the region and to the security of Israel. Obviously, the intafada, creating the havoc and destruction, is first on his mind; but he told me, and he had a lot of concern in his voice when he told me this, that we had to really crack down on a country that started with the letter I in the Mideast, because they were very, very dangerous to the regional security of the area and to the security of Israel, and that country was Iran.

Because he told me that, because of the assistance of Russia, Iran was making significant progress to nuclear weapons, and his statement to me almost a year and a half ago has been borne out by the intelligence photographs we saw last, I guess it was, Monday now in our newspapers about the cascade of centrifuges that Iran has developed to develop fissionable materiel in relatively short order for another nuclear power in the Mideast. That is a clear and present danger to the security of the Mideast and ultimately to the United States, but the United States has not been able to deal with that threat because it has been so focused on Iraq, and I think that is most unfortunate.

While we are fighting a war in Iraq, if that breaks out, these other nuclear-armed countries, or very shortly will be, will be perfecting their weaponry under the cover of this war of Iraq. While we are fighting a country that is trying to make balsa wood airplanes, that we are now told was the reason to go to war, and I will come to that in a moment, we have got to be very cautious about focusing on one threat to the detriment of our ability to deal with others.

Fourth question, are we making progress in disarmament of Iraq? I have been actually relatively pleasantly surprised at the rate of progress we have made. It seems like every week or two we have been able to make progress in the disarmament of Iraq, and the folks listening probably are more familiar than I am; but it is important to note that progress continues as it did in the 1990s.

I think we cannot be naive. There is no way to guarantee absolute 100 percent disarmament of Iraq unless it becomes under our military control. It would take years to conduct searches of every nook and cranny in Iraq; but what we can say, I think with a relative degree of assurance, is that we have stopped Iraq's efforts to the extent they existed, which were quite rudimentary, at least in the last year or two, toward a nuclear weapon.

We have significantly impaired any ability to have a meaningful bio-weapons hazard program, and we are on

the way to assuring that the destruction of the delivery system or potential delivery system to the al-Samoud missile system, which I think now we have destroyed about 40 percent of their missile system, we are making real progress. The question in my mind is why stop that progress now in favor of a war while we are continuing to make progress on this effort? I do not believe there is a good answer to that question.

Fifth question, what would be needed in postwar Iraq? Here is where I think unfortunately the administration is wholly not up at least at the moment to the task of what they have said their goal is in Iraq. The President has offered a variety of statements as to what his goal is in Iraq. He has said that he has wanted to wage war or may want to wage war in Iraq in order to preserve the sanctity of the United Nations to make sure that the United Nations has credibility, and he has said that he is concerned about Iraq's threatening its neighbors. He said that it is for our own personal security, and he has said that he wants to free the Iraqi people from this tyrant; and I want to address that last goal of freeing Iraq from this tyrant.

The reason I want to address that is, to me, that actually if there were a legitimate reason for a war in Iraq would be the one that would be most telling and most consistent with the facts and the evidence, and the reason is because there is no question but that innocent Iraqis, by the millions, have suffered at the hand of this tyrant. It is an appealing thought to believe that we could free them from that control of this despot. That is appealing.

I have to say that in reviewing the plans, or lack of plans, and the commitment, or lack of commitment, of this administration, the ability of George Bush to bring democracy to Iraq, at best, is highly speculative; and I will tell my colleagues the reasons why.

Number one, exhibit A, Afghanistan. I believed war in Afghanistan was necessary from a personal security standpoint due to the tie of the Taliban government to the September 11 attack; but we had a perfect opportunity to, in fact, try to establish a democracy, and this administration has blown it big time. To the extent that when it came time for this year's budget, to put money in to help the rebuilding of Afghanistan, to help restore democracy to keep out the return of the Taliban, do my colleagues know how much money they put in their budget? Zero dollars, zero dollars for democracy in Afghanistan.

Their explanation was they forgot, and I think that was very candid. The President's administration forgot about the goal of democracy in Afghanistan; and today we are faced with the same problem we had after there were efforts to kick the Russians out, which is the return of the Taliban and the return to tyranny and return to the war lords because we have not made the investment that is required to get the job

done in Afghanistan; and if we want a template, unfortunately, and I think it is unfortunate, if we want a template of what the Bush administration would do in Iraq, look what they have done in Afghanistan, which is to basically say we are going to take care of about a 10-block area around Kabul so we can say we have got some vestiges of a country. That is a farrier and I have not seen anything better planned for Iraq.

We have been asking on a bipartisan basis for the administration's plans on a postwar Iraq for months and months now; and we have been given, I do not know how to say this charitably. I am searching for a way to say it charitably. A joke perhaps is the best thing to say on what their plans are on a postwar Iraq.

Here is a country, cobbled together after the British Empire left the Mideast, of three distinct ethnic groups that have never worked together except under the heels of a despot with the Kurds who the administration has already decided to sell out to Turkey for the 15th time to the Kurds, the Kurds who are now finally enjoying some degree of autonomy under our no-fly zone. We have got the Kurds some freedom today from Saddam Hussein because of our no-fly zone and think of the irony of it.

The President may be on the cusp of a war, and he has agreed to turn them back to Turkey, and in fact, that is overstating a little bit, but he has allowed Turkey, under the secret deal he wants to make, to come into the Kurds' territory; and what an irony it is that the President says he wants to restore democracy in Iraq, and the first deal he cuts with Turkey is to allow them to come back in and again be dominant over the Kurds who are now free for the first time in decades.

That is the type of shady dealing and efforts that have plagued us in our Mideast policy for years.

□ 1845

And to think that we can break these eggs and put them back into the democracy category with the lack of commitment of this administration is wholly speculative and most disappointing to the poor people of Iraq. And I think anyone who knows the history of these people knows how terrible their conditions have been.

Frankly, if we had an administration that we believed we could have confidence would really commit to the democracy in Iraq, for the long-term future, and who made the commitment financially and otherwise, I would be a lot more willing to look at the idea. But we do not have that right now in this administration.

Talk about a financial commitment, we are talking about tens of millions, perhaps in the billions, of dollars in a postwar Iraq. And the President has not even factored in the cost of even the attack, much less the postwar cost into his budget, nor have my friends on the Republican side of the aisle. What

type of commitment do we think we can make to the international community to in fact build democracy in Iraq when we basically have said we are not going to spend a dime to do it and we have been afraid, Congress and the administration, to build into our budget the cost that it would take to do this? No, perhaps building democracy in Iraq after a war could be a great vision, but we have certainly not seen the vision to make it happen.

Six. What are the real goals of the administration in Iraq? Here is something I think that is very important in the discussion. The discussion we have heard, and it has changed over time, but when the President went to the United Nations at one time, he said his good deal was the disarmament of Iraq. The problem is, and the reason I believe we have had so much problem in winning and building an international coalition, unlike the success that the first President Bush enjoyed, is that President Bush, in the very first statement of his administration, said that was not our goal at all. He said our goal was simply to remove Saddam Hussein, period. No ifs, ands, buts. No disarmament. Saddam Hussein was going to have to go.

When the President said, as he did most recently last week, that it is simply about removing Saddam Hussein, it did not matter what benchmarks he made, did not matter what inspections we had or what disarmament he would do, he was going to have to go, well, that would be attractive; but it has damaged our ability to build an international coalition to deal with this despot. And it is an unfortunate contrast to the skills that the first President Bush demonstrated in building an international coalition to deal with the threat in Iraq.

