McCaul	Poe (TX)	Sires
McClintock	Polis (CO)	Skelton
McCollum	Pomeroy	Slaughter
McCotter	Posey	Smith (NE)
McDermott	Price (GA)	Smith (NJ)
McGovern	Price (NC)	Smith (TX)
McHenry	Putnam	Smith (WA)
McIntyre	Quigley	Snyder
McKeon	Rahall	Souder
McMahon	Rangel	Space
McNerney	Rehberg	Speier
Meek (FL)	Reyes	Spratt
Meeks (NY)	Richardson	Stearns
Melancon	Rodriguez	Stupak
Mica	Roe (TN)	Sullivan
Michaud	Rogers (AL)	Sutton
Miller (FL)	Rogers (KY)	Tanner
Miller (MI)	Rogers (MI)	Taylor
Miller, Gary	Rohrabacher	Teague
Miller, George	Rooney	Terry
Minnick	Ros-Lehtinen	Thompson (CA)
Mitchell	Roskam	Thompson (MS)
Mollohan	Ross	Thompson (PA)
Moore (KS)	Rothman (NJ)	Thornberry
Moore (WI)	Roybal-Allard	Tiahrt
Moran (KS)	Royce	Tiberi
Moran (VA)	Ruppersberger	Tierney
Murphy (NY)	Rush	Titus
Murphy, Patrick	Ryan (OH)	Tonko
Murphy, Tim	Ryan (WI)	Towns
Myrick	Salazar	Tsongas
Nadler (NY)	Sánchez, Linda T.	Turner
Napolitano	Sanchez, Loretta	Upton
Neal (MA)	Sarbanes	Van Hollen
Neugebauer	Scalise	Velázquez
Nunes	Schakowsky	Visclosky
Nye	Schauer	Walden
Oberstar	Schiff	Walz
Obey	Schmidt	Wamp
Olson	Schock	Wasserman Schultz
Olver	Schrader	Waters
Ortiz	Schwartz	Watson
Owens	Scott (GA)	Watt
Pallone	Scott (VA)	Waxman
Pascrell	Sensenbrenner	Weiner
Pastor (AZ)	Serrano	Whitfield
Paulsen	Sessions	Wilson (OH)
Payne	Sestak	Wilson (SC)
Pence	Shadegg	Wittman
Perlmutter	Shea-Porter	Wolf
Perriello	Sherman	Woolsey
Peters	Shimkus	Wu
Peterson	Shuler	Yarmuth
Petri	Shuster	Young (AK)
Pingree (ME)	Simpson	Young (FL)
Platts		

NOES—3

Broun (GA)	Flake	Paul

NOT VOTING—14

Barrett (SC)	McMorris Rodgers	Radanovich
Blunt	Miller (NC)	Reichert
Clay	Murphy (CT)	Stark
Dingell	Pitts	Welch
Hoekstra		Westmoreland

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. MCCOLLUM) (during the vote). Members are reminded there is less than 1 minute left in this vote.

□ 1232

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: ''Expressing the sense of the House of Representatives on the protection of members of vulnerable religious and ethnic minority communities in Iraq.''.

A motion to reconsider was laid on the table.

HEALTH INSURANCE INDUSTRY FAIR COMPETITION ACT

Mr. CONYERS. Madam Speaker, pursuant to House Resolution 1098, I call up the bill (H.R. 4626) to restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4626

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Health Insurance Industry Fair Competition Act''.

SEC. 2. RESTORING THE APPLICATION OF ANTITRUST LAWS TO HEALTH SECTOR INSURERS.

(a) AMENDMENT TO MCCARRAN-FERGUSON ACT.—Section 3 of the Act of March 9, 1945 (15 U.S.C. 1013), commonly known as the McCarran-Ferguson Act, is amended by adding at the end the following:

''(c) Nothing contained in this Act shall modify, impair, or supersede the operation of any of the antitrust laws with respect to the business of health insurance. For purposes of the preceding sentence, the term 'antitrust laws' has the meaning given it in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.''.

(b) RELATED PROVISION.—For purposes of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition, section 3(c) of the McCarran-Ferguson Act shall apply with respect to the business of health insurance without regard to whether such business is carried on for profit, notwithstanding the definition of ''Corporation'' contained in section 4 of the Federal Trade Commission Act.

The SPEAKER pro tempore. Pursuant to House Resolution 1098, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. SMITH) each will control 60 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. CONYERS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on H.R. 4626.

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

There was no objection.

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

Madam Speaker and my colleagues, the bill before us will allow, for the first time, competition to take hold in the health insurance marketplace, an important and vital step in the road to fixing our broken health insurance system and containing costs. I want to commend, in particular, my colleagues TOM PERRIELLO of Virginia and BETSY MARKEY of Colorado for working with our committee on this important effort.

Experience has shown that Congress—and we hate to admit having made mistakes in the past, but we did make an error in 1945 in adding an antitrust exemption into the McCarran-Ferguson Act at the last minute during the debate. Not many of you were here at that time, and neither was I, but leading consumer groups and senior citizen groups, State attorneys general and others for years have been urging that we in the legislature fix this error that has been made so long ago.

The bipartisan Antitrust Modernization Commission established by this body and President Bush in 2002 echoed this call in its 2007 report. And now, as we work to fix what everyone mostly agrees is a broken health insurance market, it is about time to bring into that market what is an essential ingredient of any well-functioning market—competition. And the way we make sure that happens here is the same way we made sure it happens in every other industry—to have the antitrust laws apply. These laws are the principal protector of free market competition and the prosperity it provides, the principal guarantee that businesses who want to offer choice and value to consumers can do so.

The blanket antitrust exemption in the McCarran-Ferguson Act shields health insurance companies from legal accountability for fixing prices, dividing up markets and customers they serve so as to deny meaningful choice, and using monopoly power to sabotage anyone who seeks to offer meaningful competitive choice to consumers. This, ladies and gentlemen, must end.

Antitrust court actions alleging each of these practices, and more, have been blocked routinely in the courts by invoking the McCarran-Ferguson antitrust exemption, and that is what we are here to repair today.

