

amendments are waived except those arising under clause 9 of rule XXI.

SEC. 4. Within five legislative days the Speaker shall introduce a bill, the title of which is as follows: "A bill to provide a common sense plan to help bring down skyrocketing gas prices." Such bill shall be referred to the appropriate committees of jurisdiction pursuant to clause 1 of rule X.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's *Precedents of the House of Representatives*, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the *Floor Procedures Manual* published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's "American Congressional Dictionary": "If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

Deschler's *Procedure in the U.S. House of Representatives*, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy impli-

cations. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Ms. SLAUGHTER. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

GENERAL LEAVE

Mr. GEORGE MILLER of California. Madam Speaker, I ask unanimous consent that Members have 5 legislative days to revise and extend their remarks and to insert extraneous material on H.R. 493.

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

There was no objection.

GENETIC INFORMATION
NONDISCRIMINATION ACT OF 2008

Mr. GEORGE MILLER of California. Madam Speaker, pursuant to House Resolution 1156, I call up the bill (H.R. 493) to prohibit discrimination on the basis of genetic information with respect to health insurance and employment, with a Senate amendment thereto, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment.

The text of the Senate amendment is as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE*.—This Act may be cited as the "Genetic Information Nondiscrimination Act of 2008".

(b) *TABLE OF CONTENTS*.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—GENETIC NONDISCRIMINATION
IN HEALTH INSURANCE

Sec. 101. Amendments to Employee Retirement Income Security Act of 1974.

Sec. 102. Amendments to the Public Health Service Act.

Sec. 103. Amendments to the Internal Revenue Code of 1986.

Sec. 104. Amendments to title XVIII of the Social Security Act relating to medigap.

Sec. 105. Privacy and confidentiality.

Sec. 106. Assuring coordination.

TITLE II—PROHIBITING EMPLOYMENT
DISCRIMINATION ON THE BASIS OF
GENETIC INFORMATION

Sec. 201. Definitions.

Sec. 202. Employer practices.

Sec. 203. Employment agency practices.

Sec. 204. Labor organization practices.

Sec. 205. Training programs.

Sec. 206. Confidentiality of genetic information.

Sec. 207. Remedies and enforcement.

Sec. 208. Disparate impact.

Sec. 209. Construction.

Sec. 210. Medical information that is not genetic information.

Sec. 211. Regulations.

Sec. 212. Authorization of appropriations.

Sec. 213. Effective date.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Severability.

Sec. 302. Child labor protections.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Deciphering the sequence of the human genome and other advances in genetics open major new opportunities for medical progress. New knowledge about the genetic basis of illness will allow for earlier detection of illnesses, often before symptoms have begun. Genetic testing can allow individuals to take steps to reduce the likelihood that they will contract a particular disorder. New knowledge about genetics may allow for the development of better therapies that are more effective against disease or have fewer side effects than current treatments. These advances give rise to the potential misuse of genetic information to discriminate in health insurance and employment.

(2) The early science of genetics became the basis of State laws that provided for the sterilization of persons having presumed genetic "defects" such as mental retardation, mental disease, epilepsy, blindness, and hearing loss, among other conditions. The first sterilization law was enacted in the State of Indiana in 1907. By 1981, a majority of States adopted sterilization laws to "correct" apparent genetic traits or tendencies. Many of these State laws have since been repealed, and many have been modified to include essential constitutional requirements of due process and equal protection. However, the current explosion in the science of genetics, and the history of sterilization laws by the States based on early genetic science, compels Congressional action in this area.

(3) Although genes are facially neutral markers, many genetic conditions and disorders are associated with particular racial and ethnic groups and gender. Because some genetic traits are most prevalent in particular groups, members of a particular group may be stigmatized or discriminated against as a result of that genetic information. This form of discrimination was evident in the 1970s, which saw the advent of programs to screen and identify carriers of sickle cell anemia, a disease which afflicts African-Americans. Once again, State legislatures began to enact discriminatory laws in the area, and in the early 1970s began mandating genetic screening of all African Americans for sickle cell anemia, leading to discrimination and unnecessary fear. To alleviate some of this stigma, Congress in 1972 passed the National Sickle Cell Anemia Control Act, which withholds Federal funding from States unless sickle cell testing is voluntary.

(4) Congress has been informed of examples of genetic discrimination in the workplace. These include the use of pre-employment genetic screening at Lawrence Berkeley Laboratory, which led to a court decision in favor of the employees in that case *Norman-Bloodsaw v. Lawrence Berkeley Laboratory* (135 F.3d 1260, 1269 (9th Cir. 1998)). Congress clearly has a compelling public interest in relieving the fear of discrimination and in prohibiting its actual practice in employment and health insurance.

(5) Federal law addressing genetic discrimination in health insurance and employment is incomplete in both the scope and depth of its protections. Moreover, while many States have enacted some type of genetic non-discrimination

law, these laws vary widely with respect to their approach, application, and level of protection. Congress has collected substantial evidence that the American public and the medical community find the existing patchwork of State and Federal laws to be confusing and inadequate to protect them from discrimination. Therefore Federal legislation establishing a national and uniform basic standard is necessary to fully protect the public from discrimination and allay their concerns about the potential for discrimination, thereby allowing individuals to take advantage of genetic testing, technologies, research, and new therapies.

TITLE I—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE

SEC. 101. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 702(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended—

(1) in paragraph (2)(A), by inserting before the semicolon the following: “except as provided in paragraph (3)”; and

(2) by adding at the end the following:

“(3) NO GROUP-BASED DISCRIMINATION ON BASIS OF GENETIC INFORMATION.—

“(A) IN GENERAL.—For purposes of this section, a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not adjust premium or contribution amounts for the group covered under such plan on the basis of genetic information.

“(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or in paragraphs (1) and (2) of subsection (d) shall be construed to limit the ability of a health insurance issuer offering health insurance coverage in connection with a group health plan to increase the premium for an employer based on the manifestation of a disease or disorder of an individual who is enrolled in the plan. In such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the employer.”.

(b) LIMITATIONS ON GENETIC TESTING; PROHIBITION ON COLLECTION OF GENETIC INFORMATION; APPLICATION TO ALL PLANS.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

“(c) GENETIC TESTING.—

“(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

“(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

“(3) RULE OF CONSTRUCTION REGARDING PAYMENT.—

“(A) IN GENERAL.—Nothing in paragraph (1) shall be construed to preclude a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (a).

“(B) LIMITATION.—For purposes of subparagraph (A), a group health plan, or a health insurance issuer offering health insurance cov-

erage in connection with a group health plan, may request only the minimum amount of information necessary to accomplish the intended purpose.

“(4) RESEARCH EXCEPTION.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, may request, but not require, that a participant or beneficiary undergo a genetic test if each of the following conditions is met:

“(A) The request is made, in writing, pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

“(B) The plan or issuer clearly indicates to each participant or beneficiary, or in the case of a minor child, to the legal guardian of such beneficiary, to whom the request is made that—

“(i) compliance with the request is voluntary; and

“(ii) non-compliance will have no effect on enrollment status or premium or contribution amounts.

“(C) No genetic information collected or acquired under this paragraph shall be used for underwriting purposes.

“(D) The plan or issuer notifies the Secretary in writing that the plan or issuer is conducting activities pursuant to the exception provided for under this paragraph, including a description of the activities conducted.

“(E) The plan or issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under this paragraph.

“(d) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

“(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, or purchase genetic information for underwriting purposes (as defined in section 733).

“(2) PROHIBITION ON COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the plan or coverage in connection with such enrollment.

“(3) INCIDENTAL COLLECTION.—If a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of paragraph (2) if such request, requirement, or purchase is not in violation of paragraph (1).

“(e) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), (c), and (d), and subsection (b)(1) and section 701 with respect to genetic information, shall apply to group health plans and health insurance issuers without regard to section 732(a).”.

(c) APPLICATION TO GENETIC INFORMATION OF A FETUS OR EMBRYO.—Such section is further amended by adding at the end the following:

“(f) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this part to genetic information concerning an individual or family member of an individual shall—

“(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

“(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.”.

(d) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974

(29 U.S.C. 1191b(d)) is amended by adding at the end the following:

“(5) FAMILY MEMBER.—The term ‘family member’ means, with respect to an individual—

“(A) a dependent (as such term is used for purposes of section 701(f)(2)) of such individual, and

“(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual or of an individual described in subparagraph (A).

“(6) GENETIC INFORMATION.—

“(A) IN GENERAL.—The term ‘genetic information’ means, with respect to any individual, information about—

“(i) such individual's genetic tests,

“(ii) the genetic tests of family members of such individual, and

“(iii) the manifestation of a disease or disorder in family members of such individual.

“(B) INCLUSION OF GENETIC SERVICES AND PARTICIPATION IN GENETIC RESEARCH.—Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

“(C) EXCLUSIONS.—The term ‘genetic information’ shall not include information about the sex or age of any individual.

“(7) GENETIC TEST.—

“(A) IN GENERAL.—The term ‘genetic test’ means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

“(B) EXCEPTIONS.—The term ‘genetic test’ does not mean—

“(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

“(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

“(8) GENETIC SERVICES.—The term ‘genetic services’ means—

“(A) a genetic test;

“(B) genetic counseling (including obtaining, interpreting, or assessing genetic information); or

“(C) genetic education.

“(9) UNDERWRITING PURPOSES.—The term ‘underwriting purposes’ means, with respect to any group health plan, or health insurance coverage offered in connection with a group health plan—

“(A) rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the plan or coverage;

“(B) the computation of premium or contribution amounts under the plan or coverage;

“(C) the application of any pre-existing condition exclusion under the plan or coverage; and

“(D) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.”.

(e) ERISA ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(1) in subsection (a)(6), by striking “(7), or (8)” and inserting “(7), (8), or (9)”; and

(2) in subsection (b)(3), by striking “The Secretary” and inserting “Except as provided in subsections (c)(9) and (a)(6) (with respect to collecting civil penalties under subsection (c)(9)), the Secretary”; and

(3) in subsection (c), by redesignating paragraph (9) as paragraph (10), and by inserting after paragraph (8) the following new paragraph:

“(9) SECRETARIAL ENFORCEMENT AUTHORITY RELATING TO USE OF GENETIC INFORMATION.—

“(A) GENERAL RULE.—The Secretary may impose a penalty against any plan sponsor of a group health plan, or any health insurance issuer offering health insurance coverage in

connection with the plan, for any failure by such sponsor or issuer to meet the requirements of subsection (a)(1)(F), (b)(3), (c), or (d) of section 702 or section 701 or 702(b)(1) with respect to genetic information, in connection with the plan.

“(B) AMOUNT.—

“(i) IN GENERAL.—The amount of the penalty imposed by subparagraph (A) shall be \$100 for each day in the noncompliance period with respect to each participant or beneficiary to whom such failure relates.

“(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term ‘noncompliance period’ means, with respect to any failure, the period—

“(I) beginning on the date such failure first occurs; and

“(II) ending on the date the failure is corrected.

“(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

“(i) IN GENERAL.—In the case of 1 or more failures with respect to a participant or beneficiary—

“(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and

“(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such participant or beneficiary shall not be less than \$2,500.

“(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are more than de minimis, clause (i) shall be applied by substituting ‘\$15,000’ for ‘\$2,500’ with respect to such person.

“(D) LIMITATIONS.—

“(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

“(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

“(I) such failure was due to reasonable cause and not to willful neglect; and

“(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

“(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

“(I) 10 percent of the aggregate amount paid or incurred by the plan sponsor (or predecessor plan sponsor) during the preceding taxable year for group health plans; or

“(II) \$500,000.

“(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.

“(F) DEFINITIONS.—Terms used in this paragraph which are defined in section 733 shall have the meanings provided such terms in such section.”.

(f) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—The Secretary of Labor shall issue final regulations not later than 12

months after the date of enactment of this Act to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 1 year after the date of enactment of this Act.

SEC. 102. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

(1) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 2702(b) of the Public Health Service Act (42 U.S.C. 300gg-1(b)) is amended—

(A) in paragraph (2)(A), by inserting before the semicolon the following: “except as provided in paragraph (3)”; and

(B) by adding at the end the following:

“(3) NO GROUP-BASED DISCRIMINATION ON BASIS OF GENETIC INFORMATION.—

“(A) IN GENERAL.—For purposes of this section, a group health plan, and health insurance issuer offering group health insurance coverage in connection with a group health plan, may not adjust premium or contribution amounts for the group covered under such plan on the basis of genetic information.

“(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or in paragraphs (1) and (2) of subsection (d) shall be construed to limit the ability of a health insurance issuer offering health insurance coverage in connection with a group health plan to increase the premium for an employer based on the manifestation of a disease or disorder of an individual who is enrolled in the plan. In such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the employer.”.

(2) LIMITATIONS ON GENETIC TESTING; PROHIBITION ON COLLECTION OF GENETIC INFORMATION; APPLICATION TO ALL PLANS.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg-1) is amended by adding at the end the following:

“(c) GENETIC TESTING.—

“(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

“(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

“(3) RULE OF CONSTRUCTION REGARDING PAYMENT.—

“(A) IN GENERAL.—Nothing in paragraph (1) shall be construed to preclude a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the Secretary under part C of title XI of the Social Security Act and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (a).

“(B) LIMITATION.—For purposes of subparagraph (A), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, may request only the minimum amount of information necessary to accomplish the intended purpose.

“(4) RESEARCH EXCEPTION.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, may request, but not require, that a participant or beneficiary undergo a genetic test if each of the following conditions is met:

“(A) The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

“(B) The plan or issuer clearly indicates to each participant or beneficiary, or in the case of a minor child, to the legal guardian of such beneficiary, to whom the request is made that—

“(i) compliance with the request is voluntary; and

“(ii) non-compliance will have no effect on enrollment status or premium or contribution amounts.

