

□ 1015

An increase in the minimum wage gives us the unique opportunity to give gifts of security and comfort to the American people. I believe that by stalling on this pertinent issue, we are directly denying our constituents the chance to live the American Dream.

Opponents of increasing the minimum wage would have us believe an increase in the minimum wage would cause employees to lay off workers; that it would hurt the poorest workers and destroy the economy. But I ask, did any of these things happen when we raised the minimum wage to \$5.15 in 1998? As our economy is still strong and unemployment low, clearly none of these negative predictions came to be after the legislation went into effect.

Mr. Speaker, I insist we revisit the issue of raising the minimum wage. The American worker is depending on all of us.

EXTENDING SYMPATHY TO CITIZENS OF ATLANTA

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

Mr. ISAKSON. Mr. Speaker, I rise today on behalf of all the Members of this Congress to extend our sympathy to the citizens of Atlanta, to the families of the victims in the tragedy that took place yesterday, and the prayers of this House for those that are in the hospitals recovering.

I also want to extend my gratitude to the hospitals of Grady, of Northside and St. Joseph's, and to law enforcement in Atlanta and the EMTs.

And I close by saying this. In the days ahead, all of us will seek to find some thing to blame in this tragedy. Today, in America, we all share the blame. Violence has become all too repetitive, all too often. It is time for us in this Congress, for those in the media, for everybody in all facets of our society to understand that violence has now permeated mainstream America, and we must begin to act to change the minds and hearts of Americans, or all that we have loved and treasured will begin to be broken down no matter how great and strong our economy.

REPUBLICANS PUT ON THIS EARTH TO CUT TAXES

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

Mr. CHABOT. Mr. Speaker, I heard a criticism the other day of the way that Republicans talk about our budget proposal that I think has some merit.

The Republican budget proposal contains three major elements: Saving Social Security and Medicare, paying down the national debt, and tax relief. However, this critic pointed out that Republicans are talking almost exclu-

sively about tax cuts and not emphasizing that we are also saving Social Security and Medicare and paying down the national debt. I think that criticism is valid, but I think I know why that is the case, too.

Republicans are just so excited about the tax cuts that some of them forget to talk about the other vital elements of the budget proposal. Let us face it, Republicans were put on this earth to cut taxes. We are the tax-cutting party, because we believe that people should have more power and control over their own lives and that the government should have less.

Let us be clear once and for all. The Republican budget proposal stands for saving Social Security and Medicare, paying down the national debt and, yes, also cutting the American people's taxes.

RECESS

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 18 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1248

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PEASE) at 12 o'clock and 48 minutes p.m.

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO UNITED STATES AIR FORCE ACADEMY

The SPEAKER pro tempore. Without objection, and pursuant to 10 U.S.C. 9355(a), the Chair announces the Speaker's appointment of the following Members of the House to the Board of Visitors to the United States Air Force Academy:

Mr. THOMPSON, California and
Mr. DICKS, Washington.

APPOINTMENT OF CONFEREES ON S. 900, FINANCIAL SERVICES ACT OF 1999

Mr. LEACH. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 900) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. LAFALCE

Mr. LAFALCE. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. LAFALCE moves to instruct the conferees on the part of the House on the Bill S. 900 and the House amendment thereto, to ensure, consistent with the scope of the conference, that:

1. Consumers have the strongest consumer financial privacy protections possible, including protections against the misuse of confidential information and inappropriate marketing practices, and ensuring that consumers receive notice and the right to say "no" when a financial institution wishes to disclose a consumer's nonpublic personal information for use in telemarketing, direct marketing, or other marketing through electronic mail; and

2. Consumers enjoy the benefits of comprehensive financial modernization legislation that provides robust competition and equal and non-discriminatory access to financial services and economic opportunities in their communities; and

3. Consumers have the strongest medical privacy protections possible, and thereby prevent financial institutions from disclosing or making unrelated uses of health and medical and genetic information without the consent of their customers, and therefore agree to recede to the Senate on Subtitle E of Title III of the House amendment.

Mr. LAFALCE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. LAFALCE) and the gentleman from Iowa (Mr. LEACH) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent to yield 15 minutes for the purpose of controlling time to the gentleman from Michigan (Mr. DINGELL), the distinguished ranking member of the Committee on Commerce.

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

There was no objection.

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

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

I move that the motion to instruct be adopted by this House, Mr. Speaker. This bill is very important to American consumers for many reasons, particularly two.

It includes the important new financial privacy protections to ensure that financial institutions do not share private financial information with other companies. Consumers are tired of the barrage of phone and mail solicitations to which they are now subject and the careless use of their credit card and other private information which makes these solicitations possible. This bill would protect consumers against such practices and impose significant new obligations on financial institutions to protect consumer privacy.

This bill also contains strong community reinvestment provisions to ensure that consumers and communities

receive fair and nondiscriminatory access to financial services in the new marketplace that is evolving.

Our motion, therefore, instructs the House conferees in negotiations with the Senate to insist on the strongest possible provisions on financial privacy, community reinvestment and nondiscrimination and medical privacy.

Mr. Speaker, I urge my colleagues to support the motion.

Mr. Speaker, this bill is very important to American consumers for two reasons. It includes important new financial privacy protections to ensure that financial institutions do not share private financial information with other companies. Consumers are tired of the barrage of phone and mail solicitations to which they are now subject, and the careless use of their credit card and other private information which makes these solicitations possible. This bill would protect consumers against such practices and impose significant new obligations on financial institutions to protect consumer privacy. This bill also contains strong community reinvestment provisions to ensure that consumers and communities receive fair and non-discriminatory access to financial services in the new marketplace that is evolving.

This motion therefore instructs the House conferees, in negotiations with the Senate, to insist on the strongest possible provisions on financial privacy, community reinvestment and non-discrimination, and medical privacy.

H.R. 10 contains strong financial privacy provisions which received virtually unanimous support, passing this House 427-1. Those provisions: Impose an affirmative obligation on all financial institutions to protect confidential information; require full disclosure of privacy policies and consumer rights to opt-out; direct regulators to establish standards for assuring the safety and confidentiality of financial records; prohibit the sharing of account numbers and access codes for marketing, including direct mail and e-mail marketing; permit consumers to block release of their private financial information for use in marketing; limit entities that receive financial information from reusing or reselling it to others; prohibit pretext calling and other deceptive means of obtaining private information; and provide for strong regulatory enforcement of privacy rights.

The Senate financial modernization bill—S. 900—contains only minimal privacy provisions regarding pretext calling. This motion instructs the House conferees to insist on the House provisions and the strongest consumer financial privacy protections possible.

Secondly, H.R. 10 contains strong community reinvestment provisions that ensure that publicly insured financial institutions equally and fairly serve all members of their communities in the new financial system that this bill otherwise creates. H.R. 10 ensures that community reinvestment laws remain relevant and viable in a more integrated financial services system. These provisions have enjoyed bipartisan support throughout this process.

Community reinvestment legislation was passed by Congress over twenty years ago to combat discrimination by publicly insured financial institutions and provide equal access for all Americans who qualify for home and small business loans and to community groups seeking loans to revitalize poor neighborhoods.

H.R. 10 maintains the central importance of these laws in our financial services system. S. 900 contains three provisions which substantially weaken community reinvestment laws and render them virtually irrelevant in the changing financial marketplace. President Clinton has made it abundantly clear that he will veto any bill that contains the Senate provisions. In contrast, the Administration can strongly support the bill passed by the House and the community reinvestment provisions it contains. This motion instructs House conferees to insist on the strongest possible community reinvestment provisions, reflected in the House product.

Finally, H.R. 10 contains a provision authored by Congressman GANSKE on medical privacy which the Administration, privacy groups, medical groups and many commentators argue contain substantial loopholes. In their current form, these provisions in fact represent less protection than what is available under existing law, and preempt strong privacy provisions available in the states. The Administration strongly opposes the Ganske provision. This motion instructs House conferees to insist that any medical privacy provisions give consumers the strongest medical privacy protections possible, prevent financial institutions from disclosing or making unrelated uses of health, medical and genetic information without consumer consent, and therefore recede to the Senate.

I urge my colleagues to support the motion.

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

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

First, Mr. Speaker, let me say I intend to yield 15 minutes to the gentleman from Iowa (Mr. GANSKE) as a representative of the Committee on Commerce at the appropriate point.