Now, an antitrust expert attorney, David Balto, with antitrust enforcement experience acquired both at the United States Justice Department and the Federal Trade Commission, has found that State insurance commissioners have not brought any actions in any State against health insurers for anticompetitive conduct during at least the last 5 years.

Health insurance premiums continue to spiral ever-upward each year, and copayments and deductibles keep taking further bites out of tight family budgets. Those families have a right to know that they are not being victimized by insurers any longer who should be competing to offer them choice and value but, instead, are, unfortunately, conspiring against them.

In its famous Topco ruling, the United States Supreme Court refers to the antitrust laws as the Magna Carta of free enterprise. The health insurance industry should not be exempt from them.

The Judiciary Committee has been working to remove this harmful exemption for a number of years. We made a lot of headway under the distinguished chairman, our former colleague, Jack Brooks of Texas, who

headed the committee after Peter Rodino and after Emanuel ''Manny'' Celler, and it is time to complete this effort in the area of health insurance since this is the number one subject, legislatively, before us being watched carefully by everyone in the Nation.

Last fall, our Judiciary Committee reported a similar bill which was incorporated into the comprehensive health care bill passed by the House. And so I commend my colleagues, Representatives Perriello and Markey, for their leadership in bringing this effort back to the House floor today as a free-standing measure.

With more and more people having to choose between having health insurance or food on the table, isn't it about time the health insurance companies' cozy antitrust exemption be taken off the books?

So I urge all my colleagues to support this long-overdue, pro-consumer legislation that will affect citizens and families in every State.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 4626, the Health Insurance Industry Fair Competition Act, unfortunately doesn't do much. In fact, it has all the substance of a soup made by boiling the shadow of a chicken.

In his State of the Union address on January 27, President Obama challenged Congress to create a plan that ''will bring down premiums, bring down the deficit, cover the uninsured, strengthen Medicare for seniors, and stop insurance company abuses.'' The administration's health care plan does just the opposite. It increases premiums, increases taxes, and reduces Medicare benefits for seniors.

Will today's McCarran-Ferguson repeal bring down insurance premiums? No. The Congressional Budget Office says that ''whether premiums would increase or decrease as a result of this legislation is difficult to determine, but in either case the magnitude of the effects is likely to be quite small.''

□ 1245

So what's the point of the bill?

The CBO goes on to say that premium reductions from this bill are likely to be small because ''State laws already bar the activities that would be prohibited under Federal law if this bill was enacted.''

So what's the point of the bill?

The National Association of Insurance Commissioners pointed out that bid-rigging, price-fixing, and market allocation ''are not permitted under the McCarran-Ferguson Act, and are not tolerated under State law. Indeed, State insurance regulators actively enforce prohibitions in these areas.''

So, again, what's the point of the bill?

The McCarran-Ferguson Act's Federal antitrust exemption simply allows small and medium-sized insurers to aggregate information for underwriting purposes so they can compete effectively against larger companies. In other words, McCarran-Ferguson helps to promote competition by making small and medium-sized underwriters viable.

Eliminating the exchange of data provision that was included in earlier versions of this bill likely will impede new entry into the health insurance markets. This means that there could be less competition among health insurers.

That said, I believe, as does the Antitrust Modernization Commission, that antitrust exemptions should be rarely granted or created. Yet, if they are necessary, they should be written in as limited a way as necessary to meet a compelling public policy goal.

I can understand why some of my colleagues may want to support this bill, and given that it will have no meaningful impact, I don't oppose it. However, when repealing an existing antitrust exemption, we should be careful of the unintended consequences of our actions.

The majority has avoided one unintended consequence of this legislation by limiting its application solely to health insurers. Eliminating malpractice insurers goes a long way toward making this bill more reasonable. However, the majority should adopt further changes to this bill to demonstrate that they are more interested in legislating than in targeting an unpopular industry for no real policy reason.

Specifically, this legislation should be amended to define the term ''business of health insurance.'' Second, we should reinsert the exchange of data provision that was added to the bill in committee. Finally, we should clarify that this bill will not impinge upon State insurance regulations. None of these concepts are revolutionary. They were all included in earlier versions of this legislation that were passed by the House.

That said, if the majority really wants to help consumers, we should consider a measure that could actually achieve savings for patients: medical malpractice tort reform.

According to a study by the Harvard School of Public Health, 40 percent of all medical malpractice suits against doctors and hospitals are ''without merit.'' So every doctor must purchase malpractice insurance at great expense to protect themselves from frivolous lawsuits.

A Department of Health and Human Services study found that unlimited excessive damages add $70 billion to $126 billion annually to health care costs. Doctors are so concerned about frivolous lawsuits that they have to practice defensive medicine and order unnecessary tests and procedures. HHS estimates the national cost of defensive medicine is now more than $60 billion.

All of these expenses are then passed on to patients in the costs of health care. That is why some States, including my home State of Texas, have enacted tort reform, which limits the amount of excessive damages awarded in frivolous lawsuits. The result? Insurance premiums have fallen, and the availability of medical care has expanded. But this bill will do nothing to reduce the costs of health care.

Congress should set aside this bill, and it should take up lawsuit abuse reform, which could reduce health care costs for our constituents.

Madam Speaker, I reluctantly support this, unfortunately, ineffective bill.

I reserve the balance of my time.

Mr. CONYERS. Madam Speaker, before I yield to SHEILA JACKSON LEE, I yield myself 1 minute because my dear friend, the ranking member, asked, What is the point of this legislation?

We have made a long list of points of this legislation. To begin with, it is to increase competition in the health care industry. It also is to shine a light on industry practices that are currently unavailable and undetectable because of the exemption. That's why we are on the floor today.

I yield 3 minutes to a distinguished member of the committee, the gentlewoman from Houston, Texas, SHEILA JACKSON LEE.

Ms. JACKSON LEE of Texas. I thank the distinguished chairman.

