

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 306, nays 120, not voting 7, as follows:

[Roll No. 533]

YEAS—306

Aderholt	Fitzpatrick (PA)	McHenry
Akin	Flake	McHugh
Alexander	Foley	McIntyre
Baca	Forbes	McKeon
Bachus	Ford	McMorris
Baird	Fortenberry	McNulty
Baker	Fossella	Meek (FL)
Barrett (SC)	Fox	Meeks (NY)
Barrow	Franks (AZ)	Melancon
Bartlett (MD)	Frelinghuysen	Menendez
Barton (TX)	Gallely	Mica
Bass	Garrett (NJ)	Michaud
Bean	Gerlach	Millender-
Beauprez	Gibbons	McDonald
Berkley	Gilchrest	Miller (FL)
Berry	Gillmor	Miller (MI)
Biggert	Gingrey	Miller, Gary
Bilirakis	Gohmert	Moore (KS)
Bishop (GA)	Goode	Moran (KS)
Bishop (UT)	Goodlatte	Moran (VA)
Blackburn	Gordon	Murphy
Blunt	Granger	Musgrave
Boehlert	Graves	Neugebauer
Boehner	Green (WI)	Ney
Bonilla	Green, Gene	Northup
Bonner	Gutknecht	Norwood
Bono	Hall	Nunes
Boozman	Harman	Nussle
Boren	Harris	Obey
Boucher	Hart	Ortiz
Boustany	Hastings (WA)	Osborne
Boyd	Hayes	Otter
Bradley (NH)	Hayworth	Oxley
Brady (TX)	Hefley	Pearce
Brown (SC)	Hensarling	Pence
Brown, Corrine	Herger	Peterson (MN)
Brown-Waite,	Herseth	Peterson (PA)
Ginny	Higgins	Petri
Burgess	Hinojosa	Pickering
Burton (IN)	Hobson	Pitts
Buyer	Hoekstra	Platts
Calvert	Holden	Poe
Camp	Hoolley	Pombo
Cannon	Hostettler	Pomeroy
Cantor	Hulshof	Porter
Capito	Hunter	Price (GA)
Cardoza	Hyde	Putnam
Carter	Inglis (SC)	Radanovich
Castle	Issa	Ramstad
Chabot	Istook	Regula
Chocola	Jenkins	Rehberg
Clay	Jindal	Reichert
Clyburn	Johnson (CT)	Renzi
Coble	Johnson (IL)	Reyes
Cole (OK)	Johnson, Sam	Reynolds
Conaway	Jones (NC)	Rogers (AL)
Cooper	Kelly	Rogers (KY)
Costa	Kennedy (MN)	Rogers (MI)
Cramer	Kind	Rohrabacher
Crenshaw	King (IA)	Ros-Lehtinen
Cubin	King (NY)	Ross
Cuellar	Kingston	Royce
Culberson	Kirk	Ruppersberger
Cunningham	Kline	Ryan (OH)
Davis (AL)	Knollenberg	Ryan (WI)
Davis (IL)	Kolbe	Ryun (KS)
Davis (KY)	Kuhl (NY)	Salazar
Davis (TN)	LaHood	Sanchez, Loretta
Davis, Jo Ann	Langevin	Saxton
Davis, Tom	Larsen (WA)	Schmidt
Deal (GA)	Larson (CT)	Schwarz (MI)
DeFazio	Latham	Scott (GA)
DeLay	LaTourette	Sensenbrenner
Dent	Leach	Sessions
Diaz-Balart, L.	Lewis (CA)	Shadegg
Diaz-Balart, M.	Lewis (KY)	Shaw
Dicks	Linder	Shays
Dingell	Lipinski	Sherwood
Doolittle	LoBiondo	Shimkus
Doyle	Lucas	Shuster
Drake	Lungren, Daniel	Simmons
Dreier	E.	Simpson
Duncan	Lynch	Skelton
Edwards	Mack	Slaughter
Ehlers	Manzullo	Smith (NJ)
Emanuel	Marchant	Smith (TX)
Emerson	Marshall	Smith (WA)
English (PA)	Matheson	Sodrel
Everett	McCaul (TX)	Souder
Feeney	McCotter	Spratt
Ferguson	McCrery	Stearns

Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt

Tiberi
Towns
Turner
Udall (CO)
Upton
Velázquez
Walden (OR)
Walsh
Wamp
Wasserman
Schultz
Weldon (FL)
Weldon (PA)

Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Texas (Mr. BONILLA).

The motion was agreed to.

MOTION TO INSTRUCT OFFERED BY MS. DELAURO

Ms. DELAURO. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Ms. DELAURO of Connecticut moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 2744, be instructed to:

1. Recede to the Senate on Section 785 of the Senate amendment, and

2. Agree to a provision that restricts, within the scope of conference, the availability of funds to reimburse administrative costs under the Food Stamp Act of 1977 to a State agency based on the percentage of the costs (other than costs for issuance of benefits or nutrition education) obtained under contract.

□ 1315

The SPEAKER pro tempore (Mr. TERRY). Pursuant to clause 7 of rule XXII, the gentlewoman from Connecticut (Ms. DELAURO) and the gentleman from Texas (Mr. BONILLA) each will control 30 minutes.

The Chair recognizes the gentlewoman from Connecticut (Ms. DELAURO).

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

Mr. Speaker, I rise to offer this motion to instruct. This motion will instruct House conferees for the fiscal year 2006 agricultural appropriations bill to insist that none of the funds made available by this or any other act be used to close or relocate a county or local Farm Service Agency office until the Secretary of Agriculture has determined the cost effectiveness of such closures.

It would also set a limit on the funds available for States to contract out work being carried out under the Food Stamp Act of 1977.

I want to first say that it has been a pleasure working with the gentleman from Texas (Mr. BONILLA) and his talented staff to put together the fiscal year 2006 agricultural appropriations bill, doing the best we could with very limited resources.

Under the circumstances, it is a bill that I was proud of, my first as ranking minority member of this subcommittee. I also want to thank the gentleman from Wisconsin (Mr. OBEY).