Mr. Speaker, I agree with, in fact, the first two provisions of the motion to instruct and will reluctantly accede to the third, but I am compelled to note that the controversy over the medical privacy provisions that this motion to instruct seeks to strike from the bill presents one of the most ironic circumstances that I have dealt with as a committee chairman.

The same Members who have quite properly insisted on placing privacy protections for consumers of financial services in the bill are now strenuously insisting on deleting from it a provision that would offer consumers powerful new protections in an area where there is perhaps the greatest sensitivity to privacy, that relating to personal health and medical records.

I continue to believe that the medical privacy provision championed by the gentleman from Iowa (Mr. GANSKE) and others has been widely misunderstood both by Members of this body and outside groups that have expressed certain skepticism.

Here let me be clear. The provisions would block the sharing of the individually identifiable customer, health, medical, and genetic information by an insurance company either within an affiliate structure or with outside third parties unless the customer expressly consents to such disclosure with a lim-

ited number of exceptions related to medical research or normal and customary underwriting in business functions.

It should be emphasized that the Ganske language does nothing to undermine the more comprehensive medical privacy proposals being developed by other congressional committees or by the Clinton administration. The provision plainly states that it will not take effect or shall be overridden if and when Congress enacts comprehensive medical privacy legislation satisfying the requirements of the Health Insurance Portability and Accountability Act of 1996.

Moreover, as both the gentleman from Iowa (Mr. GANSKE) and I made clear as legislative intent in House debate on the subject, the provision in no way undermines the authority of the Secretary of Health and Human Services to promulgate regulations in this area if the Congress fails to meet its statutory mandate by August 21 of this year.

In short, the provision was carefully designed to supplement rather than supplant or supersede other private and public sector legal and institutional barriers to the sharing of private health and medical information.

As I have repeatedly stated, I was prepared to work at conference to further clarify the bill's text. The future HHS rulemaking would not be preempted. I also agreed to seek to remedy any imperfections in language that might realistically be deemed to compromise patient confidentiality. However, in light of the controversy generated by the provision and because I would like to proceed in as bipartisan a fashion as possible in producing a financial modernization bill that the President can sign into law, I am prepared not to fight instruction that the House recede to the Senate position on this issue. But in so doing I would reiterate my belief that opposition to the Ganske approach is based upon an underlying premise that is frail and upon outside advocacy that may be misdirected.

Accordingly, it is my hope that those Members and outside associations that have so vehemently opposed addressing the issue of health and medical privacy in this bill will re-examine their positions. Little, after all, would seem more self-apparently appropriate than to prohibit sharing of medical records within or outside financial services companies without patient consent.

Future Congressional and administrative actions to fashion law and regulation in this complex area will no doubt be modeled in large part on the provision that this instruction is designed to delete. But here the irony should further be underscored that HHS discretion, which the gentleman from Iowa (Mr. GANSKE) and I are totally willing to protect, in any event only goes to health insurance. So what is happening here is that the motion to instruct is knocking out legislative

protections for all medical privacy without the prospect that privacy protections for life and disability insurance can be addressed through administrative action.

After all the contentions on the minority side that privacy protections should be in the bill, the argument now is that they should not be in the bill. I want bipartisanship and administration support for this legislation so I am willing to accede, but let me stress not without a degree of incredulity.

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

Mr. MARKEY. Mr. Speaker, I yield myself 3 minutes.

The SPEAKER pro tempore. Does the gentleman seek to claim the time allocated to the gentleman from Michigan (Mr. DINGELL)?

Mr. MARKEY. I do, Mr. Speaker.

The SPEAKER pro tempore. Without objection, the gentleman from Massachusetts is recognized.

There was no objection.

Mr. MARKEY. Mr. Speaker, I rise in strong support of the LaFalce motion to instruct the House conferees. With this legislation the Congress will be breaking down the Glass-Steagall walls that long have restricted limited affiliations between banks, securities firms and insurance companies and allow these financial services institutions to merge and to affiliate with one another.

I support this effort. The gentleman from Michigan (Mr. DINGELL) supports this effort. This is not really what we are debating here today. The great truth, however, of finance in the information age is that it is the telecommunication wires that have reshaped the financial services industry. It is the telecommunications revolution which has made possible this global financial revolution. It is this telecommunications revolution which makes it possible for the first time to really bring together all of these various services in a way that can serve individuals and nations much more efficiently than they ever have in the past.

But, as I have said before, there is a Dickensian quality to this wire. It is the best of wires, and it is the worst of wires simultaneously. Yes, it can make the banking and insurance and brokerage industries more efficient, but yes, at the same time it can also compromise the privacy of every single family in the United States.

The LaFalce motion to instruct says that the conferees shall ensure, consistent with the scope of the conference, that consumers have the strongest consumer financial privacy protections possible, including protections against the misuse of confidential information and inappropriate marketing practices. The conferees must also ensure that consumers receive notice and the right to say no when a financial institution wishes to disclose a consumer's nonpublic personal information for use in telemarketing, direct

marketing, or other marketing through electronic mail. Now I ask my colleagues what is wrong with that? What is wrong with that?

Second, the motion instructs the House conferees to ensure that consumers have the strongest medical privacy protections possible and thereby prevent financial institutions from disclosing or making unrelated uses of health and medical and genetic information without the consent of their customers and strike the flawed Ganske language that would weaken protections under current State or federal laws or regulations.

□ 1300

Finally, the motion by the gentleman from New York, the LaFalce motion, instructs the House conferees to ensure that consumers enjoy the benefits of comprehensive financial modernization.

These are critical issues that need to be properly addressed. There are tremendous opportunities for innovation and for entrepreneurship in finances, banking moves online. But we have a difference that is developing between the privacy keepers, on the one hand, and the information reapers on the other.

The CEO of Capital One Financial recently noted, credit cards are not banking, they are information. And the data miners fully intend to exploit their access to and control of consumer personal information for fun and for profit.

We believe that is wrong. We believe that the LaFalce instructions are critical to ensuring that, as we move forward with all of the new efficiencies in the financial services world, that we also ensure that we are protecting individuals against those that might seek to take advantage of it.

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

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

Mr. Speaker, I think there has been a lot of miscommunication, misunderstanding about the medical privacy provisions that we passed here in the House. I will just briefly go over those.

Those medical privacy provisions would not preempt State privacy laws, they would not obstruct future State privacy laws, they would not allow insurance companies to sell medical information to drug companies, they would not block the Secretary of HHS from issuing provisions under HIPAA, which interestingly, as the chairman of the Committee on Banking and Financial Services pointed out, is limited to health insurance, whereas the provisions on medical privacy in the bill that we passed here in the House goes for all insurance. So it is more inclusive than what was in HIPAA. And it would say that, unless a customer specifically agreed, an insurer could not give any medical information to its affiliates, much less any third party; and I think that is important.

I think the bill would be better with that provision in there.

Now, there has been a lot of controversy about some of the exceptions in that provision, and I have shared with all of the colleagues in the House, Republican and Democrats, a "Dear Colleague" that goes into some detail on this, which I will insert into the RECORD at this time.

HOUSE OF REPRESENTATIVES,

Washington, DC, July 12, 1999.

DEAR COLLEAGUE: The medical privacy provision in H.R. 10 restricts disclosures of customer health and medical information by insurers.

Some concerns have been raised about the exceptions to the opt-in policy. I would like to take this opportunity to define some of the terms found in the exceptions and dispel the misinformation that is being circulated regarding these provisions.

Under current law, an insurance company obtains medical record information only with an individual's authorization. The medical privacy provision in H.R. 10 relates to how an insurance company shares the data after it has acquired it. The provision states that insurers can only disclose this information with an individual's consent except for limited, legitimate business purposes. These provisions would apply to all insurers who are currently engaged in the insurance business, and who have millions of contracts in force right now. Without these exceptions, these insurers would no longer be able to serve their customers.

The exceptions include ordinary functions that insurance companies are already doing in their day-to-day business. Such operations include:

Underwriting: Insurers use health information to underwrite. The price someone pays for insurance is based in part on an individual's state of health. Insurers gather medical information about applicants during the application and underwriting process. Underwriting is fundamental to the business of insurance. During the underwriting process, an insurer may use third parties, such as labs and health care providers to gather health information and/or to analyze health information. The insurer may also use third parties to perform all or part of the underwriting process and must disclose information to these third parties, such as doctors or third party administrators, so that they can enter into the contract in the first place.

