

Thompson (CA)	Velázquez	Weller
Thompson (MS)	Visclosky	Wexler
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.

Does the gentleman agree?

Mr. MCCRERY. I object, Mr. Speaker. Mr. STARK. Mr. Speaker, it is kind of sad that this bill was not worked out in committee because the differences, which I will describe shortly, are simple and there could have been a compromise, it appears to me, and certainly we have a substitute which will come up and we, I think, have to discuss both.

Let us start out by suggesting that I would like to agree with the distinguished gentleman from Louisiana that it is probably a good idea to not encourage people to spend foolishly, to buy two extra pair of eyeglasses or go out for an extra shot of Botox or something at the end of the year just to use up the money in their flexible spending account.

The problem, and where we would disagree, is that the gentleman's bill is not paid for, and this does push us further into debt; and our bill and the differences, and we have some, is paid for. If the gentleman wanted to say let us compromise right now and pay for half of it, we could get this done in 15 minutes. I am easy. But that is basically our difference. The Republican bill creates more of a deficit, and it does discourage people from spending foolishly at the end of the year and it costs, what, 8 billion bucks over 10.

Therein is the major difference. I would like to discuss one minor difference which is complex and which our substitute drops. The gentleman from Louisiana, the Republican bill, allows members of a flexible spending account to transfer money into a health savings account. The only problem with that is that, insofar as the regulations appear now, one cannot have a flexible spending account and a health savings account at the same time, so that to transfer the money from the flexible spending account into the health savings account, they have to drop their flexible spending account, and then the next year they would not have 500 bucks to transfer.

I mean, it is a way to encourage, or perhaps force, people into dropping a flexible spending account and move into a health savings account. I am not sure that was his intention, but that is the reality. And there is almost no one who would qualify to transfer money, the \$500, say, from the flexible spending account into a health savings account. As a matter of fact, it is scored at 20 million bucks over 10 years; so if it is \$20 at maybe 1 million people who would use it, and if our purpose is to encourage health savings accounts, I would suggest to the gentleman that that is a separate debate and perhaps not really pertinent to the question of whether we should allow people this carryover and repeal the use-it-or-lose-it provision. Had we had a chance to mark this up in committee and work it out in some detail, I think we could have worked out a system, perhaps brought two bills to the floor.

The bill, I know, and I hate to be critical, but I know it is introduced as

a centerpiece of the week for the uninsured, and I am afraid that this bill does nothing for the uninsured. We cannot have a flexible spending account and not have access to insurance. So we really are not dealing with the uninsured here. People who have flexible spending accounts, as a matter of fact, probably have very generous and good health insurance coverage. So it is somewhat disingenuous, and that is the harshest thing I can think of, to suggest that this is going to have any effect or impact in Cover the Uninsured Week.

So if I could summarize just for a moment, there is a part of the bill which would help people and prevent them from frivolous spending from their flexible spending accounts. We concur in that, and our substitute includes that. Our major difference is, and we could have a vote, is it worth increasing the deficit by \$8.5 billion. We have some simple ways to pay for that. For instance, not letting corporations reincorporate offshore and avoid Federal income tax on their corporate income, a theory that has some bipartisan support.

There are some egregious loopholes that were dreamed up mostly by the Enron Corporation, which we also closed. I do not think anybody would suggest that those loopholes ought to continue. So in a minimal way, we changed the Tax Code to make this, and it is a principle, we ought to pay for things that we are providing, and that is it. We would leave the health savings account portion out. We would allow people to transfer the \$500 and carry it forward so they would not have a use-it-or-lose-it, and we would pay for it. Other than that I do not know what we could find to disagree about for the next 2 hours, but in my imitable way I will be just as disagreeable as the gentleman from Louisiana would like me to be.

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

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

Mr. Speaker, I thank the gentleman for his complimentary remarks about expanding, making more versatile the flexible spending arrangements. And I would not disagree with him on his comments about HSAs to the extent that I would agree that this legislation is not designed to encourage HSAs. That is not the intent of this legislation, at least not my intent as the author. My intent is, though, to make it convenient for employees who just may be in a firm that decides to create HSAs, give them kind of a head start on funding their HSA. I agree with the gentleman there will not be many instances of that in the near future; but in those few instances that there may be and an employee has \$500 left over in his account, I see no reason why he should not be able to take advantage of using that money, transferring it to the employer's new choice of health insurance for his employees, an HSA.

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

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

Mr. STARK. Mr. Speaker, if I were to stipulate to the gentleman from Louisiana that we keep the HSA portion, would the gentleman agree to pay for it or some of it here, and we will have a compromise right now?

Mr. MCCRERY. Mr. Speaker, I believe we will state our objections to the substitute during the appropriate debate time on the substitute. So I would regretfully reject the gentleman's kind offer at this time.

Mr. STARK. Mr. Speaker, I thank the gentleman.

Mr. MCCRERY. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROYCE).

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

I have been trying for some years now to push this concept, a bill that I introduced a number of years ago. With the knowledge that we have got, I do not know, maybe 37 million Americans who do have access to these flexible spending accounts, and I think many of us here probably know someone who does, maybe a spouse, if he or she is employed in the private sector, but the problem is that over half of these individuals do not utilize their access to FSAs because of this use-it-or-lose-it provision that we are trying to eliminate through this measure here today. And as we know, currently, the employer and the employee can set aside money before taxes into this flexible spending account and then that money can be used just like cash to pay for out-of-pocket medical expenses and insurance copayments and doctors' visits and even child care. The downside is that if they do not spend their money at the end of the year, they lose it, and it goes back to their employer.

I originally introduced this bill as a consequence of a conversation I had 4 years ago with my wife, who came home with yet another pair of glasses, and Marie said she purchased them not because she needed them necessarily. She liked them, but she said she did not want to lose the money in her FSA and her employer said that if she does not spend it, this money will revert back to the company.

□ 1330

So the rules governing FSAs force workers who have put in money to match the money put in by their employer to scurry around at the end of the year and wastefully spend their health care dollars, just so they do not have to forfeit it.

I do not know how many of you have seen the TV ads that run each December talking up medical procedures, reminding people to spend their unused FSA dollars. Now, that is a wasteful procedure. What is worse here is over half of the employees who are eligible do not sign up in the first place because they do not want to lose their

money. So this use-it-or-lose-it is the worst type of economic incentive. It discourages savings and, instead, encourages frivolous, needless spending.

So this initiative that I have introduced and has been picked up by the committee will allow workers to roll over up to \$500 of their own money back into their FSA at the end of the year, or, as mentioned, put it into a recently created Health Savings Account. I think it is a commonsense solution that will give peace of mind and let employees save for future expenses.

I encourage the Senate to take immediate action on this important legislation. We have pushed this for some years. We need to get it through the process, because FSAs are a commonsense, free market approach that allows people to take more control over their health care dollars. The use-it-or-lose-it provision must go.

Mr. STARK. Mr. Speaker, I am pleased to yield 6 minutes to the distinguished gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank my colleague and friend from California for yielding me time.

Mr. Speaker, let us make sure that we do not confuse our colleagues or anyone who might be watching this on what we are talking about.

First, flexible spending accounts, most people who have insurance, health insurance through an employer, are eligible to, pretax, ahead of time, declare how much they think they are going to spend out of pocket that will not be reimbursed by their employer's health plan. That way, you are using money that has not yet been taxed to pay for some of these services, a copayment that you may have for a service that you receive, or vision or dental benefits that are not covered completely under your health care plan where you pay out of pocket.

Those out-of-pocket costs, if you have a flexible spending account and you bank money in that account at the beginning, you can then use that money, you can bring down the account, and use that money, pre-tax, to pay for your out-of-pocket costs for your health services that are not covered by your employer's health care plan. A great idea, pretax dollars to pay for health care services. That is fine.

Then the notion under the current law, that if you have money in that account and you do not spend it down through your out-of-pocket expenditures to reimburse yourself for those out-of-pocket expenditures, by the end of the year anything left over you lose. So you have to calculate how much you think you are going to end up spending out of pocket beyond what your employer's health care plan would provide, and then hope you spend it all.

Some folks find themselves in a position where they still have money left over in this flexible spending account at the end of the year, and they lose that. That is a calculated risk.

This proposal to try to allow some flexibility in that use-it-or-lose-it rule says you could carry over a certain sum, I think it is about \$500, into the next year. So let us say you used up all but \$200 in your flexible spending account; rather than lose it at the end of this year, you would get to carry that over into next year's flexible spending account. So then you would be able to go ahead and budget based on what you think your needs will be next year.

A great idea. What is the problem? There are two.

First, you got to ask the question, why complicate such a simple, straightforward, and sensible idea to allow us to carry forward a portion of that flexible spending account money to the next year and to modify that use-it-or-lose-it rule? Why then complicate it by saying, by the way, which are going to let you send it over to what are called HSAs, these health savings accounts which are principally accounts which help wealthy folks or healthy folks when it comes to getting access to health care, because these HSAs give you money you can use later on to buy these catastrophic care plans for health care, which, for the most part, the only folks who can afford to do that, whether healthwise afford or monetarily afford, are people who are very wealthy or very healthy, because they do not have to worry about trying to find a health care plan, because they figure they are 25 years old, they are not going to die, or they have so much money they can pay for whatever services they need, or they have enough health care through other types of plans or insurance.

HSAs do not help the bulk of Americans. So why complicate this issue on a practical idea on giving us some flexibility on the spending accounts, the flexible spending accounts.

The second problem, there are 8.4 billion reasons in the second problem. \$8.4 billion is the cost this bill. The reason those \$8.4 billion are 8.4 billion reasons there is a problem with this is we are \$400 billion-plus in deficit this year for the Federal budget.

So it is something different if you are talking about a Federal budget that is balanced and saying we are going to spend \$8.4 billion more, because this bill does not tell us how we are going to pay for it.

So this is not a case where we are saying, well, the budget is balanced at the Federal level. We are taking care of all of our expenses. We are taking care of the needs of the soldiers in Iraq, which, by the way, the President just told us he needs another \$25 billion as a down payment. That is not saying that is going to cover the cost. That is a down payment.

We are being told in the education committees they are cutting the amounts of money we are spending for our kids in schools.

We are told that the President's budget proposes cuts in veterans services, for people who have served in our Armed Forces and are now veterans.

We are told in health care, believe it or not, the proposal in the House is to cut Medicaid spending for aged, blind, and disabled individuals in this country more than \$2 billion.

So were we talking about a balanced Federal budget, a proposal that costs \$8.4 billion and does not tell us how it is going to pay for itself, you may want to think about whether we should do that or not. But when you are \$400 billion in debt, the largest Federal deficit we have ever seen in the history of this country, to talk about not paying for this is crazy. Especially when it comes to education, veterans services, other health care programs, this Congress is requiring that there be a pay-for for any proposal that costs money.