Mr. Speaker, I join with my colleagues to offer a motion that would in essence codify the decision announced yesterday by the U.S. Department of Agriculture to shelve its so-called FSA Tomorrow Plan, a plan that would have closed 713 of the Farm Service Agency's 2,351 offices across America, including two in my State of Connecticut. Had the plan gone into effect, more than a quarter of FSA's total field offices would have closed at a

NAYS—120

Abercrombie	Hastings (FL)	Oberstar
Ackerman	Hinchey	Olver
Allen	Holt	Owens
Andrews	Honda	Pallone
Baldwin	Hoyer	Pascarell
Becerra	Inslee	Pastor
Berman	Israel	Paul
Bishop (NY)	Jackson (IL)	Payne
Blumenauer	Jackson-Lee	Pelosi
Brady (PA)	(TX)	Price (NC)
Brown (OH)	Jefferson	Rahall
Butterfield	Johnson, E. B.	Rangel
Capps	Jones (OH)	Rothman
Capuano	Kanjorski	Rush
Cardin	Kaptur	Sabo
Carmanah	Kennedy (RI)	Sánchez, Linda
Carson	Kildee	T.
Case	Kilpatrick (MI)	Sanders
Chandler	Kucinich	Schakowsky
Cleaver	Lantos	Schiff
Conyers	Lee	Schwartz (PA)
Costello	Levin	Scott (VA)
Crowley	Lofgren, Zoe	Serrano
Cummings	Lowe	Sherman
Davis (CA)	Maloney	Snyder
DeGette	Markey	Solis
Delahunt	Matsui	Stark
DeLauro	McCarthy	Strickland
Doggett	McCollum (MN)	Thompson (MS)
Engel	McDermott	Tierney
Eshoo	McGovern	Udall (NM)
Etheridge	McKinney	Van Hollen
Evans	Meehan	Visclosky
Farr	Miller (NC)	Waters
Fattah	Miller, George	Watson
Filner	Mollohan	Watt
Frank (MA)	Moore (WI)	Waxman
Gonzalez	Murtha	Weiner
Green, Al	Nadler	Wexler
Grijalva	Napolitano	Woolsey
Gutierrez	Neal (MA)	

NOT VOTING—7

Boswell	Lewis (GA)	Roybal-Allard
Davis (FL)	Mryrick	
Keller	Pryce (OH)	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1314

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO GO TO CONFERENCE ON H.R. 2744, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. BONILLA. Mr. Speaker, pursuant to clause 1 of rule XXII, and by direction of the Committee on Appropriations, I move to take from the Speaker's table the bill (H.R. 2744) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes, with a Senate

time when rural America is battling drought, the aftermath of Hurricane Katrina, and skyrocketing energy costs, all leading to what has been a steady deterioration of its economic base.

For those unfamiliar with FSA, the Farm Service Agency administers 45 different programs designed to meet the demands of our increasingly diverse agricultural landscape. It provides critical services to America's farmer, services such as assistance to specialty crop producers, disbursement of payments for programs such as the tobacco and peanut buyout, and the handling of disaster assistance payments.

But perhaps more importantly, FSA offices provide that critical link between the farmer and the Federal Government. In that respect, FSA still retains its roots in FDR's New Deal which established that the Federal Government had an appropriate role to play in ensuring a healthy rural economy, a critical component to managing the national economy.

Over the years, the agency that became the FSA managed programs such as the standard Rural Rehabilitation Loan Program, which provided credit, farm, home management planning and technical supervision to farms. It helped farmers and their debtors arbitrate agreements and head off foreclosure. Indeed, FSA's focus has changed as the need has.

After Pearl Harbor the War Food Administration was organized to meet the increased needs of a country at war. And in 1994 USDA reorganized what is now the Farm Service Agency, which included the Agricultural Stabilization and Conservation Service, the Risk Management Agency, and the Farm Credit portion of the Farmers Home Administration.

In recent years, FSA has become part of USDA's one-stop concept, a clearinghouse for the delivery for farm programs, where farmers can go for programs that help them stabilize farm income, conserve land and water resources, provide credit to new or disadvantaged farmers and ranchers, and help farm operations recover from the effects of disaster.

In recent months, however, USDA was planning what was called FSA Tomorrow, which ostensibly was designed to provide better staff, better equipped and trained offices to improve flexibility and efficiency and to modernize technology. These were all laudable goals, despite real challenges posed by that digital divide and lack of Internet access in rural America.

But central to FSA Tomorrow was its proposal to close over 700 FSA offices. The effect would have been clear and immediate, making it more difficult for producers to participate in USDA programs. Closing these offices would have fragmented the one-stop concept, forcing many farmers to drive hundreds of miles to the nearest FSA office where some of the closings are occurring in areas with an already high con-

centration of underserved minority and small-operation farms.

This was all happening at a time when FSA services were as critical as ever in modern memory. Even before Katrina there was extensive work going on for hurricane and flood relief for the Southeast and mid-South, as well as work around drought problem in the Midwest; and we know the havoc Katrina wrecked on the gulf coast.

What was most worrisome about the FSA Tomorrow Plan was its formulation by USDA without any cost analysis to show why it was necessary, nor was there any input from Congress. Thankfully, in the wake of Senate action, USDA announced yesterday that it would set aside FSA Tomorrow and its timetable for implementation.

As such, we offer this motion today to codify that decision, protecting Congress' jurisdiction in the formulation of policy so vital to American farmers' interest. We all support improving FSA efficiency, streamlining the program so that our farmers can get the best services possible. But I think yesterday's decision confirmed that ensuring FSA field offices remain open and within reach of our farmers is a critical piece of making that happen.

Mr. Speaker, the second component of this motion would instruct conferees to limit the availability of food stamp funds that can be contracted out by States. Specifically, such language would prohibit a State agency from using Federal funds if they privatize a certain percentage of their food stamp program operations.

What this is about is ensuring the integrity of the Food Stamp Program, which, Mr. Speaker, is one of the most effective, well-run Federal programs that we have. If you have any doubt about that, I point you to the program's remarkable response to Hurricane Katrina.