Reinsuring Policies: Insurance companies sometimes assume a "risk" and then further spread the risk by "reinsuring" a policy. While often a "reinsurance" arrangement is made at the initiation of a contract, there are also times when reinsurance occurs after the policy is issued. The reinsurer needs access to the first insurer's underwriting practices as part of its due diligence. Without this language, the wheels of the reinsurance industry could literally grind to a halt.

Account Administration, Processing Premium Payments, and Processing Insurance Claims: In order to pay a claim for benefits, the insurer has to process the claim. This is a basic business function. These activities are the very reasons an individual signs up for a policy in the first place. Companies may use third party billing agencies and administrators to process this information. A company that doesn't today, may tomorrow; and we need to ensure that they can, so that consumers can be served.

Reporting, Investigating or Preventing Fraud or Material Misrepresentation: There are certainly times when individuals may not want to disclose all of their health information for valid reasons. However, there are

those that may try to hide health information relevant to whether a policy would be issued or what would be charged for that policy. For example, nonsmokers usually pay less for insurance than smokers. On the other hand, if you have a chronic illness your premium may be higher. If an individual is engaged in fraud of material misrepresentation, it is highly unlikely that they would give their consent so that the insurer could disclose this information, for example, to its law firm to undertake an investigation of the matter or to the insurance commissioner or other appropriate authorities.

Risk Control: Credit card companies and other financial institutions involved in billing, conduct internal audits to ensure the integrity of the billing system. During this process, the company verifies that merchants, credit card holders and transactions are legitimate. These audits are done on random samples in which transactions dealing with medical services are not segregated or treated differently from other types of transactions. However, if this exception were not included, the company would be prevented from verifying the validity of transactions dealing with medical services. This would open the door for much fraud and abuse or the inability for consumers to write checks or use credit cards to pay for medical co-payments.

Research: Insurers do research for many purposes. For example, life insurers will do research related to health status and mortality to help them more accurately underwrite and classify risk. This provision is needed so that insurers can continue to do research.

Information to the Customer's Physician: This exception is necessary to allow insurers to release information to an individual's physician. For example, during the underwriting process, an insurer may conduct blood test on an applicant. If the blood tests indicate that there may be something wrong, the insurer needs to be able to share the information with the individual's designated physician or health care provider so that they, together, can determine the best course of treatment.

Enabling the Purchase, Transfer, Merger or Sale of Any Insurance Related Business: No one has a crystal ball. A company does not know in advance when they will engage in these activities. It would be impractical if not impossible to obtain the tens of thousands of authorization forms signed and returned to the company so that a company could purchase, transfer, merge or sell an insurance related business. Without this language, companies will not be able to serve their customers by forging new business frontiers. Since the privacy provision covers all insurance companies, the purchasing company will have to abide by the same restrictions as the original company.

Or as Otherwise Required or Specifically Permitted by Federal or State Law: There are some states that require or specifically permit the disclosure of medical information by insurance companies. For example, a company may have to disclose health information to a state insurance commissioner so that the commissioner can determine if the company is complying with state law banning unfair trade practices. A company may have information that would help the police in an investigation where they suspect an individual has murdered someone in order to collect life insurance benefits. This language is necessary for these and other important public interests.

I hope that this brief explanation of the exceptions to the strong "opt-in" provisions of the medical privacy provisions of H.R. 10 clears up some misperceptions. During floor

debate, I said I would work to include explicit language stating that this provision does not prohibit the secretary of HHS from issuing regulations on medical privacy as specified by HIPAA.

Furthermore, I hope consensus can be achieved on a comprehensive medical privacy bill. However, I remain convinced that as new financial services entities that combine banking, securities and insurance are created by H.R. 10, it is important that personal health data can be shared inside, or outside, the company only with the patient's permission. That is what the Ganske Amendment did.

If you need additional information, please contact Heather Eilers at 5-4426.

Sincerely,

GREG GANSKI,
Member of Congress.

Mr. Speaker, I think that this is a very important bill. And I do not think this bill should rise or fall on this issue. Clearly, there are a number of privacy groups that have thought that the provisions were not as complete. On the other hand, many of the insurance companies we have received communications from have said that they are more than what they are comfortable with.

So at this point in time, I would agree with the chairman of the Committee on Banking and Financial Services, and I would accede to his decision in terms of the motion to instruct. I hope that we are able to come up with a comprehensive bill on medical privacy. Our committee will be working on that. I regret that without this provision I think the bill is not as strong as it should be, but I think that we will be working on this in other venues.

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

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in support of the LaFalce motion to instruct.

Mr. Speaker, the fact is that the Senate and House bills, with regard to financial modernization, are significantly different. While they both embrace financial modernization and extend new powers and responsibilities to the insurance securities and banking entities, bringing about really a revolution in terms of the way we engage our financial services, the fact is that it is only the House bill that offers strong, new consumer protections that are vitally necessary in that electronic world, including the privacy provisions that have been written by the Committee on Banking and Financial Services and the Committee on Commerce and strongly supported on a bipartisan basis, at least on the floor.

The fact is that those provisions ought to be retained in terms of this conference. I think that the House can empower the conferees by, in fact, supporting this motion and giving us a strong vote and a reendorsement in defiance to the Senate's position, which has very few protections or hardly addresses this basic issue. They do have

pretext-calling and some other matters, but we need the power of the House behind us in conference, and a vote for this motion will do that.

Similarly, the provisions that deal with service to consumers and community reinvestment, the House bill actually expands on those powers and maintains them, while the Senate bill actually draws back and would reduce the effectiveness of financial institutions in terms of serving their community, taking away the responsibilities, and these are basically the consumer games.

On the issue of medical privacy, obviously there is a great deal of concern here. Many are happy with the bill and think that it can be corrected; others are looking at two birds in the bush and think that they can actually gain more through the administrative procedures and through a separate act in terms of action. I would just point out that most of the issue with medical privacy and the way we approach it has dealt with what doctors and patients do. The fact of the matter is we need to address insurance companies, we need to address life insurance, we need to address disability. The facts I think are somewhat clouded today as to what that affects.

So I think people will keep somewhat of an open mind. I think we are seeking a common cause in terms of the greatest privacy, the greatest medical privacy that can be written. I just think it is important to point out with the whole issue of privacy that we are with financial institutions going to have the strongest statement in terms of law with regards to privacy that exist in any entities, any businesses in this Nation, including commercial and many other businesses, and the Internet itself, incidentally, which has few, if any restrictions on it, and even there, the regulators, which some had sought to empower, are offering voluntary compliance as adequate.

Privacy is increasingly on the minds of consumers as they see the technological advances eroding barriers, linking heretofore random data, shrinking the world, and sharing their personal profiles with others.

In these post-H.R. 10, post-Know Your Customer days, we have become, finally, a very sensitized Congress. With every day it becomes clearer that the American economy is running on data: customer data. We collect, disseminate, study, share and peddle profiles and preferences of people to run companies, enforce laws, and sell products. But what voice and choice does any consumer have over their own personal and public data? What is the right balance of free information flow vs. privacy protection? Should the only choice a consumer has be that she/he not do business with a company or a group of companies because she/he doesn't like their privacy policies?

This House passed strong privacy provisions when it passed H.R. 10 earlier this month. This motion to instruct would serve as a notice to the House Conferees and the Senate's Conferees that we will be looking for the

strongest privacy provisions for American consumers. As passed by the House, the bill affords consumers with new important safeguards for their financial privacy, putting banks, credit unions, securities and insurance firms at the forefront of many other U.S. sectors.

H.R. 10 provides strong affirmative provisions of law to respect and provide for a consumer's financial privacy and to have a privacy policy that meets federal standards to protect the security and confidentiality of the customers personal information. H.R. 10 prohibits the sharing of consumer account numbers for the purposes of third party marketing. This protection applies to all consumers and requires no action on their part. Consumers can "opt-out" of sharing of information with third parties in a workable fashion that protects consumers' privacy while allowing the processing of services they request. And importantly, regulatory and enforcement authority is provided to the specific regulators of each type of financial institutions.

H.R. 10 specifically prohibits the repackaging of consumer information. Data can not be resold or shared by third parties or profiled or repackaged to avoid privacy protections. Further, consumers must be notified of the financial institution's privacy policy at the time that they open an account and at least annually thereafter.