Madam Speaker, I rise to announce to the American public and to this body that, as we stand here today, over a year's time, 45,000 Americans die because they don't have health insurance. They don't have health insurance because the premiums have literally spiraled beyond any imagination. So, today, we are rising to create an opportunity for Americans to live and for lives to be saved because competition is the engine, not only of the economy, but it is the engine of better health care for all Americans.

Here is an example that shows how increased premiums are the complete opposite of commitment and service to our constituency: When the State of California passed a law in 1988 that eliminated the State antitrust exemption for the auto insurance industry, auto premiums for consumers in California rose 9.8 percent when the rest of the premiums in the Nation were going down. The Consumer Federation of America said that consumers would save over $50 billion in insurance premiums by repealing the 1945 McCarran-Ferguson Act.

I thank the distinguished colleague from our Judiciary Committee, Mr. PERRIELLO, for his leadership, along with many others.

Removing the antitrust exemption will not only enable appropriate enforcement against these unjust practices when they are uncovered, but it will also give all health insurance companies healthy competitive incentives so you as a family of four, as a grandmother, as a single parent can get the

insurance possible as we move forward in health insurance.

The attorney general of New York, in his investigation, found that insurance companies engage in collusion. That's why we need this. We want to break the rules so we can help doctors with lower premiums and medical malpractice and with shielding our constituency from these Godforsaken prices.

Let me tell you that we have seen this in action in the Ocean State Physicians Health Plan v. Blue Cross and Blue Shield. Citing this act, this antitrust prevention act, the First Circuit overturned a jury verdict against the dominant health insurer for using its monopoly power to put financial pressure on area employers to refuse to do business with a competing HMO. The First Circuit, because of the exemption, blocked any opportunity for competition. We need to change this, and we have found that this collusion is hurting us.

So, Madam Speaker, I would say to you that, in order to save lives, like the lives in my 18th Congressional District, where Texas is the poster child for the most uninsured, 1.1 million—it has the dubious honor of being the largest uninsured State in the Nation. My county, Harris County, as we fight over and over for health insurance, does not have people who are insured. So this will help bring, along with the health reform that we will pass in the next couple of weeks, the idea of saving lives and of providing for our children and our families.

Chairman CONYERS had the single-payer bill. That was the initiative that should have gone forward, but now we have a way of saving lives. This is fiscally secure, and it provides security to those who are in need. I ask that you support this legislation to, again, save lives.

Madam Speaker, I rise in support of H.R. 4626, Health Insurance Industry Fair Competition Act, a bill designed to restore competition and transparency to the health insurance market—by repealing the blanket antitrust exemption afforded to health insurance companies by the McCarran-Ferguson Act of 1945. Today 45,000 people a year die without health insurance and they die because they do not have health insurance! This is a matter of life and death.

Madam Speaker, competition is the engine that drives our economy, spurs innovation, and ensures that the American consumer receives a fair deal on goods and services. There is significant evidence that removing the antitrust exemption will increase competition in the insurance industry and will result in lower prices and other benefits for consumers. In fact, experience has shown time and time again the benefits of increased competition in the form of lower prices, increased choice, and greater innovation.

A healthy and competitive health insurance market will drive prices down in the health insurance industry, just as we have seen it do in so many other industries where competition is allowed to take hold. For example, since the state of California passed a law in 1988 that eliminated the state antitrust exemption for the auto insurance industry, auto premiums for consumers in California have risen by only 9.8% while the rest of the country has seen auto premiums rise by over 48 percent. The Consumer Federation of America has said that consumers would save over $50 billion in insurance premiums by repealing the 1945 McCarran-Ferguson Act for all lines of insurance. Further, it is estimated that subjecting health insurance companies to federal antitrust laws would lower premiums by 10% or more.

Removing this antitrust exemption will not only enable appropriate enforcement against these unjust practices when they are uncovered; it will also give all health insurance companies healthy competitive incentives that will promote better affordability, improved quality, increased innovation, and greater consumer choice, as the antitrust laws have done throughout the rest of the economy for over a century.

The antitrust exemption was enacted in 1945, as part of legislation whose main purpose was simply to reaffirm the authority of States to regulate insurance for the protection of their citizens. The antitrust exemption was quietly inserted at the end of the legislative process, in conference committee. As a result, insurance companies have been shielded from legal accountability for price fixing, dividing up territories among themselves, sabotaging their competitors in the marketplace in order to gain monopoly power, and other practices that unjustly harm consumers. Moreover, antitrust court actions alleging each of these practices, and more, have been blocked by invoking the McCarran-Ferguson antitrust exemption.

For far too long, the health insurance industry has played by a different set of rules. Shielding health and medical malpractice insurance companies from federal antitrust laws is a practice that must end.

Madam Speaker, the American public agrees that the special treatment the anti-trust exemption affords insurance companies must come to an end. A recent Rasmussen poll found that 65% of Americans favored removing the anti-trust exemption for health insurance companies. Of those polled, Democrats supported subjecting insurance companies to antitrust laws by a seven-to-one margin. Sixty-four percent (64%) of independent voters and 58% of Republicans also believe insurers should abide by antitrust laws. This data demonstrates that there is bi-partisan public support for demanding that health insurance companies play by the same rules as other companies in America.

Madam Speaker, I agree with the majority of the American public that shielding health and medical malpractice insurance companies from federal antitrust laws is a practice that must end. Eliminating the anti-trust exemption for the health care industry is a vital step toward reforming health care, lowering prices for consumers and doctors, and leveling the playing field for American businesses.

The Consumer Federation of America has said that consumers would save over $50 billion in insurance premiums by repealing the 1945 McCarran-Ferguson Act for all lines of insurance. Further, it is estimated that subjecting health insurance companies to federal antitrust laws would lower premiums by 10% or more. Moreover, in addition to bi-partisan support amongst the American public, repealing anti-trust exemptions for all health insurance is supported by conservative political leaders as well such as Governor Bobby Jindal of Louisiana, Senator JOSEPH LIEBERMAN, and former Majority Leader Trent Lott.