When the first President Bush spoke with respect to our international partners, we were clear to them about our goals, we hewed to the commitments we made to our international partners, and we did not tell our international partners that we were going to do what we were going to do, and it did not matter what they thought. That is what the first President Bush did, and he was successful. This administration has violated all those fundamental precepts of human communication, which is respect for one another.

The other goal is the President has said he wants to make sure the United Nations resolutions are honored. That is a legitimate goal. He has implicitly said he wants to show respect for the United Nations and build it up as a coalition, an international body that can deal with this. That is a laudable goal and an important one, but it certainly is shortchanged and has its legs cut out from underneath it when in the same breath the President says he wants to respect the United Nations, but then says he is going to ignore the United Nations if they do not do exactly as he wants them to do and he will start a war anyway.

You do not instill trust in your colleagues, or in the United Nations, when right out of the box you say you are just coming to them for a rubber stamp and you are going to start a war anyway. It is not the way to build respect in the United Nations. It is one of the problems we are having now in trying to build an international coalition to deal with this problem.

Seventh question. What has changed since Congress voted on this resolution? I thought it was unwise then for the U.S. Congress to derogate its constitutional duty to make a decision about war when it voted to essentially allow one person, one person in this country, to make the decision to go to war, rather than the elected officials here in Congress. When they drafted the Constitution, they said Congress had the power to declare war, so that one person would not have that awesome challenge and responsibility. Nonetheless, Congress did that, and my side of the vote did not prevail.

It is important to have this discussion now because since that decision, other potential enemies of the United States have used our continued concentration and obsession, and I will not use the word obsession, I will strike that word, but our concentration on Iraq has allowed them to continue to develop their own nuclear weapons programs. And we have been totally ineffective in dealing with those other issues, and that calls for Congress to have a debate about what the current state of this situation is. And we should have one.

The eighth question. Has the President really leveled with the American people about the ramifications of this war financially and otherwise? The sad fact is that he has not. He has refused to even discuss with the U.S. Congress what the costs are going to be. And at the same time that we are going to incur from \$60 billion to \$120 billion in cost, the President, unlike any other wartime President in American history, and every other wartime President in American history has leveled with the American people, and they have told the American people what the war would cost in lives and treasury. They have been straight and said we need to pay this. And this President has not been straight with the American people about the cost of this war, either in lives or treasury, because he wants his tax cut above everything. Above everything. At the same time we are going to spend an additional \$60 billion to \$120 billion, he continues to try to ram through these tax cuts, which is his number one ideological belief.

Now, to me, when we have seen our soldiers and sailors off to harm's way in this war, and they are making this sacrifice, it does not seem to me to be right that the President of the United States says we might have a war overseas, but we are going to have a fiscal party at home. That is irresponsible, and it does not respect the tradition and the willingness of Americans to

sacrifice together when we do face a mutual security threat.

Number nine. What does a war in Iraq do to our security on the downside? Because many of us believe, and I believe, that while a war in Iraq and the elimination of Saddam Hussein's rule could reduce a particular threat that he presents, it could create greater threats in many other ways. I believe that in balancing those threats there is as much potential increased harm to the United States, in threats to our security, as there is benefit. And there are multiple reasons for that. The most obvious reason is what is happening in Iraq today, where we have kicked Saddam Hussein out of a particular region in the northeast corner of the country and al Qaeda has moved in.

It is a great irony. We have seen the sort of picture of what Iraq is going to look like in a post-Saddam Hussein world. Because in this corner of chaos, where there is no state, it is like a little Afghanistan about a decade ago. The fundamentalist Islamic movement has moved in and this group has now got about 700 fighters that are grouping in Iraq. Not under or allied with Saddam Hussein, but they are using the absence, this vacancy, this vacuum of state control to regroup and potentially plan attacks against the United States of America. By creating a chaotic situation in Iraq, we not only inspire the hatred which we have heard so many people talk about of young Muslim folks in the Mideast, but we will provide them a place to group, which is in a vacuum of what used to be Iraq.

It has been said by many people that a war in Iraq could be sort of the great dream of Osama bin Laden. Because no Osama bin Laden is going to bring down the United States in his wildest imagination. His dream is to incite a war between the West and Muslim nations. And his dream can only be accomplished in one possible way, and that is if the United States acts in a way which will prove to folks in the Muslim nations that in their view that we intend a colonial empire in the Middle East, which I do not believe we do. But to them, having an occupied Middle East Muslim nation, occupied for potentially years, and we have been in Germany for over 50, the ramifications of the recruiting efforts of Osama bin Laden are obvious.

I cannot think of a single thing that could potentially allow the regrouping of the al Qaeda network other than a war with Iraq, eventually. This is truly one battle we could win but lose the war. That is why war does not always buy more security. Sometimes it buys less, even if you win the first battle. And I think we should think about that.

Tenth. What would a largely unilateral war do to America's moral leadership in the world? I will close on this point, because I think it could be the most important for the long-term future of our Nation.

I believe America is a unique country that has a unique responsibility for moral leadership in the world. The world looks to us for leadership. It looks to us for an idea of what is acceptable conduct by nations and men. It looks to us to lead in the establishment of a rules-based society, because that is the genius of America. We have rules here and we follow rules here. Other countries do not. They do not have rules they follow in a lot of countries.

Since the collapse of the Soviet Empire, an empire we contained in a way that certainly makes Saddam Hussein look like a petty little maggot, but we contained the Soviet Union for many, many decades, and we should think about that in regard to Saddam Hussein. But we have this moral leadership, and we wear the cloak of moral leadership in the world, and we are looked to all over the world for leadership. The Statue of Liberty is not just about immigration. That flame is about leading the world in a lot of ways, not just economically.

It is my belief that should we go it alone, largely alone, which is the position we are in at the moment, if there is a lack of success developing an international coalition, which there has been a spectacular failure at this moment, if we act without United Nations sanctioning, we will have damaged our ability to fulfill the destiny of America to lead the world to a new civilization internationally, not just along the borders of our country. That is why it is so important for us to work with the international community to maintain what we have right now, which is the admiration of the world.

Think about what has happened in the last 12 months, where in the weeks following September 11 the world embraced us. There were headlines around the world in various newspapers. We were all Americans. Think how far that has changed because of the reaction against the United States and this administration acting so cavalierly in certain regards. It is disappointing.

But we can regain this. We can regain our position. We can continue to keep this tyrant in his box. We can build an international coalition. We can succeed in these inspections. We can continue our no-fly zone. We should continue to work with the international community. And in the days ahead, we hope that the President will listen to the American people and the voices from around the world in doing that, because that is America's destiny.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. DEGETTE (at the request of Ms. PELOSI) for today on account of a family emergency.

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 Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

(The following Members (at the request of Mr. TANCREDO) to revise and extend their remarks and include extraneous material:)

Mr. RENZI, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. TANCREDO, for 5 minutes, today.

Mr. HENSARLING, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. NEY, for 5 minutes, today.