These are giant steps forward. These common sense, hopefully workable provisions were added to the substantial protections already included in H.R. 10 that prohibit obtaining customer information through false pretenses. They will also augment what is currently in law for consumers to protect their privacy.

Mr. Speaker, what is clear is that a law that requires consumer action is appropriate but third party and affiliate "opt-out" is hardly the first and last word in consumer rights. We can do more and can do better. The fact is that a number of consumers have such a right today under Fair Credit Reporting Act or institution policies. Even with that authority, only a small fraction of individuals, less than 1 percent, exercise that option. Consumer choice may give us a positive feeling of a remedy but what does it really accomplish—what is the bottom line? Does it provide choice if only a fraction of 1% responds to "opt out"?

The fundamentals of this are that people want to know what information is being collected, how and why. U.S. citizens want to know how the data about them is being protected. Consumers want to know to correct false information. Americans want to know how the laws are enforced. Businesses seeking customers ultimately need to bear this in mind, or they will not be in business. Business wants a fair opportunity to provide options and use information to better serve their customers. Business wants a level playing field across economic sectors. Business wants to develop the means to keep data confidential and accurate. The Conferees must advance the strongest possible privacy provisions within this framework.

Additionally, this motion would instruct the Conferees to seek the best possible conclusion for consumers and communities so that they remain a core constituency that can benefit from passage of financial services modernization. Consumers must enjoy the benefits of comprehensive financial modernization leg-

islation that provides vigorous competition. All consumers regardless of race, class or creed, need and deserve access to financial services and economic opportunities in their communities, wherever they may be in this country: rural or urban, suburban or exurban, East or West, and North and South. All are entitled to investment in their communities and equal opportunity for credit and services. The Conferees for the House will do well for this House and the American people if they endeavor to balance such consumer concerns with those of the giants of industry seeking to blend their products and companies to be competitive for the future.

Thousands upon thousands of successful partnerships have been forged to provide local businesses with access to credit, homeowners with mortgages and community development organizations with the wherewithal to make a difference in their neighborhoods. Laws like the Community Reinvestment Act provide the bedrock, the foundation for such partnerships and we must work to strengthen CRA and other laws that help assure the creditworthy needs of communities are served fairly.

Finally, Mr. Speaker, with regard to medical privacy, we seek to have the highest and best protections for consumers that have relationships with financial institutions that could receive and share confidential health and medical information. While I have differences regarding the language in the motion, we all agree that we must seek the strongest provisions that prevent the unrelated use or disclosure of health, medical and genetic information. Further we should not weaken any federal or state protections in law or regulation.

As most are aware, there is currently a much larger process outside of this bill. Many interested parties are working on either a legislative solution or the possibility of regulations from the Department of Health and Human Services to address comprehensively for all health industry businesses and entities, regardless of corporate structure, that will hopefully provide the framework for what is the definitive and proper practice for sharing medical information. To the degree that that process works to cover the affiliated structures, life insurance and property and casualty insurance entities that would affiliate with banks, we do not want to undermine it. Where it is not sufficient, we hope to complement and strengthen it.

This motion should not be out of line with what we have tried to do—in good faith—in the House-passed version of financial services modernization. The statements of so many members allude to their firm belief that we should not and would not supersede the work of HHS in response to the 1996 Health Insurance Portability and Accountability Act of 1996 (HIPAA), passed by this Congress and signed into law. We must assure that the language neither supplants nor has a negative effect on the law or the regulations. Moreover, we must be absolute in assuring that stronger state laws are not preempted. Finally, we must be diligent in assuring that we are prepared for the possibility that the HHS regulations or potential law passed by Congress regarding the health insurance industry will not entirely apply to other insurance entities. In that event, we must with no uncertainty, obtain the strongest possible medical privacy provision so that all Americans are not vulnerable to the misuse of such information in credit or other decisions made by affiliated companies.

I understand that this is a priority of the President, who spoke to this in his State of the Union address to the Nation. We share the goal that we must make true medical privacy a reality for all Americans as soon as is practically possible. Medical privacy should not be breached by financial modernization. The ultimate legislative and regulatory solutions must properly affect the structures we hope to create under financial services modernization so that we are not left with a void that leaves customers vulnerable to inappropriate medical information sharing.

So I rise in support, and I urge Members to give us this vote of confidence.

Mr. LEACH. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I find myself in agreement, mostly in agreement with what has been said on different sides of this subject today, and I certainly agree with my chairman and with what the gentleman from Iowa (Mr. GANSKE) has stated in terms of conceding to this motion to instruct.

However, I think there are two important things that should be included here, and one is that when we are in conference, we not only have to look very carefully at whatever was done with the Ganske amendment, as this motion instructs us to do; but also, we want to be very sure that in doing this, we are not opening up another loophole. I think we all have good intentions here and intellectual competence in this area so that we can constructively and honestly address that.

Mr. Speaker, I also want to state that I have been working for a long time, both in my subcommittee with hearings, as well as outside the subcommittee, with those medical groups that have raised some legitimate concerns on this subject. I am going to continue those hearings on privacy, whether it be financial privacy or medical privacy; but whatever is done here is only a first-step foundation. The issue of privacy, more comprehensive, will have to be addressed by this Congress across the board. I want to be part of that project.

Mr. MARKEY. Mr. Speaker, I ask unanimous consent to transfer control of the remaining time of the Committee on Commerce minority to the gentleman from Michigan (Mr. DINGELL), the ranking member of that full committee.

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

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in support of the motion to instruct the conferees on H.R. 10, the Financial Services Act of 1999.

I support the idea that we should have responsible modernization legislation. That legislation must contain strong protection for taxpayers, consumers, investors, that ensures the safety and the soundness of the banking system, as well as the efficiency,

competitiveness and integrity of the capital markets of the United States, and also fair and nondiscriminatory access to our economic opportunities by all Americans.

I voted against H.R. 10 on final passage earlier this month because it did not meet these tests, and I intend to work hard in the House-Senate conference to improve this legislation so that all Members can support it in good conscience. We cannot come back to the House with a conference report that does not give consumers adequate control over their private, financial, and medical records.

Mr. Speaker, I would note that the so-called health information protections in H.R. 10 serve only to protect the insurance industry, not consumers. Proponents of the medical privacy provisions of H.R. 10 contend that consent is required before the insurer discloses personally identifiable health information to another party, but they never note that there is a two-page list of exemptions to this rule that basically guts any real right of the consumer to be protected, or his right of consent.

In fact, there is nothing in H.R. 10 that would prevent insurers from selling one's health information for profit. Neither are there any restrictions whatsoever as to what people or companies that receive one's medical records may do with them. They are free to sell one's records to employers, information brokers, banks, pharmaceutical companies, or anybody else they please for good motive or bad. Once one loses one's medical privacy, they cannot get it back.

The medical privacy provisions of H.R. 10 would actually preempt stronger State protections already in effect. It would wipe out over 57 State laws, many of which have stricter safeguards for sensitive medical records such as mental illness or HIV. There is also a question of whether enactment of the medical privacy provisions of H.R. 10 would preclude authority otherwise already available to the Secretary of Health and Human Services, to go forward with the issuance of real consumer privacy protections that apply to health information held by doctors, hospitals, and government agencies.

In addition, the bill contains some rather laughable financial privacy provisions that tell a bank simply to disclose its privacy policy, if it has one. H.R. 10 also gives very weak protection to investors for transfers of sensitive financial information to third parties, leaving the door wide open for sharing one's personal financial information with affiliated telemarketers and others.

By voting to instruct the conferees on this bill, the House will be on record in favor of the strongest possible provisions to protect consumer privacy, both with regard to financial records and health records. A vote in favor will also put the House on record in favor of ensuring that this legislation will allow all consumers to ensure not only

the benefits of the legislation and non-discriminatory access to financial services and their communities. I urge all of my colleagues to support this motion.

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

Mr. GANSKE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. THOMAS).

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

Mr. THOMAS. Mr. Speaker, as chairman of the Subcommittee on Health in 1996 and working on the legislation commonly known as HIPAA, there was a clear understanding that more and more as we computerize records and indeed, even today with paper records, we need a greater degree of security to provide for confidentiality for patients. That is why we purposefully put Congress under the gun. That is, we said in that legislation in 1996 that Congress had 3 years to act. If Congress did not act in 3 years, the Secretary of Health and Human Services would then write the provisions.