This bill is also necessary because, over the years, health insurers have been able to use this antitrust exemption to block court actions regarding anti-competitive behavior. For example, in Ocean State Physicians Health Plan, Inc. v. Blue Cross & Blue Shield of Rhode Island, the First Circuit Court—citing the McCarran-Ferguson antitrust exemption—overturned a jury verdict against the dominant health insurer for using its monopoly power to put financial pressure on area employers to refuse to do business with a competing HMO.

Removing this antitrust exemption is supported by key law enforcement groups, including the National Association of Attorneys General. In 2007, the National Association of Attorneys General—representing both Democratic and Republican State Attorneys General—overwhelmingly adopted a resolution calling for repealing this exemption. As the resolution pointed out, ''the National Association of Attorneys General consistently has opposed legislation that weakens antitrust standards for specific industries because there is no evidence that such exemptions promote competition or serve the public interest.''

In addition, in a recent letter to Congress, nine State Attorneys General pointed out, ''Since 1977, and most recently in 2007, antitrust experts and enforcers have concluded that repealing the McCarran-Ferguson exemption would result in enhancing competition while allowing standard industry practices necessary for the proper functioning of these markets, such as sharing loss and other insured risk information.''

Removing this antitrust exemption is also supported by leading consumer groups. Numerous consumer groups—including the Consumers Union, Consumer Federation of America, U.S. PIRG, Center for Justice and Democracy, and Public Citizen—strongly support removing this antitrust exemption. In a joint letter to Congress, consumer groups pointed out that, under this legislation, health insurance companies ''would be required to play by the same rules of competition as virtually all other commercial enterprises operating in America's economy.''

In closing, I want to also take this time to reiterate my support for a public health care plan that covers every one of the 47 million people who live in our great nation without health insurance. Madam Speaker, my state of Texas has the dubious honor of being the uninsured capital of the nation. Further, with more than 1.1 million of the nation's uninsured living in my own county, Harris County, I represent what some have labeled as ground zero of the health care debate. Thus, the issue of universal health care coverage—something that would have been achieved by Chairman CONYERS' Single Payer bill, which I supported, is more than an empty slogan; it's a matter of fiscal and physical life and death to the people of the 18th Congressional District. Therefore, no matter how the pending debate over the details of the health reform bill winds up, my constituents can count on me to continue fighting and continue working together with my colleagues of both parties, to ensure that everyone in my district, in Houston, in Texas, and in America has access to affordable and quality health care.

Mr. SMITH of Texas. I yield myself 1 minute.

Madam Speaker, let me say that I always appreciate what my colleagues state on the House floor, and I appreciate their good comments during debate. To the extent that they want to increase competition among insurance companies and want to reduce insurance premiums, I completely agree with them, but we should not think that any of those comments or any of those desires or any of those goals have anything to do with the bill that we are considering here today.

Once again, in case some of my colleagues missed it, let me read what the Congressional Budget Office said about this legislation. They said, ''Whether premiums would increase or decrease as a result (of this legislation) is difficult to determine, but in either case, the magnitude of the effects is likely to be quite small.'' So this bill has no point.

Madam Speaker, I yield 3 minutes to the gentleman from Wisconsin, the former chairman of the Judiciary Committee, Mr. SENSENBRENNER.

Mr. SENSENBRENNER. Madam Speaker, listening to the arguments that have been advanced by the proponents of the bill, all I can say is what you hear is not what you are going to get if this bill is enacted into law.

There is a reason this antitrust exemption has survived now for 65 years, which is that it actually has encouraged competition because it allows smaller insurers to use the actuarial data that larger insurers are able to amass. If the smaller insurers can't get this actuarial data, which is what will happen if this bill is enacted into law, then they will either be gobbled up by the larger insurers, which get the data in-house, or they will go out of business. As a result, there will be less competition rather than more. So what you hear today about competition is not what you are going to get if this exemption is repealed.

Now, repealing the limited exemption that health insurance carriers have under the McCarran-Ferguson Act is, at best, going to change little and, at worst, is going to be counterproductive. As the CBO concluded in October, repealing the exemption would have little or no effect on insurance premiums because State laws already bar the activities that would be prohibited under Federal law should the bill be enacted. Instead, additional regulatory burdens on insurers will likely be passed on to the policyholders in the form of higher premiums.

This, my friends, is the majority's higher health insurance premium bill in the name of competition. It's not going to happen. The bill would subject to new Federal enforcement a variety of ongoing collaborative practices among health insurers which are currently permitted by the States because they allow the small insurers to compete.

Now, shouldn't we be for small insurers? Shouldn't we be for having new companies enter the market? This bill will prohibit that.

Small insurance companies rely on the data collected from their larger competitors, and share it industrywide in order to accurately set their rates. However, this would be forbidden under the bill. If small insurers can't get the data, further consolidation is likely. Small insurance will either merge to gain a competitive edge or get swallowed up by the big insurance giants. Again, the majority is putting together an insurance company consolidation bill—less competition rather than more. Worse, a repeal could result in the small insurers' going out of business altogether. Meanwhile, for the big insurance companies, the big, bad insurance companies with the means to collect and analyze this data in-house, it would simply be business as usual.

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

Mr. SMITH of Texas. I yield the gentleman an additional 2 minutes.

Mr. SENSENBRENNER. This legislation attempts to solve a problem that doesn't exist.

First, there is no evidence that the exemption has increased health insurance prices or profits or that it has contributed to higher market concentration. Second, the effort to repeal McCarran-Ferguson is based on the belief that it allows individual insurers to collude on prices and policy coverage.

State laws prohibit insurers from bid-rigging, price-fixing and market allocation to restrain competition. State insurance regulators actively enforce the prohibition in these areas, and this legislation would only add another layer of Federal regulation and litigation to an industry that operates under a robust and well-established State regulatory regime.