ADJOURNMENT

Mr. INSLEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 p.m.), under its previous order, the House adjourned until Monday, March 17, 2003, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1130. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Payments for Cattle and Other Property Because of Tuberculosis [Docket No. 00-105-2] (RIN: 0579-AB36) received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1131. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Unshu Oranges From Honshu Island, Japan [Docket No. 02-108-1] received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1132. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Aluminum tris (O-ethylphosphonate); Pesticide Tolerance [OPP-2002-0348; FRL-7292-6] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1133. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — 1,3-Benzene Dicarboxylic Acid, 5-Sulfo-, 1,3-Dimethyl Ester, Sodium Salt, Polymer with 1,3-Benzene Dicarboxylic Acid, 1,4-Benzene

Dicarboxylic Acid, Dimethyl 1,4-Benzene Dicarboxylate and 1,2-Ethanediol; Tolerance Exemption [OPP-2003-0037; FRL-7290-9] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1134. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pyriproxyfen; Pesticide Tolerance [OPP-2002-0345; FRL-7289-6] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1135. A letter from the Assistant Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulation; Cheesequake Creek, NJ [CGD01-03-003] received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1136. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing [OAR-2002-0086, FRL-7461-3] (RIN: 2060-AG93) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1137. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing [OAR-2002-0035; FRL-7461-8] (RIN: 2060-AG66) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1138. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks [Docket ID No. OAR-2002-0085, FRL-7462-3] (RIN: 2060-AH55) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1139. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing; and National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing [OAR-2002-0054 and OAR-2002-0055, FRL-7459-9] (RIN: 2060-A167 and RIN: 2060-A168) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1140. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing [OAR-2002-0088, FRL-7462-6] (RIN: 2060-AG68) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1141. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture [OAR-2002-0048-FRL-7462-1] (RIN: 2060-AG55) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1142. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the

Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products [OAR-2003-0002-FRL-7462-2] (RIN: 2060-AH02) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1143. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles [OAR2003-0014-FRL-7461-9] (RIN: 2060-AG98) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1144. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Engine Test Cells/Stands [OAR-2002-0040-FRL-7461-4] (RIN: 2060-A174) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1145. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production [OAR-2002-0003; FRL-7461-7] (RIN: 2060-AE79) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1146. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Rhode Island; Negative Declaration [RI-1047a; FRL-7458-5] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1147. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing [AD-FRL-7463-2] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1148. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Antelope Valley Air Pollution Control District, Imperial County Air Pollution Control District, and Monterey Bay Unified Air Pollution Control District [CA 245-0375a; FRL-7446-1] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1149. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing [OAR-2002-0083; FRL-7460-2] (RIN: 2060-AG48) received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1150. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations [OAR-2002-0080; FRL-7461-1] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1151. A letter from the Acting Principal Deputy Associate Administrator, Environ-

mental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production [OAR-2002-0057; FRL-7460-1] (RIN: 2060-AH75) received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1152. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2003 Harvest Specification for Groundfish [Docket No. 021122286-3036-02; I.D. 110602B] received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1153. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2003 Harvest Specifications for Groundfish [Docket No. 021212307-3037-3037-02 I.D. 110602C] received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1154. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777 Series Airplanes Equipped with Rolls-Royce Model Trent 800 Series Engines [Docket No. 2002-NM-318-AD; Amendment 39-13027; AD 2003-03-03] (RIN: 2120-AA64) received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1155. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; San Francisco Bay, California [COTP San Francisco Bay 03-002] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1156. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulation; Mississippi River, Iowa and Illinois [CGD08-02-020] (RIN: 2115-AE47) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1157. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No. 2001-NM-172-AD; Amendment 39-13033; AD 2003-03-09] (RIN: 2120-AA64) received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1158. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Pharmaceutical Manufacturing Point Source Category [FRL-7462-8] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1159. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Modification of National Pollutant Discharge Elimination System (NPDES) Permit Deadline for Storm Water Discharges for Oil and Gas Construction Activity That Disturbs One to Five Acres of Land [7464-2] (RIN: 2040-AC82)

received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

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. BOEHNER: Committee on Education and the Workforce. H.R. 444. A bill to amend the Workforce Investment Act of 1998 to establish a Personal Reemployment Accounts grant program to assist Americans in returning to work; with an amendment (Rept. 108-35). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 875. A bill to direct the Secretary of Transportation to make grants for security improvements to over-the-road bus operations, and for other purposes (Rept. 108-36). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. EVANS (for himself, Ms. CARSON of Indiana, and Mr. MICHAUD):

H.R. 1256. A bill to amend title 38, United States Code, to provide for the annual placement of memorials honoring the service in the Armed Forces of veterans who, at the time of death, were homeless or indigent; to the Committee on Veterans' Affairs.

By Mr. EVANS (for himself, Mr. MICHAUD, Mr. FILNER, Mr. GUTIERREZ, Ms. CORRINE BROWN of Florida, Mr. RODRIGUEZ, Mr. REYES, Mr. STRICKLAND, Mr. UDALL of New Mexico, Mr. RYAN of Ohio, Mr. SANDERS, Mr. HOLDEN, Mrs. DAVIS of California, and Ms. WATERS):

H.R. 1257. A bill to amend title 38, United States Code, to make permanent the authority for qualifying members of the Selected Reserve to have access to home loans guaranteed by the Secretary of Veterans Affairs and to provide for uniformity in fees charged qualifying members of the Selected Reserve and active duty veterans for such home loans; to the Committee on Veterans' Affairs.

By Mr. MCGOVERN (for himself, Mr. SHAYS, Mr. OBERSTAR, Mr. LAHOOD, Mr. MOORE, Mr. ENGLISH, Mr. HINCHEY, Mr. QUINN, Mr. WEXLER, Mr. PAUL, Mr. LYNCH, Mr. BOEHLERT, Mr. MCNULTY, Mr. KILDEE, Mr. KLECZKA, Mr. RAHALL, Ms. LOFGREN, Mr. DELAHUNT, Mr. GRIJALVA, Mr. EVANS, Ms. BALDWIN, Mr. DEFAZIO, Mr. OLVER, Mr. MCDERMOTT, Mr. FRANK of Massachusetts, Ms. SCHAKOWSKY, Ms. SLAUGHTER, Mr. UDALL of Colorado, Mr. WATT, Ms. WOOLSEY, Mr. DOGGETT, Mr. LEVIN, Mr. COSTELLO, Ms. HOOLEY of Oregon, Mr. SANDERS, Ms. LEE, Mr. SERRANO, Mr. SABO, Ms. MCCOLLUM, Mr. MARKEY, Ms. NORTON, Mr. HOLT, Mr. BLUMENAUER, Mr. KUCINICH, Mr. CAPUANO, Mr. RUSH, Mr. GUTIERREZ, Mr. GEORGE MILLER of California, Mr. PALLONE, and Mr. ALLEN):

H.R. 1258. A bill to repeal the statutory authority for the Western Hemisphere Institute for Security Cooperation (the successor institution to the United States Army School

of the Americas) in the Department of Defense, to provide for the establishment of a joint congressional task force to conduct an assessment of the kind of education and training that is appropriate for the Department of Defense to provide to military personnel of Latin American nations, and for other purposes; to the Committee on Armed Services.

By Mr. WELLER (for himself and Mr. CROWLEY):

H.R. 1259. A bill to amend the Internal Revenue Code of 1986 to allow businesses to expense qualified security devices; to the Committee on Ways and Means.

By Mr. UPTON (for himself, Ms. DEGETTE, Mr. GREENWOOD, Mr. TOWNS, Mr. BILIRAKIS, and Mr. JOHN):

H.R. 1260. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs; to the Committee on Energy and Commerce.

By Mr. MCKEON (for himself and Mr. BOEHNER):

H.R. 1261. A bill to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes; to the Committee on Education and the Workforce.

By Mr. FOLEY:

H.R. 1262. A bill to implement or enhance consistent AMBER Alert plans throughout the country; to the Committee on the Judiciary.