One would think that Congress would act on its own. I have to tell everyone within my voice, Congress is an institution that almost always reacts instead of acts. One of the best ways to get Congress to act is to create a time anvil. That is exactly what we have here.

At the end of August, the Secretary begins promulgating confidentiality and privacy regulations, unless Congress acts. It creates a requirement that Congress act.

The gentleman from Maryland (Mr. CARDIN), a member of the Committee on Ways and Means and myself have been working on confidentiality legislation which will be bipartisan and comprehensive.

□ 1315

What was placed in this financial services package because of the timing of the movement of this product is absolutely appropriate. It says that the paragraph will not take effect, or shall cease to be effective, on and after the date on which legislation is enacted that satisfies the requirements. It says, if Congress does its job, this provision does not do its job.

I want Members to understand what the Democrat motion does. It says, they will recede to the Senate on that provision I just read. What is in the Senate? Nothing. In other words, they are asking us to recede to the Senate on nothing.

Everybody knows the phrase, less is more. This drives it to the position that nothing is maximum. It removes the anvil. It means there is less pressure on us to do our job that we said we were going to do 3 years ago. Where is the pressure to force the appropriate compromise if we have no pressure at all on these Members, without the administration to write the regulations?

We think Congress ought to do its job. It makes no sense whatsoever to

recede to the Senate when the Senate has nothing. The only useful language is to say that this is a holder, and it will be here until Congress does its job.

Please, let Congress do its job using the time frame that forces us to agree. Do not vote on this. Do not recede. Do not say there should be nothing, instead of the very excellent amendment that the gentleman from Iowa (Mr. GANSKE) put in that is in this measure.

When we go to conference, keep the anvil. Make us do our job.

Mr. VENTO. Mr. Speaker, I claim the time of the gentleman from New York (Mr. LAFALCE), in his absence.

The SPEAKER pro tempore (Mr. PEASE). Without objection, the gentleman from Minnesota (Mr. VENTO) claims the time of the gentleman from New York (Mr. LAFALCE).

There was no objection.

Mr. VENTO. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, despite the rosy picture of unprecedented wealth on Wall Street and the strong performing economy for some Americans, many Americans still face social and economic problems. As conferees prepare to negotiate H.R. 10, the Financial Services Act of 1999, there are two ways that the conferees can help to eliminate the unfortunate predicament of America's less fortunate persons.

First, conferees must take an uncompromising position on strong Community Reinvestment Act language. The Community Reinvestment Act was enacted in 1977 to cure the lingering effects of past discrimination and to revitalize decaying American neighborhoods, to help Americans realize the dream of home ownership.

CRA has led to over \$1 trillion in loans to low- and moderate-income communities. However, language in the Senate's financial services modernization bill, S. 900, threatens to undermine the progress of community revitalization. The Senate bill undermines the Community Reinvestment Act by weakening the CRA enforcement provisions in H.R. 10, eliminating the ability of community groups to participate in the CRA review process, and by providing unconscionable small bank exemptions that would cause harm to rural communities.

Conferees must be strong on CRA. Americans deserve nothing less.

Second, we must understand that lifeline banking provides banking services to low-income persons, and I had in the last bank modernization bill an amendment for lifeline banking. This time we were not able to get it in on the House side, but it is extremely important. It is necessary because over 30 million Americans do not have bank accounts with a traditional financial institution. Lifeline banking is good commonsense public policy that will help to bring America's poor into the banking mainstream.

Additionally, the conferees must address the important issue of financial

privacy. So I would submit for the conferees that they should include this information.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mrs. CAPPS).

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

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, I rise in strong support of this motion to instruct the conferees on H.R. 10. In particular, I want to commend the gentleman from New York (Mr. LAFALCE) and the gentleman from Michigan (Mr. DINGELL) for the language contained in this motion regarding the importance of medical privacy.

Let me say first that I strongly believe this Congress should pass financial services modernization this year. Laws governing this industry are outdated and inefficient. They increase consumer costs and they limit consumer choices. They need to be changed. But in so doing, we must ensure that we protect not only the privacy of consumers' sensitive financial information, but also of their medical records, as well.

As a nurse, I know that in order to be effectively treated, patients must share all their health information with their doctors, therapists, and other providers. No diagnosis is complete without it. But if patients do not feel that their information will stay put with their health care provider or insurance company, if they cannot be sure that their most private and sensitive information will be kept confidential, they will not be so forthcoming. That would hurt patient care.

I wish to submit now for the RECORD a list of national organizations opposed to the medical records provisions in H.R. 10.

In contrast to the House version of H.R. 10, we must ensure that the financial modernization legislation that comes out of conference protects patient privacy. With that in mind, I urge a yes vote on this motion to instruct.

The list of organizations opposed to the medical records provisions in H.R. 10 is as follows:

ORGANIZATIONS OPPOSED TO THE MEDICAL RECORDS PROVISIONS IN H.R. 10

PHYSICIAN ORGANIZATIONS

American Medical Association
American Psychiatric Association
American College of Surgeons
American College of Physicians/
American Society of Internal Medicine
American Academy of Family Physicians

American Psychological Association

NURSES ORGANIZATIONS

American Nurses Association
American Association of Occupational Health Nurses

PATIENT ORGANIZATIONS

National Breast Cancer Coalition
Consortium for Citizens with Disabilities Privacy Working Group

National Association of People with AIDS

AIDS Action

National Organization for Rare Disorders

National Mental Health Association

Myositis Association

Infectious Disease Society

PRIVACY/CIVIL RIGHTS ORGANIZATIONS

Consumer Coalition for Health Privacy

American Civil Liberties Union

Center for Democracy and Technology

Bazelon Center for Mental Health Law

LABOR ORGANIZATIONS

AFL-CIO

American Federation of State, County and Municipal Employees

Service Employees International Union

SENIOR AND FAMILY ORGANIZATIONS

American Association of Retired Persons

National Senior Citizens Law Center

Planned Parenthood Federation of America, Inc.

National Partnership for Women and Families

American Family Foundation

OTHER ORGANIZATIONS

American Academy of Child and Adolescent Psychiatry

American Association for Psycho-social Rehabilitation

American College of Occupational and Environmental Medicine

American Counseling Association

American Lung Association

American Occupational Therapy Association

American Osteopathic Association

American Psychoanalytic Association

American Society of Cataract and Refractive Surgery

American Society of Clinical Psychopharmacology

American Society for Gastrointestinal Endoscopy

American Society of Plastic and Reconstructive Surgeons

American Thoracic Society

Anxiety Disorders Association of America

Association for the Advancement of Psychology

Association for Ambulatory Behavioral Health

Center for Women Policy Studies

Children & Adults with Attention-Deficit/Hyperactivity Disorder

Corporation for the Advancement of Psychiatry

Federation of Behavioral, Psychological and Cognitive Sciences

International Association of Psycho-social Rehabilitation Services

Legal Action Center

National Association of Alcoholism and Drug Abuse Counselors

National Association of Developmental Disabilities Councils

National Association of Psychiatric Treatment Centers for Children

National Association of Social Workers

National Council for Community Behavioral Healthcare

National Depressive and Manic Depressive Association

National Foundation for Depressive Illness

Renal Physicians Association

Mr. GANSKE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DREIER).

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

Mr. DREIER. Mr. Speaker, I thank my friend for yielding time to me.

Mr. Speaker, I am standing here because I think there has been a gross mischaracterization of the medical privacy provisions in this bill. When we had the debate on H.R. 10, legislation which I am very pleased got 343 votes when it was reported out of this House, criticisms that came from many on the other side, and frankly, from many in the media who took advantage of that mischaracterization, I think, make it necessary that we address it.

H.R. 10 and the provisions that were included here in fact will not, as we pointed out in the debate at that time, preempt State privacy laws. It does not in any way allow insurance companies to sell medical information to drug companies. It does not, as we found already in this debate, block the Secretary of Health and Human Services from issuing privacy regulations as required by current law.

I want to commend my friend, the gentleman from Iowa (Mr. GANSKE), who has spent a long time working on this, and at the same time, my colleague, the gentleman from California (Mr. THOMAS), the chairman of the subcommittee, does make a very valid point in his call to make sure that we continue to have that pressure point recognized there.

I think that the only real, legitimate debate here is whether the medical privacy issue is better addressed in H.R. 10 or in some other fashion. So I think we are going to see what obviously is going to be an interesting challenge here.