Today, in Louisiana nearly 300,000 households are already receiving food stamps. In Texas there are another 125,000 households receiving emergency food stamp assistance. Altogether, nearly a million citizens affected or displaced by Hurricane Katrina, children, seniors, are receiving emergency food stamp benefits, 25 million Americans in all, reminding us once again that good and decent societies take care of their most vulnerable.

But as we speak, at least one State is planning on delegating an unprecedented billion dollar privatization contract. Texas is hoping to delegate certification and enrollment of recipients for food stamps to a private firm, Accenture, LLP. Its plan is disturbing, to say the least, as its Health and Human Services Department would lay off at least 1,200 stamp workers, closing more than a third of State-run eligibility offices around the State, 99 in all. Texas is planning to replace staff at low hourly rates.

The responsibility for screening applicants, filling out web-based forms and driving clients to the remaining of-

fices for certification, that would fall to community organizations. Much like with farmers in the proposed FSA office closing, clients, including their children, seniors and many who do not speak English, would be forced to travel long distances for these services.

There are a host of problems with the Texas plan. For one, it appears illegal, conflicting with Federal statutes governing the Food Stamp Program, which requires States to seek a waiver from the USDA.

In a letter to the ranking member on the Senate side, the USDA said the following: We do not have enough information to ascertain whether or not Texas' proposal is in compliance with the act in regard to the certification of recipients. States are required to seek a waiver from the USDA, and Texas sought no such waiver. Indeed, USDA has raised questions directly to the Texas Health and Human Services Commission for over a year, asking it for information demonstrating this contract is in compliance with Federal law, and has received no real response.

Secondly, there are several worrisome conflicts of interest. The Houston Chronicle reports that the HHS Chief Information Officer involved in contract negotiation was once an employee of a firm that partnered with Accenture. Additionally, the former HHS Deputy Commissioner who helped develop the bidding procedures subsequently went to work for Accenture.

What makes this so unfortunate is that it is so unnecessary. The Food Stamp Program right now is operating with the lowest error rate it has ever had, the result of years of work by USDA and by State and local employees all over the country. Texas itself has a very well-operated program. Why take the risk that a well-run program will, even with the best intentions, be put at risk?

Let me just say, of all the companies with which the government can do business with, I have serious concerns about the company that has been awarded this particular food stamp contract. Accenture is a corporate expatriate, a company that has set up paper offices overseas to avoid paying American taxes, yet comes back to feed at the Federal trough by way of government contracts when it is convenient.

One need only to look at the Department of Homeland Security's \$10 billion US-VISIT Program which Accenture oversees to understand such concerns. That contract is over budget, behind schedule, and falling well short of its goals.

Mr. Speaker, this is not simply about an isolated issue in Texas. The taxpayers all over the country pay half of the costs of running the Food Stamp Program. We have an obligation to ensure that that program is run effectively and efficiently and in compliance with the law. Moreover, before other States go down the same path as Texas, we need to be sure we understand what the implications are first.

That is what this motion would accomplish. Protecting vital services and benefits offered through the Food Stamp Program is something all of us share, which is why we need to ensure that those charged with administering and carrying out these programs are by and large public employees. They are the ones with the expertise. They are the ones with the experience on the front lines. And, Mr. Speaker, they were the ones who made it possible for the victims of Hurricane Katrina to put food on the table, who showed us that even in the face of all those failings of leadership government can make a difference in people's lives.

Making sure that continues is what this motion accomplishes.

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

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

Mr. Speaker, I rise in opposition to the motion but first I would like to say, Mr. Speaker, that it is a pleasure to work with my ranking member from Connecticut, a person who comes to work every day wanting to see some serious work done and a colleague who has always been very direct about what she wants to accomplish even when we do have disagreements.

On this particular motion I do agree with a portion, in the principle of what the FSA portion says in this motion. The gentlewoman is correct the Department of Agriculture went about there the wrong way in terms of trying to select offices around the country without any input, without any input from the House or the Senate or, if they did choose to listen to input, completely ignored what we had to say.

When I had conversations with those in charge at USDA, I pointed out initially that if there are going to be cuts, we understand that cuts need to be made. Everybody understands that, but we wanted to make sure that if cuts were made and designated positions were listed that they had to have an equal number of positions here at USDA, at the big conglomerate that we have here in Washington.

□ 1330

Do not just cut the field staff that serves farmers and ranchers around the country; but, again, let us make it fair and let us talk about it. First and foremost, we wanted to talk about it openly and have input because we are the legislative body that has oversight on what the executive branch does.

So I do agree with what the gentlewoman has to say. However, the administration has already acknowledged and listened to these remarks that many of us have made in the House and Senate and has chosen to backtrack and withdraw the list of proposed cuts, offices to be closed that was put out just a few days ago.

On the other part of the motion, I would differ greatly with the gentlewoman from Connecticut on the food stamp outsourcing, because as the gen-

tlewoman understands, I support the food stamp program wholeheartedly and it has been historically supported wholeheartedly in a bipartisan way. We have never run short on the program, and everyone who needs to take part in this program has always had a meal and had the food products they needed in their homes regardless of where they live or their ethnic background or what part of the country they come from. But this language, in my view, would tie the hands of some States that are implementing the program and distributing the benefits effectively, including my home State of Texas. But this motion to instruct would also encompass Florida, Pennsylvania, New York, and California.

Now, in terms of outsourcing, it is my very strong belief that if a State is administering the program effectively and they have no outsourcing, that is wonderful. That is fine. But if another State decides, as we do in the State of Texas do it, and I believe the statistic now is about 14 percent of the program is now outsourced, and it works well, then we ought to be allowed to do that. So all I am saying is that the language in this motion to recommit would inappropriately indicate that Congress does not feel like the States ought to be able to administer this program the way they see fit in their community to effectively get the product to the people truly in need. So that is my reason for opposing this motion to instruct.

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

Ms. DELAURO. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, today I rise in support of the motion to instruct the conferees regarding the USDA spending bill offered by the gentlewoman from Connecticut (Ms. DELAURO). The gentlewoman from Connecticut has been a diligent advocate for the Nation's farmers during her first year as ranking member on the Subcommittee on Agriculture, Rural Development, Food and Drug of the Committee on Appropriations, and I am proud to have watched her work successfully on behalf of the agricultural interests of my home State of Missouri.