One more time: If I want to increase health care services to aged individuals, poor seniors in this country, I have to find a way to pay for that proposal before it can get through this House. If I want to increase spending for our schools and all the children that go to our schools today, I have to find something to pay for that proposal before it can get through this House. But this proposal, as sensible as it might sound, does not need that. Especially when you add the part about sending money off to these HSAs, to these health savings accounts, which help wealthy and healthy individuals, it makes very little sense.

So a good idea, complicated by bad ideas within it, makes it very tough. That has sort of marked this whole session of Congress, and I hope we find a way to be more sensible about moving forward with ideas. The Democratic substitute addresses this, and I hope that we can vote for the Democratic substitute.

Mr. MCCRERY. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota (Mr. RAMSTAD), a distinguished member of the Committee on Ways and Means.

Mr. RAMSTAD. Mr. Speaker, I thank the chairman for yielding me time, and I rise as a strong supporter and cosponsor of this important legislation.

Mr. Speaker, it only makes common sense to allow workers to carry forward unspent funds in their flexible spending accounts to the following year or to allow workers to roll the funds into a new health savings account.

This change is really long overdue. Flexible spending accounts are an important vehicle to help workers and their families save pretax dollars for medical expenses. Because of the tax savings, families can actually save up to 30 percent of the cost of out-of-pocket health care expenses by setting aside a portion of their income in a flexible spending account.

American families, families back home in Minnesota, know only too well that out-of-pocket expenses for health care have been rising at an astonishing rate. In fact, the cost for the average worker and their family has spiked over 100 percent since 1998, with no end in sight.

In spite of the skyrocketing health care costs and the significant tax savings associated with the FSAs, relatively few workers choose to take advantage of this vehicle to save for health care costs. The reason for that is simple: This stupid, arcane, absurd use-it-or-lose-it rule. This rule, this use-it-or-lose-it rule, makes absolutely no sense at all.

As absurd as it is, Mr. Speaker, workers are required to forfeit all unspent funds remaining in their FSA accounts at the end of the plan year. This use-it-or-lose-it rule is totally counterproductive, and it is a huge gamble to families, especially low- and middle-income families who can least afford to guess wrong and lose the unspent funds.

So what is happening is rather than facing that loss, many families with these FSAs rush to spend money at the end of the year, as my colleague previously expressed, often on high-cost medical items. How can we tolerate such a bizarre rule that actually discourages prudent spending on health care? It is time to end the use-it-or-lose-it rule.

Mr. Speaker, Ceridian Corporation, which is the leading administrator of FSAs for employers and is based in my district in Bloomington, Minnesota, estimates that while some 25 million, listen to this, 25 million American workers and their families are eligible to participate in health care FSAs, fewer than 20 percent actually choose to participate. It is obvious why. People do not want to take this gamble, and they are not impressed; in fact, they are discouraged by the use-it-or-lose-it rule.

This bill, which I applaud the gentleman from Louisiana (Chairman McCRERY) for bringing to the floor today, is very similar to legislation I introduced over 3 years ago, and thanks to the leadership of the gentleman from Louisiana (Mr. McCRERY), it is finally here today.

So it is high time, Mr. Speaker, that we address this important, unfinished business. It is time to help millions of workers and their families better afford rising medical costs. It is also time to prevent the wasteful end-of-year spending the use-it-or-lose-it rule now promotes.

I urge my colleagues to support this sensible and balanced reform. We have got to pass this legislation here today, and encourage the other body to follow suit.

Again, I thank the gentleman from Louisiana (Chairman McCRERY).

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

Mr. Speaker, I would like to inquire of the gentleman from Louisiana, it is my understanding that you could use a flexible savings account to, for example, pay for abortion if your employer's health care plan did not provide that benefit. Is that not true?

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

Mr. STARK. I yield to the gentleman from Louisiana.

Mr. McCRERY. Mr. Speaker, a flexible spending account, health flexible spending accounts can be used for any health care expenses incurred by the employee.

Mr. STARK. Mr. Speaker, reclaiming my time, there is nothing in this bill that would prohibit a woman from using the benefits of the flexible savings account for an abortion; is that correct?

Mr. McCRERY. Yes, sir.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me time and for a very thoughtful substitute. But I might associate myself with his earlier remarks.

There are such important issues of the moment that are confronting us today, the abuse of prisoners in Iraq, the tragic loss of life of Mr. Berg, and the need to be able to provide for safe passage and safe conditions of our United States military.

I almost feel somewhat shortchanged by discussing this legislation, as important as it is, because I think there is necessary leadership that is needed on crucial issues facing America, the peace and security of Iraq and the peace and security of our military.

But even though this bill has good intentions, let me argue that this bill is only an added burden on America's financial pocketbook. It costs \$8 billion. It is unpaid for with the bill on the floor.

The substitute is paid for, but when we add what I have heard in many of our metaphors, we add insult to injury by costing \$21 million extra. We, frankly, have veterans who are not able to get in veterans hospitals, and this bill, which serves really no purpose, it will actually undermine the health insurance benefits received by millions of Americans. It is confusing and complex. It makes a mess of a system that needs to be fine-tuned, not destroyed.

□ 1345

The majority of Americans already receive health care through employers, though 44 million are uninsured. That is what I would like to be doing here, is finding a way to provide insurance for the uninsured. I would like to be able to find a guaranteed prescription drug benefit for seniors and not have them use something that is confusing.

This one will offer a tax break, another tax break when we are needing monies to ensure the peace in Iraq, monies to keep veterans hospitals open, monies to get a guaranteed prescription drug benefit.

It sounds good. This coverage has a deductible of over \$1,000, and it sounds good; but think about it. The bill will serve to encourage businesses to cut your health insurance programs or

raise deductibles for their employees. Low- to moderate-income employees and those who are uninsured pay all kinds of taxes, payroll taxes, sales taxes, property taxes. However, they tend not to pay enough income taxes to take advantage of this new Republican give-to-the-rich scheme or get-what-you-can, or give-to-those-who-already-have.

Mr. Speaker, I would simply ask that we support the substitute, a paid-for program, and we do not give an extra gift of \$21 million that is unpaid for. Maybe after we do this, we can get to the floor of the House and find out how we can provide peace and security in Iraq, how we can stop the abuse that is going on, bring our soldiers not in harm's way, but away from harm's way, provide for seniors and those who are uninsured. I believe that is the right way to go.

Because, Mr. Speaker, let me say this. In my very district, there is a veterans hospital where I have to meet veterans every day who are asking why they are denied services at the hospital. And just as a note that we should bring to the attention of our colleagues, it is because we have a means test for allowing you to go to the veterans hospital and get your medical needs taken care of. If you make a certain amount, the door is closed.

My belief is, this Congress's obligation to veterans and those who enter the United States military is that we should continue our promise, and that is the promise that services will always be there. How can we do so if this legislation not only costs money and not be paid for, but adds an extra \$21 million for the health savings account? It would be far preferable to support the substitute which clearly pays for it, does not extend it to a health savings account, provides for creativity and flexibility, which I support, but focuses our attention on paying for those needs that are necessary to take care of those who cannot take care of themselves.

Mr. Speaker, I ask my colleagues to oppose H.R. 4279 and vote for the substitute.

It used to be that the most challenging part of my job here was finding meaningful ways of improving quality of life for the people in my district. Now it seems the most challenging part is trying to figure out how the Republican leadership will next try to deny those same people the lives they and their families deserve. Today's bill is one of the more creative approaches I have seen by the Republicans to advance their goals of giving their rich political donors big tax cuts, and denying the poor and middle classes healthcare and the services they need.

This bill serves no one that really needs it, and will actually undermine the health insurance benefits received by millions of Americans now. It is confusing and complex, and makes a mess of a system that needs to be fine-tuned, not destroyed. The majority of Americans now receive health insurance through employers. This bill will offer a tax break to people who do not have health insurance coverage, and those whose coverage

has a deductible of over \$1,000. It sounds good, until you think about it. This bill will serve to encourage businesses to cut their health insurance programs, or raise deductibles on their employees. Low- to moderate-income employees and those who are uninsured pay all kinds of taxes: payroll taxes, sales taxes, property taxes. However, they tend to not pay enough income taxes to take advantage of this new Republican-give-to-the-rich scheme. So the exact people who are now being left out of our healthcare system, and who need relief, are being left out of this bill.

The underlying goal of this bill is to dismantle the employer-based health insurance system that the chairman of the Ways and Means Committee hates. He has stated that he does not like employer-based health insurance because it shields people from the cost of healthcare and thus enables people to use health care too much. I don't see that Americans have made themselves too healthy. I want to increase access to care not decrease it, so I will vote against this bill.

Not only is this a bad bill, it is an expensive one. It will cost \$71 billion over the next 10 years—all money borrowed from our children and grandchildren. In the later years of the budget window, this bill will cost in excess of \$10 billion per year, and will accelerate just at the time when the baby boom generation retires, denying resources to meet our commitments to the Social Security and Medicare systems.

Again, it seems this bill was crafted to specifically target and destroy the elements of our healthcare system that people know and trust—Medicare and employer-sponsored coverage—and use the savings to give to CEOs, the healthy, and the wealthy. It is not surprising to find that due to the structure of this bill, the same people whose children were denied the benefits of a child tax credit will also not receive any benefits from this bill.

Of course they will be allowed to help pay the interest on the booming debt that it adds to.

I will oppose this bill and encourage my colleagues to do the same.

Mr. McCRERY. Mr. Speaker, I would inform the gentleman from California that I now have two speakers that request time on my side, in addition to my closing. So I just wanted to let him know.

Mr. STARK. Mr. Speaker, if the gentleman will yield, I will then reserve my time and precede his closing and try and warm up the audience for what I know will be eloquent remarks.

Mr. McCRERY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise in support of the flexible spending arrangements. I am often baffled in this House when I have the opportunity to listen to the debate. We are talking about policy that will be far-reaching. Flexible spending accounts, flexible arrangements, medical savings accounts, health savings accounts are all plans that give flexibility and discretion to employers and employees. They give power, economic power, to employers and employees.

This is a much larger issue than how much this may cost this year because,

ultimately, it will save the government money. Ultimately, it will save individuals money. And, ultimately, it will save employers money which, in the long run, will mean that more people will be likely to access health care through their employer. That will, by the way, save the government some money.

One of the first things I heard about as a candidate for Congress was from one of the employers in one of the communities I represent. And he said to me, I want you to pay close attention to the law around medical savings accounts, flexible spending arrangements, the kinds of things that are supposed to be flexible for benefits for employees to give them economic power, but are not, because there are too many limits on them.

Today's bill removes one of those limits, or at least significantly reduces it, and that is this perverse incentive to quickly spend any of the unused money in the flexible spending arrangement, the use-it-or-lose-it rule. We change that today; and we say to the employee, if you do not need to use that health care right now, you do not need to. You do not need to waste the money. You can roll that over to next year; and if something happens next year that you need it, you can use it. And if you do not need it next year, you can roll it over. Does that not just make sense? Should we not in Congress be the ones who are providing the flexibility and the options to the employee, not putting crazy limits on them?