I think it is important for us to clarify exactly what the gentleman from Iowa (Mr. GANSKE) was trying to do. Clearly we want to make sure that privacy is recognized and is in no way jeopardized.

The SPEAKER pro tempore. Without objection, the time previously claimed by the gentleman from Minnesota (Mr. VENTO) will be reclaimed by the gentleman from New York (Mr. LAFALCE). There was no objection.

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, most of the debate up to this point has been focused on the issue of privacy. That is, in fact, an important issue as we move forward to modernize financial services. We have to assure the protection of the privacy of consumers' financial and medical records.

I want to direct my colleagues' attention to paragraph 2 of the motion to instruct and rise in support of the motion to instruct conferees, because that paragraph gets to the heart of what financial modernization is about.

We are instructing the conferees to ensure that we come back with a bill that ensures consumers enjoy the benefits of comprehensive financial modernization legislation, that provides robust competition, and equal and non-discriminatory access to financial services and economic opportunities in their communities.

As we move forward in this process, we are modernizing financial services, but we have to keep in mind that this is for the benefit of consumers and communities. Let us support the motion to instruct for that reason.

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. MALONEY).

Mr. MALONEY of Connecticut. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise to commend the gentleman from New York (Mr. LAFALCE) for his leadership on this issue, and to urge support of his motion to instruct conferees on H.R. 10.

Today's motion to instruct contains three important elements. It would ensure the strongest consumer privacy possible, it would provide equal and nondiscriminatory access to financial services, and it would protect medical privacy.

Unfortunately, the House hastily included medical privacy provisions in H.R. 10 that may actually be harmful to consumers because they do not rise to the level of basic protections afforded under any of the major medical confidentiality bills now being considered by Congress. That unintended result may in fact deter many patients from seeking necessary health care out of fear of disclosure.

The motion instructs the conferences to restore the confidence of the American public in the privacy of their sensitive health care information by removing medical-related provisions currently contained in H.R. 10.

Mr. Speaker, we have an historic opportunity to pass a balanced bill. I urge passage of the motion to instruct.

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Mr. Speaker, today we send our Members of the House to work with the members of the Senate to work out a compromise on the Financial Services Act of 1999. While we know, understand, and recognize that banks and other financial companies must be able to compete in an environment that will allow them to expand their powers and become competitive globally, and that our financial institutions are one of the most critical components to ensuring a healthy U.S. economy, our first and foremost responsibility is to those individuals who send us here to Washington each and every election day.

Therefore, we must ensure that consumers as well as financial institutions benefit from banking reform. It is meant to protect them from the misuse of their confidential personal information, this amendment, for marketing or other purposes, maintaining their medical privacy, and to make certain that our financial institutions that receive the benefit of government support continue to contribute to the economic health of low- and moderate-income communities.

Let me say, we must support CRA. It is an absolute necessity if we are to have a successful bill.

Mr. Speaker, today we send our members of the House to work with the members of the Senate to work out a compromise on the Financial Services Act of 1999. The purpose of this act is to provide banks and other financial companies with an environment that will allow them to expand their powers and become more competitive globally. Our financial institutions are one of the most critical components to ensuring a healthy U.S. economy. They are so critical that this Nation develop an independent body known as the Federal Reserve to regulate these institutions. Thus it is vital that this House and the Senate work diligently, and efficiently to develop a final version of the Financial Services Act that will make certain American institutions have a fair opportunity to be the most competitive in the world. However, each of the conferees must remember that their primary goal as members of this House is to protect the interest of the individual citizens of this nation who send us to Congress and who own this nation.

Therefore, we must insure that consumers as well as financial institutions benefit from banking reform. It is meant to protect them from the misuse of their confidential personal information for marketing or other purposes, maintain their medical privacy, and make certain that our financial institutions that receive the benefit of government support continue to contribute to the economic health of low- and moderate-income communities.

Let me take a moment to emphasize the importance of the Community Reinvestment Act or CRA. There are some in the Senate who believe that CRA is a burden to banks. Let me assure those individuals that they are mistaken. The facts are clear, the overwhelming majority of evidence states that CRA has been a major success. It has been a benefit to low and moderate income individuals, their communities, and most of all to banks. Since 1977, banks and thrifts have made over \$1.057 trillion in loan pledges to low-income areas. CRA investments have been widely credited with dramatically increasing home ownership, restoring distressed communities, helping small businesses and meeting the unique credit needs of rural communities. Financial institutions such as Citigroup, BankAmerica, Southwest Bank of Texas, Iron and Glass Bank, and a host of others have all made it clear that CRA is good policy and good for business.

I urge my colleagues to vote in favor of banking legislation that is good for banks and good for consumers. Vote for the motion to instruct.

Mr. GANSKE. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. Mr. Speaker, this is getting curiously and curiously. In the Committee on Banking and Financial Services, when this bill was going through it was the Democrats, the gentleman from Washington (Mr. INSLEE) who demanded privacy language, very strict privacy language.

It was the gentleman from Minnesota (Mr. VENTO) who, with the gentleman from Iowa (Mr. LEACH) late at night worked out a compromise on the privacy language, the first consumer protection language in the banking bill.

It got to the Committee on Commerce and the gentleman from Massachusetts (Mr. MARKEY) passed on a voice vote strong consumer privacy language, but even he was shocked it passed, and made it a huge point on the floor of the House that his language was not being adhered to. It had to be stronger.

Now they come out today and say, we do not want anything; accede to the Senate's nothingness, no consumer protection at all. Or is it maybe that they would rather have the administration write the language? They are acceding to a bill that is absent the language. They cannot have it both ways.

□ 1330

This banking legislation, as it left this House, had some of the best privacy language of any banking legislation, and now my colleagues want to walk away from it, and they ought to be ashamed.

The SPEAKER pro tempore (Mr. PEASE). The Chair advises Members that the proponent of the motion is entitled to close debate. The Chair anticipates that Members controlling time will close in the reverse order of the manner in which time was allocated; to wit: the gentleman from Iowa (Mr. GANSKE), the gentleman from Michigan (Mr. DINGELL), the gentleman from Iowa (Mr. LEACH), and the gentleman from New York (Mr. LAFALCE).

The gentleman from New York (Mr. LAFALCE), however, still has time remaining.

Mr. LAFALCE. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I want to point out the tremendous error of the last statement made by the gentleman from Georgia (Mr. LINDER). What we are doing is insisting upon each and every one of the privacy provisions that we were able to produce within this bill with the exception of the medical privacy provisions, because virtually every medical organization in the United States thinks that they will water down privacy protections that presently exist under Federal or State law. The gentleman from Georgia just totally, totally misunderstands that issue.

Mr. Speaker, I yield 1 minute to the gentleman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I rise to support the LaFalce motion to instruct the conferees on H.R. 10. It is important to support and protect the House

version of the Community Reinvestment Act sections of H.R. 10.

Although the House version, for me, is weak on ensuring that these provisions are extended to other financial institutions now with this enormous extension of the powers of banking, at least the House version ensures that the Community Reinvestment Act conditions apply to banking. The Senate version does not.

We must remember the CRA was passed as a creative response to blatant ethnic gender and neighborhood discrimination in the lending of money for housing. A red line would be drawn around a neighborhood that a bank or an insurance company perceived to have a majority of people with risky credit. The bank or the insurance company would then not lend to anyone within those red lines. Unfortunately, this discriminatory behavior exists today.

The Community Reinvestment Act, however, encourages banks that do business in communities to reinvest in those communities. It is a positive way to encourage banks to do the correct thing, to not discriminate.

I urge an "aye" vote on the LaFalce motion to instruct.

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

(Mrs. JONES of Ohio asked and was given permission to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, I am pleased to join with the ranking member of the Committee on Banking and Financial Services in support of the motion to instruct the conferees.

We need strong consumer protection for the final bill, H.R. 10. We need strong community reinvestment provisions in the final bill, because if the communities are like the City of Cleveland, CRA has had a significant impact in providing affordable housing for those people who have not had the opportunity previously.

We need a bill that fairly and equitably represents, not only the financial institutions, but the consumers involved as well.

Finally, we need the House version of this bill, because it is the best bill for all the citizens of America.

I urge the conferees to pay attention to the House bill in the time that they have to come back to the floor with a bill.

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

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

Ms. SCHAKOWSKY. Mr. Speaker, as a consumer advocate, I have been asking from day one what is in this financial modernization act that I can bring home for ordinary consumers in my district, the soccer moms, schoolteachers, small businesses.