By Mr. ACEVEDO-VILA (for himself, Mr. LAMPSON, Mr. FOLEY, Ms. VELAZQUEZ, Mr. GUTIERREZ, Mr. SERRANO, Mr. PALLONE, Mr. CRAMER, Mr. FROST, Mr. WICKER, Mr. SCHIFF, Mr. CONYERS, Mr. ROGERS of Michigan, Mr. CHABOT, Mr. SHUSTER, Mr. ISAKSON, Mr. BOEHLERT, Mrs. CHRISTENSEN, Ms. JACKSON-LEE of Texas, and Mr. DUNCAN):

H.R. 1263. 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. BACA (for himself, Mr. ORTIZ, Mr. ACEVEDO-VILA, Mr. TERRY, Mr. SOUDER, Mr. FROST, Mrs. JONES of Ohio, Mr. MCGOVERN, Mr. CUMMINGS, Mrs. NAPOLITANO, Mrs. LOWEY, and Mr. RAHALL):

H.R. 1264. A bill to provide for reduction in the backlog of claims for benefits pending with the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Ms. GINNY BROWN-WAITE of Florida:

H.R. 1265. A bill to provide, upon the request of a qualifying person, for the removal of the remains of any United States servicemember or other person interred in an American Battle Monuments Commission cemetery located in France or Belgium and for the transportation of such remains to a location in the United States for reinterment; to the Committee on Veterans' Affairs.

By Mr. CAMP (for himself and Mr. FOLEY):

H.R. 1266. A bill to amend the Internal Revenue Code of 1986 to modify the credit for the production of fuel from nonconventional sources and the credit for the production of

electricity to include landfill gas; to the Committee on Ways and Means.

By Mrs. CAPPS (for herself, Mr. LATOURETTE, Mr. WAXMAN, Mrs. LOWEY, Mr. BROWN of Ohio, Mr. STARK, Ms. LOFGREN, Mr. GEORGE MILLER of California, Ms. LINDA T. SANCHEZ of California, Ms. LORETTA SANCHEZ of California, Ms. LEE, Mr. PAYNE, Mr. RODRIGUEZ, Ms. CORRINE BROWN of Florida, Mrs. MALONEY, Mr. KENNEDY of Rhode Island, Ms. NORTON, Mr. MORAN of Virginia, Mr. FRANK of Massachusetts, Ms. DELAURO, Mr. PALLONE, Mr. GRIJALVA, Mr. HOLDEN, Mr. ABERCROMBIE, Mr. FILNER, Mr. FROST, Mr. LYNCH, Mr. HINCHEY, Mr. SERRANO, Mr. MCGOVERN, Ms. KILPATRICK, Ms. CARSON of Indiana, Mr. BAIRD, Ms. SLAUGHTER, Mr. BISHOP of New York, Mrs. NAPOLITANO, Mr. OWENS, Mr. ACKERMAN, Ms. MILLENDER-MCDONALD, Ms. MCCOLLUM, Mr. DOGGETT, Mr. KUCINICH, Ms. SCHAKOWSKY, Mr. RANGEL, Ms. WOOLSEY, Mr. MCNULTY, Mr. FATTAH, Mr. REYES, Mr. KILDEE, Mr. DAVIS of Illinois, Mr. GUTIERREZ, Mr. FALEOMAVAEGA, Mr. CLYBURN, Mr. BOSWELL, Mr. MCDERMOTT, and Mr. CASE):

H.R. 1267. A bill to amend the Public Health Service Act, the Social Security Act, and chapter 89 of title 5, United States Code, to provide research on the health impact and prevention of family violence; to provide training for health care professionals, behavioral and public health staff, and community health centers regarding identification and treatment for families experiencing family violence; and to provide coverage for domestic violence identification and treatment under the Maternal and Child Health Services Block Grant Program, the Medicaid Program, the Federal Employees Health Benefits Program, and the Community Health Centers Program; to the Committee on Energy and Commerce, and in addition to the Committee on Government Reform, 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. CONYERS:

H.R. 1268. A bill to amend the Toxic Substances Control Act, the Internal Revenue Code of 1986, and the Public Buildings Act of 1959 to protect human health from toxic mold, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Financial Services, Ways and Means, and 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. COSTELLO (for himself, Mr. BOUCHER, Mr. WHITFIELD, Mr. SHIMKUS, Mr. LIPINSKI, and Mr. MOLLOHAN):

H.R. 1269. A bill to provide for research, development, and demonstration on coal and related technologies, and for other purposes; to the Committee on Science.

By Mr. CRANE (for himself, Mr. CAMP, Mr. ENGLISH, Mr. LEWIS of Kentucky, Mr. JEFFERSON, and Mr. VITTER):

H.R. 1270. A bill to amend the Internal Revenue Code of 1986 to clarify the status of employee leasing organizations and to promote and protect the interests of employee leasing organizations, their customers, and workers; to the Committee on Ways and Means.

By Mr. CUNNINGHAM (for himself, Mr. MARKEY, Mr. CRANE, and Mr. MATSUDA):

H.R. 1271. A bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy

consumption in buildings; to the Committee on Ways and Means.

By Mr. DINGELL (for himself, Mr. WAXMAN, Mr. MARKEY, Mr. BOUCHER, Mr. TOWNS, Mr. PALLONE, Mr. RUSH, Mr. ENGEL, Ms. DEGETTE, Mrs. CAPPS, Ms. SCHAKOWSKY, Ms. SOLIS, Mr. INSLEE, Ms. MCCOLLUM, Ms. LEE, Ms. NORTON, and Ms. KILPATRICK):

H.R. 1272. A bill to prohibit fraudulent, manipulative, or deceptive acts in electric and natural gas markets, to provide for audit trails and transparency in those markets, to increase penalties for illegal acts under the Federal Power Act and Natural Gas Act, to reexamine certain exemptions under the Federal Power Act and the Public Utility Holding Company Act of 1935, to expand the authority of the Federal Energy Regulatory Commission to order refunds of unjust and discriminatory rates, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DOOLEY of California (for himself, Mr. CARDOZA, Mr. LEWIS of California, Mr. MATSUI, and Mr. NUNES):

H.R. 1273. A bill to designate a United States courthouse to be constructed in Fresno, California, as the "Robert E. Coyle United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. DOOLEY of California (for himself, Mr. CARDOZA, Mr. NUNES, and Mr. RADANOVICH):

H.R. 1274. A bill to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouse in that county; to the Committee on Transportation and Infrastructure.

By Mr. FROST:

H.R. 1275. A bill to amend the Immigration and Nationality Act to change the requirements for naturalization to citizenship through service in the Armed Forces of the United States; to the Committee on the Judiciary.

By Ms. HARRIS (for herself, Mr. ROGERS of Michigan, Mr. OXLEY, Mr. NEY, Mr. DAVIS of Alabama, Mr. MURPHY, Mr. BACHUS, Mr. BAKER, Mr. BARRETT of South Carolina, Mr. BEREUTER, Mrs. BIGGERT, Mr. BOEHLERT, Mr. CASTLE, Mr. EMANUEL, Mr. GILLMOR, Mr. GREEN of Wisconsin, Ms. HART, Mr. JONES of North Carolina, Mrs. KELLY, Mr. LATOURETTE, Mr. LEACH, Mr. LEWIS of Kentucky, Mr. MANZULLO, Mr. GARY G. MILLER of California, Mrs. CAPITO, Mr. RENZI, Mr. RYUN of Kansas, Mr. SCOTT of Georgia, Mr. SHADEGG, Mr. SHAYS, Mr. TIBERI, and Mr. WILSON of South Carolina):

H.R. 1276. A bill to provide downpayment assistance under the HOME Investment Partnerships Act, and for other purposes; to the Committee on Financial Services.