This is a great bill, and we should go even farther than this and allow employers and employees to work together to provide more options for them to provide health care for their families, not fewer. Fewer limits, more options and, ultimately, more opportunity for employers to provide health care. Ultimately, it will provide opportunity for us to put downward pressure on the costs of health care, also downward pressure on the costs of health insurance, because there will be more competition, more flexibility, more opportunity, and more coverage. More coverage is ultimately what we want, and this bill will help us get there.

Mr. Speaker, I commend the gentleman from Louisiana (Chairman McCRERY); I commend the members of the Committee on Ways and Means for moving this forward. Because that employer back home, he is not by himself. He wants to continue to provide good and flexible health benefits for his employees. They are like family to him. Most of the employers in my district are small employers. They want to provide health care. It has become so expensive in what people traditionally thought of, they cannot afford it. With flexible arrangements they can, and they can continue to provide it into the future.

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

Mr. McCRERY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman for yielding me this time. I appreciate the opportunity to say a few words about this issue of H.R. 4279.

I am a former employer. I started a business in 1975; and I met payroll for 28 years, 1,400-and-some consecutive weeks. I was one of the first employers in my industry to provide health insurance for my employees. It was a difficult thing to do because of all of the Federal constraints that made it difficult for a small business to compete with large business. This is rooted back in World War II when there were wage and price controls, and employers that tried to find a way to offer additional benefits or wages to their employees were able to deduct health insurance benefits for them as an expense and then offer that as a quasi-raise or in the form of a benefit, an increase in compensation for their employees.

The legacy of that remains today in Federal law. We have legislation that continually makes it difficult to have the flexibility necessary for businesses to work with their employees so that they can have a legitimate health care plan. We have had to find ways around Federal regulation to do that. H.R. 4279 helps us so that we do not have to jump around that one or find another way to get things done.

I remember a Congressman coming into my district in the early 1980s making a pitch for a national health care act. And I remember in that room of about 80 people, in the end I was the only one of the employers in the room that provided health insurance for my employees, and I remember fighting off that effort of going for a national health care because we need more individual responsibility so that we have more individual decisions made, in the vision of Adam Smith and the invisible hand.

We have today evolved into a health care system that has more and more HMOs, fewer and fewer entities making decisions about more and more people, to the point where the patients now have gotten the mindset more of sheep of submitting themselves to the process rather than making decisions on their health insurance and on their health care. H.R. 4279, again, short-circuits some of that, gives us a little more freedom and puts flexibility into the process.

I remember when the previous President was elected in 1992 and the First Lady came out with a plan that many of us have described as the Hillary Care Plan. I have that flow chart on my wall in my office in Iowa that scares me half to death as an employer looking at a national health care act versus individual flexibility. We have two choices here, and the people that are against this bill are the ones that are preserving what they can of the opportunity to build a Federal health care Canadian-style plan.

Mr. Speaker, H.R. 4279 helps us get more decisions in the hands of more

people so that they make their individual decisions in an efficient fashion, the way that the gentlewoman from Pennsylvania (Ms. HART) described. It gets rid of that perverse incentive of spending the money at the end of the year because you cannot roll those dollars over.

So I applaud the authors of this bill, the people who worked so hard on it. I appreciate the opportunity to speak in favor of H.R. 4279.

Mr. STARK. Mr. Speaker, I yield 6 minutes to the gentleman from Washington (Mr. McDERMOTT), as we are blessed with his late arrival.

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

Mr. McDERMOTT. Mr. Speaker, it is always good to come out here and talk about an important issue. We have had a wartime President who has wanted to talk about war: I am a wartime President, I am doing this, I am doing that. I wish we had a domestic President who would occasionally think about what needs to be done on the domestic scene.

This particular little bill is what they are going to hold out for their evidence that they care about domestic health problems in this country.

Now, I do not know; it would be laughable if it was not so sad that this is the only bill that they can come up with. I know my good friend, the gentleman from Louisiana, knows, he and I share the desire for everyone to be covered in this country, and the only thing that separates us is how to do it. And for this to be offered as one of the ways that we are going to make it easier is simply, well, they will have to say they have passed something. I think it is called the flexible savings and health savings account rollover. That will be a title that will certainly sound like they did something.

The idea of health savings accounts goes against the basic issue here in how we ought to be dealing with health care. We do not have any problem in thinking that we should do fire departments collectively. We do not call them socialistic or whatever. They do not look to Canada for how to run a fire department. We started that in 1754, and police departments and roads and schools, all of those issues we deal with together. But in health care we say, hey, baby, you are on your own. You and you and you and you and you, you are on your own.

Now, if you have a job that takes care of you, oh, well, you are lucky; you have the plastic, you are in good shape in the lottery. I have a piece of plastic in my pocket. Everybody has one in their pocket or in their purse, and that plastic keeps you in the game. But God forbid that you do not have a piece of plastic.

Now, the answer for those 40 million people in this country who do not have plastic is, well, why do you not have a health savings account? Yes, that is a good idea. You can take your money,

and you can put it in that health savings account and buy yourself a \$10,000 deductible program and everything that comes up you can use the money out of the health savings account to pay for it, and it will work wonderfully.

The problem with this whole thing is the idea that people have \$4,500, or whatever the number is, to put into their health savings account is nonsense, and it puts people on their own.

The idea of putting people on their own works very well for some people in this society, people who are rich. I mean, golly, if you are the head of Enron, you have a few extra dollars, you can just throw it into a health savings account; and if you happen to have a little problem that takes your life in some direction that costs a lot of money, well, you can take it out of your pocket. But all of those employees that were working for Enron that suddenly got dumped out in the street because crooks were running the business, they do not have anything. They could have their health savings account. Maybe it would cover, maybe it would not, but where are they going after that? Enron is not coming back, so after the first year, okay, where are you going to go?

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How do you cover yourself in a situation when you are out there alone? The individual market in this country is a mess. No one can afford it because they can look at each one of you and say, well, you look to me like you have the possibility of X, Y and Z and we are going to charge you \$1,000 a month.

The average person has trouble taking that kind of insurance. So having this savings account, I put that \$4,500 in I did not have, I put that in there and then I get sick.

I had a friend who went in the hospital with a heart attack. He was in the hospital 2 days, and the hospital bill alone was \$10,000. So it could happen to anybody. Any Member of the Congress, anybody on the street can end up in the hospital and spend that deductible just like that. Where do they have the money to pay for it? I do not know how they are going to get some of it out of this health savings account.

Now, this bill is predicated on the idea that they will never get sick and that at the end of the year they are going to have some money left. The idea is at the end of the year you have not been sick so you have got this money laying in your account so you can roll it over into the next year. Well, that is a nice idea. It would probably help maybe 15, 20 people in this country, maybe even 1,000, but it does absolutely nothing for 40 million people out there with no health insurance, and this is why this is a joke.

We will pass it, of course. Nobody is going to vote against it. Well, I do not know, some might, but the fact is that it is not dealing with the problem that

faces us, and if our war President would pay a little more attention to the domestic and not cut taxes everywhere in sight, we would have some money.

Part of the problem is what is happening at the State now, because even Medicaid is going away, lots of States do not even put senior citizens into their Medicaid program. Only 34 States have a Medicaid spend-down for seniors.

This country is in a mess, and this bill does not do anything.

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

I want to commend the last speaker, the gentleman from Washington, for his efforts year after year in trying to solve the problems in our health care system. I disagree with him occasionally on how we should do that, but I think he is well-intentioned and certainly deserves credit for his efforts.

However, his comments about the Enron employees, I cannot help but stand up and point out to him that had those employees had HSAs, instead of Enron providing first-dollar coverage insurance, they would still have insurance today. They would have their HSAs because they are fully portable and an employee can take an HSA from job to job. If he loses his job, he can use what is in his HSA to pay premiums on a new health insurance policy. So I just wanted to point out to the gentleman that those employees would have been a lot better off if they had HSAs rather than the Enron-provided health insurance.

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

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman for his comments and I would close just briefly.

I believe that the Enron employee would not have insurance. He would have some money in that health savings account, but when Enron folded up, the insurance went along with Enron. He could go into the private market and try and buy something.

I would just like to repeat, if I may, that this really does nothing to cover the uninsured. So, if this is Cover the Uninsured Week, we are burning up a couple of valuable hours that we could be discussing how to cover the uninsured with this bill.

The principal disagreement that we had with the bill is that it is not paid for, and we will offer, subsequently to closing this debate, a substitute where we pay for it in very patriotic and simple ways. It is not a lot of money but it is a principle that we Democrats have long adhered to, and that is, that we ought to pay for the wonderful things that are available to us in this country and not put the burden on our children and grandchildren.

So, having said that, and without fear of contradiction that I probably have more children and grandchildren than the combined audience here, I can qualify, if the Speaker will allow me,

as an expert in that area. And maybe I am a little touchy about it, but will conclude our debate on this and I appreciate the gentleman from Louisiana. Next time I hope we can resolve these differences in our committee and come to the floor, as we did in the good old days, with a unified approach to Medicare and health insurance problems.

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

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

The bill before us today is a very simple bill. It will provide employees, whose employers give them the opportunity to participate in flexible spending arrangements, more flexibility to utilize those arrangements and, indeed, encourage employees to do just that, and if they have money left in their account at the end of the year, under the bill, up to \$500 can be rolled over into their next year's flexible spending arrangements or rolled into a new health savings account, thereby avoiding the discouraging factor in the law today of use it or lose it.

Right now, today, if there is money left over at the end of the year, the money goes back to the employer. That is why employees do not want to participate because they do not want to lose part of their income, and that is understandable. It is kind of silly that Federal law would dictate that.

We are trying to correct that today. It is very simple. I urge the Members to vote in favor of this good bill today.

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

The SPEAKER pro tempore (Mr. QUINN). All time for debate on the bill has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
OFFERED BY MR. STARK

Mr. STARK. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. Is the gentleman the designee of the gentleman from New York (Mr. RANGEL)?

Mr. STARK. I am.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Part A amendment in the nature of a substitute printed in House Report No. 108-484 offered by Mr. STARK:

Strike all after the enacting clause and insert the following:

**TITLE I—DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS**

**SEC. 101. 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 carried forward to the succeeding plan year of such health flexible spending arrangement.

“(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.

**TITLE II—ENRON-RELATED TAX SHELTER PROVISIONS**

**SEC. 201. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.**

(a) IN GENERAL.—Section 362 of the Internal Revenue Code of 1986 (relating to basis to corporations) is amended by adding at the end the following new subsection:

“(e) LIMITATIONS ON BUILT-IN LOSSES.—

“(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

“(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

“(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this subparagraph if—

“(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

“(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

“(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.