“(C) No genetic information collected or acquired under this paragraph shall be used for underwriting purposes.

“(D) The plan or issuer notifies the Secretary in writing that the plan or issuer is conducting activities pursuant to the exception provided for under this paragraph, including a description of the activities conducted.

“(E) The plan or issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under this paragraph.

“(d) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

“(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, or purchase genetic information for underwriting purposes (as defined in section 2791).

“(2) PROHIBITION ON COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the plan or coverage in connection with such enrollment.

“(3) INCIDENTAL COLLECTION.—If a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of paragraph (2) if such request, requirement, or purchase is not in violation of paragraph (1).

“(e) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), (c), and (d) and subsection (b)(1) and section 2701 with respect to genetic information, shall apply to group health plans and health insurance issuers without regard to section 2721(a).”.

(3) APPLICATION TO GENETIC INFORMATION OF A FETUS OR EMBRYO.—Such section is further amended by adding at the end the following:

“(f) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this part to genetic information concerning an individual or family member of an individual shall—

“(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

“(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.”.

(4) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg-91(d)) is amended by adding at the end the following:

“(15) FAMILY MEMBER.—The term ‘family member’ means, with respect to any individual—

“(A) a dependent (as such term is used for purposes of section 2701(f)(2)) of such individual; and

“(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual or of an individual described in subparagraph (A).

“(16) GENETIC INFORMATION.—

“(A) IN GENERAL.—The term ‘genetic information’ means, with respect to any individual, information about—

- “(i) such individual’s genetic tests,
- “(ii) the genetic tests of family members of such individual, and
- “(iii) the manifestation of a disease or disorder in family members of such individual.

“(B) INCLUSION OF GENETIC SERVICES AND PARTICIPATION IN GENETIC RESEARCH.—Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

“(C) EXCLUSIONS.—The term ‘genetic information’ shall not include information about the sex or age of any individual.

“(17) GENETIC TEST.—

“(A) IN GENERAL.—The term ‘genetic test’ means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

“(B) EXCEPTIONS.—The term ‘genetic test’ does not mean—

- “(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or
- “(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

“(18) GENETIC SERVICES.—The term ‘genetic services’ means—

- “(A) a genetic test;
- “(B) genetic counseling (including obtaining, interpreting, or assessing genetic information); or
- “(C) genetic education.

“(19) UNDERWRITING PURPOSES.—The term ‘underwriting purposes’ means, with respect to any group health plan, or health insurance coverage offered in connection with a group health plan—

- “(A) rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the plan or coverage;
- “(B) the computation of premium or contribution amounts under the plan or coverage;
- “(C) the application of any pre-existing condition exclusion under the plan or coverage; and
- “(D) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.”

(5) REMEDIES AND ENFORCEMENT.—Section 2722(b) of the Public Health Service Act (42 U.S.C. 300gg–22(b)) is amended by adding at the end the following:

“(3) ENFORCEMENT AUTHORITY RELATING TO GENETIC DISCRIMINATION.—

“(A) GENERAL RULE.—In the cases described in paragraph (1), notwithstanding the provisions of paragraph (2)(C), the succeeding subparagraphs of this paragraph shall apply with respect to an action under this subsection by the Secretary with respect to any failure of a health insurance issuer in connection with a group health plan, to meet the requirements of subsection (a)(1)(F), (b)(3), (c), or (d) of section 2702 or section 2701 or 2702(b)(1) with respect to genetic information in connection with the plan.

“(B) AMOUNT.—

“(i) IN GENERAL.—The amount of the penalty imposed under this paragraph shall be \$100 for each day in the noncompliance period with respect to each participant or beneficiary to whom such failure relates.

“(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term ‘noncompliance period’ means, with respect to any failure, the period—

- “(I) beginning on the date such failure first occurs; and
- “(II) ending on the date the failure is corrected.

“(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

- “(i) IN GENERAL.—In the case of 1 or more failures with respect to an individual—
- “(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and
- “(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such individual shall not be less than \$2,500.

“(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are more than de minimis, clause (i) shall be applied by substituting ‘\$15,000’ for ‘\$2,500’ with respect to such person.

“(D) LIMITATIONS.—

“(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

“(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

“(I) such failure was due to reasonable cause and not to willful neglect; and

“(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

“(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

“(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans; or

“(II) \$500,000.

“(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.”

(b) AMENDMENT RELATING TO THE INDIVIDUAL MARKET.—

(1) IN GENERAL.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements) is amended—

(A) by redesignating such subpart as subpart 2; and

(B) by adding at the end the following:

“SEC. 2753. PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION.

“(a) PROHIBITION ON GENETIC INFORMATION AS A CONDITION OF ELIGIBILITY.—

“(1) IN GENERAL.—A health insurance issuer offering health insurance coverage in the individual market may not establish rules for the eligibility (including continued eligibility) of any individual to enroll in individual health insurance coverage based on genetic information.

“(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or in paragraphs (1) and (2) of subsection (e) shall be construed to preclude a health insurance issuer from establishing rules for eligibility for an individual to enroll in individual health insurance coverage based on the manifestation of a disease or disorder in that individual, or in a family member of such indi-

vidual where such family member is covered under the policy that covers such individual.

“(b) PROHIBITION ON GENETIC INFORMATION IN SETTING PREMIUM RATES.—

“(1) IN GENERAL.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium or contribution amounts for an individual on the basis of genetic information concerning the individual or a family member of the individual.

“(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or in paragraphs (1) and (2) of subsection (e) shall be construed to preclude a health insurance issuer from adjusting premium or contribution amounts for an individual on the basis of a manifestation of a disease or disorder in that individual, or in a family member of such individual where such family member is covered under the policy that covers such individual. In such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other individuals covered under the policy issued to such individual and to further increase premiums or contribution amounts.

“(c) PROHIBITION ON GENETIC INFORMATION AS PREEXISTING CONDITION.—

“(1) IN GENERAL.—A health insurance issuer offering health insurance coverage in the individual market may not, on the basis of genetic information, impose any preexisting condition exclusion (as defined in section 2701(b)(1)(A)) with respect to such coverage.

“(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or in paragraphs (1) and (2) of subsection (e) shall be construed to preclude a health insurance issuer from imposing any preexisting condition exclusion for an individual with respect to health insurance coverage on the basis of a manifestation of a disease or disorder in that individual.

“(d) GENETIC TESTING.—

“(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A health insurance issuer offering health insurance coverage in the individual market shall not request or require an individual or a family member of such individual to undergo a genetic test.

“(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

“(3) RULE OF CONSTRUCTION REGARDING PAYMENT.—

“(A) IN GENERAL.—Nothing in paragraph (1) shall be construed to preclude a health insurance issuer offering health insurance coverage in the individual market from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the Secretary under part C of title XI of the Social Security Act and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (a) and (c).

“(B) LIMITATION.—For purposes of subparagraph (A), a health insurance issuer offering health insurance coverage in the individual market may request only the minimum amount of information necessary to accomplish the intended purpose.

“(4) RESEARCH EXCEPTION.—Notwithstanding paragraph (1), a health insurance issuer offering health insurance coverage in the individual market may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met:

“(A) The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

“(B) The issuer clearly indicates to each individual, or in the case of a minor child, to the

legal guardian of such child, to whom the request is made that—

“(i) compliance with the request is voluntary; and

“(ii) non-compliance will have no effect on enrollment status or premium or contribution amounts.

“(C) No genetic information collected or acquired under this paragraph shall be used for underwriting purposes.

“(D) The issuer notifies the Secretary in writing that the issuer is conducting activities pursuant to the exception provided for under this paragraph, including a description of the activities conducted.

“(E) The issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under this paragraph.

“(e) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

“(1) IN GENERAL.—A health insurance issuer offering health insurance coverage in the individual market shall not request, require, or purchase genetic information for underwriting purposes (as defined in section 2791).

“(2) PROHIBITION ON COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A health insurance issuer offering health insurance coverage in the individual market shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the plan in connection with such enrollment.

“(3) INCIDENTAL COLLECTION.—If a health insurance issuer offering health insurance coverage in the individual market obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of paragraph (2) if such request, requirement, or purchase is not in violation of paragraph (1).

“(f) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this part to genetic information concerning an individual or family member of an individual shall—

“(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

“(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.”.

(2) REMEDIES AND ENFORCEMENT.—Section 2761(b) of the Public Health Service Act (42 U.S.C. 300gg-61(b)) is amended to read as follows:

“(b) SECRETARIAL ENFORCEMENT AUTHORITY.—The Secretary shall have the same authority in relation to enforcement of the provisions of this part with respect to issuers of health insurance coverage in the individual market in a State as the Secretary has under section 2722(b)(2), and section 2722(b)(3) with respect to violations of genetic nondiscrimination provisions, in relation to the enforcement of the provisions of part A with respect to issuers of health insurance coverage in the small group market in the State.”.

(c) ELIMINATION OF OPTION OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.—Section 2721(b)(2) of the Public Health Service Act (42 U.S.C. 300gg-21(b)(2)) is amended—

(1) in subparagraph (A), by striking “If the plan sponsor” and inserting “Except as provided in subparagraph (D), if the plan sponsor”; and

(2) by adding at the end the following:

“(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—The election described in subparagraph (A) shall not be available with respect to the provisions of

subsections (a)(1)(F), (b)(3), (c), and (d) of section 2702 and the provisions of sections 2701 and 2702(b) to the extent that such provisions apply to genetic information.”.

(d) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue final regulations to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply—

(A) with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after the date that is 1 year after the date of enactment of this Act; and

(B) with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after the date that is 1 year after the date of enactment of this Act.

SEC. 103. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Subsection (b) of section 9802 of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (2)(A), by inserting before the semicolon the following: “except as provided in paragraph (3)”; and

(2) by adding at the end the following:

“(3) NO GROUP-BASED DISCRIMINATION ON BASIS OF GENETIC INFORMATION.—

“(A) IN GENERAL.—For purposes of this section, a group health plan may not adjust premium or contribution amounts for the group covered under such plan on the basis of genetic information.

“(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or in paragraphs (1) and (2) of subsection (d) shall be construed to limit the ability of a group health plan to increase the premium for an employer based on the manifestation of a disease or disorder of an individual who is enrolled in the plan. In such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the employer.”.

(b) LIMITATIONS ON GENETIC TESTING; PROHIBITION ON COLLECTION OF GENETIC INFORMATION; APPLICATION TO ALL PLANS.—Section 9802 of such Code is amended by redesignating subsection (c) as subsection (f) and by inserting after subsection (b) the following new subsections:

“(c) GENETIC TESTING.—

“(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan may not request or require an individual or a family member of such individual to undergo a genetic test.

“(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

“(3) RULE OF CONSTRUCTION REGARDING PAYMENT.—

“(A) IN GENERAL.—Nothing in paragraph (1) shall be construed to preclude a group health plan from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (a).

“(B) LIMITATION.—For purposes of subparagraph (A), a group health plan may request only the minimum amount of information necessary to accomplish the intended purpose.

“(4) RESEARCH EXCEPTION.—Notwithstanding paragraph (1), a group health plan may request, but not require, that a participant or bene-

ficiary undergo a genetic test if each of the following conditions is met:

“(A) The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

“(B) The plan clearly indicates to each participant or beneficiary, or in the case of a minor child, to the legal guardian of such beneficiary, to whom the request is made that—

“(i) compliance with the request is voluntary; and

“(ii) non-compliance will have no effect on enrollment status or premium or contribution amounts.

“(C) No genetic information collected or acquired under this paragraph shall be used for underwriting purposes.

“(D) The plan notifies the Secretary in writing that the plan is conducting activities pursuant to the exception provided for under this paragraph, including a description of the activities conducted.

“(E) The plan complies with such other conditions as the Secretary may by regulation require for activities conducted under this paragraph.

“(d) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

“(1) IN GENERAL.—A group health plan shall not request, require, or purchase genetic information for underwriting purposes (as defined in section 9832).

“(2) PROHIBITION ON COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A group health plan shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the plan or in connection with such enrollment.

“(3) INCIDENTAL COLLECTION.—If a group health plan obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of paragraph (2) if such request, requirement, or purchase is not in violation of paragraph (1).

“(e) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), (c), and (d) and subsection (b)(1) and section 9801 with respect to genetic information, shall apply to group health plans without regard to section 9831(a)(2).”.

(c) APPLICATION TO GENETIC INFORMATION OF A FETUS OR EMBRYO.—Such section is further amended by adding at the end the following:

“(f) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this chapter to genetic information concerning an individual or family member of an individual shall—

“(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

“(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.”.

(d) DEFINITIONS.—Subsection (d) of section 9832 of such Code is amended by adding at the end the following:

“(6) FAMILY MEMBER.—The term ‘family member’ means, with respect to any individual—

“(A) a dependent (as such term is used for purposes of section 9801(f)(2)) of such individual; and

“(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual or of an individual described in subparagraph (A).

“(7) GENETIC INFORMATION.—

“(A) IN GENERAL.—The term ‘genetic information’ means, with respect to any individual, information about—

“(i) such individual's genetic tests,

“(ii) the genetic tests of family members of such individual, and

“(iii) the manifestation of a disease or disorder in family members of such individual.

“(B) INCLUSION OF GENETIC SERVICES AND PARTICIPATION IN GENETIC RESEARCH.—Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

“(C) EXCLUSIONS.—The term ‘genetic information’ shall not include information about the sex or age of any individual.