By Mr. HAYWORTH (for himself, Mr. BECERRA, and Mrs. BONO):

H.R. 1277. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for ground rent paid on land on which a qualified residence of a taxpayer is located and which is allotted or Indian-owned land; to the Committee on Ways and Means.

By Mr. HILL (for himself, Mr. TAYLOR of Mississippi, Mr. BERRY, Mr. MOORE, Mr. SANDLIN, Mr. STENHOLM, Mr. TURNER of Texas, Mr. HOLDEN, Mr. MATHESON, Mr. THOMPSON of California, Mr. PETERSON of Minnesota, Ms. LORETTA SANCHEZ of California, Mr. MICHAUD, Mr. SCHIFF, Mrs. TAUSCHER, Mr. TANNER, Mr. JOHN, and Ms. HARMAN):

H.R. 1278. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 and the Congressional Budget Act of

1974 to extend the discretionary spending caps and the pay-as-you-go requirement, and for other purposes; to the Committee on the Budget, and in addition to the Committee on Rules, 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. HULSHOF (for himself, Mr. POMEROY, Mr. LEWIS of Kentucky, Mr. KENNEDY of Minnesota, Mr. WELLER, Mr. LIPINSKI, Mrs. EMERSON, Mr. SKELTON, Mr. SHIMKUS, Mr. BERRY, Mr. RYUN of Kansas, Mr. MCINTYRE, Mr. JOHNSON of Illinois, Mr. PAYNE, Mr. REHBERG, Mr. COSTELLO, Mr. HOSTETTLER, Mr. PETERSON of Minnesota, Mr. LAHOOD, Mr. ROSS, Mr. LEACH, Mr. ANDREWS, Mr. BEREUTER, Mr. GILCHREST, and Mr. ETHERIDGE):

H.R. 1279. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the use of biodiesel as a fuel; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, 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. KING of New York (for himself, Mr. OXLEY, and Mrs. MALONEY):

H.R. 1280. A bill to reauthorize the Defense Production Act of 1950, and for other purposes; to the Committee on Financial Services.

By Mr. KING of New York:

H.R. 1281. A bill to amend the Professional Boxing Safety Act of 1996, and to establish the United States Boxing Administration; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, 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. LOFGREN (for herself, Mr. NETHERCUTT, Mr. HOLT, Mr. CUNNINGHAM, Mr. ISSA, Ms. LEE, Mrs. TAUSCHER, Mr. HALL, Mr. MCGOVERN, Mr. MATSUI, Mr. BERMAN, Mrs. CAPPS, Mr. SCHIFF, Mr. PASCRELL, Mr. EHLERS, Mr. CAPUANO, Mr. LAMPSON, Mr. OLVER, Mr. HONDA, Mrs. DAVIS of California, Mr. CALVERT, Mr. FRANK of Massachusetts, Mr. FILNER, Mr. STARK, Mr. EDWARDS, Mr. GREEN of Texas, Mrs. BONO, Mr. MARKEY, and Mr. LYNCH):

H.R. 1282. A bill to authorize the Secretary of Energy to cooperate in the international magnetic fusion burning plasma experiment, or alternatively to develop a plan for a domestic burning plasma experiment, for the purpose of accelerating the scientific understanding and development of fusion as a long term energy source; to the Committee on Science.

By Mr. MEEKS of New York:

H.R. 1283. A bill to protect automobile consumers by requiring complete disclosure and warranty of any add-ons included with the sale of new automobiles; to the Committee on Energy and Commerce.

By Mrs. NAPOLITANO (for herself, Mr. DREIER, and Ms. SOLIS):

H.R. 1284. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to increase the Federal share of the costs of the San Gabriel Basin demonstration project; to the Committee on Resources.

By Ms. NORTON:

H.R. 1285. A bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes; to the Committee on the Judiciary.

By Mr. PALLONE:

H.R. 1286. A bill to prohibit the commercial harvesting of Atlantic striped bass in the coastal waters and the exclusive economic zone; to the Committee on Resources.

By Mr. PAUL:

H.R. 1287. A bill to amend the Internal Revenue Code of 1986 to make health care coverage more accessible and affordable; to the Committee on Ways and Means.

By Ms. PRYCE of Ohio (for herself,

Mrs. MYRICK, Mr. GREENWOOD, Mr. TANCREDO, Mr. HOUGHTON, Mr. KING of New York, Mr. GOODE, Mr. CASTLE, Mr. HYDE, Mr. WAMP, Mr. SHUSTER, Mr. SHIMKUS, Mr. PORTMAN, Mr. LATOURETTE, Mrs. BIGBERT, Mr. LOBIONDO, Mr. HOBSON, Mr. BURTON of Indiana, Mr. TIAHRT, Mr. SMITH of Michigan, Mr. WOLF, Mr. BACHUS, Ms. DEGETTE, Mrs. CAPPS, Mr. ISRAEL, Ms. LEE, Mr. UDALL of New Mexico, Mrs. MALONEY, Mr. JOHN, Mr. GREEN of Texas, Mr. LIPINSKI, Mr. POMEROY, Mr. TURNER of Texas, Ms. BALDWIN, Mr. STRICKLAND, Mr. PALLONE, Mr. PASCRELL, Ms. BERKLEY, Mr. HOLT, Mr. FROST, Mr. SERRANO, Mrs. LOWEY, Mr. MURTHA, Mr. MCINTYRE, Mr. INSLEE, Mr. MOORE, Mr. CARSON of Oklahoma, Mr. LUCAS of Kentucky, Mr. MEEHAN, Mr. GEORGE MILLER of California, Mr. BROWN of Ohio, and Mr. BURGESS):

H.R. 1288. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of all oral anticancer drugs; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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. RADANOVICH (for himself and Mr. CARDOZA):

H.R. 1289. A bill to establish the National Parks Institute at the University of California, Merced, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Resources, 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. SCHIFF (for himself, Mr. FRANK of Massachusetts, Mr. MCGOVERN, Ms. CORRINE BROWN of Florida, and Ms. WOOLSEY):

H.R. 1290. A bill to authorize the President to establish military tribunals to try the terrorists responsible for the September 11, 2001 attacks against the United States, and for other purposes; to the Committee on Armed Services, 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. UDALL of Colorado:

H.R. 1291. A bill to amend the Public Health Service Act to include State high risk pool insurance programs in the list of covered entities that receive reductions in the prices charged for prescription drugs under the prescription drug pricing agreements under section 340B of that Act; to the Committee on Energy and Commerce.

By Mr. UDALL of Colorado (for himself and Mr. PICKERING):

H.R. 1292. A bill to encourage the development and integrated use by the public and private sectors of remote sensing and other geospatial information, and for other purposes; to the Committee on Science.