There are ways, however, to promote competition in the health insurance market. One change Congress should consider is permitting individuals and businesses to buy their health insurance policies from any willing provider in any State. Under current law, an insurance firm registered in one State may not cover individuals in another without registering in the second State and being subject to all its taxes and laws. This raises the cost of doing business across State lines, and it prevents many smaller or mid-sized companies from entering the markets to compete. Simply put, this is not the type of reform that is needed, and it is not the type of reform that Americans were promised.

□ 1300

I challenge my colleagues on the other side of the aisle, Madam Speaker, to come up with commonsense reforms, one that will do in fact what appears in speech. This bill fails on both counts.

Mr. CONYERS. Madam Speaker, the former chairman emeritus has raised a number of points that amount to verbal jujitsu that I will be addressing very shortly, but for now I yield 3 minutes to the distinguished chairman of the Judiciary Subcommittee on Courts and Antitrusts, a former magistrate in the courts of Georgia himself, Subcommittee Chair HANK JOHNSON.

Mr. JOHNSON of Georgia. I thank the chairman for yielding.

Madam Speaker, last week I was shocked to learn that in the middle of the great recession, which was caused by the deregulation, hands-off policies of the prior administration, and during this time when families across my district and across the Nation are struggling with rising unemployment and while health insurance companies have recently announced that last year was their best year on record as far as profits are concerned, $12 billion last year in profits for the insurance industry, and while that's the case, they are announcing plans to raise insurance premiums by 40 percent in some markets. During this time of hurt and pain and also making money by the insurance industry off these people who are hurting and in pain, we are considering today removing the antitrust exemption that insurance companies have enjoyed for over 60 years. And it's time for this protection and immunity from antitrust law and this anticompetitive behavior, it's time for it to come to an end.

This insurance industry which delivers health care to the people has been broken for a long time. We all know it, and it's time to change it. And this is a good place to change it. It will help with competition if we pass this law today. That will happen only if we start applying anticompetitive, antitrust legislation to the insurance industry. There's simply no reason why they should continue to benefit from it.

Don't listen as the health insurance industry tries to tell you that they can't live under the antitrust laws. Every other industry does. It's high time that they do too. Consumers will benefit, the economy will benefit, and health insurance insurers who want to compete honestly will too.

Let's give struggling American families an honest health insurance market by enacting this important bill.

Mr. SMITH of Texas. Madam Speaker, I yield 5 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN), a senior member of the Judiciary Committee.

Mr. DANIEL E. LUNGREN of California. I thank the ranking member for the time.

Let me say at the outset, I do not believe that health insurance companies should be exempt from our Nation's antitrust laws. As one of those who believes and hopes that those applauding would join me in supporting the idea of buying health insurance across State lines, when we reach that accomplishment, I think it is appropriate for us not to have a Federal antitrust exemption.

When health care has been primarily and in a very real sense exclusively the

province of the States, under their jurisdiction, the attorney generals of the States have retained the ability to enforce the antitrust laws of those States. So we're entering a new era, I would hope, where we would be able to, if, in fact, this one Republican idea finds its way into legislative enactment, find an opportunity to extend the universe of decisions that might be accessed by individuals or their employers by way of insurance policies that may be available in other States.

My intention is to vote in favor of this bill. However, my concern is that the bill before us is not nearly as good as it should be because normal bipartisan committee process has been circumvented.

As has been noted by some in advancing this bill, I did vote in favor of the Health Insurance Industry Antitrust Enforcement Act of 2009 when it marked up in the Judiciary Committee. At that time, I offered an amendment to the bill to allow the sharing of historical data and the performance of actuarial services by insurance companies. Not future trending data but rather looking-backward historical data. At that time, it was adopted unanimously by the committee, therefore, on a bipartisan basis. Our distinguished chairman of the committee supported my amendment, which he described at the time as ''a helpful clarification.''

If there's one thing that we ought to understand when we have this downturn in the economy, if you want to make sure things don't happen in the private economy, insert uncertainty. If you want to make sure that things cost more than they otherwise would, insert uncertainty. And that's what we are doing by not allowing that in the bill before us.

In fact, I should point out to my friends on the other side, section 262 of your health care bill, your health care bill, adopted on this floor, allowed for the sharing of such information. It contained the language of my amendment. Unfortunately, for whatever reason, it has been held out of the bill before us.

Unless anyone thinks I have risen to speak because of sour grapes because my amendment with my name on it was not included in this bill, let me clarify the case. I can give you assurance that is not the case for the simple reason that I cannot take personal credit for the guts or the contents of this amendment.

The truth of the matter is that the hard work done to repeal the McCarran-Ferguson Act began with the efforts of then Chairman Jack Brooks, Democratic chairman, in the 101st, 102d, and 103d Congresses. Ironically, at the beginning of our committee markup, our chairman described the repeal of McCarran-Ferguson ''as a tribute to Jack Brooks.'' So if we really wish to pay tribute to Jack Brooks, and I believe we should, perhaps a good place to start would have been to allow an amendment to include Chairman Brooks's language in any legislation before us. I'm hopeful that the motion to recommit might contain that language, and I would hope that people would set aside partisan differences and support it.

So aside from the issue of the denigration of the committee process—and I think that's an important thing we ought to take into consideration. The subcommittee, committee, you act on this bill. You debate it. You consider amendments. You vote out the amendment on a unanimous bipartisan vote. Then you have bipartisan support for the bill as it comes out of committee. And then what happens? It's changed before it comes to the floor. And we had one of the members of the Rules Committee say she wasn't going to engage me in debate because, she said, I don't have the expertise on this issue. So I presume that means if you have expertise, and that's what committees are supposed to have, you ignore that so you can come to the floor and not allow debate utilizing that expertise because you prohibit that amendment from being considered on the floor.

H.R. 4626 will have precisely the opposite effect of its stated intention if, in fact, the notion of sharing historical data is not considered appropriate and legal. The economics of the insurance industry are such that companies depend on information. Why? In order to enable them to price their products. They have to base it on something.

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

Mr. SMITH of Texas. Madam Speaker, I yield the gentleman 2 additional minutes.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman.

It is better if they have actual data upon which to make their decisions.