“(8) GENETIC TEST.—

“(A) IN GENERAL.—The term ‘genetic test’ means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

“(B) EXCEPTIONS.—The term ‘genetic test’ does not mean—

“(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes, or

“(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

“(9) GENETIC SERVICES.—The term ‘genetic services’ means—

“(A) a genetic test;

“(B) genetic counseling (including obtaining, interpreting, or assessing genetic information); or

“(C) genetic education.

“(10) UNDERWRITING PURPOSES.—The term ‘underwriting purposes’ means, with respect to any group health plan, or health insurance coverage offered in connection with a group health plan—

“(A) rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the plan or coverage;

“(B) the computation of premium or contribution amounts under the plan or coverage;

“(C) the application of any pre-existing condition exclusion under the plan or coverage; and

“(D) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.”

(e) ENFORCEMENT.—

(1) IN GENERAL.—Subchapter C of chapter 100 of the Internal Revenue Code of 1986 (relating to general provisions) is amended by adding at the end the following new section:

“SEC. 9834. ENFORCEMENT.

“For the imposition of tax on any failure of a group health plan to meet the requirements of this chapter, see section 4980D.”

(2) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 100 of such Code is amended by adding at the end the following new item:

“Sec. 9834. Enforcement.”

(f) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—The Secretary of the Treasury shall issue final regulations or other guidance not later than 12 months after the date of the enactment of this Act to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 1 year after the date of the enactment of this Act.

SEC. 104. AMENDMENTS TO TITLE XVIII OF THE SOCIAL SECURITY ACT RELATING TO MEDIGAP.

(a) NONDISCRIMINATION.—Section 1882(s)(2) of the Social Security Act (42 U.S.C. 1395ss(s)(2)) is amended by adding at the end the following:

“(E) An issuer of a medicare supplemental policy shall not deny or condition the issuance or effectiveness of the policy (including the imposition of any exclusion of benefits under the

policy based on a pre-existing condition) and shall not discriminate in the pricing of the policy (including the adjustment of premium rates) of an individual on the basis of the genetic information with respect to such individual.

“(F) RULE OF CONSTRUCTION.—Nothing in subparagraph (E) or in subparagraphs (A) or (B) of subsection (x)(2) shall be construed to limit the ability of an issuer of a medicare supplemental policy from, to the extent otherwise permitted under this title—

“(i) denying or conditioning the issuance or effectiveness of the policy or increasing the premium for an employer based on the manifestation of a disease or disorder of an individual who is covered under the policy; or

“(ii) increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of an individual who is covered under the policy (in such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the employer).”

(b) LIMITATIONS ON GENETIC TESTING AND GENETIC INFORMATION.—

(1) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following:

“(x) LIMITATIONS ON GENETIC TESTING AND INFORMATION.—

“(1) GENETIC TESTING.—

“(A) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—An issuer of a medicare supplemental policy shall not request or require an individual or a family member of such individual to undergo a genetic test.

“(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

“(C) RULE OF CONSTRUCTION REGARDING PAYMENT.—

“(i) IN GENERAL.—Nothing in subparagraph (A) shall be construed to preclude an issuer of a medicare supplemental policy from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the Secretary under part C of title XI and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (s)(2)(E).

“(ii) LIMITATION.—For purposes of clause (i), an issuer of a medicare supplemental policy may request only the minimum amount of information necessary to accomplish the intended purpose.

“(D) RESEARCH EXCEPTION.—Notwithstanding subparagraph (A), an issuer of a medicare supplemental policy may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met:

“(i) The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

“(ii) The issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that—

“(I) compliance with the request is voluntary; and

“(II) non-compliance will have no effect on enrollment status or premium or contribution amounts.

“(iii) No genetic information collected or acquired under this subparagraph shall be used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rating, or the creation, renewal, or replacement of a plan, contract, or coverage for health insurance or health benefits.

“(iv) The issuer notifies the Secretary in writing that the issuer is conducting activities pursuant to the exception provided for under this subparagraph, including a description of the activities conducted.

“(v) The issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under this subparagraph.

“(2) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

“(A) IN GENERAL.—An issuer of a medicare supplemental policy shall not request, require, or purchase genetic information for underwriting purposes (as defined in paragraph (3)).

“(B) PROHIBITION ON COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—An issuer of a medicare supplemental policy shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the policy in connection with such enrollment.

“(C) INCIDENTAL COLLECTION.—If an issuer of a medicare supplemental policy obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of subparagraph (B) if such request, requirement, or purchase is not in violation of subparagraph (A).

“(3) DEFINITIONS.—In this subsection:

“(A) FAMILY MEMBER.—The term ‘family member’ means with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual.

“(B) GENETIC INFORMATION.—

“(i) IN GENERAL.—The term ‘genetic information’ means, with respect to any individual, information about—

“(I) such individual's genetic tests,

“(II) the genetic tests of family members of such individual, and

“(III) subject to clause (iv), the manifestation of a disease or disorder in family members of such individual.

“(ii) INCLUSION OF GENETIC SERVICES AND PARTICIPATION IN GENETIC RESEARCH.—Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

“(iii) EXCLUSIONS.—The term ‘genetic information’ shall not include information about the sex or age of any individual.

“(C) GENETIC TEST.—

“(i) IN GENERAL.—The term ‘genetic test’ means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

“(ii) EXCEPTIONS.—The term ‘genetic test’ does not mean—

“(I) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

“(II) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

“(D) GENETIC SERVICES.—The term ‘genetic services’ means—

“(i) a genetic test;

“(ii) genetic counseling (including obtaining, interpreting, or assessing genetic information); or

“(iii) genetic education.

“(E) UNDERWRITING PURPOSES.—The term ‘underwriting purposes’ means, with respect to a medicare supplemental policy—

“(i) rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the policy;

“(ii) the computation of premium or contribution amounts under the policy;

“(iii) the application of any pre-existing condition exclusion under the policy; and

“(iv) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

“(F) **ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.**—The term ‘issuer of a medicare supplemental policy’ includes a third-party administrator or other person acting for or on behalf of such issuer.”.

(2) **APPLICATION TO GENETIC INFORMATION OF A FETUS OR EMBRYO.**—Section 1882(x) of such Act, as added by paragraph (1), is further amended by adding at the end the following:

“(4) **GENETIC INFORMATION OF A FETUS OR EMBRYO.**—Any reference in this section to genetic information concerning an individual or family member of an individual shall—

“(A) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

“(B) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.”.

(3) **CONFORMING AMENDMENT.**—Section 1882(o) of the Social Security Act (42 U.S.C. 1395ss(o)) is amended by adding at the end the following:

“(4) The issuer of the medicare supplemental policy complies with subsection (s)(2)(E) and subsection (x).”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to an issuer of a medicare supplemental policy for policy years beginning on or after the date that is 1 year after the date of enactment of this Act.

(d) **TRANSITION PROVISIONS.**—

(1) **IN GENERAL.**—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) **NAIC STANDARDS.**—If, not later than June 30, 2008, the National Association of Insurance Commissioners (in this subsection referred to as the “NAIC”) modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) **SECRETARY STANDARDS.**—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall, not later than October 1, 2008, make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of such section.

(4) **DATE SPECIFIED.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) October 1, 2008.

(B) **ADDITIONAL LEGISLATIVE ACTION REQUIRED.**—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 2008 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2008. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 105. PRIVACY AND CONFIDENTIALITY.

(a) **IN GENERAL.**—Part C of title XI of the Social Security Act is amended by adding at the end the following new section:

“APPLICATION OF HIPAA REGULATIONS TO GENETIC INFORMATION

“**SEC. 1180. (a) IN GENERAL.**—The Secretary shall revise the HIPAA privacy regulation (as defined in subsection (b)) so it is consistent with the following:

“(1) Genetic information shall be treated as health information described in section 1171(4)(B).

“(2) The use or disclosure by a covered entity that is a group health plan, health insurance issuer that issues health insurance coverage, or issuer of a medicare supplemental policy of protected health information that is genetic information about an individual for underwriting purposes under the group health plan, health insurance coverage, or medicare supplemental policy shall not be a permitted use or disclosure.

“(b) **DEFINITIONS.**—For purposes of this section:

“(1) **GENETIC INFORMATION; GENETIC TEST; FAMILY MEMBER.**—The terms ‘genetic information’, ‘genetic test’, and ‘family member’ have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91), as amended by the Genetic Information Nondiscrimination Act of 2007.

“(2) **GROUP HEALTH PLAN; HEALTH INSURANCE COVERAGE; MEDICARE SUPPLEMENTAL POLICY.**—The terms ‘group health plan’ and ‘health insurance coverage’ have the meanings given such terms under section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91), and the term ‘medicare supplemental policy’ has the meaning given such term in section 1882(g).

“(3) **HIPAA PRIVACY REGULATION.**—The term ‘HIPAA privacy regulation’ means the regulations promulgated by the Secretary under this part and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

“(4) **UNDERWRITING PURPOSES.**—The term ‘underwriting purposes’ means, with respect to a group health plan, health insurance coverage, or a medicare supplemental policy—

“(A) rules for, or determination of, eligibility (including enrollment and continued eligibility) for, or determination of, benefits under the plan, coverage, or policy;

“(B) the computation of premium or contribution amounts under the plan, coverage, or policy;

“(C) the application of any pre-existing condition exclusion under the plan, coverage, or policy; and

“(D) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

“(c) **PROCEDURE.**—The revisions under subsection (a) shall be made by notice in the Federal Register published not later than 60 days after the date of the enactment of this section and shall be effective upon publication, without opportunity for any prior public comment, but may be revised, consistent with this section, after opportunity for public comment.

“(d) **ENFORCEMENT.**—In addition to any other sanctions or remedies that may be available under law, a covered entity that is a group health plan, health insurance issuer, or issuer of a medicare supplemental policy and that vio-

lates the HIPAA privacy regulation (as revised under subsection (a) or otherwise) with respect to the use or disclosure of genetic information shall be subject to the penalties described in sections 1176 and 1177 in the same manner and to the same extent that such penalties apply to violations of this part.”.

(b) **REGULATIONS; EFFECTIVE DATE.**—

(1) **REGULATIONS.**—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue final regulations to carry out the revision required by section 1180(a) of the Social Security Act, as added by subsection (a). The Secretary has the sole authority to promulgate such regulations, but shall promulgate such regulations in consultation with the Secretaries of Labor and the Treasury.

(2) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date that is 1 year after the date of the enactment of this Act.

SEC. 106. ASSURING COORDINATION.

Except as provided in section 105(b)(1), the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this title (and the amendments made by this title) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

TITLE II—PROHIBITING EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION

SEC. 201. DEFINITIONS.

In this title:

(1) **COMMISSION.**—The term “Commission” means the Equal Employment Opportunity Commission as created by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4).

(2) **EMPLOYEE; EMPLOYER; EMPLOYMENT AGENCY; LABOR ORGANIZATION; MEMBER.**—

(A) **IN GENERAL.**—The term “employee” means—

(i) an employee (including an applicant), as defined in section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f));

(ii) a State employee (including an applicant) described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16(a));

(iii) a covered employee (including an applicant), as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301);

(iv) a covered employee (including an applicant), as defined in section 411(c) of title 3, United States Code; or

(v) an employee or applicant to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.

(B) **EMPLOYER.**—The term “employer” means—

(i) an employer (as defined in section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)));

(ii) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

(iii) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

(iv) an employing office, as defined in section 411(c) of title 3, United States Code; or

(v) an entity to which section 717(a) of the Civil Rights Act of 1964 applies.

(C) **EMPLOYMENT AGENCY; LABOR ORGANIZATION.**—The terms “employment agency” and “labor organization” have the meanings given

the terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(D) **MEMBER.**—The term “member”, with respect to a labor organization, includes an applicant for membership in a labor organization.

(3) **FAMILY MEMBER.**—The term “family member” means, with respect to an individual—

(A) a dependent (as such term is used for purposes of section 701(f)(2) of the Employee Retirement Income Security Act of 1974) of such individual, and

(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual or of an individual described in subparagraph (A).

(4) **GENETIC INFORMATION.**—

(A) **IN GENERAL.**—The term “genetic information” means, with respect to any individual, information about—

(i) such individual’s genetic tests,

(ii) the genetic tests of family members of such individual, and

(iii) the manifestation of a disease or disorder in family members of such individual.

(B) **INCLUSION OF GENETIC SERVICES AND PARTICIPATION IN GENETIC RESEARCH.**—Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

(C) **EXCLUSIONS.**—The term “genetic information” shall not include information about the sex or age of any individual.

(5) **GENETIC MONITORING.**—The term “genetic monitoring” means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

(6) **GENETIC SERVICES.**—The term “genetic services” means—

(A) a genetic test;

(B) genetic counseling (including obtaining, interpreting, or assessing genetic information); or

(C) genetic education.

(7) **GENETIC TEST.**—

(A) **IN GENERAL.**—The term “genetic test” means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

(B) **EXCEPTIONS.**—The term “genetic test” does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes.

SEC. 202. EMPLOYER PRACTICES.

(a) **DISCRIMINATION BASED ON GENETIC INFORMATION.**—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire, or to discharge, any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee; or

(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee.

(b) **ACQUISITION OF GENETIC INFORMATION.**—It shall be an unlawful employment practice for an employer to request, require, or purchase genetic information with respect to an employee or a family member of the employee except—

(1) where an employer inadvertently requests or requires family medical history of the employee or family member of the employee;

(2) where—

(A) health or genetic services are offered by the employer, including such services offered as part of a wellness program;

(B) the employee provides prior, knowing, voluntary, and written authorization;

(C) only the employee (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer except in aggregate terms that do not disclose the identity of specific employees;

(3) where an employer requests or requires family medical history from the employee to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employer purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history;

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer provides written notice of the genetic monitoring to the employee;

(B)(i) the employee provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the employee is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees; or

(6) where the employer conducts DNA analysis for law enforcement purposes as a forensic laboratory, and such analysis is included in the Combined DNA Index System pursuant to section 210304 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132), and requests or requires genetic information of such employer’s employees, but only to the extent that such genetic information is used for analysis of DNA identification markers for quality control to detect sample contamination.