“(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

“(A) IN GENERAL.—If—

“(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

“(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair mar-

ket value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

“(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

“(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.”.

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) of such Code (relating to liquidation of subsidiary) is amended to read as follows:

“(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

“(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

“(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.”.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transactions after the date of the enactment of this Act.

(2) LIQUIDATIONS.—The amendment made by subsection (b) shall apply to liquidations after the date of the enactment of this Act.

**SEC. 202. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.**

(a) IN GENERAL.—Section 755 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

“(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

“(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

**SEC. 203. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.**

(a) **IN GENERAL.**—Paragraph (2) of section 163(l) of the Internal Revenue Code of 1986 is amended by inserting “or equity held by the issuer (or any related party) in any other person” after “or a related party”.

(b) **CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.**—Section 163(l) of such Code is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

“(4) **CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.**—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.”.

(c) **EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.**—Section 163(l) of such Code, as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

“(5) **EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.**—For purposes of this subsection, the term ‘disqualified debt instrument’ does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term ‘dealer in securities’ has the meaning given such term by section 475.”.

(d) **CONFORMING AMENDMENTS.**—Paragraph (3) of section 163(l) of such Code is amended—

(1) by striking “or a related party” in the material preceding subparagraph (A) and inserting “or any other person”, and

(2) by striking “or interest” each place it appears.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

**SEC. 204. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.**

(a) **IN GENERAL.**—Subsection (a) of section 269 of the Internal Revenue Code of 1986 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

“(a) **IN GENERAL.**—If—

“(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

“(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

“(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to stock and

property acquired after the date of the enactment of this Act.

**SEC. 205. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.**

(a) **LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.**—Paragraph (2) of section 1297(e) of the Internal Revenue Code of 1986 (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

“Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

**TITLE III—PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX**

**SEC. 301. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.**

(a) **IN GENERAL.**—Paragraph (4) of section 7701(a) of the Internal Revenue Code of 1986 (defining domestic) is amended to read as follows:

“(4) **DOMESTIC.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term ‘domestic’ when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

“(B) **CERTAIN CORPORATIONS TREATED AS DOMESTIC.**—

“(i) **IN GENERAL.**—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

“(ii) **CORPORATE EXPATRIATION TRANSACTION.**—For purposes of this subparagraph, the term ‘corporate expatriation transaction’ means any transaction if—

“(I) a nominally foreign corporation (referred to in this subparagraph as the ‘acquiring corporation’) acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

“(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

“(iii) **LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.**—Subclause (II) of clause (ii) shall be applied by substituting ‘50 percent’ for ‘80 percent’ with respect to any nominally foreign corporation if—

“(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

“(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

“(iv) **PARTNERSHIP TRANSACTIONS.**—The term ‘corporate expatriation transaction’ includes any transaction if—

“(I) a nominally foreign corporation (referred to in this subparagraph as the ‘acquir-

ing corporation’) acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership.

“(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

“(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

“(v) **SPECIAL RULES.**—For purposes of this subparagraph—

“(I) a series of related transactions shall be treated as 1 transaction, and

“(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

“(vi) **OTHER DEFINITIONS.**—For purposes of this subparagraph—

“(I) **NOMINALLY FOREIGN CORPORATION.**—The term ‘nominally foreign corporation’ means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

“(II) **EXPANDED AFFILIATED GROUP.**—The term ‘expanded affiliated group’ means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

“(III) **RELATED FOREIGN PARTNERSHIP.**—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename.”

(b) **EFFECTIVE DATES.**—The amendment made by this section shall apply to taxable years beginning after the date of enactment of this Act.

The **SPEAKER** pro tempore. Pursuant to House Resolution 638, the gentleman from California (Mr. STARK) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. STARK).

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

Our Democratic substitute addresses a real issue of concern with respect to flexible spending accounts in the use-it-or-lose-it rule.

We agree with the author of this legislation that it is unwise to create an incentive for people to spend foolishly or frivolously for a benefit that they might lose, and we have the Washington Business Group and 50 major corporate members are clear on the issue. They want the changes and they want the money carried over into FSAs. The position is shared by their employees. There is some question, and nobody really has raised it previously, as to putting this money into health savings accounts, but because that is such a minor issue it could be overlooked.

The real question here is whether we should pay for this. And it will be expensive. It is \$8 billion. That is money that could be used in many programs, education programs, environmental programs, health programs, and it is a principle to which we are dedicated, and that is that we would like to expand health care in this country, but we have never offered a plan that we

will not pay for. And I find it sometimes difficult when my opponents across the aisle will not even give us a plan that costs nothing.

My Republican friends are opposed to expanding COBRA benefits. They are very expensive for people, but some 40 million people have used them since we wrote that bill on a bipartisan basis to expand COBRA benefits until a person gets another job or until they mature into Medicare. Costs zip, nothing, nada. It costs the employer nothing. Why do we object to expanding COBRA benefits? Just because it is a government plan and obviously people on the other side of the aisle do not like the government helping people unless they are very rich, of course.

So here we have just another example of not a bad piece of legislation. It could use some improvement, but it is a freebie and will predominantly benefit people in good jobs, with good health insurance and expand another tax loophole.

It is a modest one, but it is a principle. Left unchecked, we would soon have almost no tax revenue in this country at all, a position which the Club For Growth would applaud, but I am sure that those of us who are on the Federal salary or those people who are defending us now in Iraq would object to.

So I hope that we could reverse this disastrous rush to the bottom of debt and begin to be responsible in how we legislate by paying for these provisions. We will hear more later from my colleagues on the really very useful ways that it will help our economy if, in fact, we did pay for this bill under the provisions of our Democratic substitute.

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

Mr. MCCRERY. Mr. Speaker, I rise to claim the time in opposition, and I yield myself such time as I may consume.

Before I get into the specifics of objections to the "pay fors" on the Democratic substitute, I would point out to the gentleman from California that it was under the leadership of this committee and on a bipartisan basis 2 years ago to, in fact, expand COBRA in the Trade Adjustment Assistance Act whereby we, the government, now will pay up to I believe 65 percent of the premium for someone's COBRA benefits when they are unemployed due to trade adjustments. So, in fact, I agree with the gentleman that we should indeed encourage people to continue their health insurance when they become unemployed, and we have endeavored to do that with taxpayer dollars.

With respect to the bill at hand and the substitute offered by the gentleman from California, it is true that most of the cost of the bill is paid for; not all the cost of the bill, but most of the cost of the bill is paid for by the minority's substitute, but the manner they choose to pay for this health care benefit I think is quite objectionable.

About half, in fact, maybe a little over half, of the revenue that would be produced by the Democratic substitute is produced by a retroactive application of a change in the law which would affect companies that made a determination which was legal 30 or 40 years ago. And I do not know of anyone who thinks that that is a fair result, to impose suddenly a penalty on a company that in good faith operated under a law 30 or 40 years ago and have been operating that way ever since. So I would hope that this body would not suddenly choose to use a punitive, retroactive change in the law to penalize companies operating in good faith for decades under the United States Tax Code.

So that is the most objectionable part of their "pay for." The other parts simply amount to a tax increase on business in this country. Those changes, in fact, could result, and it has been estimated by Treasury and testified to by Treasury officials, that these changes in the Democratic substitute would actually encourage foreign takeover of United States companies, and I do not think that is the result we want in this body for the American people or for American companies.

So, Mr. Speaker, while I may have some sympathy for the minority's desire to pay for legislation, I think the manner they have chosen to pay for this particular bill is ill-advised, and I would hope that this House would reject the substitute and pass the underlying bill.

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

□ 1415

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume, before I recognize the distinguished gentleman from Massachusetts, to remind my good friend from Louisiana that the tax provisions in our substitute were recommended by the bipartisan, bicameral Joint Committee on Taxation; and these provisions have already passed on a bipartisan basis in the other body.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Massachusetts (Mr. NEAL) 2 minutes for economic logic and 2 minutes for righteous indignation, for a total of 4 minutes.

(Mr. NEAL of Massachusetts asked and was given permission to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman from California (Mr. STARK) for yielding me this time.

One of the problems here in having a dialogue is that sometimes the facts do not square with the dialogue. Now, the gentleman from Louisiana (Mr. MCCRERY) is one of the better people in this House; a good Member of the Congress and a very nice guy to work with. But where is the sympathy for those companies that stayed here? What about those companies that pay their

taxes every day? What about those who did not attempt to escape in the dark of night to Bermuda for the purpose of avoiding American corporate taxes? Where is the sympathy for them? Their competitors can go offshore with a phony post office box for \$27,000 a year, and then they avoid any share of the burden that the rest of the American taxpayers face for financing small things like Social Security and Medicare and paying for this war in Iraq and Afghanistan.

I would like to put this issue in front of those 134,000 troops in Iraq for a vote and see where we go on that issue. We hear about these companies that have been gone for 30 or 40 years. Let us get something straight, Tyco has been gone since 1997, Ma and Pa Tyco, that avoid paying \$400 million a year in corporate taxes. Tell that to the parents of those men and women and wives and husbands of those men and women in Iraq and Afghanistan.

We make it sound as though these companies are under great duress when they avoid paying corporate taxes. I would ask this for the listening audience today as well. What do you think the IRS would do to you on Monday if you got up and said as an individual that you were going to Bermuda for the purpose of denying American citizenship, but only for the real purpose of avoiding your share of taxes in America? That is what we are asking today.

This is a decent proposal that is before us. All we are saying on our side is let us discuss how you pay for it. That is the important reminder for all of us.

The Rangel substitute with flexible spending accounts is not only a popular employee benefit because it allows pretax dollars to be used for dependent care expenses or medical expenditures not covered by insurance, but in fact, except for the staff of this Republican-run House, most of the employees of the Federal Government have had the opportunity to indeed utilize FSAs.

But today we could be debating whether FSAs might even be more flexible, allowing employees to roll over unused funds from one year to the next. But the leadership has decided that once again we are going to come to the aid of their favorite constituency, the healthy and the wealthy. We never have time in this institution to take up anything that might be of benefit to middle-income taxpayers, to the working poor of this country every day who do not have any health benefits; but we find plenty of time for the purpose of cutting taxes for the wealthiest Americans.

And let me just go back to this subject again, and I hope people are paying attention in this sense: we are now fighting two wars, and the answer of this Congress to two wars: three tax cuts. We are going to come in with a \$25 billion request now because we all know what the real cost of that incursion into Iraq is going to be, not only in terms of human life but, just as importantly, in terms of the financial

burden it will be to the American people. So we roll it out in small increments.

We should begin to pay for some of these initiatives that come through this House. By the way, that used to be the historic position the Republican Party adopted. Today, it is borrow and spend.

The Rangel substitute would allow workers to roll over their FSA money from one year to the next without any budget impact that is negative. But because this benefit costs money, the Rangel substitute would pay for it by closing down a loophole.