By Mr. UDALL of Colorado (for himself and Mr. FROST):

H.R. 1293. A bill to authorize the Small Business Administration and the Department of Agriculture to assist farmers and ranchers seeking to develop and implement agricultural innovation plans in order to increase their profitability in ways that provide environmental benefits, and for other purposes; to the Committee on Small Business, and in addition to the Committee on Agriculture, 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. UDALL of New Mexico (for himself, Mr. UDALL of Colorado, Mr. WAXMAN, Mr. GEORGE MILLER of California, Mr. TIERNEY, Mr. OWENS, Mr. HINCHEY, Mr. CARDIN, Mr. BERMAN, Mr. LEACH, and Mr. PALLONE):

H.R. 1294. A bill to amend title VI of the Public Utility Regulatory Policies Act of 1978 to establish a Federal renewable energy portfolio standard for certain retail electric utilities, and for other purposes; to the Committee on Energy and Commerce.

By Ms. WOOLSEY (for herself, Mr. MCNULTY, Mr. FRANK of Massachusetts, Mr. KILDEE, Mr. FROST, Mr. HONDA, Mr. CONYERS, Ms. JACKSON-LEE of Texas, Mr. SERRANO, Mr. RYAN of Ohio, Mr. ABERCROMBIE, Ms. WATSON, Mr. OWENS, and Mr. SANDERS):

H.R. 1295. A bill to provide for coverage of diabetic foot sore apparatus as items of durable medical equipment under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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. WU:

H.R. 1296. A bill to amend the Internal Revenue Code of 1986 to repeal the dollar limitation on the deduction of interest on education loans; to the Committee on Ways and Means.

By Mr. YOUNG of Florida:

H.R. 1297. A bill to require the construction at Arlington National Cemetery of a memorial to the crew of the Columbia Orbiter; to the Committee on Veterans' Affairs, 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. CARTER:

H.J. Res. 39. A joint resolution proposing an amendment to the Constitution of the United States relative to references to God in the Pledge of Allegiance and on United States coins and currency; to the Committee on the Judiciary.

By Mr. SAM JOHNSON of Texas (for himself and Mr. HUNTER):

H. Con. Res. 92. Concurrent resolution expressing the sense of the Congress regarding the need to invest a minimum of 4 percent of gross domestic product on national defense; to the Committee on Armed Services.

By Mr. MCKEON:

H. Con. Res. 93. Concurrent resolution expressing the sense of Congress that the President should renegotiate the extradition treaty with Mexico so that the possibility of capital punishment or life imprisonment will not interfere with the timely extradition of criminal suspects from Mexico to the United States; to the Committee on International Relations.

By Mr. SESSIONS (for himself and Mrs. CAPPS):

H. Con. Res. 94. Concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for in-

dividuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce; to the Committee on Education and the Workforce.

By Mr. CAPUANO (for himself, Mr. BILIRAKIS, Mr. DAVIS of Illinois, Mr. TOWNS, Mr. OLVER, Mr. DOYLE, Mr. SERRANO, Mr. MEEHAN, Mr. BELL, Mr. ABERCROMBIE, Mrs. MALONEY, Mr. BERMAN, Mr. MCNULTY, Ms. SLAUGHTER, Mr. CASE, Mr. LAHOOD, Mr. KILDEE, Ms. LEE, Ms. JACKSON-LEE of Texas, Mr. TIERNEY, Mr. MATSUI, Mr. BROWN of Ohio, Mr. GREENWOOD, Ms. BALDWIN, Mr. RANGEL, Mr. UDALL of New Mexico, Mr. MCINTYRE, Mr. WAXMAN, Mr. ROSS, Mr. CONYERS, Mr. LYNCH, Mr. SIMMONS, Mr. NORWOOD, Mr. DOOLEY of California, Mr. FRANK of Massachusetts, Mr. STENHOLM, Mr. SCOTT of Virginia, Ms. ROYBAL-AL-LARD, and Mr. FILNER):

H. Res. 142. A resolution to express the sense of the House of Representatives that the Federal investment in programs that provide health care services to uninsured and low-income individuals in medically underserved areas should be increased to serve 20,000,000 individuals by 2006; to the Committee on Energy and Commerce.

By Mr. FROST (for himself and Mr. LAMPSON):

H. Res. 143. A resolution providing for consideration of the bill (S. 121) to enhance the operation of the AMBER Alert communications network in order to facilitate the recovery of abducted children, to provide for enhanced notification on highways of alerts and information on such children, and for other purposes; to the Committee on Rules.

By Mr. WU:

H. Res. 144. A resolution to express the sense of the House of Representatives that the maximum Pell Grant should be increased to \$5,800; to the Committee on Education and the Workforce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. GORDON, Mr. BARRETT of South Carolina, Mr. CASE, and Ms. HART.

H.R. 23: Mr. EVERETT.

H.R. 57: Mr. GILLMOR.

H.R. 58: Mr. LIPINSKI, Mr. BERMAN, Ms. SOLIS, and Ms. DEGETTE.

H.R. 75: Mr. CULBERSON.

H.R. 100: Mr. MICHAUD.

H.R. 120: Mr. LIPINSKI.

H.R. 125: Mr. WU, Mr. THOMPSON of Mississippi, Ms. SLAUGHTER, Ms. LEE, Mr. DAVIS of Illinois, Mr. DICKS, Mr. FRANK of Massachusetts, Mr. ANDREWS, and Ms. DEGETTE.

H.R. 141: Mr. WILSON of South Carolina.

H.R. 217: Mr. LANTOS, Mr. FRANK of Massachusetts, Mr. HASTINGS of Florida, Ms. LINDA T. SANCHEZ of California, Mr. BROWN of South Carolina, Mr. MEEHAN, Mr. FALCOMA, Mr. SIMMONS, and Mr. WU.

H.R. 221: Mr. CONYERS, Mr. FARR, Mr. GUTIERREZ, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LEE, Mr. MCGOVERN, Mr. PASCARELL, Mr. TOWNS, Ms. WOOLSEY, and Mr. LANGEVIN.

H.R. 241: Mr. MICHAUD.

H.R. 282: Mr. GARRETT of New Jersey and Mr. GUTKNECHT.

H.R. 303: Ms. SLAUGHTER, Mr. CASE, and Mr. HALL.

H.R. 308: Mr. HINCHEY, Ms. SCHAKOWSKY, Mr. RYAN of Ohio, and Mr. JACKSON of Illinois.

H.R. 343: Ms. BORDALLO.

H.R. 362: Mr. FORBES, Mr. GREENWOOD, Mr. QUINN, Mr. ORTIZ, Mr. FATTAH, Mr. WYNN, Mr. MEEHAN, Mr. SNYDER, Mr. HOFFEL, Mr. PUTNAM, Mr. ISAKSON, Mr. PLATTS, Mr. HINOJOSA, Mr. TANCREDO, Mr. ENGLISH, Mr. GIBBONS, and Mr. ADERHOLT.

H.R. 375: Mr. BLUNT.

H.R. 380: Mr. MCKEON.

H.R. 412: Mr. OLVER, Ms. JACKSON-LEE of Texas, Ms. CARSON of Indiana, Ms. SLAUGHTER, Mr. TURNER of Ohio, Mr. PRICE of North Carolina, Mr. CRAMER, Mr. NEAL of Massachusetts, Mr. CAPUANO, Mr. GREENWOOD, Mr. WEINER, Mr. TURNER of Texas, Mr. SMITH of Washington, Mr. PLATTS, Mr. SHAYS, Mr. ISSA, Mr. HINOJOSA, Mr. NADLER, Mr. SNYDER, Mr. LIPINSKI, Mr. HUNTER, Mr. DOOLEY of California, Mr. HINCHEY, Mr. FATTAH, Mr. SOUDER, and Ms. WATERS.

H.R. 432: Mr. VAN HOLLEN.