(c) **PRESERVATION OF PROTECTIONS.**—In the case of information to which any of paragraphs (1) through (6) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 203. EMPLOYMENT AGENCY PRACTICES.

(a) **DISCRIMINATION BASED ON GENETIC INFORMATION.**—It shall be an unlawful employment practice for an employment agency—

(1) to fail or refuse to refer for employment, or otherwise to discriminate against, any indi-

vidual because of genetic information with respect to the individual;

(2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this title.

(b) **ACQUISITION OF GENETIC INFORMATION.**—It shall be an unlawful employment practice for an employment agency to request, require, or purchase genetic information with respect to an individual or a family member of the individual except—

(1) where an employment agency inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employment agency, including such services offered as part of a wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employment agency except in aggregate terms that do not disclose the identity of specific individuals;

(3) where an employment agency requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employment agency purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employment agency provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employment agency, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results

of the monitoring only in aggregate terms that do not disclose the identity of specific individuals.

(c) **PRESERVATION OF PROTECTIONS.**—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1), (2), or (3) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 204. LABOR ORGANIZATION PRACTICES.

(a) **DISCRIMINATION BASED ON GENETIC INFORMATION.**—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any member because of genetic information with respect to the member;

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any member, in any way that would deprive or tend to deprive any member of employment opportunities, or otherwise adversely affect the status of the member as an employee, because of genetic information with respect to the member; or

(3) to cause or attempt to cause an employer to discriminate against a member in violation of this title.

(b) **ACQUISITION OF GENETIC INFORMATION.**—It shall be an unlawful employment practice for a labor organization to request, require, or purchase genetic information with respect to a member or a family member of the member except—

(1) where a labor organization inadvertently requests or requires family medical history of the member or family member of the member;

(2) where—

(A) health or genetic services are offered by the labor organization, including such services offered as part of a wellness program;

(B) the member provides prior, knowing, voluntary, and written authorization;

(C) only the member (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the labor organization except in aggregate terms that do not disclose the identity of specific members;

(3) where a labor organization requests or requires family medical history from the members to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where a labor organization purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the labor organization provides written notice of the genetic monitoring to the member;

(B)(i) the member provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the member is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursu-

ant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the labor organization, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific members.

(c) **PRESERVATION OF PROTECTIONS.**—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1), (2), or (3) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 205. TRAINING PROGRAMS.

(a) **DISCRIMINATION BASED ON GENETIC INFORMATION.**—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

(1) to discriminate against any individual because of genetic information with respect to the individual in admission to, or employment in, any program established to provide apprenticeship or other training or retraining;

(2) to limit, segregate, or classify the applicants for or participants in such apprenticeship or other training or retraining, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual; or

(3) to cause or attempt to cause an employer to discriminate against an applicant for or a participant in such apprenticeship or other training or retraining in violation of this title.

(b) **ACQUISITION OF GENETIC INFORMATION.**—It shall be an unlawful employment practice for an employer, labor organization, or joint labor-management committee described in subsection (a) to request, require, or purchase genetic information with respect to an individual or a family member of the individual except—

(1) where the employer, labor organization, or joint labor-management committee inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employer, labor organization, or joint labor-management committee, including such services offered as part of a wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer, labor organization, or joint labor-management committee except in aggregate terms that do not disclose the identity of specific individuals;

(3) where the employer, labor organization, or joint labor-management committee requests or requires family medical history from the individual to comply with the certification provi-

sions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where the employer, labor organization, or joint labor-management committee purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history;

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer, labor organization, or joint labor-management committee provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, labor organization, or joint labor-management committee, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals; or

(6) where the employer conducts DNA analysis for law enforcement purposes as a forensic laboratory, and such analysis is included in the Combined DNA Index System pursuant to section 210304 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132), and requests or requires genetic information of such employer's apprentices or trainees, but only to the extent that such genetic information is used for analysis of DNA identification markers for quality control to detect sample contamination.

(c) **PRESERVATION OF PROTECTIONS.**—In the case of information to which any of paragraphs (1) through (6) of subsection (b) applies, such information may not be used in violation of paragraph (1), (2), or (3) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 206. CONFIDENTIALITY OF GENETIC INFORMATION.

(a) **TREATMENT OF INFORMATION AS PART OF CONFIDENTIAL MEDICAL RECORD.**—If an employer, employment agency, labor organization, or joint labor-management committee possesses genetic information about an employee or member, such information shall be maintained on separate forms and in separate medical files and be treated as a confidential medical record of the employee or member. An employer, employment agency, labor organization, or joint labor-management committee shall be considered to be in compliance with the maintenance of information requirements of this subsection with respect to genetic information subject to this subsection that is maintained with and treated as a confidential medical record under section 102(d)(3)(B) of the Americans With Disabilities Act (42 U.S.C. 12112(d)(3)(B)).

(b) **LIMITATION ON DISCLOSURE.**—An employer, employment agency, labor organization,

or joint labor-management committee shall not disclose genetic information concerning an employee or member except—

(1) to the employee or member of a labor organization (or family member if the family member is receiving the genetic services) at the written request of the employee or member of such organization;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) in response to an order of a court, except that—

(A) the employer, employment agency, labor organization, or joint labor-management committee may disclose only the genetic information expressly authorized by such order; and

(B) if the court order was secured without the knowledge of the employee or member to whom the information refers, the employer, employment agency, labor organization, or joint labor-management committee shall inform the employee or member of the court order and any genetic information that was disclosed pursuant to such order;

(4) to government officials who are investigating compliance with this title if the information is relevant to the investigation;

(5) to the extent that such disclosure is made in connection with the employee's compliance with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws; or

(6) to a Federal, State, or local public health agency only with regard to information that is described in section 201(4)(A)(iii) and that concerns a contagious disease that presents an imminent hazard of death or life-threatening illness, and that the employee whose family member or family members is or are the subject of a disclosure under this paragraph is notified of such disclosure.

(c) **RELATIONSHIP TO HIPAA REGULATIONS.**—With respect to the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note), this title does not prohibit a covered entity under such regulations from any use or disclosure of health information that is authorized for the covered entity under such regulations. The previous sentence does not affect the authority of such Secretary to modify such regulations.

SEC. 207. REMEDIES AND ENFORCEMENT.

(a) **EMPLOYEES COVERED BY TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.**—

(1) **IN GENERAL.**—The powers, procedures, and remedies provided in sections 705, 706, 707, 709, 710, and 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4 et seq.) to the Commission, the Attorney General, or any person, alleging a violation of title VII of that Act (42 U.S.C. 2000e et seq.) shall be the powers, procedures, and remedies this title provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(i), except as provided in paragraphs (2) and (3).

(2) **COSTS AND FEES.**—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice.

(3) **DAMAGES.**—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title pro-

vides to the Commission, the Attorney General, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(b) **EMPLOYEES COVERED BY GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.**—

(1) **IN GENERAL.**—The powers, remedies, and procedures provided in sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b, 2000e–16c) to the Commission, or any person, alleging a violation of section 302(a)(1) of that Act (42 U.S.C. 2000e–16b(a)(1)) shall be the powers, remedies, and procedures this title provides to the Commission, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(ii), except as provided in paragraphs (2) and (3).

(2) **COSTS AND FEES.**—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice.

(3) **DAMAGES.**—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(c) **EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.**—

(1) **IN GENERAL.**—The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of section 201(a)(1) of that Act (42 U.S.C. 1311(a)(1)) shall be the powers, remedies, and procedures this title provides to that Board, or any person, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iii), except as provided in paragraphs (2) and (3).

(2) **COSTS AND FEES.**—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice.

(3) **DAMAGES.**—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(4) **OTHER APPLICABLE PROVISIONS.**—With respect to a claim alleging a practice described in paragraph (1), title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleging a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

(d) **EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.**—

(1) **IN GENERAL.**—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Commission, the Merit Systems Protection Board, or any person, alleging a violation of section 411(a)(1) of that title, shall be the powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, respectively, alleging an unlawful em-

ployment practice in violation of this title against an employee described in section 201(2)(A)(iv), except as provided in paragraphs (2) and (3).

(2) **COSTS AND FEES.**—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, alleging such a practice.

(3) **DAMAGES.**—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(e) **EMPLOYEES COVERED BY SECTION 717 OF THE CIVIL RIGHTS ACT OF 1964.**—

(1) **IN GENERAL.**—The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging a violation of that section shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee or applicant described in section 201(2)(A)(v), except as provided in paragraphs (2) and (3).

(2) **COSTS AND FEES.**—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice.

(3) **DAMAGES.**—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(f) **PROHIBITION AGAINST RETALIATION.**—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this title or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title. The remedies and procedures otherwise provided for under this section shall be available to aggrieved individuals with respect to violations of this subsection.

(g) **DEFINITION.**—In this section, the term “Commission” means the Equal Employment Opportunity Commission.

SEC. 208. DISPARATE IMPACT.

(a) **GENERAL RULE.**—Notwithstanding any other provision of this Act, “disparate impact”, as that term is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(k)), on the basis of genetic information does not establish a cause of action under this Act.

(b) **COMMISSION.**—On the date that is 6 years after the date of enactment of this Act, there shall be established a commission, to be known as the Genetic Nondiscrimination Study Commission (referred to in this section as the “Commission”) to review the developing science of genetics and to make recommendations to Congress regarding whether to provide a disparate impact cause of action under this Act.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 8 members, of which—

(A) 1 member shall be appointed by the Majority Leader of the Senate;

(B) 1 member shall be appointed by the Minority Leader of the Senate;

(C) 1 member shall be appointed by the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate;

(D) 1 member shall be appointed by the ranking minority member of the Committee on Health, Education, Labor, and Pensions of the Senate;

(E) 1 member shall be appointed by the Speaker of the House of Representatives;

(F) 1 member shall be appointed by the Minority Leader of the House of Representatives;

(G) 1 member shall be appointed by the Chairman of the Committee on Education and Labor of the House of Representatives; and

(H) 1 member shall be appointed by the ranking minority member of the Committee on Education and Labor of the House of Representatives.

(2) COMPENSATION AND EXPENSES.—The members of the Commission shall not receive compensation for the performance of services for the Commission, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 1 of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(d) ADMINISTRATIVE PROVISIONS.—

(1) LOCATION.—The Commission shall be located in a facility maintained by the Equal Employment Opportunity Commission.

(2) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(3) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the objectives of this section, except that, to the extent possible, the Commission shall use existing data and research.

(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) REPORT.—Not later than 1 year after all of the members are appointed to the Commission under subsection (c)(1), the Commission shall submit to Congress a report that summarizes the findings of the Commission and makes such recommendations for legislation as are consistent with this Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Equal Employment Opportunity Commission such sums as may be necessary to carry out this section.

SEC. 209. CONSTRUCTION.

(a) IN GENERAL.—Nothing in this title shall be construed to—

(1) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights or protections provided for under this title, including the protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) (including coverage afforded to individuals under section 102 of such Act (42 U.S.C. 12112)),

or under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(2)(A) limit the rights or protections of an individual to bring an action under this title against an employer, employment agency, labor organization, or joint labor-management committee for a violation of this title; or

(B) provide for enforcement of, or penalties for violation of, any requirement or prohibition applicable to any employer, employment agency, labor organization, or joint labor-management committee subject to enforcement for a violation under—

(i) the amendments made by title I of this Act; (ii)(I) subsection (a) of section 701 of the Employee Retirement Income Security Act of 1974 as such section applies with respect to genetic information pursuant to subsection (b)(1)(B) of such section;

(II) section 702(a)(1)(F) of such Act; or (III) section 702(b)(1) of such Act as such section applies with respect to genetic information as a health status-related factor;

(iii)(I) subsection (a) of section 2701 of the Public Health Service Act as such section applies with respect to genetic information pursuant to subsection (b)(1)(B) of such section;

(II) section 2702(a)(1)(F) of such Act; or (III) section 2702(b)(1) of such Act as such section applies with respect to genetic information as a health status-related factor; or

(iv)(I) subsection (a) of section 9801 of the Internal Revenue Code of 1986 as such section applies with respect to genetic information pursuant to subsection (b)(1)(B) of such section;

(II) section 9802(a)(1)(F) of such Act; or (III) section 9802(b)(1) of such Act as such section applies with respect to genetic information as a health status-related factor;

(3) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains;

(4) limit or expand the protections, rights, or obligations of employees or employers under applicable workers' compensation laws;

(5) limit the authority of a Federal department or agency to conduct or sponsor occupational or other health research that is conducted in compliance with the regulations contained in part 46 of title 45, Code of Federal Regulations (or any corresponding or similar regulation or rule);

(6) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations; or

(7) require any specific benefit for an employee or member or a family member of an employee or member under any group health plan or health insurance issuer offering group health insurance coverage in connection with a group health plan.

(b) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this title to genetic information concerning an individual or family member of an individual shall—

(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.

(c) RELATION TO AUTHORITIES UNDER TITLE I.—With respect to a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, this title does not prohibit any activity of such plan or issuer that is authorized for the plan or issuer under any provision of law referred to in clauses (i) through (iv) of subsection (a)(2)(B).

SEC. 210. MEDICAL INFORMATION THAT IS NOT GENETIC INFORMATION.

An employer, employment agency, labor organization, or joint labor-management committee

shall not be considered to be in violation of this title based on the use, acquisition, or disclosure of medical information that is not genetic information about a manifested disease, disorder, or pathological condition of an employee or member, including a manifested disease, disorder, or pathological condition that has or may have a genetic basis.