All I ask is this, Mr. Speaker. If the position that I have adopted on these companies that go to Bermuda is so bad, why is it that almost 2½ years later the majority will not give me an up-or-down vote in this institution? Put this in front of the body here. Square it with those men and women in Iraq. Close down this Bermuda loophole, and let everybody pay what they are supposed to pay.

Mr. Speaker, I rise today in support of the Rangel substitute. Flexible Spending Accounts have proven to be a popular employee benefit, allowing pre-tax dollars to be used for dependent care expenses or medical expenditures not covered by insurance. In fact, except for the staff of this Republican-run House, most of the employees of the federal government have had the opportunity to utilize FSA's. Today, we could have been debating whether FSA's should be even more flexible—allowing employees to roll-over unused funds from one year to the next. However, the leadership has decided to instead to once again prop-up its favorite tax shelter for healthy workers.

The Rangel substitute would allow workers to roll over FSA money from one year to the next and would do so without any negative budget impact.

Because this tax benefit costs money, the Rangel substitute would pay for this worker benefit by closing the loophole allowing former American companies to move their headquarters offshore for tax avoidance.

Corporate expatriation accounts for \$5 billion in lost taxpayer revenue over the next decade. Today, we debate a substitute that shows us exactly what we could be doing with that money: providing greater employee benefits. Why should the workers of America be supporting corporate tax dodgers? Consider that in 1997, Tyco renounced its corporate citizenship and changed its mailing address to Bermuda to avoid paying nearly \$400 million a year in U.S. taxes.

While many in the House have expressed outrage since this loophole was first exposed two years ago, the Leadership has done nothing but cement the loophole with legislation protecting Tyco and those that have already left.

Since I first filed the bipartisan Corporate Patriot Enforcement Act to end this tax subsidy, these corporate expatriates have enjoyed almost one billion dollars in U.S. federal government contracts annually, 70 percent of which are defense or homeland security related. Our colleagues in the Senate have passed as recently as yesterday legislation to close this loophole affecting those that are considering the island tax havens and those

that are already exploiting this loophole. But in this Congress, we wait.

For those that profess to care about the exploding budget deficit, for those that claim to hear Chairman Greenspan's warning about the harm this historical budget deficit is doing to our economy, you must at some point decide that bills that pile on more federal debt are wrong. I urge my colleagues to support the fiscally responsible Rangel substitute, which makes the corporate tax cheats and those that forsake America in a time of war pay for improving benefits for American workers.

Mr. McCRERY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. ENGLISH), a member of the Committee on Ways and Means.

Mr. ENGLISH. Mr. Speaker, it has been fascinating to appear several times on the floor during recent weeks to hear the debate on tax bills that seem to lurch in the direction of Iraq and wander all over the public policy landscape. I would like to bring the debate today back to the core issue of the bill that is before us and whether the substitute is actually an improvement on it, and I would argue that it is not.

Mr. Speaker, the underlying bill that we have before us today would provide increased medical security, not as my friend, the gentleman from Massachusetts, has suggested, for the wealthiest Americans, but for many American workers. When flexible spending accounts are offered by an employer, their tax-preferred nature offers a powerful incentive for workers to contribute to and grow these accounts. Unfortunately, current law perversely influences these incentives by pushing workers who have built up an FSA to spend the money in the account if they have not used it by the end of the year.

This use-it-or-lose-it policy defeats the positive benefits of an FSA, which is why many eligible workers have chosen not to open FSAs. When workers use the hard-earned dollars they have contributed themselves or earned from their employers, they will ask more questions, further inform themselves, and become better consumers, for example, of health care products. If they lose these dollars at the end of the year by simply not having the necessity for them instead of becoming better health care consumers, they become, in a sense, over-users of health care.

Through allocating \$500 of unused FSA funds to be carried forward or rolled over into a health savings account, FSAs and HSAs can thrive and become the practical vehicles they were intended to be for working families who want to manage their own health care.

It is important to point out that the substitute, unlike the underlying bill, does not allow the unused funds to be transferred to the new HSAs. This is an essential component of the legislation because it encourages the HSAs, which embody similar pro-consumer and pro-worker principles as the FSAs.

Employers are just beginning to offer HSAs, so now is not the time to dis-

courage a health savings account, but to promote it. Let us not take a step backwards by passing the substitute. It is bad policy, it is poorly thought through, and I think that we ought to be looking at how we can provide workers with more opportunities to have these kinds of accounts, not fewer.

These are not the wealthiest people in America. These are people who want the opportunity to manage their own health care, to manage their own resources; and we are giving them an opportunity to accumulate more of those resources in this bill.

Mr. STARK. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I visited with a group of small business people from Texas this morning who came to discuss, among other things, their concerns about being able to provide health coverage for themselves and for their employees. Their stories were very similar to ones I have heard while visiting with small retailers in Phaw and in Mission, Texas, and in talking with musicians in Austin, Texas—that we have a growing crisis in this country in trying to ensure that working Americans can get the health protection and the health insurance access that they need.

As I talked with them, one of the concerns that I raised was this need versus another one that is also the tragic result of the misleadership of this administration and this Republican Congress. They are driving our country into an economic ditch with the largest deficit in the history of America last year, to be surpassed this year, and to be exceeded in the future under a broken economic scheme.

In fact, the deficits are rising at such a rate that our Republican colleagues are continually coming to ask for an increase in the debt ceiling. They will have to do it again in the very near future. I think they probably need to keep an extension ladder in this House so that they can continue raising the ceiling upward, up to what will become \$10 trillion or \$11 trillion. That is trillion with a "T" that they will be raising the debt ceiling to as a result of their misguided economic policies and their willingness to give tax break after tax break to those at the top of the economic ladder without paying for it. They get it for free.

Today, we have another example of that. We have an example of an unwillingness to consider the cost and the burden on future generations of Americans and the adverse effect on our economy of continuing to incur more and more debt, as has been true in the past, by adding more and more tax breaks.

So we have come forward with a substitute and said that if you are going to make these changes—even though this is probably not the most efficient way to deliver health care and there are much preferable approaches—but if you are going to do this, at least pay

for it. Do not add more and more to the national debt.

And we have done it in very reasonable ways. One is to deal with something that Republicans in this House would like to forget about as just ancient history: the scandal called Enron, the scandal that led to so much trouble for our economy and to a reduction in the public's confidence in our economic marketplace.

Enron manipulated our tax laws. In fact, as *The Washington Post* reported last year, Enron was turning its tax department into a profit center. Its senior executives, along with leading accounting, banking, and legal advisers were seeking to manipulate tax laws through complex concealed transactions. These were transactions that involved things like synthetic leases. These were transactions that, as one of their people reported, were so intentionally complicated it would take a year or more to construct a single deal.

Well, we have adopted in this substitute very modest proposals, recommended by the Joint Committee on Taxation and approved overwhelmingly in the United States Senate, to do something about those Enron tax abuses. What has the House of Representatives done in the two years since these abuses were disclosed? Absolutely nothing. The Senate was willing to look at the tax returns of Enron to see how these manipulations occurred, but the House Committee on Ways and Means was afraid to look under that rock because it knew the scandal it would find. They have been unwilling to address this problem.

The same is true of the unpatriotic corporations that retreat to Bermuda or Barbados, who basically say that they do not want to pay their fair share of our homeland security and defense. Oh, yes, they are proud of our flag when they want our fighting men and women defending their position. They are so proud of our flag when they are being defended by our Armed Forces. They are so proud of our flag when they want to do business with the United States Government.

Some of these same unpatriotic corporations come and ask for hundreds of millions of tax dollars in government contracts. In fact, one contracts with the Internal Revenue Service. Another one contracts with the Department of Homeland Security. On the one hand they will not pay their fair share of taxes, but they sure want all the tax money they can get in contracts with the government.

We have a proposal to pay for health care through reforms to prevent another Enron scandal and through reforms that simply ask for a level playing field. Those corporations that want the protection of the American flag ought to be willing to pay their fair share.

The Committee on Ways and Means and the Republican leadership in the House will never make these needed changes unless they are forced to do it

through proposals just like this. They feel so comfortable with the Enron philosophy that a tax department is a profit center that they will continue to defend these abuses.

I ask your support for the substitute.

□ 1430

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Speaker, there was a story in yesterday's *Detroit News*, Michigan's uninsured swells by 100,000 last year to 1.2 million people. I do not see how this bill will reduce that amount at all. This is supposed to be the week where we pay attention to the uninsured, but this bill really does not do that. It really turns away from them. I think we very much need to keep that in mind. That is the first point.

Secondly, it allows the transfer to savings accounts which really can become a dodge to escape taxation altogether. Even though it is a small amount of this, it is a serious mistake. We do not need more tax shelters in our Tax Code. We should not be feeding any moneys whatsoever into those shelters. This is what this bill in part does.

My third point, the gentleman from Louisiana (Mr. MCCRERY) works very hard on tax issues and knows the Tax Code well. I think this is a good pay-for. I think it is really irresponsible to bring another bill forth to this floor and not pay one dime. It is going to add \$8 billion plus to our deficit.

And the last aspect of this is the following: If they do not like this pay-for, come up with their own, but do not come here without anything to say as to how it will be paid for except by our children and our grandchildren. I support the substitute.

Mr. MCCRERY. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. RYAN), a distinguished member of the Committee on Ways and Means.

Mr. RYAN of Wisconsin. Mr. Speaker, I thank the gentleman for yielding me this time and for bringing attention to this issue.

I want to make three points. Number one, we are hearing all of this hue and cry against allowing people to roll their flexible spending accounts \$500 a year over into the next year. There is a reason why it is important to allow a person to roll their money over from one year to the next: We are not getting the kind of consumer activity and consumer reforms we want in health care when we deny an employee the ability to keep the money in their account from one year to the next. What ends up happening with the flexible spending account is when there is a balance at the end of the year, the employee goes and buys a couple pairs of eyeglasses, gets their teeth cleaned a

couple of times, more money is spent and it props up health care inflation.

What this reform does, it lets the employee know this is their money. More importantly, what this bill does and what the Rangel substitute denies is the ability to roll over \$500 from their flexible spending account into a health savings account. They say this health savings account is a new tax shelter.

Mr. Speaker, what a health savings account does is it lets people spend money on health care tax free. We can deduct the cost of health insurance on corporate tax rates when corporations pay for health care for their employees; why cannot employees and individuals deduct the cost of their health care expenditures on their income taxes? That is what HSAs do.

Take a look at what health savings accounts have already produced, only having been in law since January 1; 37 percent of all health savings accounts sold went to people who previously were uninsured; 18 percent of those people had preexisting conditions, people who had sicker risk profiles. And 47 years old was the median age of a person who bought health savings accounts.