Face it, they are not worrying about the ability of banks, insurance compa-

nies, and security companies to merge. But I warn my colleagues, they will be interested if we let those companies poke around in their most private medical and financial records.

Do not underestimate the American appetite for privacy. They will be interested if hopes for their small businesses and mortgages and investments to improve their neighborhoods dry up, which is what the Senate bill will do because it dangerously undermines the Community Reinvestment Act.

This motion to instruct addresses both the issues of privacy and CRA, possibly the only two provisions most of our constituents care about.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, I stand in strong support of this motion, and I do it because I have been listening to my constituents a lot lately about financial privacy in banking.

What they have been asking me to do is simple. They have been asking me to try to win for them the right to tell their banks not to give their bank account numbers and their identities to telemarketers so that they can be called at night.

They have been asking me simply to win for them the right to tell their banks not to give their credit card numbers to telemarketers so that they can be called at night.

Those constituents deserve that right. What possible reason is there to be not to accept this motion to give consumers the simple right to financial privacy that we supported 427 votes to 1? Well, the reason is that there are certain folks who want to defend their privacy.

I want to tell my colleagues about something I learned in hearings in the last 2 weeks. I asked five lobbyists of the banking industry a simple question. Let us say Emma Smith writes her bank and says, Mr. or Mrs. Banker, do not share my financial information with anyone.

Two days later, Mrs. Smith inherits \$10,000. Should the bank be able to call a telemarketer and tell them to call Emma Smith and try to sell her a hot stock in hotstock.com? Should they be able to ignore her request not to violate her privacy? Do my colleagues know what those five lobbyists said for the banking industry? To a person, they said no, that would be wrong.

Those five lobbyists for the banking industry were right. Consumers ought to have the right to protect their privacy. Those five lobbyists were right. Four hundred twenty-seven Members of this House were right when they stood up for consumer privacy. Americans ought to be right, too, in insisting that we pass this motion.

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

Mr. Speaker, I think the debate on the floor on this issue demonstrates what a Gordian knot the whole issue of medical privacy is.

The provisions that were in this bill on health care privacy are good ones. I think that if my colleagues look at the "Dear Colleague" that I have sent out, it explains it. It is not a comprehensive piece of medical privacy, but I thought it would improve the bill. The intentions were good for that.

However, a very large number of privacy groups have argued against this provision. I think it has been mischaracterized. It will be a serious impediment in terms of our getting the overall bill passed.

If, in fact, my colleague from California and others on the other side of the aisle can come up with a bipartisan agreement, then I am sure that it can be reintroduced at some time.

I am for a comprehensive bill. I will vote for the motion to instruct.

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

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I would begin by expressing great respect and affection for everybody who has participated in this debate, especially the gentleman from Iowa (Mr. GANSKE) who is an outstanding Member of this body in all particulars.

I do think it is important we understand what is at stake here. I will address only the question of protection of medical privacy.

Here is what the administration says. The administration strongly opposes the medical privacy provisions of the bill. Unfortunately, those provisions would preempt important existing protections and do not reflect extensive legislative work that has already been done on this complex issue.

The administration thus urges striking the medical privacy provisions and will pursue medical privacy in other fora.

Now listen to what some of the unanimous voices of all professional organizations in the field of medicine have had to say. First, the American Medical Association, I quote, "Medical records provision of H.R. 10 undermine patient privacy. The bill would allow the use and disclosure of medical records information without consent of the patient in extraordinarily broad circumstances. Unfortunately, the medical records confidentiality provisions of H.R. 10 will deter many patients from seeking needed health care and deter patients from making full and frank disclosure of critical information needed in their treatment."

The American Nurses Association said this, "The proposed language would facilitate the broad sharing of sensitive health and medical information without the consent of the consumer."

Here is what the American Civil Liberties Union said, "This proposal will preempt existing medical privacy protections and offers essentially no privacy rights to replace the ones which the amendment, if enacted, will usurp. It is deeply flawed."

AFL-CIO: "This provision would facilitate the broad sharing of sensitive medical information in a matter that is harmful to health care consumers."

That tells my colleagues what is said about this. I would urge the adoption of the motion.

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

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

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding. The consequences that the gentleman described, in fact, may take place if given this language as a sunset does not produce congressional legislation; is that correct?

Mr. DINGELL. Mr. Speaker, no, that is not correct.

Mr. THOMAS. Mr. Speaker, it is not a trigger that says it will sunset?

Mr. DINGELL. Mr. Speaker, what is correct, I would observe to the gentleman from California, is that, if this language is in here, the fears that I have expressed and the fears that are expressed by the professional health care organizations and individuals would occur.

Mr. THOMAS. But if we passed legislation, that language goes away, Mr. Speaker.

Mr. DINGELL. The way to address the matter is to take out unfortunate language and put in good language in a separate medical records privacy bill. At least, if we do not allow this language to remain in the legislation when it finally does go to the President, if that occurs, it would then assure that we would keep in place existing protections of patient privacy which are superior.

Mr. THOMAS. Mr. Speaker, if we pass better legislation, we will improve privacy.

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

Mr. Speaker, there are three aspects of this motion to instruct. As chair of the committee, I strongly support the first two. On the third, I remain somewhat bewildered.

What the third instruction suggests is that the committee should advance strong medical privacy provisions. Then it goes on to say that we should delete the title related to medical privacy and recede to the Senate which has no title on medical privacy. It is a conundrum, a logical inconsistency.

I would say to the gentleman in furtherance of certain earlier comments that only about 18 States have prohibitions on the sharing of information. This bill is not designed to supplant, replace, or weaken any State provision or deny future State provisions. It may not be quite as strong as the gentleman would prefer, but it is the first serious prohibition on an insurance company giving medical privacy information without patient consent to an affiliate or third party.

As chairman of the Committee on Banking and Financial Services and as a conferee, I am willing to accede to

this motion under the understanding that it is a conflicted motion. There is a call for medical privacy and then a call for a deletion.

So what I think the gentleman and what this instruction is saying is that there should be a medical privacy provision in this bill. That being the case, I cannot object to this particular instruction as a conferee.

So I would urge my colleagues to recognize that the first two provisions are a call to support the House provision. The third provision is a call to maintain medical privacy, although in a way that is perhaps illogically stated.

So my recommendation is to vote "yes" on a deeply flawed, deeply ironic motion to instruct.

□ 1345

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

Mr. DINGELL. Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I would observe something in response. There is a conflict here on the part of some of my colleagues, including my distinguished friend, the gentleman from Iowa (Mr. LEACH). This medical privacy provision has no more assurance of protection of the ordinary citizen or patient than does a lace doily of stopping a flood. The simple fact of the matter is existing law is better than the provision that we are talking about.

And I would observe something else. Very shortly the provisions of HIPAA will kick in and the secretary will come forward with decent regulations which will protect the people.

I am not going to enact a fraud, sham or delusion of the magnitude that we have before us with regard to medical health care protection and protection of medical information when I know full well that existing law is better and that further improvements will be coming along when the secretary issues her regulation.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume, and in closing I will be extremely brief.

I am absolutely delighted that the gentleman from Iowa (Mr. GANSKE) and the gentleman from Iowa (Mr. LEACH) are going to be joining in urging approval of this motion to instruct. I know they do it with full enthusiasm with respect to the first two provisions but with some concern with respect to the third.

The gentleman from Iowa (Mr. LEACH) has said the third presents somewhat of a conundrum. Let me articulate again what we are attempting to do. We are attempting to insist upon the strongest possible privacy protections for every American consumer, the strongest possible community reinvestment protections for every American consumer.

With respect to title III, there sometimes can be a difference between the

principal purpose and the primary effect of proposed legislation. I do not think there is any difference whatsoever between the principal purpose of the gentleman from Iowa (Mr. LEACH), the gentleman from Iowa (Mr. GANSKE), the gentleman from Michigan (Mr. DINGELL) and myself at all. There is a difference of opinion as to what the primary effect of that language would be.

The conferees will work to make sure that there is a complete marriage between principal purpose and primary effect.

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

The SPEAKER pro tempore (Mr. PEASE). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from New York (Mr. LAFALCE).