SEC. 211. REGULATIONS.

Not later than 1 year after the date of enactment of this title, the Commission shall issue final regulations to carry out this title.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title (except for section 208).

SEC. 213. EFFECTIVE DATE.

This title takes effect on the date that is 18 months after the date of enactment of this Act.

TITLE III—MISCELLANEOUS PROVISIONS**SEC. 301. SEVERABILITY.**

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provisions to any person or circumstance shall not be affected thereby.

SEC. 302. CHILD LABOR PROTECTIONS.

(a) IN GENERAL.—Section 16(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(e)) is amended to read as follows:

“(e)(1)(A) Any person who violates the provisions of sections 12 or 13(c), relating to child labor, or any regulation issued pursuant to such sections, shall be subject to a civil penalty not to exceed—

“(i) \$11,000 for each employee who was the subject of such a violation; or

“(ii) \$50,000 with regard to each such violation that causes the death or serious injury of any employee under the age of 18 years, which penalty may be doubled where the violation is a repeated or willful violation.

“(B) For purposes of subparagraph (A), the term ‘serious injury’ means—

“(i) permanent loss or substantial impairment of one of the senses (sight, hearing, taste, smell, tactile sensation);

“(ii) permanent loss or substantial impairment of the function of a bodily member, organ, or mental faculty, including the loss of all or part of an arm, leg, foot, hand or other body part; or

“(iii) permanent paralysis or substantial impairment that causes loss of movement or mobility of an arm, leg, foot, hand or other body part.

“(2) Any person who repeatedly or willfully violates section 6 or 7, relating to wages, shall be subject to a civil penalty not to exceed \$1,100 for each such violation.

“(3) In determining the amount of any penalty under this subsection, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of any penalty under this subsection, when finally determined, may be—

“(A) deducted from any sums owing by the United States to the person charged;

“(B) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

“(C) ordered by the court, in an action brought for a violation of section 15(a)(4) or a repeated or willful violation of section 15(a)(2), to be paid to the Secretary.

“(4) Any administrative determination by the Secretary of the amount of any penalty under this subsection shall be final, unless within 15 days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred,

in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary.

"(5) Except for civil penalties collected for violations of section 12, sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provision of section 2 of the Act entitled 'An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof and for other purposes' (29 U.S.C. 9a). Civil penalties collected for violations of section 12 shall be deposited in the general fund of the Treasury."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

MOTION OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

Mr. GEORGE MILLER of California. Madam Speaker, I have a motion at the desk.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Motion offered by Mr. GEORGE MILLER of California:

Mr. George Miller of California moves that the House concur in the Senate amendment to H.R. 493.

The SPEAKER pro tempore. Pursuant to House Resolution 1156, the motion shall be debatable for 1 hour, with 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

The gentleman from California (Mr. GEORGE MILLER), the gentleman from California (Mr. MCKEON), the gentleman from Michigan (Mr. DINGELL), the gentleman from Michigan (Mr. UPTON), the gentleman from California (Mr. STARK), and the gentleman from Michigan (Mr. CAMP) each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Madam Speaker, I ask unanimous consent to yield my 10 minutes to the Chair of the Commerce Committee, Mr. DINGELL.

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

There was no objection.

Mr. DINGELL. Madam Speaker, I yield myself 2 minutes.

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

Mr. DINGELL. Madam Speaker, today we consider H.R. 493, the Genetic Information Nondiscrimination Act. I first wish to congratulate Representative SLAUGHTER for her leadership on this bill on which she has worked for better than 13 years. It has been a privilege to join her in that work, and

I am delighted that it has brought us to today's vote.

Recent advances in research have made it possible to identify the genetic basis for human diseases. These breakthroughs, magnificent as they are, have opened the door to early detection and treatment of diseases and prevention strategies geared to a person's genetic makeup. At the same time, this information can also be used to unfairly discriminate against or stigmatize individuals when it comes to insurance and employment.

To protect individuals from insurance discrimination, H.R. 493 would prohibit health insurers, both in group and individual markets, from canceling, denying, refusing to renew or changing the terms or premiums of coverage based solely on genetic predispositions towards specific diseases.

Additionally, in order to protect individuals from employment discrimination, this bill would make it unlawful for employers or other hiring entities to use an individual's genetic information regarding hiring, firing, promotion or other terms and conditions of employment. The legislation requires that genetic information be treated as a part of the individual's confidential medical record and that employers maintain separate forms or files for any genetic information that they may obtain.

The House of Representatives passed this legislation a year ago with a strong bipartisan vote of 420-3. Unfortunately, the measure has been held up in the Senate, as usual. With these concerns now resolved, we are close to providing Americans the ability to undergo genetic testing that may indicate early treatment and prevention of diseases such as cancer, heart disease, diabetes and Alzheimer's, without fear of losing their health insurance or affecting adversely the conditions of their employment.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DINGELL. I yield myself 1 additional minute.

The bill currently before us includes clarifying language intended to ease the concerns of some of my colleagues and is identical to the version passed by the Senate last week. These changes include a firewall between title I and II of the bill. The modifications clarify that employers are not liable for health insurance violations under civil rights laws unless the employer has separately violated a provision of title II governing employers.

The changes also make it clear that while individuals are protected from discrimination based on genetic predisposition, the authority of insurance companies to base coverage and pricing on the actual presence of a disease is not affected.

These changes broaden the base of support for the bill and allow us to bring it to the House floor with the expectation that it will be signed into law by the President.

I thank my colleagues on both sides of the aisle for their hard work on this

bill and for coming together to make this legislation a reality.

Madam Speaker, I ask unanimous consent to yield back the remainder of my time to my distinguished friend from California, the Honorable GEORGE MILLER, chairman of the Education and Labor Committee, and that he be permitted to yield that time in accordance with his whims.

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

There was no objection.

Mr. MCKEON. Madam Speaker, I rise in support of this legislation, and yield myself such time as I may consume.

Madam Speaker, while it is not a perfect bill, I do believe it contains a number of important improvements over prior versions of this legislation, including that which I supported a little over a year ago on the House floor. More importantly, it marks a commitment by this Congress to ensure that the laws of the United States protect American workers and health care consumers from discrimination on the basis of their genetic makeup. Because that goal is so critical, I will vote for this bill today, and urge my colleagues to do likewise.

Before I turn to the substance of my remarks, I would like to commend my colleague and fellow Member on the Committee on Education and Labor, Representative JUDY BIGGERT, for her years of work and dedication on this important issue. She has been persistent and effective on so many issues that have come before this committee and this Congress and she should be commended for adding this important bill to her list of legislative accomplishments. I also want to commend the gentlewoman from New York, the distinguished Chair of the Rules Committee, Ms. SLAUGHTER, who has been Mrs. BIGGERT's partner in this effort.

As I noted during our committee's consideration of this bill last year, I believe the title of the legislation before us, the Genetic Information Nondiscrimination Act, embodies a proposition that all Members of our committee and indeed our Congress would endorse. Simply put, no employee should face discrimination on the basis of his or her genetic makeup or on any other characteristic other than his or her ability to do the job. Similarly, no employee should risk his or her health insurance status simply because of the possibility that they might some day develop an illness.

This bill was drafted with those fundamental principles in mind, and I believe that through the legislative process, we have taken steps toward ensuring that the bill we send the President today ensures that those principles are fulfilled, while minimizing the potential for unintended consequences.

I would take this opportunity to point out a number of improvements in the bill that I think merit attention.

□ 1130

Foremost, I am pleased that the bill we will send today to the White House for President Bush to sign embodies the same logic as a past executive order issued by President Clinton to ensure that this legislation would not inadvertently serve as a broad new Federal mandate requiring all insurance plans and employers to cover all treatments related to genetic-related conditions. That is exactly the type of unintended consequences we were seeking to avoid, and I am pleased we were able to work this out.

Second, I would highlight a provision in the legislation that ensures that employers who are currently subject to a number of confidentiality and record-keeping requirements under law are not burdened by yet another redundant set of paperwork requirements. The bill before us today provides that, with respect to genetic information, if an employer maintains employee records and treats them as it does confidential medical records under the Americans With Disabilities Act, it is in compliance with this new genetics law.

Third, I applaud a significant improvement in the bill; namely, its extension of genetic nondiscrimination protection to all Americans.

One of the issues raised during our committee's consideration of the bill was concern that the bill's protections did not adequately extend to cover children in utero or at early stages of development, or in connection with in vitro fertilization and other technologies. I am very pleased that the final bill before us addresses this issue to the satisfaction of all Members on both sides of the aisle who worked in good faith to ensure the broadest protections possible.

The Senate amendment we consider today contains a number of other improvements over prior versions, including important provisions relating to those who participate in genetic clinical testing, providing for use of genetic information in matters of public health safety, and ensuring the most focused scheme of remedies possible. These changes represent issues we were able to work through over the past year and which demonstrate how the legislative process is meant to work. We were presented with well-intentioned legislation, heard meaningful testimony on it and its potential impact on employers and employees alike, raised and debated legitimate concerns, and worked through to bridge the gap between where we began and where we stand today.

I thank the staff from both sides of the aisle and in both chambers for making this a reality.

Before concluding my remarks, I would be remiss if I did not note for the record that I am still concerned that this bill is in some respects potentially overbroad. While we all agree with the goal of nondiscrimination I discussed earlier, the facts remain that we are poised today to adopt a sweeping new

expansion to Federal Civil Rights scheme, the most expansive change since the adoption of the Americans With Disabilities Act of 1990.

As we send this bill to the President to sign into law, I would urge my colleagues to join me in remaining vigilant in the months to come in monitoring the administration of this new law to ensure that it addresses the problems it is intended to correct, and does not simply become yet another bureaucratic burden on employers or a lottery ticket for plaintiffs' lawyers.

In that same light, as courts and administrative agencies interpret and enforce these laws, I would urge them to heed the intent of Congress; namely, that this bill's most egregious penalties must be reserved for the most egregious violations of the law. If experience under this new law shows that this is not the case, I trust my colleagues will join me in supporting swift action to correct any mistakes we have made.

With that, I will conclude my comments. As I noted at the outset of my remarks, our actions today will ensure that the law of the United States protects American workers and health care consumers from discrimination on the basis of their genetic makeup, a goal I think is shared by every Member of this House. I urge my colleagues to support this legislation.

I yield the balance of my time to the gentlelady from Illinois (Mrs. BIGGERT) and ask unanimous consent that she be allowed to control the remainder of the time.

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

There was no objection.

Mr. GEORGE MILLER of California. I yield 3 minutes to the gentleman from California, the subcommittee Chair of Ways and Means, Mr. STARK.

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

Mr. STARK. Madam Speaker, I would add my congratulations and praise to the gentlewoman from New York (Ms. SLAUGHTER) and the gentlewoman from Illinois (Mrs. BIGGERT) for the work that they have done to bring this bill finally to the floor for passage. It is a bill that has languished for over a decade. It is good to see that times have changed. We moved expeditiously last year through three committees and on to the floor, and it will leave this chamber today and head to the White House for the President's signature. It is a small but long overdue step toward approving our health care system and preventing employment discrimination, and ensures that our laws governing patients' rights are as current as the latest medical technology.

Simply stated, the legislation provides peace of mind, and encourages people to take advantage of the miracles of modern medicine without fear of reprisal or consequences at work or in health care or in qualifying for insurance.

GINA, as it is known, prohibits insurers and employees from using the genetic information to discriminate. Thus, a woman who has decided to find out whether she carries the breast cancer gene need not worry about losing her job or health insurance merely because she sought the test. Enactment of this law is critical to protect patients and is needed to encourage people to use robust genetic research and to encourage more research. Additional research will help us determine when we men will get colon cancer or prostate cancer, and not be afraid to go and receive those tests for fear of being discriminated against.

This legislation enjoys broad bipartisan support of more than 500 groups representing patients, employees, physicians, providers, and others who value the protection that this legislation provides. I urge strong support for this bill.

I ask unanimous consent that I be able to yield the balance of our time for the Ways and Means Committee to the gentleman from California (Mr. GEORGE MILLER), and that he control the balance of our time.

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

There was no objection.

Mr. UPTON. I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of this legislation, and want to commend all those that were instrumental in getting its passage to the floor, particularly my good friend, JUDY BIGGERT from Illinois.

We have made some wonderful advances in health care research over the number of years. I can remember helping to lead the charge with my colleague, Mr. WAXMAN, on a bipartisan bill to double the money for the National Institutes of Health back in the nineties, and we had a similar effort in the Senate between JOHN MCCAIN, the Republican leader there of that same issue, and Paul Wellstone, a dear colleague who is no longer with us. But, together we passed that bipartisan legislation. And with those advances, of course we have to look at other things that are pertinent, too, and that is why this Genetic Information Nondiscrimination Act is so important.

I remember traveling to the University of Michigan and meeting with one of the researchers there that in fact had received an NIH grant; and he just weeks before, because of that grant, had identified the breast cancer gene that strikes one in eight women across America. He was excited. And it wouldn't have happened without that NIH money; but with that discovery, it is clear that we have to in fact protect that genetic information from being discriminated against by who knows who.

And I would say that, thanks to my colleagues, Mr. DEAL, the ranking member on the Health Subcommittee who is in a hearing right now, and JOE

BARTON, the ranking member, that we have all made advances and worked closely with Chairman DINGELL to mitigate what we believed were some significant problems with the legislation as it was introduced.

Among other items, we wanted to make sure that any use of information by certain entities regulated under the Health Insurance Portability and Accountability Act not also be regulated by the Equal Employment Opportunity Commission under title II of the bill. Such dual regulation of the use of information would have been highly disruptive and certainly inappropriate.