So to the critics that said only wealthy, only young, only insured people would be buying HSAs, all of that is being proven untrue with the results that are taking place today in the marketplace. But more importantly is the fact that the Mercer Study just did a survey and they noted that 73 percent of all firms in America who offer their employees health insurance are considering giving an additional option of health insurance through a health savings account by 2006. By denying your employees the ability to take the money that is in their flexible spending account, which is controlled by the employer, and put it in their own account, which goes to the employee, is simply saying you are not going to let the employers give this money to the employee and be part of the employee's property.

It is very important that we allow the employees to keep this money and use this money for their own health insurance and to do so tax free so we end the bias in the Tax Code right now that is against giving people the ability to spend money on health care on a tax-free basis. This is how we get the employee and the consumer back into the business of buying health care.

I urge rejection of the Rangel substitute and adoption of the base bill.

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

Mr. Speaker, I would like to suggest to the gentleman from Wisconsin (Mr. RYAN) that we do not on this side have any objection to the rollover. We think it is a good idea, and all we would suggest is that we have to pay for it. That is the only difference.

Mr. RYAN of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. Is the gentleman opposed to rolling over the FSA money into an HSA?

Mr. STARK. Actually, I am opposed to it in general, but I offer to the gentleman from Louisiana (Mr. McCRERY) that we would accept that if he would pay for half of the bill. That is compromise.

Mr. RYAN of Wisconsin. The vote we are faced with, the Rangel substitute, is denying people the ability to keep this money. It denies people the ability to put their FSA money into an HSA.

Mr. STARK. It only denies the HSA, which they think is going to be a small number. There is still time to negotiate.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Ms. DeLAURO).

Ms. DeLAURO. Mr. Speaker, I rise in support of the Rangel substitute. Like the underlying bill, the substitute permits up to \$500 of unused benefits in the employee's health flexible spending arrangement to be carried forward to the employee's FSA account for the next plan year. However, this substitute does not permit unused benefits to be contributed to an employee's health savings account, which in fact we know to be a tax shelter for the healthy and for the wealthy.

This substitute is paid for, which is the principal reason why we have this substitute and why we are opposed to the underlying amendment, not by driving us deeper into debt. How do we pay for it? We eliminate the tax benefits that corporations receive when they reincorporate overseas for the express purposes of avoiding U.S. income taxes. They do not want to pay taxes to the United States of America. These so-called corporate expatriates, they enjoy all of the benefits of corporate citizenship in America. They look like U.S. companies, their stock is principally traded in the United States, and their physical assets are protected by our Armed Forces. They just refuse to pay for the benefits as every other American citizen or other companies do.

Countless companies engage in this practice: PriceWaterhouse Coopers Consulting, Accenture, Tyco, Foster Wheeler, the list goes on and on. These companies go to Bermuda, Barbados, the Cayman Islands. These are great vacation spots, particularly for companies who want to live tax free.

Many of us have worked for years to end this practice only to be turned back again and again by the Republican leadership which has time and again given their approval to corporations who continue to avoid living up to their obligations as citizens. Two years ago, this House voted overwhelmingly, 318 to 110, to pass an amendment that I offered to the Homeland Security Act that would have prohibited corporate expatriates from receiving Federal contracts from the Department of Homeland Security. The other body followed suit; unanimously, I may add.

Even the President spoke out in favor of ending this practice. But in the dark of night, this Republican leadership gutted the amendment, a bipartisan amendment, defying the will of the President and both Chambers of the Congress. Now that contracting ban is, for all intents and purposes, meaningless.

What happens is we have a company that goes offshore, pays no taxes, takes jobs and technology with them, and then what they want to do is to be considered for millions and billions of dollars in taxpayer dollars from the Department of Energy, the Department of Defense, the Department of Homeland Security; that is what is happening, but they pay no taxes in the United States of America.

With this substitute we say, no more. At a time when we have brave men and women putting their lives on the line across the world, we will put patriotism before profit. And some of those companies that we are talking about are reaping the benefits today in Iraq while our young men and women are dying in Iraq. At a time when we have seen the greatest fiscal reversal in this country, a \$5.6 trillion surplus has become a \$3 trillion deficit, we are saying with this amendment that we have a moral obligation to pay our bills and not pass them on to our children and our children's children.

Mr. Speaker, I support this substitute. It is the right thing to do. It is the responsible thing to do. Support the Rangel substitute.

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

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

Mr. Speaker, I would like to close the debate on our side for our substitute. My belief is these two tax provisions, modest as they are, regardless of the underlying bill, are good tax policy and ought to be considered if for no other reason than that they correct some serious inequities in our Tax Code which have been described by previous speakers.

We are very close to a compromise with our friends on the other side of the aisle. Our substitute would eliminate the health savings account issue. But as I said, it is possible to reinstate that in conference, and if the gentleman would like to support our substitute, we could do the patriotic thing, we could provide good tax policy, we could pay for a very good idea, and we could walk out, arm in arm, saying we have helped a few people, we have paid for it, and we have brought patriotism and corporate responsibility to some of our recalcitrant corporate friends who are not doing their share.

I would urge that this substitute does no harm to the underlying philosophy of the bill of the gentleman from Louisiana (Mr. McCRERY). It does add to the coffers of our Nation when it is so desperately needed. This money is contributed by those corporations whose actions are I believe indefensible, and

particularly at this time of grave national emergency.

I would not want to suggest that anybody who votes against our substitute is unpatriotic, but I would suggest that it certainly is helpful for our troops and the American economy to support the Rangel substitute.

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

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

Mr. Speaker, while I would relish the opportunity to walk out of the Chamber arm in arm with the gentleman from California (Mr. STARK) in complete agreement on a compromise on this legislation, I am afraid that the ill-advised tax changes contained in the gentleman's substitute would likely result in increased takeover of American corporations by foreign companies, so I will not be able to do that; but perhaps another day.

This substitute admits that the underlying policy in the bill under consideration is appropriate, that is allowing employees to roll over up to \$500 at the end of the year into next year's flexible spending arrangement. They do object to rolling money over into a health savings account, but the other part of the substitute which makes dramatic changes in tax policy in this country I think are indeed ill-advised, and I would urge this House to reject that.

I just want to go over a couple of things that have been mentioned by previous speakers, one of whom said we are now experiencing the largest deficit in the history of the country. Of course, he is speaking in nominal terms, not in real terms. In fact, the appropriate measurement of a deficit is against the national income; what percent of our national income is the deficit. And the deficit we are running now is not even close to the largest deficit in history measured in those terms.

□ 1445

He also said the economy is in the ditch, or something like that. No, the economy was in the ditch in 2000, but we have succeeded in dragging the economy out of the ditch thanks to the three tax cuts that another gentleman mentioned earlier. We now have a very vibrant, growing economy. We now see jobs being created at a remarkable clip for the last 2 months, so I would disagree with the gentleman's characterization of the economy being in the ditch. In fact, it is very much alive, and we hope it will continue that way.

The subject of American companies moving offshore is indeed a delicate one and one that we would like to address. In fact, we do address that unfortunate phenomenon in a bill that passed the Committee on Ways and Means back in 2002 and a different version was just passed yesterday by the Senate, and we will have another opportunity to address it here in the House. Since we introduced that bill

and passed it through the Committee on Ways and Means in 2002, there has not been a single company that has gone offshore. So the remedy that we prescribed for this deplorable action by some American companies we believe to be the correct remedy, the good tax policy remedy, and it is already working even though we have not even passed it. We just passed it through the Committee on Ways and Means. I would urge this House to reject the ill-advised course of action in the substitute and instead look forward to voting on a much more progressive treatment of that problem which will not encourage foreign takeover of American companies.

Mr. Speaker, while again I commend the minority on supporting the major provision of the underlying bill, I am afraid we must ask for a rejection of their substitute.

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

The SPEAKER pro tempore (Mr. QUINN). All time for debate has expired. Pursuant to House Resolution 638, the previous question is ordered on the bill and on the amendment in the nature of a substitute offered by the gentleman from California (Mr. STARK).

The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. STARK).

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

## RECORDED VOTE

Mr. STARK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 230, not voting 6, as follows:

[Roll No. 161]

## AYES—197

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

Markey	Pascarell	Snyder
Marshall	Pastor	Solis
Matsui	Payne	Spratt
McCarthy (MO)	Pelosi	Stark
McCarthy (NY)	Pomeroy	Stenholm
McCollum	Price (NC)	Strickland
McDermott	Rahall	Stupak
McGovern	Rangel	Tanner
McIntyre	Rodriguez	Tauscher
McNulty	Ross	Taylor (MS)
Meehan	Rothman	Thompson (CA)
Meek (FL)	Roybal-Allard	Thompson (MS)
Meeks (NY)	Ruppersberger	Tierney
Menendez	Rush	Towns
Michaud	Ryan (OH)	Turner (TX)
Millender-	Sabo	Udall (CO)
McDonald	Sánchez, Linda	Udall (NM)
Miller (NC)	T.	Van Hollen
Miller, George	Sanchez, Loretta	Velázquez
Moore	Sanders	Visclosky
Moran (VA)	Sandlin	Waters
Nadler	Schakowsky	Watson
Napolitano	Schiff	Watt
Neal (MA)	Scott (GA)	Waxman
Oberstar	Scott (VA)	Weiner
Obey	Serrano	Wexler
Oliver	Sherman	Woolsey
Ortiz	Skeltan	Wu
Owens	Slaughter	Wynn
Pallone	Smith (WA)	

## NOES—230

Aderholt	Ferguson	Matheson
Akin	Flake	McCotter
Bachus	Foley	McCrery
Baker	Forbes	McHugh
Ballenger	Fossella	McInnis
Barrett (SC)	Franks (AZ)	McKeon
Bartlett (MD)	Frelinghuysen	Mica
Barton (TX)	Gallegly	Miller (FL)
Bass	Garrett (NJ)	Miller (MI)
Beauprez	Gerlach	Miller, Gary
Bereuter	Gibbons	Mollohan
Biggert	Gilchrest	Moran (KS)
Billrakis	Gillmor	Murphy
Bishop (UT)	Gingrey	Murtha
Blackburn	Goode	Musgrave
Blunt	Goodlatte	Myrick
Boehlert	Goss	Nethercutt
Boehner	Granger	Neugebauer
Bonilla	Graves	Ney
Bonner	Green (WI)	Northup
Bono	Greenwood	Norwood
Boozman	Gutknecht	Nunes
Bradley (NH)	Hall	Nussle
Brady (TX)	Harris	Osborne
Brown (SC)	Hart	Ose
Brown-Waite,	Hastings (WA)	Otter
Ginny	Hayes	Oxley
Burgess	Hayworth	Paul
Burns	Hefley	Pearce
Burr	Hensarling	Pence
Burton (IN)	Herger	Peterson (MN)
Buyer	Hobson	Peterson (PA)
Calvert	Hoekstra	Petri
Champ	Hostettler	Pickering
Cannon	Houghton	Pitts
Cantor	Hulshof	Platts
Capito	Hunter	Pombo
Carson (OK)	Hyde	Porter
Carter	Isakson	Portman
Castle	Issa	Pryce (OH)
Chabot	Istook	Putnam
Chocola	Jenkins	Quinn
Coble	Johnson (CT)	Radanovich
Cole	Johnson (IL)	Ramstad
Collins	Johnson, Sam	Rehberg
Cooper	Jones (NC)	Renzi
Cox	Kanjorski	Reynolds
Crane	Keller	Rogers (AL)
Crenshaw	Kelly	Rogers (KY)
Cubin	Kennedy (MN)	Rogers (MI)
Culberson	King (IA)	Rohrabacher
Cunningham	King (NY)	Ros-Lehtinen
Davis, Jo Ann	Kingston	Royce
Davis, Tom	Kirk	Ryan (WI)
Deal (GA)	Kline	Ryun (KS)
DeLay	Knollenberg	Saxton
Diaz-Balart, L.	LaHood	Schrock
Diaz-Balart, M.	Latham	Sensenbrenner
Doolittle	LaTourette	Sessions
Dreier	Leach	Shadegg
Duncan	Lewis (CA)	Shaw
Dunn	Lewis (KY)	Shays
Ehlers	Linder	Sherwood
Emerson	LoBiondo	Shimkus
English	Lucas (KY)	Shuster
Everett	Lucas (OK)	Simpson
Feeney	Manzullo	Smith (MI)