Mr. Speaker, this motion asks the conferees to recede to the Senate language that stops the United States Department of Agriculture from going forward with its plans to close the Farm Service Agency offices, an initiative they call FSA Tomorrow, during fiscal year 2006.

Now, while I join most of my colleagues from rural America in applauding the USDA for backing away from this proposal yesterday, Congress must make it crystal clear that the administration's plan is bad, bad for farmers, and that we will not fund FSA office-closings whatsoever. This is especially true since there has been nothing written in the law to prevent USDA from having a sudden change of heart and

within the next 12 months closing the offices.

Ms. DELAURO. Mr. Speaker, I yield 6 minutes to the gentleman from Wisconsin (Mr. OBEY).

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

Mr. Speaker, this motion is really meant to do two things: it is meant to rein in bureaucratic arrogance on the part of USDA, and it is meant to rein in bureaucratic arrogance on the part of the State government of Texas. With respect to USDA, this motion would prevent the arbitrary and secret closing of almost one-third of Farm Service Agencies around the country.

In the agriculture appropriation subcommittee hearing this year, the subcommittee chairman asked the USDA witnesses if their budget was based in any way on an assumption that there would be a closure of Agriculture Department offices. The agency responded in the negative.

And yet The Washington Post has now revealed in a September article that FSA had plans afoot to close 713 Farm Service Agencies around the country. When that was discovered, the Agriculture Department indicated, "Oh, this was just a draft. It was just a draft." But in fact USDA had pulled all 50 State FSA directors into Washington to give them instructions about how to go about selecting which offices would be closed.

So it seems to me that USDA was disingenuous in their response to the Congress of the United States and that any self-respecting Congress would pull that agency's chain until we get straight answers to straight questions.

The second issue that this motion deals with is the question of whether or not Texas ought to be able to go off on its own, in violation of Federal law, by privatizing the administration of the food stamp program.

In June of 2004, Texas asked USDA to approve their request to privatize the administration of that program. The USDA sent them numerous letters requesting information that would enable USDA to determine whether or not the plan that Texas was providing was rational or not and whether it was consistent with law or not; and Texas has, frankly, stiffed the agency.

If you take a look at the letters sent by the agencies, you will see for instance that in a letter from USDA to Senator HARKIN, USDA said: "We do not yet have enough information to ascertain whether or not Texas's proposal is in compliance with the act in regard to the certification of recipients." It also then went on to say: "We are concerned with the State's aggressive schedule for rolling out this project, especially with regard to contingency planning."

In another letter from USDA to the Texas Health and Human Services Commission, USDA stated: "FMS needs to have clear and coherent narrative explanations of the food stamp certification process that are grounded

in the contract and its supporting documents.” USDA then went on to tell Texas: “We must ensure that your new system is in full compliance with food stamp rules, regulations, and policy and that service to our program clients is not compromised.”

Nonetheless, despite that, the Texas State government has yet to respond and provide the kind of information that is needed by USDA if USDA is to consider approval of their plan.

The problem with the Texas plan is that while recipients are guaranteed under the law that they will have an opportunity to have their eligibility determined by a State employee, in fact, what Texas is trying to do is to circumvent Federal law and allow eligibility to be determined by a private party. The problem with that is that if you have a public servant who denies you a right, you are entitled under the law and you have a somewhat more direct redress than you do if you have a private citizen working for a private company who has no long-term commitment to the government and who can simply stiff the recipients and does not have to answer questions from the government.

The government is supposed to be active in protecting the rights of each and every individual citizen of this country. Texas is interposing itself to prevent that right from actually being delivered; and in the process, in my view, Texas is clearly in violation of the law because they have proceeded with a plan that has not yet been approved by USDA.

Again, any self-respecting Congress, in defense of what is existing law, would pass this motion so that Texas cannot unilaterally obviate State law.

Ms. DELAURO. Mr. Speaker, I yield 8½ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I applaud the gentlewoman for her very important motion to instruct. It is a motion to instruct that is designed to prevent an ideological experiment being conducted on some of the most vulnerable people in our society. It is about what has gone wrong in Texas, but it is much more than that because we are about to have a very bad precedent established that will spread across this country affecting the old, the poor, the hungry, the victims of Katrina, and the victims who are left behind.

As all the Nation saw in the disaster that was the Federal response to Katrina, a hurricane is not the only time that working poor people in this country get left behind. The Texas experiment on poor people suggests that the answer to food security that food stamps provide is to close one out of every four offices that people go to to assess their food stamp needs, to fire a significant number of public employees who have expertise in this area, and to suggest to old and poor and hungry people that what they need to do instead of turning to a public servant is to log on the Internet.

Yes, that is actually what the State of Texas is suggesting. And they offer to these poor people, not all of whom are literate in English or Spanish much less literate in the language of e-commerce, they offer them an alternative, which is the one that so many American families have faced, to dial in and be put on hold, much as the victims of Katrina were put on hold. You punch in a number and then you get referred to another number and you get to wait and wait and wait; and maybe eventually this company, Accenture, which chose to establish its base not in America but in Bermuda so it could dodge as much of its tax responsibility as it possibly could, that this company will substitute for a face-to-face evaluation.

I represent the poorest county in the United States, Starr County, Texas, the poorest statistical metropolitan area, McAllen-Mission; and a lot of people along the way through the Mesquite trees up to Austin, Texans, who depend on food stamps for enough nourishment to get their kids to school, or to be able to survive as a senior. These folks are going to be directly affected.

Currently, they are able to go in, and certainly along the border area if they feel more comfortable in Spanish, to talk face-to-face with someone who has expertise in this area, to talk with them and have that experienced public servant assess what their needs are and ensure that taxpayers are protected, and that there is not fraud, and ensure that their needs are fully satisfied.

Now those folks in Hebronville, San Diego, George West, and Lockhart are being told go to the Internet or go to some long-distance number because you will no longer be able to assess your needs on the local level. And in McAllen, Mission, and Austin, staff will be cut by 50 percent.