We also made numerous clarifications to make sure that the new regulatory scheme did not disrupt reasonable and needed activities by health plans to improve health care, coordinate benefits, process benefits, or educate beneficiaries. It is important for the Congress to be mindful that we are not writing on a blank slate each and every time that we launch one of these new regulatory and liability schemes. And I certainly join many here that are satisfied that these important improvements made by the Committee on Energy and Commerce are preserved in the bill. I want to commend the bipartisan and bicameral discussions that led to this compromise, and I would urge that we all support it when a roll call vote comes.

At this point, I would yield the balance of our time that our committee controls to my friend from Illinois (Mrs. BIGGERT).

The SPEAKER pro tempore. Without objection, the gentlewoman from Illinois will control the time.

There was no objection.

Mr. GEORGE MILLER of California. I yield 3 minutes to the gentlewoman from Pennsylvania, Ms. ALLYSON SCHWARTZ.

Ms. SCHWARTZ. Today, Americans buy health coverage believing they are doing the right thing and expecting that they have secured access for needed health services for themselves and their family. But, unfortunately, this is simply not always true. Individuals, regardless of their age or circumstances, are denied health coverage every day due to the evidence or existence of preexisting conditions. This could be anything from asthma to heart disease, and it could affect anyone from our Nation's children to our grandparents to each of us.

For more than 10 years, the Health Insurance Portability and Accountability Act has provided protection for some individuals and families to ensure this information is not used to deny health coverage by either an employer or an insurer; but gaps still remain.

With the evolution of biomedical research, our Nation's scientists have discovered opportunities to use genetic information to prevent, diagnose, and more effectively treat some of the most devastating diseases of our lifetime. I am honored to represent some of these most brilliant researchers and

scientists in Southeastern Pennsylvania.

In addition to the great medical potential they are exploring, genetic information also has the potential to reduce health care costs with better prevention and disease management. We must ensure that these new revelations do not come with a price: Discrimination by employers, insurers, schools, or others based on genetic information of those who are not even sick but are simply identified as being predisposed to a specific disease. If we do not reassure our fellow Americans that they are safe in taking full advantage of the opportunities provided by exploring the genetic information, then these advances in biomedical research could well be for naught.

For this reason, I applaud my colleague, Representative SLAUGHTER, for introducing the Genetic Information Nondiscrimination Act and for being its champion for so many years. I am proud to support its passage today. It is important for all Americans and their access to health coverage.

Mr. CAMP of Michigan. Madam Speaker, I yield myself such time as I may consume.

As many of my colleagues have stated, passing this bill is an important step forward in protecting the health of every American. We should be proud of our efforts to work on a bipartisan basis to craft this legislation, and I want to recognize the efforts of the gentlewoman from Illinois, Congresswoman BIGGERT. This bill should be a model for our efforts to reform health care.

We all agree that individuals should not be discriminated against on the basis of their genetic information. Employers and insurers should not be allowed to use genetic markers to deny employment or health coverage simply because they possess a particular gene. But genetic information can also be used to help patients. Health plans have an ability to interact with both patients and providers to highlight recommended tests and courses of action.

For example, a person that has a gene for a certain type of cancer would be recommended to receive more frequent cancer screenings. Knowing this, the health insurer would know to approve coverage for these additional screenings because they would be at a higher risk of developing that type of cancer.

We all preach about transforming medicine to provide more preventative care. Now, we are finally at a point where medical technology can be effectively used to deliver the preventative care that we envision.

I am certain that the use of genetic information is just the tip of the iceberg. As medicine develops, so must our laws and regulations; yet, we must be careful not to stifle these promising medical advances. I am confident that we can both protect patient privacy and improve the delivery of health care as this legislation does.

With that, I yield the remaining time from my committee to the gentlewoman from Illinois to control.

The SPEAKER pro tempore. Without objection, the gentlewoman from Illinois will control the time.

There was no objection.

Mr. GEORGE MILLER of California. I yield 2 minutes to the gentlewoman from New Hampshire (Ms. SHEA-PORTER), a member of the committee.

Ms. SHEA-PORTER. Madam Speaker, I rise today in support of H.R. 493, the Genetic Information Nondiscrimination Act.

As a member of the Education and Labor Committee, I knew that we had served the American people well when the committee passed this bill and then the House passed it almost unanimously in April 2007. Now, a year later, we are on the verge of sending this important legislation to the President with overwhelming bipartisan support in both Chambers.

□ 1145

Science and medicine have made great strides in recent years, especially with regard to genetic mapping and research. The potential for finding the answers we desperately seek for so many diseases and afflictions is greatly increased by the research being done. However, in order for these efforts to be successful, the public must be assured that these new discoveries will help and not hurt them.

Science will soon be able to tell us about many more diseases that individuals are genetically predisposed to develop. That information should be used only for the public good. It must not be used by companies to pick and choose who gets insurance or who gets discriminated against. They should not be allowed to charge higher insurance premiums because of somebody's individual genetic makeup.

This critical piece of legislation will protect individuals from discrimination. This is an important step that Congress is taking today, and I am very happy that we are doing this in a unified spirit. I commend Congresswomen Slaughter and Biggert for their efforts here. And I would also like to thank Chairman MILLER and my colleagues on the Education and Labor Committee for their work on this and so many other important issues. I urge my colleagues to vote "yes."

Mrs. BIGGERT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in strong support of H.R. 493, the Genetic Information Nondiscrimination Act, which will prohibit health insurers and employers from discriminating on the basis of genetic information.

As many of my colleagues are aware, this legislation has been around for quite some time. I have been working on it for more than 7 years, and Congresswoman SLAUGHTER has been working on it for more than 12 years. It's been a long road, and there have been

many times I thought this day would never come; but it is here.

Over this period of time, I have heard stories from my constituents and other individuals across the country about how genetic information was affecting their lives. Quite simply, they are stories of how our laws have failed to keep pace with medical science.

A breast cancer survivor in Chicago told me that even though her doctor recommended she undergo a genetic test to see if she had a 60 percent chance of developing ovarian cancer, which was quite common in the type of breast cancer that they had, she refused the test. She said I can't, I will lose my job.

It isn't that she didn't want to know; quite the opposite. She desperately wanted to know, but she feared if she had an adverse result from the test, she would lose her job. She is not alone; studies show that 85 percent of Americans fear employers will use genetic information to discriminate.

And then there is the woman from Missouri whose sister had suffered from cancer was cautioned by her doctor that undergoing genetic testing would cause her to lose her health insurance. She too chose not to undergo a genetic test. She is not alone; studies show that 84 percent of Americans express concern that health insurance companies would deny coverage based on genetic information.

And then there is the man with a family history of PKD, decided to take a genetic test but chose to use an alias and pay cash rather than bill his insurance just to keep the test out of his medical file. And he also is not alone; 26 percent of genetic counselors themselves admit that they would use an alias and 68 percent said they would pay for the test out of their pocket to protect themselves from discrimination.

The dean of a prominent university in Massachusetts told me that the fear of genetic discrimination was hindering clinical trials, slowing the development of life-saving techniques. At NIH, fear of genetic discrimination is the most common reason people cite for not participating in clinical trials on breast and colon cancers.

Madam Speaker, I have heard these stories over and over again from individuals wanting to know their genetic risk of developing diseases as far ranging as cancer, heart disease, diabetes, Parkinson's, Alzheimer's, Tay-Sachs, and PKD.

The sad fact is that these individuals are avoiding genetic tests that would empower them with the information that could save their lives.

So I want to let all people know that when the House passes GINA today, we will be just one step away, and that would be the signing by the President, from realizing the medical benefits of genetic testing. One step away from ensuring that people will be able to take a genetic test without risking their jobs and health insurance. One step

away from ensuring that patients can stop using aliases and paying out of pocket to keep their genetic tests secret. One step away from ensuring that individuals will be able to participate in genetic clinical trials without fear of discrimination.

And the last step is the President's signature, and I am happy to say that he is expected to sign this bill.

Madam Speaker, it is clear to me that by passing GINA and freeing people from fear of genetic discrimination, we can unlock the tremendous life-saving and cost-saving potential of genetic research. More Americans will participate in genetic clinical trials, and more Americans will use these technologies to improve their health.

And with these improvements comes the prospect of dramatically reducing the chronic care costs that cripple our health care system. We now have more than 500 different health advocacy and business organizations supporting this bill. Recent surveys shows that 93 percent of Americans believe that employers and insurers should not be able to use genetic information to discriminate.

With numbers like these, it should be no surprise that the House passed this bill last April 420-3, and the Senate passed it last week 95-0, and the President is expected to sign this measure into law.

Madam Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Madam Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY), a subcommittee Chair in the Committee on Education and Labor.

Ms. WOOLSEY. Madam Speaker, we have been waiting for this day for over a decade. Finally we are here, and we are about to pass H.R. 493, the Genetic Information Nondiscrimination Act that we called GINA which was first introduced by Representative SLAUGHTER in 1995 and which was approved by the Senate last week.

It has been a long road, but the main sponsors of the legislation, Representative SLAUGHTER and Representative BIGGERT have persevered, and I congratulate them both.

I am proud to be an original cosponsor of GINA which will prohibit employers from using genetic information to discriminate against workers, and will also prohibit health insurers from using such information to raise premiums or to deny coverage.

We know that many States, including my home State of California, prohibits employers and health insurers from discriminating on the basis of genetic information, and that is good, but these laws vary widely.

So it is important for the Federal Government, as it has with title VII and the Americans with Disabilities Act, ADA, to step forward to establish a national policy, making it clear that discriminating against workers and others based on genetic information is unacceptable.

Madam Speaker, this bill also contains the provisions of H.R. 2637, the Child Labor Protection Act of 2007. It was a bill I introduced last year that passed the House in June of 2007.

The provisions in H.R. 2637 will increase civil penalties from \$11,000 to \$50,000 for violations that cause the death or serious injury of a child worker, as if there is any penalty high enough to make up for a child.

The legislation, though, provides that a penalty can be doubled when the violation causing death or injury is repeated or willful. The child labor bill was a narrowly drafted bipartisan effort. It is a good foundation for future action on child labor laws.

So I am delighted that part of GINA includes my legislation, legislation that can be used to offset the costs of GINA.

We are living, Madam Speaker, in an exciting age. We have just begun to tap the potential of genetic testing. This bill adds the protection that is needed so this research can go forward and be used wisely.

Mrs. BIGGERT. I reserve the balance of my time.

Mr. GEORGE MILLER of California. Madam Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS).

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

Mr. ANDREWS. I thank the chairman for yielding, and I rise in strong support of this legislation. I would like to thank all of those involved in bringing us to this point, Ms. SLAUGHTER, Mrs. BIGGERT, and I especially want to mention Mark Zuckerman, Brian Kennedy, Michelle Varnhagen, and Carlos Fenwick from our staff who worked so hard on making this a reality. Thank you very much for your good work.

This is about as basic as it gets. It is a fundamental principle in this country that when you walk in and apply for a job, you shouldn't be judged on the color of your skin, your gender, your sexual orientation, your ethnicity, your age, or your religion. To that today we are adding the notion of your genetic background.

I think most Americans would understand as a matter of simple common sense that if your grandmother had breast cancer, it should be irrelevant as to whether you get a job or not. If your grandfather was diabetic, it should be irrelevant as to whether you get health insurance or not, and under what terms.

This simple, powerful, commonsense idea that is embodied in this legislation will become embodied in the law very shortly because of the good work that is being done here.

Beyond the basic fairness, the basic principle that we should be judged by our abilities and not by our characteristics, is the point that we discussed earlier during the rule debate. Many Americans justifiably fear that if they share their genetic information with

researchers, that information may wind up hurting them. It may wind up depriving them of a job, depriving them of health insurance, or raising their health insurance premiums.

The very significant protections that are in this bill, soon to become law, will provide a level of assurance for Americans that when we participate in genetic research, as I have by donating my DNA sample to the Coriell Institute in Camden, New Jersey, that we will be protected against misuse of that information.

This unlocks an exhilarating potential for finding the cure for all kinds of diseases and afflictions that have hurt so many people for so long. So I believe this is a singular achievement. It is an honor to be a part of it, and I know that generations of Americans will benefit not only from the simple fairness that this law will impose in the workplace, but for the great potential that this law will unlock for the investors and inventors and researchers of this country.

No American should ever be denied a job or health insurance or a promotion because of their genetic characteristics. Because of our actions today, this will become the law.

I thank the chairman for his leadership. I thank Mrs. BIGGERT for her leadership and Chairwoman SLAUGHTER as well, and urge a "yes" vote in favor of this legislation.

Mr. GEORGE MILLER of California. I yield 2 minutes to the gentleman from New York (Mr. ENGEL), a member of the Energy and Commerce Committee.

Mr. ENGEL. Madam Speaker, as a member of the Energy and Commerce Committee and a member of the Health Subcommittee, I thank my friend, the distinguished chairman of the Education and Labor Committee, for allowing me time under his leadership.

I am a proud cosponsor of this bill. I am pleased to see it moving forward after more than a decade of advocacy.

While researchers' ability to identify genetic markers for diseases has given hope and promise to millions of people regarding how to make more informed choices about their personal behavior, the promise of this breakthrough is hindered, as many of my colleagues have said, by well-founded fears of how information may be abused in the employment and insurance industries.

While many states, including my own home State of New York, have laws which prohibit discrimination in health insurance, and by employers based on genetic testing and information, it is clear that the laws are not fully comprehensive and that Federal action is necessary, certainly to make it more uniform across all 50 States.

□ 1200

Fear should not be a deterrent to knowledge. Disregarding available tests for fear of discrimination prevents citizens from making smarter, personalized choices about their own

well-being. We know too much to subscribe to one-size-fits-all medicine. And once again, it should be our physicians, not our insurance companies, who influence our health care decisions.