And here's the rub: As was mentioned by the gentleman from Wisconsin, it is the small companies which depend on the availability of information the most. Smaller companies simply do not have a sufficiently large volume of information to price their products efficiently. So it's for this reason that it is of the utmost importance that insurers have the ability to share historical data.

Now, am I just saying this? No. In this record, a Congressional Research Service report raises the possibility that were such data not available to small insurance companies, we might see the ironic outcome of further concentration in the insurance industry. Again, not my conclusion; the conclusion of the Congressional Research report done most recently.

So, yesterday I did approach the Rules Committee to ask my amendment, the Brooks amendment, as I call it, be restored to the health insurance antitrust bill. And even though it was approved unanimously by my colleagues on the Judiciary Committee, my request was inexplicably rejected by the Rules Committee.

This is not the way, I would say, Madam Speaker, that this body should do business. Let's respect the integrity of the institution and the work that has been done in the duly established committee process.

I would hope that when this part of the recommittal motion is discussed, we'll discuss it in light of the history of this bill—the language taken from the Jack Brooks bill; the language taken from the majority's health care bill passed just this year.

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

I want to respond to the senior member of the Judiciary Committee, a former attorney general of California and a friend of all of us on the committee, an effective member, and all I want him to know is that we approved his provision in the Judiciary Committee because we thought it was a good provision. It was unanimous. I don't recall that anyone voted against it or spoke against it. The problem, though, is that when we got to the Rules Committee, our leadership on both sides of the aisle, I hope, had come up with another bill and that bill omitted it. We were not able to get that put back in.

We think that their reasoning is not altogether strange or out of order or violating any procedure, but here's what it was. This is what they told me: They said, if there are no antitrust exemptions in this measure, then you don't need to specifically retain a part of the antitrust exemption relating to the safe harbors provision, because if it isn't an antitrust provision, they aren't going to be affected anyway.

So it's in that spirit that I appreciate the comments of the gentleman from California, and I hope that we can continue to work together as much as we can, and perhaps the final vote here will be more bipartisan than many thought that it would.

Madam Speaker, I now would like to yield 2 minutes to a senior member of the Congress from Iowa (Mr. BOSWELL).

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

Mr. BOSWELL. I thank the chairman for this opportunity. I appreciate it.

Madam Speaker, I rise today in support of the Health Insurance Industry Fair Competition Act.

An original cosponsor of this legislation, I believe that our health insurance companies need to be held to the competitive standard our free market demands.

For too long, these companies have told our constituents what they will insure and what they will be paid. Just recently, 80,000 Iowans were told that their insurance rates would jump by an average of 18 percent, with many facing increases of as much as 25 percent. These same individuals have seen their rates increase by 10½ percent each year since 2005.

I insist that light be shed on the pricing of health care costs and that consumers have access to how their premiums and copays are determined. I

would particularly like this information for my constituents whose premium increase is twice what it was in 2009.

Iowans in the Third District are struggling to make ends meet. They deserve to know how a company can spend as much as perhaps $200 million on a new headquarters and turn around and double their premium increases from 2009 to 2010 and then claim these two things have nothing to do with one another.

□ 1315

Our support for this legislation will make it illegal for companies to price fix, practice bid rigging, and market allocation simply to drive up costs on American consumers.

Mr. SMITH of Texas. Madam Speaker, first of all, I just want to say that I appreciated what the chairman of the Judiciary Committee just said a minute ago to Mr. LUNGREN. I understood him to make very positive comments about the so-called Brooks-Lungren amendment. And I hope that that augurs well for the majority's accepting our motion to recommit at the end of this debate. At least I would expect that.

At this point, Madam Speaker, I will yield 3 minutes to the gentleman from New Jersey (Mr. GARRETT), a member of the Budget Committee and the Financial Services Committee.

Mr. GARRETT of New Jersey. Madam Speaker, I rise in opposition to the bill for a number of substantive reasons. But also, quite honestly, after hearing the comment from the gentleman from California, I also was about to say I rise with concerns as to the process as well.

I appreciate the ranking member's comment as far as potentially moving forward on this. I too have been there in the past, where we do things in committee, in the relevant committees I serve on, serve on Financial Services Committee and have agreements with the other side of the aisle and with the chairman specifically of Financial Services, with Chairman FRANK, and then things go to the Rules Committee, and I don't know whether it was a bipartisan obstacle in this case, but be it as it may, problems happen with Rules Committee. And I can tell you with my working with Chairman FRANK, he was able to actually get things done then on the floor as far as the substantive amendments done here to get it done. So I hope that we see similar action with regard to this as well that we have seen in other committees.

But I do rise in opposition or concern about this bill with regard to the repeal of the McCarran-Ferguson aspect. And I do so for three points. One has been touched upon, but I want to go into a little bit more detail with regard to the CBO. CBO, Congressional Budget Office, nonpartisan entity, has noted the States already have the laws on the books to prevent what we are really trying to deal with here, price fixing and bid rigging, et cetera.

Furthermore, State insurance commissioners already typically review the rates charged by insurance companies. So what does this basically mean in a nutshell? Basically, States are working in this direction already, and that the passage of this legislation will have a minimal positive impact.

Just a side note. When we talk about State insurance regulation in general, you have to remember when we are talking about the financial situation that we are in right now, it was not the fault of the State regulators of the financial marketplaces that brought us to where we are, it is the fault largely to errors and omissions in the Federal regulators. So if we are trying to cast blame or aspersion on any regulators out there, it should not be on the State regulators, because in essence they have done their jobs, and we should not be throwing other impediments to that getting done.

Second point, someone already mentioned about a report out of the CBO. Let me go into a little bit more specifics about what the CBO said with regard to costs. CBO said, and I quote, ''To the extent that insurers would become subject to additional litigation, their costs and thus their premiums might increase.'' Let me repeat that. Their premiums might increase. So to all the points of the other side of the aisle saying that we are doing this with the good intention of trying to get premiums to come down, what do the experts, the nonpartisan CBO, say? Just the opposite, premiums might go up. So the conclusion there is here is a case where increased litigation costs would actually drive up the cost of insurance, and not bring it down.