That is why, Mr. Speaker, I have been joined by 10 of my Texas colleagues in questioning this scheme and raising questions to the U.S. Department of Agriculture. And I will provide for the RECORD a report from the Center on Public Policy Priorities in Austin, an excellent report, under its director, Judge F. Scott McCown, and with the able participation of Celia C. Hagert, analyzing this, as well as an editorial that is on point in today's Houston Chronicle.

[From the Houston Chronicle, Oct. 19, 2005]

AN UNTESTED PLAN

Texas Health and Human Services officials continue to discuss with their federal counterparts at the Department of Agriculture an unprecedented billion dollar welfare privatization contract. It delegates certification and enrollment of recipients for programs including food stamps, Medicaid and the Children's Health Insurance Program known as CHIP to a private firm, Accenture LLP.

There are a number of troubling features in this deal that justify delaying its implementation while it is tested on a small scale around the state.

The pact allows Accenture to set up a handful of calling centers in Texas where op-

erators would help applicants navigate the federal and state aid bureaucracy. Meanwhile, Texas Health and Human Services will lay off thousands of food stamp workers and close more than a quarter of state-run eligibility offices around the state. In their place, Accenture plans to hire staff at low hourly rates while depending on community organizations for volunteers to screen applicants, fill out Web-based forms and drive clients to the remaining offices for certification.

Six Texas Democratic members of Congress have written Eric Bost, U.S. undersecretary for food, nutrition and consumer services, to express concerns. They point out that closing state offices would require longer travel distances for clients, primarily the elderly, children and the working poor, many of whom do not speak English. They charge that the expectation of a million hours of volunteer service to make the plan work is unrealistic and “would place an unacceptable and perhaps impossible burden on these organizations, many of whom are volunteer-run themselves.”

According to the lawmakers, including Chet Edwards of Waco, Eddie Bernice Johnson of Dallas, and Lloyd Doggett of Austin, the current plan to launch the new system statewide in 11 months “is a reckless timetable that does not allow time to test or evaluate the new technology or its impact on food stamp recipients.”

The U.S. Senate already has banned such mass privatizations of food stamp programs. Similar legislation is pending in the House. Texas stands to lose federal food assistance funding if it goes forward with the Accenture contract and the privatization prohibition becomes law.

The issue of conflict of interest by state officials in the awarding of the contract has been raised in the past year in Houston Chronicle reports. The HHS chief information officer involved in pre-award negotiations was a former employee of a firm partnering with Accenture, and the former HHS deputy commissioner who helped develop the bidding procedures subsequently went to work for Accenture. IBM, which also sought the contract, has sued the state agency alleging bias in the awarding of the pact.

The Austin-based Center for Public Policy Priorities is urging Texas lawmakers to support a pilot program to test the Accenture system before putting it into effect statewide. As staffer Celia Hagert points out, the issue involves access to life supporting benefits for the most vulnerable Texans and is particularly important for Harris County where 13 percent of Texas food stamp recipients reside.

There are plenty of unanswered questions about the awarding of the Accenture contract and its feasibility to justify a delay in implementing this radical revamping of the way Texas administers social services. Nothing is put at risk by testing the company's ability to adequately fulfill its contract on a small scale. There's plenty to be lost in liquidating a state-run system that has worked well in the past and in potentially imperiling the health and welfare of tens of thousands of people.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 2, 2005.

Re Texas's misguided plan to privatize the eligibility determination process for the Food Stamp Program.

ERIC M. BOST,
Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture,
Alexandria, VA.

DEAR SECRETARY BOST: We are writing to express our deep concerns about the State of

Texas's efforts to privatize the eligibility determination process for the Food Stamp Program. As Members of Congress from Texas, we are apprehensive about the impact the State's proposal could have on low-income Texans who rely on this assistance, as well as the precedent this effort sets for such practices to be adopted throughout the Nation.

Texas proposes to replace half of the State's eligibility workers with privately contracted employees at four call centers. The State would close 99 of its 380 eligibility offices, which would mean longer travel distances for many clients, most of whom would still be required to go to an office to complete their application and be finger-imaged. The State has called on community- and faith-based organizations to donate over one million volunteer hours to assist clients in navigating the more automated system to make up for reductions in the State workforce. This would place an unacceptable and perhaps impossible burden on these organizations, many of which are volunteer-run themselves.

We believe that privatizing the Food Stamp Program offers little advantage and may put our most vulnerable citizens at risk. We are deeply concerned about the impact the proposal could have on hard-to-reach populations, in particular children, people with disabilities, and seniors seeking food assistance who may have trouble with the more automated approach to enrollment.

No state has ever privatized the determination of eligibility for Food Stamps, and the wisdom of abandoning the collective knowledge and experience of so my current eligibility workers is uncertain at best. It is impossible to estimate the number of eligible persons likely to lose Food Stamp benefits as they lose access to local offices and face-to-face interviews. Therefore, we are very concerned about the enormous consequences of this proposal. There are still many unanswered questions about the impact of such an approach on the Food Stamp program.

We know of no plan to evaluate this new approach even though the State has already signed a five-year contract that calls for an 11-month statewide rollout. We believe this is a reckless timetable that does not allow enough time to test or evaluate the new technology or its impact on Food Stamp recipients. A more thoughtful approach would be to test the system in one area for 12 months, followed by an independent evaluation. Since the contract was signed before the Food and Nutrition Service reviewed and granted approval for the plan, we urge you to adopt this more thoughtful approach as a condition of continuing receipt of federal funds.

We urge you to require the State to submit a request for a waiver of the Food Stamp law related to merit system employees conducting eligibility determinations. Should the United States Department of Agriculture decide to approve such a waiver, we urge you, at a minimum, to require Texas to pilot test the new system in a limited geographic environment for at least 12 months and to engage an independent entity to produce a formal evaluation of the pilot program before the program is permitted to expand. The geographic areas selected should be representative of Texas's diverse ethnic and linguistic population, and should encompass rural areas to determine the challenges rural residents will face in a system with such drastically reduced local services.

Should you decide to grant such a waiver, we request that you not do so before a detailed background briefing for our offices and a public hearing before Congress. The public needs to understand the implications of privatizing such a critical and basic part of the Food Stamp Programs.