This is a wonderful bill, very much overdue for enactment, years and years and years in the process. It's supported by hundreds of patient advocate groups, and will make a true impact on the health care of our Nation.

I urge all my colleagues to support the bill.

I yield back the balance of my time. Mrs. BIGGERT. I have no further speakers, and I reserve the balance of my time.

Mr. GEORGE MILLER of California. I yield 2 minutes to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ), a member of the Education Committee.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise in strong support of the Genetic Information Non-Discrimination Act, and thank my colleague, Congresswoman SLAUGHTER, for her tireless work term after term to support this bill and ensure that it would eventually become law.

Over the past several years, genetic discoveries have progressed at a remarkable rate. Today, doctors and scientists have the ability to detect genes linked to common conditions like colon cancer and heart disease. Individuals who learn about their genetic risk factors can make lifestyle changes and begin treatments that prevent these conditions altogether.

But too many Americans don't take advantage of these amazing breakthroughs for a very practical reason. They fear that the information will be used to deny them health insurance or even a job.

While the best way to allay those fears would be to enact universal health care coverage for all, this bill is a fantastic first step.

By prohibiting discrimination on the basis of our genes, this bill will improve the chances that average Americans can benefit from cutting edge genetic science. It will promote better health care by helping Americans feel secure enough to learn about their genetic risk factors.

As the daughter of a father who suffers from Alzheimer's and a mother who suffers from arthritis, I personally understand the need to make genetic testing a positive step in understanding one's genetic predispositions and making health care choices. Genetic testing should not be a hindrance to getting or keeping one's job or health care benefits.

While this bill will accomplish many great things, I want to point out just two very important ones. Number 1, it will arm people with necessary and relevant information about their own health. And Number 2, it will ensure that people won't be penalized for seeking and using this valuable information.

I urge all my colleagues to support the Genetic Information Non-Discrimination Act.

Mrs. BIGGERT. I reserve the balance of my time.

Mr. GEORGE MILLER of California. I yield 2 minutes to the gentleman from Pennsylvania (Mr. SESTAK), a member of the Education and Labor Committee.

Mr. SESTAK. Mr. Speaker, the completion of the human genome project 5 years ago made it possible to identify specific genes that trigger diseases later in life. However, out of at fear of losing their jobs or their health insurance, studies have shown that many Americans forego the potential health benefits of genetic testing.

While involved in a course at the University of Pennsylvania on genetic discrimination, the position paper Dr. Ruth Cowan's students presented to me reemphasized that this concern of genetic discrimination risks stifling further scientific advances in genetic based research.

No genetic nondiscrimination laws in health care, such as in my State of Pennsylvania, may mean foregoing cures based upon genetic research. With a young daughter who underwent treatment for a malignant brain tumor recently, I understand why, as scientific technology advances, discrimination cannot grow with it, or we harm not only the quality of life, but life itself.

With State laws varying in how to maintain the privacy of genetic information, the Genetic Information Non-discrimination Act will set a national standard and take the first step toward advancing the scientific and health benefits of genetic research and protecting the genetic privacy of Americans.

I urge all my colleagues to support this bill.

Mrs. BIGGERT. I reserve the balance of my time.

Mr. GEORGE MILLER of California. I yield myself such time as I may consume.

Mr. Speaker, today we are celebrating, or we will shortly with a vote on the Genetic Information Non-discrimination Act, known as GINA. And today we celebrate it with a great sense of unanimity and agreement about this legislation. But that clearly was not always true over more than the past decade.

This legislation has been controversial to some. It has had a shifting body of opponents to it over those many years. There are many who tried to ascribe attributes to this legislation that either wasn't intended to address or didn't exist at all. But the opposition was formidable.

But when we celebrate the passage of this legislation today, we must also celebrate the spirit of two women in the House of Representatives that persevered through all of the political debate, as hot it was from time to time, through all of the controversy, through much of the ignorance and misinformation about the legislation, but who, throughout that entire decade, understood the promise of this legislation,

both to those who would not be discriminated against in the future, but also the promise in terms of medical research and information that would become available to promote, not only cures and treatment, but greater scientific understanding of the genome and our make-ups and its impact on our health.

And those two women were Congresswoman LOUISE SLAUGHTER from New York, and our colleague who is with us in the Chamber today, JUDY BIGGERT from Illinois.

It's one thing to stand here and say we all agree today. But that wasn't the case, and that was what they kept pushing against year after year to get the Congress to understand the importance of this legislation. We come to that understanding rather late, when you consider that many of the States have taken the steps, many Nations have taken this step, but it's terribly important that we do it so people will be assured that no worker will be discriminated against because of his or her genetic information.

As I mentioned, 41 States have already led the way in passing laws to prohibit discrimination to individual health insurance markets. 34 States have passed laws to prohibit employers from discriminating in the workplace. And the Federal Government has banned discrimination against Federal Government employees. Every American deserves this protection.

In the last two decades we've seen incredible scientific advances in the diagnosis and the treatment of once untreatable, undetectable conditions. Scientists now have the incredible ability to identify genetic markers for disease that could and may never occur. Genetic testing can also help prevent diseases by identifying them early.

Despite this amazing potential of genetic testing, advancements have been stifled out of fear of what some may do with the results of those tests. Many Americans forego testing because of that fear, the fear of losing their jobs, the fear of losing their health insurance.

We pit that against the knowledge, the discovery and the treatment that would have been possible to those individuals, but the fear prevented them from coming forward. And this is not an isolated fear.

A 2006 research study showed that 85 percent of the respondents believe that without protections, employers would use genetic information to discriminate. 64 percent believe that insurers would use the information to deny critical coverage.

The Genetic Information Non-discrimination Act is clear. Title I of the bill prohibits group health plans and insurers from collecting or requesting genetic information with narrow exceptions. It also protects the privacy of this personal information.

Title II of the bill prohibits employers from collecting or using their employees' genetic information. It also

prohibits employers from discriminating against employees in hiring, firing and other terms of conditions of employment based upon the genetic information.

This final bill makes it clear that, even though employers may not be held accountable for violations committed by health plans under title I, employers remain fully liable for any violations of title II, including violations involving health benefits.

It is well settled in this country's employment discrimination laws, such as title VII, the Age Discrimination Employment Act and the Americans with Disabilities Act, that it is unlawful for employers to discriminate against employees in their health benefits.

We intend for the courts to continue to interpret employer obligations under GINA similarly to all other civil rights laws. GINA will protect workers like David Escher, a former worker at the Burlington Northern Santa Fe Railroad, who discovered his employer was trying to prove his injury was caused by a genetic disorder rather than work-related injury. This is precisely the type of discrimination and misuse of genetic information that we seek to prohibit in this bill.

The protections provided by GINA are long overdue, and Representatives SLAUGHTER and BIGGERT have fought, over this last decade, for these important changes, these important provisions in the law. And I want to thank them for all of their hard work.

I also want to take a moment to thank the members of my staff, Michelle Varnhagen, Mark Zuckerman, Brian Kennedy, Jody Calemine and Michael Gaffin for all of their efforts.

From Congressman ANDREWS' staff, Carlos Fenwick.

Congresswoman SLAUGHTER's staff, Michelle Adams, Cindy Pelligrini.

From Congresswoman BIGGERT's staff, Brian Petersen, Jaime Vickery.

And from Congressman MCKEON's staff, Ed Gilroy and Jim Paretti.

From Congressman DINGELL's staff, Pete Goodloe, Jeanne Ireland, Jessica McNiece, Gregg Rothchild, and John Ford.

From Congressman FRANK PALLONE's staff, Bobby Clark.

From Congressman RANGEL's and STARK's staff, Cybele Bjorklund and Deb Mizeur for all of their assistance.

And in the Senate, from Senator KENNEDY's staff, Dave Bowen, Portia Wu and Lauren McFerren.

And from Senator SNOWE's staff, Bill Pewen.

And from Senator ENZI's staff, Ilyse Schuman and Keith Flannagan. And legislative counsel, Ed Grossman, Larry Johnson and Henry Christrup, for all of their assistance and all of the effort that they put in to making the changes and the distinctions between the actions in the House and the Senate, and all of the controversy that this brought with them.

With that, I'd like to reserve the balance of my time so that Ms. BIGGERT

may make her closing remarks. And again, I want to thank her so much. Her membership on our committee makes us very proud. And her political toughness to see this through to the end, along with LOUISE SLAUGHTER, is a wonderful story that we celebrate also with the passage of this legislation.

I reserve the balance of my time.

Mrs. BIGGERT. I thank you, Mr. Chairman, for your kind words. And it's been a long road, but we're here, and with your help.

Just let me say that there's three benefits that are so important for this bill. Number one is that people will get a genetic test. And if it shows that they have a propensity for having some disease, they can then take preventive measures and take measures that are going to improve the quality of their life. And it's personalized medicine. People have got to take command of their medical lives.

Second of all, because people will take preventive measures, this is going to reduce the cost of health care. It's going to reduce the cost to businesses because their employees will be taking these preventive measures, and it's going to reduce the cost to health care providers because people, again, will be taking these measures.

And as I said before, through the clinical trials, it will increase the ability to find cures for so many diseases if people get into these.

So with that, I would really like to take a moment to thank Representative SLAUGHTER, Chairman SLAUGHTER of the Rules Committee one more time, GREG WALDEN of Oregon who has been a major sponsor of this bill, Congressman ANDREWS of New Jersey, who has been so helpful, and Mrs. ESHOO from California, who has been so involved. And then Senator SNOWE, Senator KENNEDY and Senator ENZI for all their hard work on this issue. It's truly been a pleasure to work with all of them.

I would also like to thank Mr. MCKEON and Mr. MILLER again, the chairman and ranking member of the Education and Labor Committee, for all their support. And then the other chairmen, Congressman DINGELL and Congressman BARTON of the Energy and Commerce Committee, and Mr. UPTON of Michigan for coming down and working on this today. And then Chairman RANGEL and ranking member MCCRERY of the Ways and Means Committee, and then Representative CAMP for being the spokesman for them. I applaud them for all their efforts.

I would also like to thank former Speaker Newt Gingrich, who has been so supportive of this legislation. And I would be remiss if I didn't mention Sharon Terry and the Coalition for Genetic Fairness, as well as all of our other organizational supporters, for all their persistence and their expertise on this issue.

And Dr. Francis Collins of NIH for his testimony before all three committees in the House.

□ 1215

Finally, I have to thank the staff, all of the staff, who worked so tirelessly for years now behind the scenes on our behalf and put in long, long hours on this legislation. And in particular, my thanks go to Michelle Varnhagen and Jim Paretto from the Education and Labor Committee staff, and then Michelle Adams from Ms. SLAUGHTER's staff, and Brian Peterson of my staff.

There's so many reasons why everybody should vote for this, and certainly having passed the House by 420-3 last April and the Senate 95-0, you say, This is a no-brainer; why didn't this happen a long time ago? And what's been alluded to is to get three committees in the House of Representatives to work on all of the issues, and they are so technical in how they relate to each other and how it relates to privacy and the other HIPAA and ADA and all of the things that had to be brought in here, I think everyone works so hard just to have a wonderful result. And it's no surprise that we're here, but it just took a long time.

With that, I would urge all my colleagues to vote for this measure.

I yield back the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I also would be remiss if I did not thank Dr. Francis Collins for all of his work and assistance and guidance to the Congress on this matter and for everything else he does in such a wonderful fashion.

Ms. PELOSI. Mr. Speaker, I rise today in strong support of the Genetic Information Non-discrimination Act.

I would like to thank Congresswoman LOUISE SLAUGHTER for her outstanding leadership on this issue. For 13 years, she has worked to pass this bill protect Americans from genetic discrimination. She's both the powerful chair of the Rules Committee, and a microbiologist, so she knows what she is talking about.

The sequencing of the human genetic code is one of the great scientific accomplishments in the history of the world. It has the potential to treat and prevent disease. It is evidence of science's almost-biblical power to heal.

But with this scientific breakthrough comes a responsibility to protect Americans from the misuse of their genetic information. Today, the Congress will begin to fulfill that responsibility by passing this legislation.

This legislation prevents health insurers from adverse coverage or pricing decisions based on a person's genetic predisposition toward a disease. It ensures an employer cannot make adverse employment decisions based on what is in a person's genetic code. It also makes it illegal for an insurer or employer to request or demand a gene test.

Because of this legislation, Americans will be free to undergo genetic testing for diseases such as cancer, heart disease, diabetes, and Alzheimer's, without fearing for their job or health insurance. There is life-saving information in those tests. And for scientists, there is information that allows for huge breakthroughs.

This legislation is supported by the vast majority of the American people, 93 percent of whom do not want employers to have access to their genetic information.

This is such good policy that this legislation is supported by more than 500 organizations, including a broad coalition of civil rights and religious organizations. Health advocacy groups ranging from the American Academy of Pediatrics to the March of Dimes to the Susan G. Komen Breast Cancer Foundation have endorsed it.

In the Congress, it has broad bipartisan support. It also has the support of the President.

Let us not wait another day to pass this legislation so it can move to the President's desk for his signature and become law.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today in support of H.R. 493, the Genetic Non-Discrimination Act. This bill is the product of 10 years of hard work by my colleague Ms. SLAUGHTER and I applaud her for her efforts to pass this bill.

The sequencing of the human genome was an amazing scientific advancement, and has contributed to the rise of genetic testing to inform patients of their proclivity for disease.

Thanks to genetic testing, individuals with a risk of an illness can take precautionary steps ahead of time to ward off disease, which will contribute to lower health care costs over time.

However, it is critical that we protect individuals from any discrimination that could result from the information these tests reveal.

The results should not be used by health insurers to deny anyone coverage or increase their premiums because of a pre-disposition to a certain disease.