H.R. 434: Mr. BAKER, Mr. LAHOOD, Mr. TIBERI, Mr. PITTS, Mr. BONNER, and Mr. BOEHLERT.

H.R. 436: Ms. LEE.

H.R. 442: Mr. LARSEN of Washington, Mr. RYAN of Ohio, and Mr. OSBORNE.

H.R. 466: Mr. GREENWOOD and Mr. BRADLEY of New Hampshire.

H.R. 489: Mr. EVERETT and Mr. TANCREDO.

H.R. 490: Mr. JENKINS, Mr. UDALL of Colorado, and Mr. GILLMOR.

H.R. 496: Mr. CANNON.

H.R. 501: Mr. DAVIS of Illinois.

H.R. 502: Mr. ISAKSON.

H.R. 503: Mr. LEWIS of Kentucky.

H.R. 528: Mr. ROTHMAN.

H.R. 578: Mr. SHAW, Mr. HERGER, Mr. ENGLISH, Mr. WELLER, Mr. BACHUS, Mr. GRAVES, Mr. MORAN of Kansas, and Mr. WILSON of South Carolina.

H.R. 583: Mrs. MUSGRAVE, Mr. CROWLEY, Mr. PETERSON of Pennsylvania, Mr. OSBORNE, Mr. MCINNIS, Mr. KIRK, Mr. CANTOR, Mr. BROWN of South Carolina, Mr. BEAUPREZ, Mr. TANCREDO, Mr. KING of Iowa, Mr. CRAMER, Mr. PUTNAM, Ms. HART, Mr. GREEN of Wisconsin, Mr. LUCAS of Kentucky, Mr. TIBERI, Mrs. CAPITO, Mr. GRAVES, Mr. PENCE, Mr. BONILLA, and Mr. BAKER.

H.R. 591: Mr. FILNER.

H.R. 594: Mr. TIERNEY, Ms. NORTON, Mr. DELAHUNT, Mr. SESSIONS, Mrs. JOHNSON of Connecticut, Mr. CRAMER, and Mr. MEEHAN.

H.R. 611: Mr. SENSENBRENNER.

H.R. 612: Mr. SENSENBRENNER.

H.R. 615: Mr. SENSENBRENNER.

H.R. 616: Ms. GINNY BROWN-WAITE of Florida.

H.R. 617: Ms. GINNY BROWN-WAITE of Florida.

H.R. 621: Mr. FOSSELLA, Mr. FROST, Mr. OWENS, Mr. LIPINSKI, Ms. SLAUGHTER, Mr. GEORGE MILLER of California, and Mr. RYAN of Ohio.

H.R. 667: Mr. WU.

H.R. 678: Mr. BONNER and Mr. BISHOP of Georgia.

H.R. 688: Mr. PORTER.

H.R. 694: Mr. RYAN of Ohio.

H.R. 713: Mr. WELDON of Florida, Mr. STRICKLAND, and Mrs. CUBIN.

H.R. 714: Mr. REHBERG.

H.R. 735: Mr. FERGUSON and Mr. WOLF.

H.R. 743: Mr. PETERSON of Minnesota.

H.R. 767: Mr. CANTOR, Mr. HAYWORTH, Mr. HERGER, and Mr. PENCE.

H.R. 768: Mr. PICKERING.

H.R. 771: Mr. CANTOR.

H.R. 775: Mr. NORWOOD.

H.R. 784: Mr. RAHALL.

H.R. 800: Mr. GILLMOR.

H.R. 811: Mr. FROST.

H.R. 814: Mr. DICKS, Ms. NORTON, Mr. LANGEVIN, Mr. DINGELL, Mr. FARR, Mr. WAXMAN, Mr. TERRY, Mr. COSTELLO, Ms. LINDA T. SANCHEZ of California, Mrs. CAPPS, Mr. HOLDEN, Mr. MATHESON, Mr. KUCINICH, Mr. MCNULTY, Mr. MCGOVERN, and Mr. MOORE.

H.R. 815: Mr. WOLF.
 H.R. 830: Mr. GOODE.
 H.R. 839: Mr. LEWIS of Kentucky.
 H.R. 847: Mr. DAVIS of Illinois.
 H.R. 850: Mr. BILIRAKIS, Mr. CAMP, Mr. LATHAM, Mr. MANZULLO, and Mr. KLINE.
 H.R. 858: Mr. SCOTT of Georgia and Mr. UDALL of Colorado.
 H.R. 872: Mr. HOSTETTLER.
 H.R. 879: Mr. GOODE.
 H.R. 884: Mr. PORTER.
 H.R. 893: Mrs. MALONEY.
 H.R. 896: Ms. BORDALLO.
 H.R. 919: Mr. GEORGE MILLER of California, Mr. MCGOVERN, and Mr. STUPAK.
 H.R. 927: Mr. ENGLISH, Mr. WELLER, Mr. SHIMKUS, Mr. QUINN, Mr. BEREUTER, Mr. KENNEDY of Minnesota, Mr. KOLBE, and Ms. GINNY BROWN-WAITE of Florida.
 H.R. 931: Mr. NORWOOD and Mr. LINDER.
 H.R. 935: Mr. STARK, Mr. GUTIERREZ, Ms. ROS-LEHTINEN, and Mr. ENGEL.
 H.R. 936: Mr. ENGEL, Mr. GRIJALVA, Mr. RYAN of Ohio, Mr. DAVIS of Illinois, and Mr. MCGOVERN.
 H.R. 941: Mr. POMEROY and Mr. WHITFIELD.
 H.R. 946: Mrs. CUBIN.
 H.R. 962: Mr. SANDERS, Mr. SCOTT of Georgia, Mr. CASTLE, Ms. WOOLSEY, Mr. FRANK of Massachusetts, and Mr. LEVIN.
 H.R. 965: Ms. WATERS, Mr. DEUTSCH, Mr. WAXMAN, and Mrs. LOWEY.
 H.R. 966: Mr. FILNER.
 H.R. 967: Mr. FRANK of Massachusetts, Mr. CROWLEY, Mr. PICKERING, Mr. GORDON, Mr. OLVER, Mr. GRAVES, Mr. DAVIS of Alabama, Mr. LIPINSKI, Mr. PASTOR, Mr. GEORGE MILLER of California, Mr. POMEROY, Mr. RYAN of Ohio, Ms. NORTON, Mrs. MALONEY, Mr. KUCINICH, and Mr. MCGOVERN.
 H.R. 977: Ms. WOOLSEY and Mr. GIBBONS.
 H.R. 983: Ms. LORETTA SANCHEZ of California and Mr. SCHIFF.
 H.R. 995: Mr. CASE and Mr. HEFLEY.
 H.R. 1004: Mr. SMITH of Washington, Mr. NETHERCUTT, Mr. GOODLATTE, Mr. LAHOOD, and Mr. SERRANO.
 H.R. 1009: Mrs. CHRISTENSEN.
 H.R. 1013: Ms. DUNN and Mrs. BONO.
 H.R. 1022: Ms. LINDA T. SANCHEZ of California.
 H.R. 1023: Mr. SESSIONS.
 H.R. 1039: Mr. FALEOMAVAEGA.
 H.R. 1048: Mr. FILNER.
 H.R. 1072: Mr. KING of New York.
 H.R. 1080: Mr. SCHIFF, Mr. RYAN of Ohio, Ms. DELAURO, Mr. FRANK of Massachusetts, and Mr. ENGEL.
 H.R. 1081: Mr. BERMAN, Mr. SCHIFF, Mr. RYAN of Ohio, Ms. DELAURO, Mr. FRANK of Massachusetts, and Mr. ENGEL.