We appreciate your attention to this important matter and request that you contact us regarding the actions you plan to take in this matter. Should you have any questions or concerns regarding this issue, please do not hesitate to contact us.

Sincerely,

Hon. Lloyd Doggett, Hon. Henry Cuellar,
Hon. Ruben Hinojosa, Hon. Sheila Jackson Lee, Hon. Al Green, Hon. Silvestre Reyes, Hon. Eddie Bernice Johnson, Hon. Charles Gonzalez, Hon. Chet Edwards, Hon. Solomon Ortiz,
Hon. Gene Green.

[From the Policy Page, July 7, 2005]

HHSC AWARDS CALL CENTER CONTRACT

On June 30, the Health and Human Services Commission announced a 5-year, \$899 million contract with Accenture, LLP to re-vamp and take over operation of the state's eligibility and enrollment systems for Medicaid, CHIP, Food Stamps, and TANF cash assistance. The contract includes maintenance of TIERS (the computer system that will support eligibility determination) and an enrollment broker program for Medicaid managed care and CHIP clients. The contract is the latest development in the state's plans to move to a more automated system for enrolling people in these benefits and will lead to the use of four call centers and an Internet application, with fewer eligibility staff and local offices. Many important details about the contract and the new system have not been released yet, including the location of office closures, whether necessary federal approvals have been granted, and the timeline for employee lay-offs and call center implementation. This Policy Page shares what we know so far about these latest developments in the state's plans to use private call centers to enroll people in public benefits.

Nuts and Bolts: Four call centers will be established to help people apply for and certify for public benefits. Staffed primarily by Accenture employees, the call centers will be open from 8 a.m. to 8 p.m., Monday through Friday, with the ability for callers to leave a recorded message after hours. The 2-1-1 system, the state's information and referral network for social services, will be the portal to the call centers. One call center will be located in Austin, where the CHIP call center is now (this call center's duties will be folded into the new call center). The location of the other three has not been announced, although San Antonio, Tyler, and Odessa are rumored to be candidates.

In the new system people will be able to apply for benefits over the Internet or via a call center, as well as to check the status of their application through an automated phone system. Some clients will still be required to appear in person at a local office to complete their application. HHSC staff have said previously that only those clients with a finger imaging requirement (the majority of the 900,000 households on Food Stamps) will have to go to a local office. In addition, clients who request an in-person interview with a caseworker will be granted one. Emergency requests for Food Stamps (state law requires benefits to be delivered within 24 hours) are expected to be processed at local offices, rather than through the call center. The local workforce centers that assist HHSC clients with employment services (administered by the Texas Workforce Commission through a system of locally run regional workforce development boards) will still provide these services and monitor whether clients are complying with program work requirements.

One hundred (100) offices will be closed, leaving 281 open. HHSC had originally pro-

posed closing 217 offices. An announcement about office closures is expected this month.

Role of Community-Based Organizations: When the state's plans to use call centers were first announced in March 2004, HHSC proposed using 600 volunteers and relying on over one million volunteer hours per year from nonprofit and faith-based organizations, prompting an outcry from nonprofits about their inability to take on this responsibility without compensation.

Savings: With the contract announcement, HHSC also issued a one-page summary of its cost comparison of the estimated savings possible through a state-operated integrated eligibility system versus a contracted system. HB 2292, the 2003 law that directed the state to evaluate the cost-effectiveness of using call centers, also required HHSC to determine whether the state or a private company could offer the greatest savings. HHSC's analysis claims that the contracted system offers the state 8.6% more in savings, or roughly \$210 million over five years. The cost comparison attributes 1.5% of these additional savings to the difference in the cost of employee benefits under a contracted system. The source of the remaining additional savings is not identified in the summary.

The savings identified HHSC last week when the contract was announced are higher than originally projected in the March 2004 business case, which claimed \$389 million in savings. At the same time, the total number of staff proposed for the new system has risen from 3,377 (proposed in March 2004) to 5,398. There are other inconsistencies between last year's business case analysis and the documents HHSC released last week when the contract was announced, including differences in the "baseline" budget (the cost if we stuck with the current system) projections for 2006-2010. We anticipate HHSC will release information shortly to clarify these differences.

Staff Reductions: According to an HHSC presentation to eligibility staff last month, the total number of staff in the new system—including public and private employees—will drop from 5,824 current employees (as of June 1, 2005) to 5,398. The schedule for laying off state workers and achieving the overall reduction in force has not been announced. Out of the 5,398 remaining staff, 2,500 jobs will be held private call center employees, which means the same number of state staff will lose their jobs (HHSC is committed to finding these employees different jobs within the HHS system; Accenture also has indicated a hiring preference at the call centers for former state workers). In addition to the private sector employees, there will be 2,898 state staff: 298 will be assigned to the call centers, 1,800 to the remaining field offices, 600 outstationed at hospitals and clinics, and 200 assigned to traveling "SWAT" teams that will respond to fluctuations in staffing needs throughout the state.

The total number of workers in the new system will be 37% higher than originally projected in HHSC's March 2004 cost-effectiveness study, which proposed staffing the new system with only 3,377 employees.

Although the proposed staffing levels are far higher than originally anticipated, the number may still be inadequate to deal with the growing workload in the system, even if the improvements anticipated from better technology and a more automated enrollment process are actually realized. Staff reductions over the last eight years have caused disruptions in services to clients and breaches in customer service, resulting in lawsuits. These cuts were made despite growing caseloads and workload and have badly damaged the foundation for the current eligibility system. Inadequate resources have been compounded by complicated eligibility

rules that vary across programs, a hard-to-serve clientele, and a constantly changing policy environment. All told, the proposed renovation faces a great deal of major repairs. While the new system may resolve some of these shortcomings, no system, no matter how efficient or modern, can make up for shortages in the workforce.

Timeline: The first call center is expected to begin operations in Austin in November 2005, with remaining call center operations and system changes phased in beginning in January 2006. The statewide roll-out is estimated to be complete by the end of 2006. This 14-month timeline may not allow adequate time to test the new technology needed to support the system or to assess clients' ability to grapple with a more automated approach to enrollment. Although pressure from the legislature—the final state budget for 2006–2007 assumed a reduction of more than 4,000 HHSC eligibility staff—may be driving such an aggressive timeline, a slower, more rational approach to such drastic changes would produce a better system in the long run while mitigating the risks of going too fast.