And the results should not be used by employers to discriminate against employees based on their predisposition to disease.

The passage of this bill will encourage individuals to seek genetic testing if they so desire without fear of losing their health insurance and give them the ability to seek early medical treatment.

One segment of the health care marketplace was excluded from the bill's protections—the long-term care insurance market. This bill was never intended to regulate the long-term care insurance market, and I understand that current statute treats long-term care insurance differently.

However, individuals that determine that they are at high-risk for developing Alzheimer's disease will undoubtedly begin planning for their long-term care and probably purchase long-term care insurance.

Despite all of the good intentions in this legislation, the bill would allow long-term care insurance underwriters to refuse to cover or charge individuals predisposed to such disease higher premiums for a disease they have yet to develop and may never develop.

As we move forward, Congress should ensure that future legislation extends the patient protections inherent in this bill to consumers who want to plan for their future and purchase long-term care.

With that, I am pleased to support this important legislation and send this bill to the President.

Mr. LANGEVIN. Mr. Speaker, I rise in strong support of H.R. 493, the Genetic Information Nondiscrimination Act, which extends crucial Federal protections against discrimination based on an individual's genetic information.

The new millennium has seen unprecedented scientific advances in genetic research that have brought a renewed hope of solving

today's most difficult medical puzzles. Since the human genome was fully mapped in 2003, many in the scientific and medical communities have viewed genetic medicine as the next step toward finding better diagnoses, treatments and possible cures for a wide spectrum of diseases. These advances have also raised legitimate ethical concerns about the potential misuse of genetic information in workforce and insurance related decisions. Although current law already addresses certain aspects of this issue, the importance of protecting individuals from discrimination and safeguarding the right to privacy cannot be overstated.

This bill will guarantee more comprehensive protections from discrimination in health insurance and employment on the basis of genetic information. Specifically, it will prohibit group health plans and health insurers from denying coverage to a healthy individual or charging that person higher premiums based solely on a genetic predisposition to develop a disease in the future. Furthermore, it bars employers, employment agencies, labor organizations or training programs from using an individual's genetic information when making hiring, firing, job placement or promotion decisions.

Genetics is a field of study that offers tremendous promise for medical advancement, but we must give thoughtful consideration to the implications of these emerging discoveries on society. No individual should fear discrimination based on genetic technologies. H.R. 493 will allay concerns about the potential for discrimination, encourage individuals to participate in genetic research, and take advantage of genetic testing, new technologies, and new therapies. I thank Congresswoman SLAUGHTER for her leadership on this issue and urge my colleagues to support its passage.

Mr. STUPAK. Mr. Speaker, I rise in support of H.R. 493, the Genetic Information Non-discrimination Act, GINA.

After 13 years—this bill will finally make its way to the President's desk, to help protect families from genetic discrimination.

Congratulations to the Congresswoman from New York, Ms. SLAUGHTER, for her work in drafting this bill and guiding it through the cumbersome referral to three committees.

Together, with Chairman DINGELL, Ms. DEGETTE and Mr. SMITH, we were able to include an important provision to protect families from unfair treatment on the basis of the genetic material of their fetuses or children in the process of adoption.

Without this bill, families may face genetic information discrimination from testing of embryos and fetuses, as well as children who are in the process of adoption.

As genetic testing becomes increasingly common, these provisions will ensure that genetic material gathered through pre-implementation genetic diagnoses, amniocentesis, or other future techniques is not used to limit families' access to health care.

Again, I thank Ms. SLAUGHTER for her commitment to reflect these changes throughout the bill in order to avoid any further confusion as to whether or not families can be discriminated against on the basis of the genetic material of their unborn child or child under consideration for adoption.

I was proud to work with many Members to include this provision.

I encourage my colleagues to vote for this important legislation.

Mr. KENNEDY. Mr. Speaker, I rise today in strong support of H.R. 493, the Genetic Information Nondiscrimination Act. I would like to thank my good friends and colleagues, Representative LOUISE SLAUGHTER and Representative JUDY BIGGERT, for their tireless advocacy to bring this bill to the House floor today and then on to the White House for President Bush's signature.

There is nothing more personal and more deserving of protection than the genetic make-up of each and every individual in our Nation. Advances in science and technology during the past decade have allowed us to map the human genome and opened the doors to treatment and diagnostic capabilities that we are only now beginning to realize. With this power comes great responsibility to protect individuals who learn that they may be more susceptible to diseases such as breast cancer or mental illness.

Just as our Nation does not allow discrimination based on race or disability, we must not allow discrimination based on our own genetic identity. The Genetic Information Nondiscrimination Act will prevent health insurers and employers from improperly using our genetic information to make coverage or employment decisions. I urge my colleagues to support this protection of our most basic human right by voting for H.R. 493.

Mr. VAN HOLLEN. Madam Speaker, I rise in strong support of the Senate amendment to H.R. 493, the Genetic Information Nondiscrimination Act.

This bipartisan legislation is long overdue. Recent scientific breakthroughs in sequencing the human genetic code have already transformed the battle against a broad range of medical conditions. Scientists have now identified genetic markers for a variety of chronic health conditions which will increase the potential for early treatment and prevention. However, as much as these advances will improve health care delivery in this country, it has increased the potential for employers and insurers to discriminate based on an individual's genetic makeup. Such a threat deters the public and science from taking full advantage of the life-saving and cost-saving potential of genetic research.

That why we need to pass this much-needed bill. Discriminating against someone because of their DNA is simply unacceptable. Mr. Speaker, I urge colleagues to support this bipartisan legislation so that Americans do not have to live in fear of losing their job or health insurance because of their genetic predisposition towards certain medical conditions.

Mr. CAPPS. Mr. Speaker, I rise in strong support of the Senate amendment to H.R. 493, the Genetic Information Nondiscrimination Act.

The identification of genetic markers for disease is one of the most remarkable scientific accomplishments we have made. And this ability to identify risks for certain conditions holds so much promise for our ability to identify and practice greater preventive health care in this country. I can never emphasize enough just how important preventive health care is to our well-being.

However, as with almost all great scientific advancements, we have also opened the door to a whole slew of unintended consequences. And I fear that preventive health care is put at risk when patients decline genetic testing for fear of insurance or employment discrimination.

This bill before us will put aside those fears by offering protection from employment discrimination and closes the loopholes that deter individuals from pursuing information that can save their lives and the lives of others. After all, the biomedical research community is in dire need of greater clinical trial participation. But many patients are wary because they worry that participation in a clinical trial will reveal a genetic predisposition that employers or insurers can use as a basis for discrimination.

H.R. 493 will provide individuals the security of knowing that they can take advantage of genetic testing and participate in research without the fear that their employment or insurance status be put at risk.

I commend my colleagues LOUISE SLAUGHTER, JUDY BIGGERT and ANNA ESHOO for their tireless work on this bill over the last 13 years. I urge all of my colleagues to vote in favor of H.R. 493.

Ms. SPEIER. Mr. Speaker, Congress today is making an important first step toward protecting Americans from discrimination based on their genetic information. I support this bill and the premise that a predisposition to disease should never be a factor in access to employment or insurance coverage.

However, this is only a first step. I am compelled to remind this House, and all Americans, that this bill does not guarantee genetic information will not be abused by employers or insurers. The passage of this legislation should not give consumers a false sense of security.

Until access to health care is available regardless of current or future health conditions, the potential for genetic discrimination will remain. And until we completely limit access to employee health records, there will be the potential for discrimination by employers.

Mr. Speaker, passage of the Genetic Information Non-Discrimination Act today is a strong step toward protecting sensitive genetic information, but no journey is completed in just one step. I look forward to addressing the underlying problems not fixed by this bill so we can truly protect Americans' privacy and guard against discrimination based on preexisting health conditions.

Ms. BALDWIN. Mr. Speaker, I rise today in strong support of the Genetic Information Nondiscrimination Act.

The scientific advancement that has been made in sequencing the human genome is groundbreaking. We have only just begun to understand how we can harness the vast amount of information that is included in our genetic code to benefit human health and longevity. The ability to predict disease will greatly increase our opportunities for early treatment and prevention efforts and this can have a real impact on people's lives.

So I am proud to support the Genetic Information Nondiscrimination Act. This bill will provide strong protections to prevent employers and insurers from denying health coverage or job opportunities on the basis of predictive genetic information. Providing this protection will ensure that Americans are not unfairly penalized, either by health insurers or by employers, for something that is a part of their genetic makeup. In addition, these protections will encourage individuals to participate in genetic research, which will lead to new technologies and new therapies.

This important nondiscrimination protection is necessitated by the advancements in

science, like the mapping of the human genome. And Congress is responsible for making sure that our laws keep up with these scientific advancements, so that we can fully realize the value of these discoveries.

Mr. Speaker, I am proud to support the Genetic Nondiscrimination Act, and I urge my colleagues to join me in voting in favor of it.

Mr. GEORGE MILLER of California. I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PASTOR). All time for debate has expired.

Pursuant to House Resolution 1156, the previous question is ordered.

The question is on the motion offered by the gentleman from California (Mr. GEORGE MILLER).

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

Mr. GEORGE MILLER of California. 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, this 15-minute vote on the motion to concur will be followed by 5-minute votes on ordering the previous question on House Resolution 1167; adopting House Resolution 1165, if ordered; and suspending the rules and adopting House Concurrent Resolution 308.

The vote was taken by electronic device, and there were—yeas 414, nays 1, not voting 16, as follows:

[Roll No. 234]

YEAS—414

Abercrombie	Butterfield	Diaz-Balart, L.
Ackerman	Buyer	Diaz-Balart, M.
Aderholt	Calvert	Dicks
Akin	Camp (MI)	Dingell
Alexander	Campbell (CA)	Donnelly
Allen	Cannon	Doolittle
Altmire	Cantor	Doyle
Andrews	Capito	Drake
Arcuri	Capps	Dreier
Baca	Capuano	Duncan
Bachmann	Cardoza	Edwards
Bachus	Carmahan	Ehlers
Baird	Carney	Ellison
Baldwin	Carson	Ellsworth
Barrett (SC)	Carter	Emanuel
Bartlett (MD)	Castle	Emerson
Barton (TX)	Castor	Engel
Bean	Chabot	English (PA)
Becerra	Chandler	Eshoo
Berkley	Clarke	Etheridge
Berman	Clay	Everett
Berry	Cleaver	Fallin
Biggert	Clyburn	Farr
Bilbray	Coble	Fattah
Bilirakis	Cohen	Feeney
Bishop (GA)	Cole (OK)	Ferguson
Bishop (NY)	Conaway	Filner
Bishop (UT)	Conyers	Flake
Blumenauer	Cooper	Fortenberry
Blunt	Costa	Foster
Boehner	Costello	Fox
Bonner	Courtney	Frank (MA)
Bono Mack	Cramer	Franks (AZ)
Boozman	Crenshaw	Frelinghuysen
Boren	Crowley	Galleghy
Boswell	Cuellar	Garrett (NJ)
Boucher	Culberson	Gerlach
Boustany	Cummings	Giffords
Boyd (FL)	Davis (AL)	Gilchrest
Boyda (KS)	Davis (CA)	Gillibrand
Brady (PA)	Davis (IL)	Gingrey
Brady (TX)	Davis (KY)	Gonzalez
Braley (IA)	Davis, David	Goode
Brown (GA)	Davis, Lincoln	Goodlatte
Brown (SC)	Davis, Tom	Gordon
Brown, Corrine	DeFazio	Granger
Brown-Waite,	DeGette	Graves
Ginny	Delahunt	Green, Al
Buchanan	DeLauro	Green, Gene
Burton (IN)	Dent	Grijalva

Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseeth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Hooley
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Issa
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
Lamborn
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loeb sack
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel
E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)

McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Nunes
Oberstar
Obey
Oliver
Ortiz
Pallone
Pascarell
Pastor
Pearce
Pence
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Salazar

Sali
Sánchez, Linda
T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skeltion
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tancredo
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman
Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Weller
Westmoreland
Wexler
Whitfield (KY)
Wilson (OH)
Wilson (SC)
Wittman (VA)
Wolf
Woolsey
Wu
Wynn
Yarmuth
Young (AK)
Young (FL)

Israel
Jones (OH)
LaHood
Payne
Rush
Wilson (NM)
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda
T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires

□ 1240

Ms. FOXX and Mr. BURTON of Indiana changed their vote from “nay” to “yea.”
So the motion was agreed to.
The result of the vote was announced as above recorded.
A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

The SPEAKER pro tempore. The unfinished business is the vote on ordering the previous question on House Resolution 1167, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 226, nays 190, not voting 15, as follows:

[Roll No. 235]

YEAS—226

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Finer
Foster
Frank (MA)
Giffords
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Johnson (GA)
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loeb sack
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel
E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)

Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Udall (CO)

NAYS—190

Aderholt
Akin
Alexander
Bachmann
Bachus
Barrett (SC)
Bartlett (MD)
Biggert
Billbray
Bilirakis
Bishop (UT)
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite,
Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Culberson
Davis (KY)
Davis, David
Davis, Tom
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Fortenberry
Foxy
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gingrey
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
Lamborn
Lampson
Latham
LaTourette
Latta
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel
E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield (KY)
Wilson (SC)
Wittman (VA)
Wolf
Young (AK)
Young (FL)

NOT VOTING—15

Barton (TX)
Blackburn
Cubin
Deal (GA)
Doggett
Forbes
Fossella
Gohmert
Honda
Israel
LaHood
Payne
Rush
Wilson (NM)
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

NAYS—1

Paul

NOT VOTING—16

Barrow
Blackburn
Burgess
Cubin
Deal (GA)
Doggett
Forbes
Fossella
Gohmert
Honda