Third and final point, touched upon a little bit, and let me go in more detail. This legislation could have the effect of shutting out new entrants, not folks already there, but shutting out new entrants into the marketplace.

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

Mr. SMITH of Texas. Madam Speaker, I yield the gentleman 2 additional minutes.

Mr. GARRETT of New Jersey. Thank you.

This legislation would have the effect of shutting out new entrants into the marketplace. The other side of the aisle has already talked about the fact that they want to have greater competition in this area of health insurance, and I am assuming insurance across the board. But what this will do, as the gentleman and others have already said on the floor, is basically say to the new entrants, to the small companies who want to get into this marketplace, to be able to compete against the large entrenched companies that are already there, you are pushed out, you are locked out. So is that what we want to do with this legislation? That will be the impact.

Let me conclude then. In a letter to Speaker PELOSI, the National Association of State Insurance Commissioners says the following: ''The business of insurance, while exempted from Federal antitrust law, is still subject to State antitrust enforcement actions.'' That is important. ''In fact, even if the McCarran-Ferguson antitrust exemptions were repealed, the State action doctrine exempting them would continue to apply. The most likely result of this repeal would therefore not be increased competition, but a series of lawsuits testing the limits of the State action doctrine, with associated litigation costs being passed along to the consumers in the form of higher premiums.''

The conclusion, Madam Speaker, is more litigation, more harmful consolidation, and more increase to the cost to the consumer, all things that we should be working to oppose. And that is why I do not support the underlying legislation.

Mr. CONYERS. Madam Speaker, no one has worked harder on this measure that is not a member of the Judiciary Committee than PETER DEFAZIO of Oregon. And I yield to him 3 minutes.

Mr. DEFAZIO. I thank the distinguished chairman for bringing this issue before us.

We have heard on the Republican side this is just about the little guys. They only want to help the little guys. Except that the loopholes that they would create with the Lungren provisions could be used by the big guys. So if you like the status quo, if you like the fact that some of the largest insurance companies in America saw their profits go up by 56 percent last year, if you like the fact that in many States we are seeing huge, double-digit increases, over 50 percent in Michigan, 40 percent in California, 20 percent in my State, if you think the system's working today, then you should support Mr. LUNGREN's idea, preserve the status quo. That is what they are saying. Keep the loopholes. Allow them to continue to collude and price fix.

Now, there are a few other people who disagree with them. In fact, we had a bipartisan commission created by the Republican Congress when they controlled the House and the Senate and signed into law by President George Bush. The members were appointed by George Bush, the Republican heads of the House and the Senate. And their conclusions considered Mr. LUNGREN's arguments and they rejected them.

A bipartisan, professional commission created by the Republicans and George Bush said, after saying, yes, there are these arguments being made, but they say, ''Like all potentially beneficial competitor collaboration generally, however, such data sharing would be assessed by antitrust enforcers and the courts under a rule of reason analysis that would fully consider the potential procompetitive effects of such conduct and condemn it only if, on balance, it was anticompetitive.'' They don't want the Justice Department to have that capability. They

don't want any additional levels of review.

Mr. DANIEL E. LUNGREN of California. Will the gentleman yield?

Mr. DEFAZIO. There are many States that are totally incapable of dealing with these issues, particularly with multistate, multinational companies that operate outside their borders, set rates outside their borders, and then import those rates into the State saying, well, that was our experience. We operate in 27 States after all, and you are part of our system.

So if you like the status quo, if you like the double-digit rate increases, if you like the limits on market competition, if you like the concentration that has been going on in the industry, then you would support the status quo, which is essentially what Mr. LUNGREN has offered. And I don't. And I don't think the American people do either. I think we have tremendous consensus around the country that it is time for this abusive industry to play by the same rules as every other. And the small companies will still be able to obtain the data as long as they don't use it in a collusive manner. But it is always just about the small companies, except that the exceptions they want to provide are for the big companies also.

We have expert testimony from the director of the Center for Health Law Studies, St. Louis University, saying that is not the case, it will not disadvantage small companies. We have Mr. David Balto, an antitrust expert, saying it will not disadvantage the small companies. But the Republicans are purporting that it would.

Finally, on the CBO report that it won't lower premiums, that was based on the Lungren language. Without the Lungren language, it will save money, $10 billion for consumers.

Mr. SMITH of Texas. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN).

PARLIAMENTARY INQUIRY

Mr. DANIEL E. LUNGREN of California. Madam Speaker, I would like to make an inquiry of the Chair.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. DANIEL E. LUNGREN of California. Is it not correct that Members are supposed to address the Chair?

The SPEAKER pro tempore. The gentleman is correct.

Mr. DANIEL E. LUNGREN of California. Thank you.

Since the gentleman refused to yield when I asked him to, despite the fact he was using my name and attributing motivations to me that are questionable under the rules of the House, I might say this. The gentleman is absolutely incorrect in his analysis. The report said that it would harm the small insurance companies if they were not able to get this historical data, number one.

Number two, the gentleman conflates two completely different things: one is historical data and the other is trending data. And they are two different things. My amendment does nothing about allowing insurance companies to work together and compare trending data, which is data going forward, despite the fact that some in the insurance industry wish that is the case. The dirty little secret is that some in the insurance industry don't want to have my amendment, they want it to be silent so that in addition to historical data, they can also have trending data. But the gentleman hasn't looked at the data in that way, hasn't examined or, I presume the gentleman would not have examined the reports to know the difference that was in that and my specific decision not to include trending data in my amendment.

Secondly, I find it interesting that the gentleman suggests that I am trying to do something other than what I say that I am doing. This is an interesting argument made on this floor, that if you disagree with someone you suggest that what they say can't possibly be true. The fact of the matter is I have quoted outside reports to support my position, number one. The fact of the matter is I have used the language from the Jack Brooks legislation, I have used language from the gentleman's party's health care bill, and I have used the language that was adopted on a bipartisan basis in Judiciary Committee unanimously.