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 132, not voting 61, as follows:

[Roll No. 355]

YEAS—241

Abercrombie	Davis (FL)	Hilleary
Ackerman	Davis (IL)	Hilliard
Allen	Davis (VA)	Hinchee
Andrews	DeGette	Hinojosa
Baird	Delahunt	Hoefel
Baldacci	DeLauro	Holden
Baldwin	Deutsch	Holt
Barcia	Dickey	Hooley
Barrett (WI)	Dingell	Horn
Barton	Dixon	Houghton
Becerra	Doggett	Hoyer
Bentsen	Dooley	Hulshof
Bereuter	Doyle	Inslee
Berkley	Duncan	Jackson (IL)
Berry	Edwards	Jackson-Lee
Biggert	Emerson	(TX)
Bilbray	Engel	Johnson, E. B.
Bishop	Eshoo	Jones (NC)
Blagojevich	Etheridge	Jones (OH)
Blumenauer	Evans	Kanjorski
Boehlert	Farr	Kaptur
Borski	Fattah	Kelly
Boswell	Filner	Kennedy
Boyd	Fletcher	Kildee
Brady (PA)	Forbes	Killpatrick
Brown (FL)	Ford	Kind (WI)
Brown (OH)	Franks (NJ)	Kingston
Campbell	Frelinghuysen	Klecza
Capps	Frost	Klink
Capuano	Ganske	Kucinich
Cardin	Gejdenson	LaFalce
Castle	Gephardt	Lampson
Clayton	Gibbons	Lantos
Clement	Gilchrest	Largent
Clyburn	Gilman	Larson
Condit	Gonzalez	Latham
Conyers	Gordon	LaTourette
Cook	Graham	Lazio
Cooksey	Green (TX)	Leach
Cramer	Green (WI)	Lee
Crowley	Hall (OH)	Levin
Cubin	Hill (IN)	Lewis (GA)
Cummings	Hill (MT)	Lipinski

Lofgren
Lowey
Lucas (KY)
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McInnis
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-
McDonald
Minge
Mink
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Northup
Oberstar
Obey
Olver
Ose

Owens
Pallone
Pascarell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Porter
Price (NC)
Rahall
Rangel
Regula
Reyes
Rivers
Rodriguez
Rogan
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scarborough
Schakowsky
Scott
Serrano
Sherman
Shows
Sisisky
Slaughter
Smith (NJ)
Snyder

Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Wolf
Woolsey
Wynn

Miller, Gary
Miller, George
Ortiz
Oxley
Peterson (PA)
Pickett
Pomeroy
Quinn

Roemer
Ros-Lehtinen
Roukema
Salmon
Shaw
Skelton
Smith (MI)
Smith (WA)

Souder
Tauzin
Tiahrt
Watkins
Wise
Wu

□ 1412

Mr. RAMSTAD, Mr. WHITFIELD and Mrs. WILSON changed their vote from "yea" to "nay."

Messrs. SHOWS, ROGAN, WELLER, KINGSTON, COOK, MCCOLLUM, Mrs. CUBIN, and Mrs. EMERSON changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ROEMER. Mr. Speaker, due to a family commitment I was unable to cast House rollcall vote 355 on July 30th, 1999, to instruct conferees on the Financial Services Modernization bill, H.R. 10. If I had been present I would have voted "yea."

The SPEAKER pro tempore (Mr. PEASE). Without objection, the Chair appoints the following conferees:

From the Committee on Banking and Financial Services, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

Mr. LEACH, Mr. MCCOLLUM, Mrs. ROUKEMA, and Messrs. BEREUTER, BAKER, LAZIO, BACHUS, CASTLE, LAFALCE, and VENTO.

As additional conferees from the Committee on Banking and Financial Services, for consideration of titles I, III (except section 304), IV and VII of the Senate bill, and title I of the House amendment, and modifications committed to conference:

Mr. FRANK of Massachusetts, Mr. KANJORSKI, Ms. WATERS, and Mrs. MALONEY of New York.

As additional conferees from the Committee on Banking and Financial Service, for consideration of title V of the Senate bill, and title II of the House amendment, and modifications committed to conference:

Mr. KANJORSKI, Mrs. MALONEY of New York, Mr. WATT of North Carolina and Mr. MALONEY of Connecticut.

As additional conferees from the Committee on Banking and Financial Services, for consideration of title II of the Senate bill, and title III of the House amendment, and modifications committed to conference:

Mr. KANJORSKI, Mrs. MALONEY of New York, Ms. VELAZQUEZ, and Ms. HOOLEY of Oregon.

As additional conferees from the Committee on Banking and Financial Services, for consideration of title VI of the Senate bill, and title IV of the House amendment, and modifications committed to conference:

Ms. WATERS, Mrs. MALONEY of New York, Mr. GUTIERREZ and Mr. BENTSEN.

As additional conferees from the Committee on Banking and Financial Services, for consideration of section

304 of the Senate bill, and title V of the House amendment, and modifications committed to conference:

Mr. FRANK of Massachusetts, Mr. KANJORSKI, Ms. WATERS, and Mr. ACKERMAN.

□ 1415

From the Committee on Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

Messrs. BLILEY, OXLEY, TAUZIN, GILLMOR, GREENWOOD, COX, LARGENT, BILBRAY, DINGELL, TOWNS, MARKEY, WAXMAN, Ms. DEGETTE and Mrs. CAPPS.

Provided, that Mr. RUSH is appointed in lieu of Mrs. CAPPS for consideration of section 316 of the Senate bill.

From the Committee on Agriculture, for consideration of title V of the House amendment, and modifications committed to conference:

Messrs. COMBEST, EWING, and STENHOLM.

From the Committee on the Judiciary, for consideration of sections 104(a), 104(d)(3), and 104(f)(2) of the Senate bill, and sections 104(a)(3), 104(b)(3)(A), 104(b)(4)(B), 136(b), 136(d)-(e), 141-44, 197, 301, and 306 of the House amendment, and modifications committed to conference:

Messrs. HYDE, GEKAS, and CONYERS.

There was no objection.

PERSONAL EXPLANATION

Mr. ORTIZ. Mr. Speaker, on rollcall Nos. 354 and 355, on July 30, 1999, I was unavoidably detained. Had I been present, I would have voted "yea" on rollcall No. 354 and "yea" on rollcall No. 355.

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.

LEGISLATIVE PROGRAM

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

Mr. FROST. Mr. Speaker, I yield to the gentleman from Texas to inquire about next week's schedule.

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

Mr. Speaker, I am pleased to announce that we have completed legislative business for the week.

The House will next meet on Monday, August 2, at 12:30 p.m. for morning hour and at 2 p.m. for legislative business. We will consider a number of bills under suspension of the rules, a list of which will be distributed to Members' offices this afternoon.

Mr. Speaker, subject to last night's unanimous consent agreement, we will also complete consideration of H.R. 2606, the Foreign Operations Appropriations Act, on Monday. Debate on Foreign Operations amendments will not begin before 4 p.m.

NAYS—132

Aderholt
Archer
Armey
Bachus
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bliley
Blunt
Bonilla
Bono
Brady (TX)
Bryant
Burton
Callahan
Calvert
Canady
Cannon
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Crane
Cunningham
DeLay
DeMint
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
English
Everett
Ewing
Foley
Fossella
Gekas
Gillmor
Goodlatte
Goodling

Goss
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Herger
Hobson
Hostettler
Hunter
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Kasich
King (NY)
Knollenberg
Kolbe
Kuykendall
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
McCrery
McHugh
McKeon
Metcalf
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Ney
Norwood
Nussle
Packard
Paul
Pease

Pickering
Pitts
Pombo
Portman
Pryce (OH)
Radanovich
Ramstad
Reynolds
Riley
Rogers
Rohrabacher
Ryun (KS)
Sanford
Saxton
Schaffer
Sensenbrenner
Sessions
Shadegg
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (TX)
Spence
Stump
Sununu
Sweeney
Talent
Tancredo
Taylor (NC)
Thomas
Thornberry
Thune
Toomey
Vitter
Walden
Wamp
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)

NOT VOTING—61

Baker
Ballenger
Berman
Bilirakis
Boehner
Bonior
Boucher
Burr
Buyer
Camp
Carson
Chabot
Clay

Costello
Cox
Coyne
Danner
Deal
DeFazio
Diaz-Balart
Dicks
Fowler
Frank (MA)
Gallegly
Goode
Gutierrez

Hastings (FL)
Hefley
Hoekstra
Hutchinson
Jefferson
John
LaHood
Luther
Manzullo
McDermott
McIntosh
Meehan
Mica