Smith (NJ)	Thornberry	Weldon (FL)
Smith (TX)	Tiahrt	Weldon (PA)
Souder	Tiberi	Weller
Stearns	Toomey	Whitfield
Sullivan	Turner (OH)	Wicker
Sweeney	Upton	Wilson (NM)
Tancred	Vitter	Wilson (SC)
Taylor (NC)	Walden (OR)	Wolf
Terry	Walsh	Young (AK)
Thomas	Wamp	Young (FL)

## NOT VOTING—6

DeMint	Regula	Simmons
Kolbe	Reyes	Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
The SPEAKER pro tempore (Mr. QUINN) (during the vote). Members are advised there are 2 minutes remaining.

□ 1515

Messrs. WELLER, CARSON of Oklahoma, FEENEY, KINGSTON, and LUCAS of Kentucky changed their vote from “aye” to “no.”

Messrs. TANNER, PASTOR, and LARSON of Connecticut changed their vote from “no” to “aye.”

So the amendment in the nature of substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. STARK

Mr. STARK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. QUINN). Is the gentleman opposed to the bill?

Mr. STARK. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Stark moves to recommit the bill H.R. 4279 to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendment:

At the end of the bill, add the following new section:

## SEC. 2. SOCIAL SECURITY AND MEDICARE TRUST FUNDS HELD HARMLESS.

Nothing in this Act shall be construed as affecting the amount of transfers to any trust fund established by title II or XVIII of the Social Security Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. STARK) is recognized for 5 minutes in support of his motion to recommit.

Mr. STARK. Mr. Speaker, during the past several hours we have had a good debate on this bill, and I think we have agreed to some of the basic principles that the flexible savings accounts should allow a reduction of the use-it-or-lose-it rule. We had attempted to offer a compromise to get our Republican colleagues to just pay for half of the bill, which was turned down. And the bill has, indeed, many supporters.

But what we have seen during the course of this current administration is indirectly a complete raid on the Social Security and Medicare Trust

Funds. Basically, the Republicans have spent all of the surplus in Social Security and Medicare, and that, in my opinion, is indefensible. Whether we agree about flexible savings accounts or medical savings accounts is not the issue. This bill directly, specifically, transfers out of the trust funds \$3.4 billion. The Republicans are raiding the Social Security and Medicare Trust Funds.

Now, that may not sound like a lot to my colleagues across the aisle, but to the people who depend on Social Security and Medicare, the idea that they are stealing money out of the Medicare and Social Security Trust Funds blatantly, I think they will find offensive.

This reduction in receipts should not be permitted to occur. It will not harm this bill. The bill will go forward exactly as the distinguished gentleman from Louisiana has outlined it and has prevailed. The only difference is our motion to recommit asks us all to stand up and take the pledge to protect Social Security and Medicare and its trust funds for all of those who depend on their benefits in this country.

This bill takes care of well-employed, well-insured individuals. This does not help any uninsured people at all. It gives an additional benefit to people with first-class medical insurance. Why then should we spoil an otherwise decent bill by taking the first step to destroy Medicare and Social Security for people who are unable to get health insurance? That is wrong.

We have all committed to protect Social Security and Medicare. You cannot oppose this motion to recommit and say you are protecting it. You are stealing almost \$3.5 billion over the next 10 years out of these trust funds.

To support our motion to recommit would merely say find it someplace else; take it out of general revenues, take it out of trade, take it out of anything, but do not take it out of the hard-earned benefits that our senior citizens are entitled to. This could be the first step toward destroying the financial viability of Medicare and Social Security.

If you vote for our motion to recommit, you are standing up and suggesting that you will protect the trust funds that underlie Social Security and Medicare. If you vote against it, you are saying, "We don't care. Take the seniors' money. What the heck. We can spend it. We have spent everybody else's money. We have spent our grandkids' money."

I ask you, out of compassion, those of us who are seniors might not be able to get a job anyplace else if I am not re-elected. My Social Security, please do not steal it. Do not make my little children go out and get an extra paper route to take care of me in my dotage. We need this. Our parents need it. We must protect our children.

So, to repeat, the bill will go through exactly as the Republicans have crafted it; but if you vote for our motion to recommit, you get the added benefit of

saying to every senior in your district, I stood up and protected your Social Security and Medicare benefits by protecting the trust funds to which this money would go.

Mr. Speaker, I urge support for the motion to recommit.

Mr. THOMAS. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from California is recognized for 5 minutes.

Mr. THOMAS. Mr. Speaker, I hope you all enjoyed that ride through very dark woods. Now let me explain what is really going on.

Return with me to 1945. We were in the middle of a war and a decision was made which affects us profoundly today. There was a choice of increasing wages or there was an idea that we can snooker workers not to ask for more wages if we create a procedure in which employers offer fringe benefits for which they will get a tax break.

Today, a dollar in wages competes against a dollar in fringe benefits. A dollar in wages is taxed 100 percent. A dollar in fringe benefits does not affect the worker or the employer. We created a system that puts a premium on going for fringe benefits over wages.

The argument the gentleman from California just made is based on that concept. He has a letter from Joint Tax that says if you create this fringe benefit, flexible spending accounts, in which up to \$500 of the employee's tax deferred structure is allowed to roll over in the employee-controlled structure as an incentive to keep down the fringe benefit costs, there is a possibility that these will be successful.

What happens if they are successful? The dollar in wages is not paid, the dollar in fringe benefits is paid, and the payroll tax, which otherwise would have gone into the Social Security Trust Fund from the wages foregone, is what he is talking about; not enough to modify the trust fund one iota over the year in terms of true impact on the Social Security Trust Fund.

It happens with every decision we make in here in choosing either wages or fringe benefits. This is worse than a red herring. What it does is commit you to say that any change that would save dollars in the larger picture, for example incorporating individuals' own decision-making in health care where they actually have an investment, rather than having \$5,000 worth of fringe benefits in which they are taking care of themselves, do not get any benefit out of it, and at the end of the year they go get eyeglass frames because they are trying to get money back out of the fringe benefits; the system we have constructed today, that if in fact this is successful and you save total money because somebody decides they want to make a prudent decision and a couple of hundred dollars roll over into the flexible savings account, Joint Tax has said that couple of hundred dollars that is in the flexible spending account may have been paid

out in wages, which means you then lose the payroll taxes in terms of the difference between the two.

The overall cost to the economy, the society, and the taxpayers is less. It is a minor accounting procedure which you can not even see. And that is the black wood he took you through to buy the concept that anytime you want to make an improvement in the overall structure of society, taxes and Social Security, you have taken the pledge not to have anything happen.

Do not take this pledge. Understand what they are trying to do to you. Reject this gimmick and simply say, look at the larger overall society benefit, and do not put on the green eyeshade and do not let them tell you that somehow this is going to impact the Social Security Trust Fund. In the long run, people helping make their own decisions saves money, it does not cost money.

Vote no on the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

#### RECORDED VOTE

Mr. STARK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clauses 8 and 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes, if ordered, on passage of H.R. 4279 and adoption of H. Con. Res. 352.

The vote was taken by electronic device, and there were—ayes 202, noes 224, not voting 7, as follows:

[Roll No. 162]

#### AYES—202

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

Lee  
Levin  
Lewis (GA)  
Lipinski  
Lofgren  
Lowey  
Lucas (KY)  
Lynch  
Majette  
Maloney  
Markey  
Marshall  
Matheson  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McIntyre  
McNulty  
Meehan  
Meek (FL)  
Meeks (NY)  
Menendez  
Michaud  
Millender-  
McDonald  
Miller (NC)  
Miller, George  
Mollohan  
Moore  
Moran (VA)  
Murtha

Nadler  
Napolitano  
Neal (MA)  
Oberstar  
Obey  
Oliver  
Ortiz  
Pallone  
Pascarell  
Pastor  
Payne  
Pelosi  
Peterson (MN)  
Pomeroy  
Price (NC)  
Rahall  
Rangel  
Rodriguez  
Ross  
Rothman  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Sabo  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sanders  
Sandlin  
Schakowsky  
Schiff  
Scott (VA)  
Serrano

Sherman  
Skelton  
Slaughter  
Smith (WA)  
Snyder  
Solis  
Spratt  
Stark  
Stenholm  
Strickland  
Stupak  
Tanner  
Tauscher  
Taylor (MS)  
Price (NC)  
Thompson (CA)  
Thompson (MS)  
Tierney  
Towns  
Turner (TX)  
Udall (CO)  
Udall (NM)  
Van Hollen  
Velázquez  
Visclosky  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Wexler  
Wu  
Wynn

Sherwood  
Shimkus  
Shuster  
Simmons  
Simpson  
Smith (MI)  
Smith (NJ)  
Smith (TX)  
Souder  
Stearns  
Sullivan  
Sweeney

Aderholt  
DeMint  
Owens

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1547

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

□ 1545

The SPEAKER pro tempore (Mr. LATHAM). The question is on passage of the bill.