The Pros and Cons of Privatization: CPPP acknowledges that private companies may offer innovations and savings the state could not achieve on its own. However, although the additional 15-year savings of \$210 million achievable through privatization (versus a state-run, revamped system) sounds impressive, much of these projected additional savings are likely the result of reductions in salary, health benefits, and pension plans. To make room for these savings, thousands of well-paying state jobs with family-supporting health, vacation, and retirement benefits will be replaced with lower-paying private sector jobs with fewer benefits. Most notably, according to HHSC's presentation to eligibility staff, Accenture will not contribute to dependent health benefits such as the state does for its employees, opting instead for a flexible spending account option that allows employees to set aside their own pre-tax income to pay for dependent health premiums and other out-of-pocket medical costs. The loss of employer-sponsored dependent health coverage may lead to an increase in need for publicly funded health insurance—increasing these costs for the state—or more uncompensated care that will be borne by local governments and taxpayers. With privatization also comes increased risk, which may outweigh the savings associated with outsourcing.

Other Issues and Concerns: It is also unclear whether HHSC has received the necessary approvals from the federal agencies that administer these programs and share the cost of the benefits they provide. These agencies will have to approve the cost-reimbursement methodology in the contract, the allocation of costs to the federal agencies that administer these programs, and the decision to privatize the eligibility system, which could require a waiver of federal law that HHSC has not requested. Both the Federal Food Stamp and Medicaid statutes require public employees to determine eligibility for these benefits.

□ 1345

Mr. Speaker, the idea of ensuring as much efficiency in this program, as will all, is one that I applaud. But the way that the State of Texas has gone about it is very troubling. Indeed, today's vote on this motion to instruct is a vote for food security, a vote for health security, and a vote against cronyism.

As noted in a series of reports that the Houston Chronicle undertook on

this proposal, and in today's editorial, the former Texas Health and Human Services Deputy Commissioner who helped develop the bidding procedures to close down these offices and substitute the Internet and Accenture's telephone lines to who knows where then went to work for Accenture, surprisingly enough. It sounds a lot like the cronyism in Washington we have been hearing so much about lately. The situation was so bad that IBM, International Business Machines, which also bid on this contract, after this person set the procedures and then went off to work for the people who were awarded the contract, has sued the State of Texas alleging bias in the award.

My concern is that we not shift to an impersonal system that does not meet the needs of poor people in our State and at the same time, as the Houston Chronicle points out today, it is "an unprecedented billion-dollar privatization contract," that the taxpayers do not end up losing even as the most vulnerable people in our society lose.

This privatization scheme relies not on experienced public servants, but it will shift more of the burden to community volunteers, to churches, and to local nonprofits. And while it is great to have those people and organizations as part of our social safety network, they cannot substitute for the experienced backup, as we found in the Hurricane Katrina disaster, of a public safety net. That is what this motion to instruct preserves.

Mr. Speaker, if you do not have access to the Internet, do not want to be put on hold indefinitely to some unknown line across the world to wherever Accenture locates its phone center, the only other alternative is to get in the car and drive. We all know if we are going to have to drive with all of the nearby offices closed to one far away, that also because of the policies of this administration the price of gasoline has gone out the roof.

I think as a practical matter, putting this scheme on hold, it is clear that the administration, the response that I got only within the last few days from an Under Secretary of Agriculture, indicating that there were concerns with the speedy nature of the way the State had gone about this proposal, concerned the Department of Agriculture. They raised a number of questions. I think this is consistent with their concerns to not rush into this.

In the event we are to move to such an insensitive system, it ought to at least be market tested. No business—and we are always hearing about the importance of running government as a business—would go off with this kind of scheme if it were introducing a new product without at least testing it. That is what we have been calling for. Before you do an experiment on all of the poor and hungry people of Texas that could spread across the country, at least do some limited testing on that proposal and see if it works or it creates more cost to the taxpayer and more pain to the hungry.

I believe that the editorial in today's Houston Chronicle sums up the problems in talking about the difficulties of relying on a handful of calling centers, closing more than a fourth of the State-run eligibility offices, not allowing time to test or evaluate the new technology or its actual impact on food stamp recipients, the conflict of interest by State officials in awarding the contract, and the call of the Center for Public Policy Priorities to support a pilot program. I also find it indeed ironic, and I agree with the chairman on the importance of not prematurely closing these Farm Service Agencies because this is what this motion to instruct also is about. I represent a number of those rural producer areas. If we are not going to close those offices, why is it again that the poor people who are applying for food stamps, that their offices get closed. That is what will happen if this motion to instruct which has been ably worded by the gentleman from Connecticut (Ms. DELAURO) is not adopted.

I hope my colleagues in a bipartisan way will join with the expressions of concern from the U.S. Department of Agriculture and put a stop to this until it is market tested and before this faulty experiment is foisted off on both the taxpayer and the hungry people of America.

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

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

Mr. Speaker, I want to say to the gentleman from Texas (Mr. BONILLA), his opening comments and his conversations with USDA with regard to the Farm Service Agency field offices, it sounds like we had very, very similar conversations. I think we both agree, even in light of yesterday's letter, it is good to trust but it is also good to verify.

With regard to the second portion of the motion to instruct with which the chairman has concerns, I would say that the Food Stamp Program is a Federal program. Fifty percent of the administrative costs are Federal, 100 percent of the benefits are Federal. In our bill there is \$40 billion that we are about to appropriate for this program; and, in fact, I think we cannot willy-nilly make changes in the program without coming back to the Federal Government for waivers as such.

In closing, let me say this motion is the right thing to do. I would repeat it is twofold, codifying USDA's decision yesterday to keep open more than 700 FSA offices, returning jurisdiction of the issue to the hands of Congress where it belongs, and ensuring that our food stamp programs are not privatized.