H.R. 1093: Mr. MCCOTTER and Mr. CASE.
 H.R. 1094: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LOBIONDO, Mr. RYAN of Ohio, Mr. OXLEY, Mr. LARSEN of Washington, and Mr. KUCINICH.
 H.R. 1095: Mr. FARR, Mr. CARSON of Oklahoma, Mr. MCHUGH, Mr. CARDOZA, Mr. ROHR-ABACHER, Mr. GORDON, and Mr. ISSA.
 H.R. 1097: Mr. MCNULTY, Mr. LEVIN, Mr. COSTELLO, Ms. SOLIS, and Ms. ESHOO.
 H.R. 1104: Mr. DELAY, Mrs. CAPITO, Ms. DUNN, Mr. BRADY of Texas, Mr. FOLEY, Mr. GOODLATTE, Mr. TERRY, Mr. BAKER, Mr. UPTON, Mr. MCCOTTER, and Mr. SIMMONS.
 H.R. 1105: Mr. FARR.
 H.R. 1124: Mr. STRICKLAND.
 H.R. 1130: Mr. GORDON.
 H.R. 1157: Mr. ABERCROMBIE, Mr. UDALL of New Mexico, Mr. PETERSON of Minnesota, Mr. MANZULLO, Ms. CORRINE BROWN of Florida, Ms. ESHOO, and Mr. SABO.
 H.R. 1160: Mr. BONNER, Mr. EVERETT, Mr. VITTER, Mr. LEWIS of Kentucky, Mr. NUNES, Mr. PETERSON of Minnesota, Ms. MCCOLLUM, and Mr. JANKLOW.
 H.R. 1161: Mr. OSBORNE, Mr. SULLIVAN, Mr. UPTON, Mr. TERRY, and Mr. MCCOTTER.
 H.R. 1162: Mr. ISRAEL.
 H.R. 1165: Ms. WATSON.
 H.R. 1175: Mr. PITTS, Mr. HENSARLING, and Mr. BEAUPREZ.
 H.R. 1196: Mr. LEACH.
 H.R. 1199: Mr. PASTOR and Mr. SNYDER.
 H.R. 1200: Mr. CARSON of Indiana, and Ms. LINDA T. SANCHEZ of California.
 H.R. 1203: Mr. HOSTETTLER.
 H.R. 1212: Mr. FILNER.
 H.R. 1231: Mr. ABERCROMBIE, Mr. AKIN, Mr. ALLEN, Mr. ANDREWS, Mr. BACHUS, Ms. BALDWIN, Mr. BASS, Mrs. BIGGERT, Mr. BISHOP of Georgia, Mr. BOUCHER, Mr. BOSWELL, Mr. BROWN of Ohio, Mr. BURR, Mrs. CAPPS, Mr. CARDIN, Mr. CARSON of Oklahoma, Mr. CRAMER, Mr. CROWLEY, Mrs. CUBIN, Mr. CUMMINGS, Mr. DELAHUNT, Mr. DEUTSCH, Mr. DOYLE, Mr. ENGEL, Mr. ENGLISH, Mr. FALEOMAVAEGA, Mr. FILNER, Mr. FOLEY, Mr. FORBES, Mr. FOSSELLA, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GILCHREST, Mr. GILLMOR, Mr. GOODE, Mr. GORDON, Mr. HALL, Mr. HASTINGS of Florida, Mr. HAYES, Mr. HEFLEY, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOLDEN, Mr. HOLT, Mr. HOSTETTLER, Mr. INSLEE, Mr. ISRAEL, Mr. ISTOOK, Ms. JACKSON-LEE of Texas, Mr. JOHN, Mr. JONES of North Carolina, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. KILPATRICK, Mr. KIND, Mr. KING of New York, Mr. KLECZKA, Mr. KOLBE, Mr. LAHOOD, Mr.

LANTOS, Mr. LEACH, Ms. LEE, Mr. LEWIS of Kentucky, Mr. LIPINSKI, Mr. LOBIONDO, Mrs. LOWEY, Mr. LUCAS of Kentucky, Mr. LYNCH, Mr. MANZULLO, Ms. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCHUGH, Mr. MCINTYRE, Mr. NEAL of Massachusetts, Mr. NEY, Mr. OBERSTAR, Mr. OLVER, Mr. OTTER, Mr. PALLONE, Mr. PASTOR, Mr. PAUL, Mr. PAYNE, Mr. PETRI, Mr. PLATTS, Mr. POMEROY, Mr. RAHALL, Mr. REHBERG, Mr. RODRIGUEZ, Mr. ROGERS of Kentucky, Ms. ROS-LEHTINEN, Mr. ROTHMAN, Mr. SABO, Mr. SANDERS, Mr. SAXTON, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SCOTT of Virginia, Mr. SHAYS, Mr. SHIMKUS, Mr. SIMMONS, Ms. SLAUGHTER, Mr. SMITH of Washington, Mr. SMITH of New Jersey, Mr. SNYDER, Mr. SOUDER, Mr. TANCREDO, Mr. TAYLOR of Mississippi, Mr. TERRY, Mr. TIAHRT, Mrs. JONES of Ohio, Mr. TURNER of Texas, Mr. UDALL of Colorado, Mr. WALSH, Mr. WAMP, Ms. WATSON, Mr. WEINER, Mr. WEXLER, Mr. WILSON of South Carolina, Mr. WHITFIELD, Mr. WOOLSEY, and Mr. WU.

H.J. Res. 4: Mr. ALEXANDER, Mr. BASS, Mr. FORBES, Mr. POMBO, Mr. TAUZIN, Mr. OTTER, Mr. BONNER, Mr. FRANKS of Arizona, and Mr. HAYES.

H.J. Res. 26: Mr. CARSON of Oklahoma and Mr. SULLIVAN.

H. Con. Res. 26: Mrs. NORTHUP and Mr. KILDEE.

H. Con. Res. 48: Mr. SESSIONS.

H. Con. Res. 49: Mr. PITTS, Mr. BURGESS, Ms. LEE, Mrs. LOWEY, and Ms. DEGETTE.

H. Con. Res. 56: Mr. BILIRAKIS and IMs. JACKSON-LEE of Texas.

H. Con. Res. 78: Mr. HINCHEY.

H. Con. Res. 79: Mr. BILIRAKIS.

H. Con. Res. 86: Mrs. LOWEY, Mrs. MALONEY, Mr. GRIJALVA, Mr. SERRANO, Mr. OWENS, and Mr. FARR.

H. Con. Res. 89: Ms. WOOLSEY.

H. Res. 28: Mr. BELL, Mrs. JONES of Ohio, Ms. NORTON, Mr. ROHRABACHER, Ms. BERKLEY, Mr. POMEROY, and Mr. PAYNE.

H. Res. 108: Mr. SMITH of Washington.

H. Res. 118: Mr. STEARNS, Mr. WYNN, Ms. MILLENDER-MCDONALD, and Mr. FROST.

H. Res. 121: Mr. KILDEE.

H. Res. 132: Mr. DUNCAN, Mr. BUYER, and Mr. COMBEST.

H. Res. 133: Mr. DAVIS of Tennessee.

H. Res. 140: Ms. WOOLSEY.

H. Res. 141: Ms. CORRINE BROWN of Florida.