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

Mr. MCCRERY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

The vote was taken by electronic device, and there were—yeas 273, nays 152, not voting 8, as follows:

[Roll No. 163]

YEAS—273

## NOES—224

Akin  
Bachus  
Baker  
Ballenger  
Barrett (SC)  
Bartlett (MD)  
Barton (TX)  
Bass  
Beauprez  
Bereuter  
Biggart  
Bilirakis  
Bishop (UT)  
Blackburn  
Blunt  
Boehlert  
Boehner  
Bonilla  
Bonner  
Bono  
Boozman  
Bradley (NH)  
Brady (TX)  
Brown (SC)  
Brown-Waite,  
Ginny  
Burgess  
Burns  
Burr  
Burton (IN)  
Buyer  
Calvert  
Cavert  
Camp  
Cannon  
Cantor  
Capito  
Carter  
Castle  
Chabot  
Chocola  
Coble  
Cole  
Collins  
Cox  
Crane  
Crenshaw  
Cubin  
Culberson  
Cunningham  
Davis, Jo Ann  
Davis, Tom  
Deal (GA)  
DeLay  
Diaz-Balart, L.  
Diaz-Balart, M.  
Doolittle  
Dreier  
Duncan  
Dunn  
Ehlers  
Emerson  
English  
Everett

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

Akin  
Alexander  
Bachus  
Baker  
Ballenger  
Bartlett (SC)  
Bartlett (MD)  
Barton (TX)  
Bass  
Beauprez  
Bereuter  
Berkley  
Biggart  
Bilirakis  
Bishop (GA)  
Bishop (UT)  
Blackburn  
Blunt  
Boehlert  
Boehner  
Bonilla  
Bonner  
Bono  
Boozman  
Boucher  
Boyd  
Bradley (NH)  
Bradley (TX)  
Brown (SC)  
Brown-Waite,  
Ginny  
Burgess  
Burns  
Burr  
Burton (IN)  
Buyer  
Calvert  
Camp  
Cannon  
Cantor  
Capito  
Cardoza  
Carson (OK)  
Carter

Tancredo  
Taylor (NC)  
Terry  
Thomas  
Thornberry  
Tiahrt  
Tiberi  
Toomey  
Turner (OH)  
Upton  
Vitter  
Walden (OR)

## NOT VOTING—7

Reyes  
Scott (GA)  
Tauzin

Walsh  
Wamp  
Weldon (FL)  
Weldon (PA)  
Weller  
Whitfield  
Wicker  
Wilson (NM)  
Wilson (SC)  
Wolf  
Young (AK)  
Young (FL)

Jenkins  
John  
Johnson (CT)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones (NC)  
Keller  
Kelly  
Kennedy (MN)  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kline  
Knollenberg  
Kolbe  
LaHood  
Latham  
LaTourette  
Leach  
Lewis (CA)  
Lewis (KY)  
Linder  
Lipinski  
LoBiondo  
Lowey  
Lucas (KY)  
Lucas (OK)  
Majette  
Maloney  
Manzullo  
Matheson  
McCarthy (NY)  
McCotter  
McCrery  
McHugh  
McInnis  
McKeon  
Meeks (NY)  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Mollohan  
Moore  
Moran (KS)  
Moran (VA)

## NAYS—152

Abercrombie  
Ackerman  
Allen  
Andrews  
Baca  
Baird  
Baldwin  
Ballance  
Becerra  
Bell  
Berman  
Berry  
Bishop (NY)  
Blumenauer  
Boswell  
Brady (PA)  
Brown (OH)  
Brown, Corrine  
Capps  
Capuano  
Cardin  
Carson (IN)  
Clay  
Clyburn  
Conyers  
Crowley  
Cummings  
Davis (CA)  
Davis (FL)  
Davis (IL)  
DeGette  
Delahunt  
DeLauro  
Dicks  
Dingell  
Doggett  
Doyle  
Emanuel  
Engel  
Eshoo  
Etheridge  
Evans  
Farr  
Fattah  
Filner  
Ford  
Frank (MA)  
Gephardt  
Green (TX)

Shadegg  
Shaw  
Shays  
Sherwood  
Shimkus  
Shuster  
Simmons  
Simpson  
Slaughter  
Smith (MI)  
Smith (NJ)  
Smith (TX)  
Snyder  
Souder  
Stearns  
Strickland  
Sullivan  
Sweeney  
Tancredo  
Taylor (NC)  
Terry  
Thomas  
Thornberry  
Tiahrt  
Tiberi  
Toomey  
Turner (OH)  
Udall (CO)  
Upton  
Visclosky  
Vitter  
Walden (OR)  
Walsh  
Wamp  
Weldon (FL)  
Weldon (PA)  
Weller  
Whitfield  
Wicker  
Wilson (NM)  
Wilson (SC)  
Wolf  
Wu  
Wynn  
Young (AK)  
Young (FL)

Murtha  
Nadler  
Napolitano  
Neal (MA)  
Oberstar  
Oliver  
Ortiz  
Owens  
Pallone  
Pascarell  
Pastor  
Payne  
Pelosi  
Price (NC)  
Rahall  
Rangel  
Rodriguez  
Ross  
Rothman  
Roybal-Allard  
Rush  
Ryan (OH)  
Sabo  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sanders  
Sandlin  
Schakowsky  
Schiff  
Scott (VA)  
Serrano  
Sherman  
Skelton  
Smith (WA)  
Solis  
Spratt  
Stark  
Stenholm  
Stupak  
Tanner  
Tauscher  
Taylor (MS)  
Thompson (CA)  
Thompson (MS)  
Tierney  
Towns  
Turner (TX)  
Udall (NM)

Van Hollen  
Velázquez  
Waters

Watson  
Watt  
Waxman

Weiner  
Woolsey

## NOT VOTING—8

Aderholt  
DeMint  
Obey

Radanovich  
Reyes  
Scott (GA)

Tauzin  
Wexler

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1555

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# RECOGNIZING CONTRIBUTIONS OF PEOPLE OF INDIAN ORIGIN TO UNITED STATES AND BENEFITS OF WORKING TOGETHER WITH INDIA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 352.

The clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska (Mr. BE-REUTER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 352, 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 415, nays 2, answered “present” 2, not voting 14, as follows:

[Roll No. 164]

YEAS—415

Abercrombie  
Ackerman  
Aderholt  
Akin  
Alexander  
Allen  
Andrews  
Baca  
Bachus  
Baird  
Baker  
Baldwin  
Ballance  
Ballenger  
Barrett (SC)  
Bartlett (MD)  
Barton (TX)  
Bass  
Beauprez  
Becerra  
Bell  
Bereuter  
Berkley  
Berman  
Berry  
Biggart  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt  
Boehlert  
Boehner  
Bonilla  
Bonner  
Bono  
Boozman  
Boswell  
Boucher

Boyd  
Bradley (NH)  
Brady (PA)  
Brady (TX)  
Brown (OH)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Burgess  
Burns  
Burr  
Burton (IN)  
Calvert  
Camp  
Cannon  
Cantor  
Capito  
Capps  
Capuano  
Cardin  
Cardoza  
Carson (IN)  
Carson (OK)  
Carter  
Case  
Castle  
Chabot  
Chandler  
Chocola  
Clay  
Clyburn  
Coble  
Cole  
Collins  
Conyers  
Cooper  
Costello  
Cox  
Cramer  
Crane

Crenshaw  
Crowley  
Culberson  
Cummings  
Cunningham  
Davis (AL)  
Davis (CA)  
Davis (FL)  
Davis (IL)  
Davis (TN)  
Davis, Jo Ann  
Davis, Tom  
Deal (GA)  
DeGette  
Delahunt  
DeLauro  
DeLay  
Deutsch  
Dicks  
Dingell  
Doggett  
Dooley (CA)  
Doolittle  
Doyle  
Dreier  
Dunn  
Edwards  
Ehlers  
Emanuel  
Emerson  
Engel  
English  
Eshoo  
Etheridge  
Evans  
Everett  
Farr  
Fattah  
Ferguson

Filner  
Flake  
Foley  
Forbes  
Ford  
Fossella  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Frost  
Gallegly  
Garrett (NJ)  
Gephardt  
Gerlach  
Gillmor  
Gingrey  
Gonzalez  
Goode  
Goodlatte  
Gordon  
Goss  
Granger  
Graves  
Green (TX)  
Green (WI)  
Greenwood  
Grijalva  
Gutierrez  
Gutknecht  
Hall  
Harman  
Harris  
Hart  
Hastings (FL)  
Hastings (WA)  
Hayes  
Hayworth  
Hefley  
Hensarling  
Herger  
Hill  
Hinchey  
Hinojosa  
Hobson  
Hoeffel  
Hoekstra  
Holden  
Holt  
Honda  
Hooley (OR)  
Hostettler  
Houghton  
Hoyer  
Hulshof  
Hunter  
Hyde  
Inslie  
Isakson  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jefferson  
Jenkins  
John  
Johnson (CT)  
Johnson (IL)  
Johnson, E. B.  
Jones (NC)  
Jones (OH)  
Kanjorski  
Kaptur  
Keller  
Kelly  
Kennedy (MN)  
Kildee  
Kilpatrick  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kleczka  
Kline  
Knollenberg  
Kolbe  
Kucinich  
LaHood  
Lampson  
Langevin  
Lantos  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Leach

Lee  
Levin  
Lewis (CA)  
Lewis (GA)  
Lewis (KY)  
Linder  
Lipinski  
LoBiondo  
Lofgren  
Lowey  
Lucas (KY)  
Lucas (OK)  
Lynch  
Majette  
Maloney  
Manzullo  
Markey  
Marshall  
Matheson  
Matsui  
Saxton  
Schakowsky  
Schiff  
Schrock  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Shadegg  
Shaw  
Shays  
Sherman  
Sherwood  
Shimkus  
Shuster  
Simmons  
Simpson  
Skelton  
Slaughter  
Smith (MI)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Solis  
Souder  
Spratt  
Stark  
Stearns  
Stenholm  
Strickland  
Stupak  
Sullivan  
Sweeney  
Tancredo  
Tanner  
Tauscher  
Taylor (MS)  
Taylor (NC)  
Terry  
Thomas  
Thompson (CA)  
Thompson (MS)  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Toomey  
Towns  
Turner (OH)  
Turner (TX)  
Udall (CO)  
Udall (NM)  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Vitter  
Walsh  
Walden (OR)  
Walsh  
Wamp  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Weldon (FL)  
Weldon (PA)  
Wexler  
Whitfield  
Wicker  
Wilson (NM)  
Wilson (SC)  
Wolf  
Woolsey  
Wu  
Wynn  
Young (AK)  
Young (FL)

NAYS—2

Johnson, Sam Paul

ANSWERED “PRESENT”—2

DeFazio Sanders

NOT VOTING—14

Buyer  
Cubin  
DeMint  
Duncan  
Feeney

Istook  
Kennedy (RI)  
Miller, George  
Rangel  
Reyes

Roybal-Allard  
Scott (GA)  
Tauzin  
Weller

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1606

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. MCCRERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject matter of H.R. 4279.

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

There was no objection.

# HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 638, I call up the bill (H.R. 4280) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 4280 is as follows:

H.R. 4280

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

## SECTION 1. SHORT TITLE.

This Act may be cited as the “Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2004”.

## SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—

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

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting