

Kennedy (MN) Ose
King (IA) Otter
King (NY) Oxley
Kingston Paul
Kirk Pearce
Kline Pence
Knollenberg Peterson (PA)
Kolbe Petri
LaHood Pickering
Latham Pitts
LaTourette Platts
Lewis (CA) Pombo
Lewis (KY) Porter
Linder Portman
LoBiondo Pryce (OH)
Lucas (OK) Putnam
Manzullo Quinn
McCotter Radanovich
McCrery Ramstad
McHugh Regula
McInnis Rehberg
McKeon Renzi
Mica Reynolds
Miller (FL) Rogers (AL)
Miller (MI) Rogers (KY)
Miller, Gary Rogers (MI)
Moran (KS) Rohrabacher
Murphy Ros-Lehtinen
Musgrave Royce
Myrick Ryan (WI)
Nethercutt Ryan (KS)
Neugebauer Saxton
Ney Schrock
Northup Sensenbrenner
Norwood Sessions
Nunes Shadegg
Nussle Shaw
Osborne Shays

NOES—205

Abercrombie Evans
Ackerman Farr
Alexander Fattah
Allen Filner
Andrews Ford
Baca Frank (MA)
Baird Frost
Baldwin Gephardt
Ballance Gonzalez
Becerrra Gordon
Bell Green (TX)
Berkley Grijalva
Berman Gutierrez
Berry Harman
Bishop (GA) Hastings (FL)
Bishop (NY) Hill
Blumenauer Hinchey
Boswell Hinojosa
Boucher Hoeffel
Boyd Holden
Brady (PA) Holt
Brown (OH) Honda
Brown, Corrine Hooley (OR)
Capps Hoyer
Capuano Inslee
Cardin Israel
Cardoza Jackson (IL)
Carson (IN) Jackson-Lee
Carson (OK) (TX)
Case Jefferson
Chandler John
Clay Johnson (IL)
Clyburn Johnson, E. B.
Conyers Jones (OH)
Cooper Kanjorski
Costello Kaptur
Cramer Kennedy (RI)
Crowley Kildee
Cummings Kilpatrick
Davis (AL) Kind
Davis (CA) Kleczka
Davis (FL) Kucinich
Davis (IL) Lampson
Davis (TN) Langevin
DeFazio Lantos
DeGette Larsen (WA)
Delahunt Larson (CT)
DeLauro Leach
Deutsch Lee
Dicks Levin
Dingell Lewis (GA)
Doggett Lipinski
Dooley (CA) Lofgren
Doyle Lowey
Edwards Lucas (KY)
Emanuel Lynch
Engel Majette
Eshoo Maloney
Etheridge Markey

Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Royce
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-
Hill McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Oliver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Rothman
Royal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda
T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton

Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher

DeMint
English

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1307

Mr. DEUTSCH changed his vote from “aye” to “no.”

Mr. GILLMOR changed his vote from “no” to “aye.”

So the motion to table was agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SENSE OF HOUSE THAT DEPARTMENT OF DEFENSE SHOULD RECTIFY MILITARY POSTAL SYSTEM DEFICIENCIES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 608.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. FORBES) that the House suspend the rules and agree to the resolution, H. Res. 608, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 12, as follows:

[Roll No. 160]

YEAS—421

Abercrombie Blackburn
Ackerman Blumenauer
Aderholt Blunt
Akin Boehmert
Alexander Boehner
Allen Bonilla
Andrews Bonner
Baca Bono
Bachus Boozman
Baird Boswell
Baker Boucher
Baldwin Boyd
Ballance Bradley (NH)
Ballenger Brady (PA)
Barrett (SC) Brady (TX)
Bartlett (MD) Brown (OH)
Barton (TX) Brown (SC)
Bass Brown, Corrine
Beauprez Brown-Waite,
Beccerra Ginny
Bell Burgess
Bereuter Burns
Berkley Burr
Berman Burton (IN)
Berry Buyer
Biggart Calvert
Bilirakis Camp
Bishop (GA) Cannon
Bishop (NY) Cantor
Bishop (UT) Capito

Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky

McNulty
Reyes

NOT VOTING—6

Ross
Tauzin

Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

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Thornberry	Vitter	Whitfield
Tiberi	Walden (OR)	Wicker
Tierney	Walsh	Wilson (NM)
Toomey	Wamp	Wilson (SC)
Towns	Waters	Wolf
Turner (OH)	Watson	Woolsey
Turner (TX)	Watt	Wu
Udall (CO)	Waxman	Wynn
Udall (NM)	Weiner	Young (AK)
Upton	Weldon (FL)	Young (FL)
Van Hollen	Weldon (PA)	

NOT VOTING—12

DeMint	Lipinski	Reyes
Gutierrez	McNulty	Sessions
Issa	Oberstar	Tauzin
Larson (CT)	Regula	Tiahrt

□ 1315

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution 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. ISSA. Mr. Speaker, on rollcall No. 160 I was unavoidably detained. Had I been present, I would have voted "yea."

PROVIDING FOR DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS

Mr. MCCRERY. Mr. Speaker, pursuant to House Resolution 638, I call up the bill (H.R. 4279) to amend the Internal Revenue Code of 1986 to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BONILLA). Pursuant to House Resolution 638, the bill is considered read for amendment.

The text of H.R. 4279 is as follows:

H.R. 4279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following:

“(h) CONTRIBUTIONS OF CERTAIN UNUSED HEALTH BENEFITS.—

“(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan solely because qualified benefits under such plan include a health flexible spending arrangement under which not more than \$500 of unused health benefits may be—

“(A) carried forward to the succeeding plan year of such health flexible spending arrangement, or

“(B) to the extent permitted by section 106(d), contributed by the employer to a health savings account (as defined in section 223(d)) maintained for the benefit of the employee.

“(2) HEALTH FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, the

term ‘health flexible spending arrangement’ means a flexible spending arrangement (as defined in section 106(c)) that is a qualified benefit and only permits reimbursement for expenses for medical care (as defined in section 213(d)(1), without regard to subparagraphs (C) and (D) thereof).

“(3) UNUSED HEALTH BENEFITS.—For purposes of this subsection, with respect to an employee, the term ‘unused health benefits’ means the excess of—

“(A) the maximum amount of reimbursement allowable to the employee for a plan year under a health flexible spending arrangement, over

“(B) the actual amount of reimbursement for such year under such arrangement.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the amendment printed in part A of House Report 108-484, if offered by the gentleman from New York (Mr. RANGEL) or his designee, which shall be considered read, and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Louisiana (Mr. MCCRERY) and the gentleman from California (Mr. STARK) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Louisiana (Mr. MCCRERY).

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

I rise in support of H.R. 4279, a bill that would update flexible spending arrangements, known as FSAs, to allow up to \$500 of unused health benefits to be carried forward to next year's FSA or transferred to a health savings account. Flexible spending arrangements allow employees to set aside money in an employer-established benefit plan that can be used on a tax-free basis to meet their out-of-pocket health care expenses during the year. However, under current law, any money remaining in the FSA at the end of the year must be returned to the employer.

Nearly 37 million private sector employees have access to an FSA. However, only 18 percent of eligible employees take advantage of the pretax health care spending provided by flexible spending arrangements. Many employees cite the fear of forfeiting unused funds as the primary reason why they elect not to participate in an FSA. Those employees who do participate in an FSA often underfund their account rather than risk losing the funds at the end of the year.

Let me expound on that for just a minute because what happens in most flexible spending arrangements is that the employee chooses to take part of his monthly income, set it aside into one of these flexible spending arrangements, and that income that he removes from his paycheck is basically tax-free income, and that is a good thing. The employee likes that. However, it is still his income. And if he is afraid that he will lose some of that income at the end of the year because he has not used it for the specified pur-

pose in the account, then of course that employee is going to be very reluctant to set aside that money.

This use-it-or-lose-it rule does more, though, than discourage widespread participation. It can also lead to perverse incentives such as encouraging people to spend money on health care products and services that they do not necessarily need. In other words, at the end of the year, if there is money left in the account, the employee's incentive is to go out and get an extra pair of sunglasses or whatever it is and spend that money, and that in turn drives up demand, drives up the price of health care for everybody.

H.R. 4279 provides greater flexibility and consumer choice. The bill would allow up to \$500 of unused funds at the end of the year to be carried forward in that flexible spending arrangement for use in the next year, or that employee could begin a new HSA, a health savings account, and put up to \$500 into that health savings account.

I believe this bill will encourage greater participation in flexible spending arrangements and, to a lesser extent, participation in health savings account benefit plans because people will not be afraid of losing their hard-earned money. The Joint Committee on Taxation estimates that approximately 76 percent of current FSA participants will take advantage of the rollover option each year.

Through this legislation, we can expand access to health care for millions of Americans by making it easier for them to save for their health care costs. This bill would also reduce end-of-the-year excess spending and overuse of health care services, allowing FSA participants to benefit from the prudent use of their health care resources.

Mr. Speaker, I should point out that a nearly identical FSA rollover option was approved by the Committee on Ways and Means as part of H.R. 2351 on June 19, 2003. The provision passed this House last year as part of the Medicare Modernization Act.

Reducing health costs and increasing access to health care are worthy goals that every Member of Congress should support. H.R. 4279 takes an important step in that direction; so I encourage my colleagues to support this legislation.

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

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

I stand here in just abject wonder at having 2 hours and 10 minutes to debate this bill over which there is very little controversy, a few dollars here and there; and I was going to ask the gentleman from Louisiana if he might accept a unanimous consent request that we cut the time in half, spend the first hour on this bill and spend the second hour debating whether or not Rumsfeld ordered the torture of prisoners in Iraq, and then we might have some more fun at least in the 2 hours we have got.