With respect to FSA, I would repeat this motion is needed because even though the FSA Tomorrow Plan has been shelved for the time being, we are already hearing reports that USDA is contemplating reviving this plan, perhaps under a new name, and Congress

needs to ensure that the people impacted most directly by this plan, our farmers, have a say in how that modernization plan is carried out.

On the latter point with respect to food stamps, I would repeat, this is not just a Texas issue. The Federal Government and taxpayers all over the country pay half the cost of running the Food Stamp Program. That means that we, the Congress, have an obligation to ensure that the program is run effectively, efficiently and in compliance with the law.

The Food Stamp Program is operating with the lowest error rate it has ever had, the results of years of work by USDA, State and local employees, and bipartisan support from this institution. We do not want to see a repeat of what happened in Colorado where the State spent millions of Federal funds on a computer system that not only did not work, but prevented thousands of needy people from getting government benefits like food assistance and health insurance. Particularly with many believing the State of Texas is counting on the White House to override any efforts by USDA officials to rein in this plan, we know Congress must address this issue and do it immediately.

In all these instances, we are reminded of the same thing, that government has an obligation to people, whether it is ensuring our most needy citizens receive food stamps or our farmers receive the services they need to keep planting, harvesting, and selling crops. This is about the Congress, this institution, its role in ensuring that the American people tackle their toughest challenges together. That is our responsibility to the American people, and fulfilling that obligation is what this motion would accomplish.

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

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

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from Connecticut (Ms. DELAURO).

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

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

The yeas and nays were ordered.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the

vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

PROVIDING FOR CONCURRENCE BY HOUSE WITH AMENDMENTS IN SENATE AMENDMENT TO H.R. 3971, QI, TMA, AND ABSTINENCE PROGRAMS EXTENSION AND HURRICANE KATRINA UNEMPLOYMENT RELIEF ACT OF 2005

Mr. MCCRERY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 501) providing for the concurrence by the House with amendments in the amendment of the Senate to H.R. 3971.

The Clerk read as follows:

H. RES. 501

Resolved, That, upon the adoption of this resolution, the House shall be considered to have taken from the Speaker's table the bill H.R. 3971, with the Senate amendment thereto, and to have concurred in the Senate amendment to the bill with the following amendments:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the bill, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "QI, TMA, and Abstinence Programs Extension and Hurricane Katrina Unemployment Relief Act of 2005".

TITLE I—HEALTH PROVISIONS

SEC. 101. EXTENSION OF QUALIFIED INDIVIDUAL (QI) PROGRAM.

(a) THROUGH SEPTEMBER 2007.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking "September 2005" and inserting "September 2007".

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of such Act (42 U.S.C. 1396u-3(g)) is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(D) for the period that begins on October 1, 2005, and ends on December 31, 2005, the total allocation amount is \$100,000,000;

"(E) for the period that begins on January 1, 2006, and ends on September 30, 2006, the total allocation amount is \$300,000,000;

"(F) for the period that begins on October 1, 2006, and ends on December 31, 2006, the total allocation amount is \$100,000,000; and

"(G) for the period that begins on January 1, 2007, and ends on September 30, 2007, the total allocation amount is \$300,000,000."; and (2) in paragraph (3), in the matter preceding subparagraph (A), by inserting ", (D), or (F)" after "subparagraph (B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as of September 30, 2005.

SEC. 102. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM.

Effective as if enacted on September 30, 2005, activities authorized by sections 510 and 1925 of the Social Security Act shall continue through December 31, 2005, in the manner authorized for fiscal year 2005, notwithstanding section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated,

there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the first quarter of fiscal year 2006 at the level provided for such activities through the first quarter of fiscal year 2005.

SEC. 103. ELIMINATION OF MEDICARE COVERAGE OF DRUGS USED FOR TREATMENT OF SEXUAL OR ERECTILE DYSFUNCTION.

(a) IN GENERAL.—Section 1860D-2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w-102(e)(2)(A)) is amended—

(1) by striking the period at the end and inserting ", as such sections were in effect on the date of the enactment of this part."; and

(2) by adding at the end the following: "Such term also does not include a drug when used for the treatment of sexual or erectile dysfunction, unless such drug were used to treat a condition, other than sexual or erectile dysfunction, for which the drug has been approved by the Food and Drug Administration."

(b) CONSTRUCTION.—Nothing in this section shall be construed as preventing a prescription drug plan or an MA-PD plan from providing coverage of drugs for the treatment of sexual or erectile dysfunction as supplemental prescription drug coverage under section 1860D-2(a)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395w-102(a)(2)(A)(ii)).

(c) EFFECTIVE DATES.—The amendment made by subsection (a)(1) shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) and the amendment made by subsection (a)(2) shall apply to coverage for drugs dispensed on or after January 1, 2007.

SEC. 104. ELIMINATION OF MEDICAID COVERAGE OF DRUGS USED FOR TREATMENT OF SEXUAL OR ERECTILE DYSFUNCTION.

(a) IN GENERAL.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r-8(d)(2)) is amended by adding at the end the following new subparagraph:

"(K) Agents when used for the treatment of sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agents have been approved by the Food and Drug Administration."

(b) ELIMINATION OF FEDERAL PAYMENT UNDER MEDICAID PROGRAM.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(1) by striking "or" at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting "; or"; and

(3) by inserting after paragraph (20) the following new paragraph:

"(21) with respect to amounts expended for covered outpatient drugs described in section 1927(d)(2)(K) (relating to drugs when used for treatment of sexual or erectile dysfunction)."

(c) CLARIFICATION OF NO EFFECT ON DETERMINATION OF BASE EXPENDITURES.—Section 1935(c)(3)(B)(ii)(II) of such Act (42 U.S.C. 1396v(c)(3)(B)(ii)(II)) is amended by inserting ", including drugs described in subparagraph (K) of section 1927(d)(2)" after "1860D-2(e)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs dispensed on or after January 1, 2006.

TITLE II—ASSISTANCE RELATING TO UNEMPLOYMENT

SEC. 201. SPECIAL TRANSFER IN FISCAL YEAR 2006.

Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

"(e) SPECIAL TRANSFER IN FISCAL YEAR 2006.—Not later than 10 days after the date of