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

Mr. SMITH of Texas. Madam Speaker, I yield the gentleman an additional 2 minutes.

Mr. DANIEL E. LUNGREN of California. Perhaps the gentleman is suggesting that all the Members on his side of the aisle who supported this amendment share in his description of the motivation of those of us who have presented it. I thought maybe we were above that. I thought maybe we were engaged in civil discourse here. But rather, if the gentleman or any gentleman wishes to talk about the motivations of others, I will tell you any idea about bipartisanship is lost in this House. The suggestion that all you have to do is shout louder than somebody else and accuse them of motivations other than what they articulated is just absolute nonsense.

The fact of the matter is, properly done, the sharing of historical data is not anticompetitive. The fact of the matter is the underlying bill, with my amendment, would still allow actions taken by the Justice Department and the various States Attorney General if there was bid rigging, if there was price setting, if there was determination before the hand of which markets you would act in and which markets you would not act in.

And so this is a lot of sound and fury signifying nothing, essentially. I have never seen such an attack on an amendment that was adopted on a bipartisan basis in the committee. Now, I realize it is only the committee of jurisdiction that has expertise in this area. I understand that those of us who have done antitrust law ought not to be listened to because those who have said on this floor that they have no expertise in this and they don't understand it, therefore, they don't want to debate it, should have the upper hand in the Rules Committee.

But frankly, I will say once again at some point in time you have to accept yes for an answer. I support the bill. I am trying to help the bill. I am trying to get it back to where it was when Jack Brooks introduced it. And in response to that, rather than saying hurray for bipartisanship, I hear from other people, well, we got to question your motivations. Hardly a high point in this Chamber.

□ 1330

Mr. CONYERS. Madam Speaker, I am inclined to yield to the gentleman from Oregon (Mr. DEFAZIO) 1½ minutes.

Mr. DEFAZIO. Madam Speaker, you know, the law has evolved over time, and the law has evolved significantly since the era of Jack Brooks in terms of decisions regarding antitrust, antitrust immunity.

And as the current Assistant Attorney General of the Antitrust Division says, it says, moreover, the application of antitrust law's potentially to procompetitive collective activity has become far more sophisticated in the 62 years since the industry was exempted from the law. And some forms of joint activity that might have been prohibited under earlier, more restrictive doctrines are now clearly permissible, or at least, very least, analyzed under a rule of reason that takes appropriate account of the circumstances.

So what we're saying is, let's, you know—you're saying, oh, the States can take care of it. Let's say, the State of Montana can oversee an industry, a multistate, multinational, you know, conglomerate, and they can get into their books and they can examine and see that the rates that were imported from outside the State were set fairly. No. We need the help of the Federal Antitrust Division. They should not have their hands tied only in respect to the industry of insurance. Every other industry in America has learned to live with truly free markets with antitrust law. This industry can do the same, and it will benefit consumers. This is a false argument that somehow they need this special privilege, this special exemption, and that somehow this will hurt only little companies, not the big guys.

We've seen tremendous consolidation already under the existing total exemption. And if we continue a partial exemption, we'll only see more.

Mr. SMITH of Texas. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. Madam Speaker, once again I

know I run the risk of trying to introduce some expertise into this debate. For that, I apologize. But the American Bar Association appeared before the subcommittee of Judiciary dealing with the underlying bill, or the bill that was presented before our committee, and in there, they voice support, as they have for decades, for removal of the McCarran-Ferguson antitrust exemption for the health care insurance industry.

However, they said, as point number one of the five major points they made, insurers should be authorized to cooperate in the collection and dissemination of past loss-experience data so long as these activities do not unreasonably restrain competition, but insurers should not be authorized to cooperate in the construction of advisory rates or the projection of loss experience in the future in such a manner as to interfere with competitive pricing. That second part deals with trending data. I do not allow that under my amendment.

And as I presented my effort to have my amendment considered in the Rules Committee, I was told by the representative of the American Bar Association, they did support my position, they supported my amendment, and they supported the arguments that I made before the committee.

Now, maybe they're wrong because they have some expertise in this area, but perhaps this is one time we might look to them. The ABA has not been known as a Republican, conservative, pro-insurance company operation. Last time I looked, they have a major element of the bar association that's involved with antitrust law.

Mr. CONYERS. Madam Speaker, I am pleased to recognize a senior member of the House Judiciary Committee from Los Angeles, Ms. MAXINE WATERS, for 3 minutes.

Ms. WATERS. Madam Speaker, the consumers of this country are finally getting the attention they deserve. For far too long, consumers have been ripped off by collusion and concentration of the health insurance industry. For far too long, public policymakers have turned a blind eye to the special antitrust exemption that health insurers have enjoyed, to the detriment of the American people.

We must pass this legislation, the Health Insurance Industry Fair Competition Act. This bill finally, after 65 years, amends the McCarran-Ferguson Act. Health insurers will be investigated and held accountable for price fixes, dividing up territories among themselves, sabotaging their competitors in order to gain monopoly power, and all anticompetitive practices. The Justice Department will have a mandate to prosecute this criminal activity.

And finally, the health insurance industry will have to compete. No more legally protected collusion. Let the marketplace work. No more protection for health insurance companies from the very people who have been elected to protect the best interests of the people. That's us.

The health insurance industry has gouged us long enough. They have increased premiums, higher copayments, higher deductibles. The health insurance industry, to add insult to injury, have thumbed their noses at both the consumers and legislators and left too many families at risk. In the middle of our debate about health insurance reform, health insurers are raising the premiums. They're denying lifesaving procedures. They're dropping too many of the insured who have been paying premiums for years if they deem the cost of their health care too costly. The CEOs of some of the biggest insurance companies are paying themselves unreasonably high salaries. Most of them are earning $10 million or more per year.

Ladies and gentlemen, it is time to put an end to the practices of the health insurance companies. That time is now. Let us stand up for the consumers. Let us do what the consumers elected us to do—come here and give some protection from these kinds of practices. Sixty-five years is too much, too long. The time is now. Let's get the job done. Let's pass this legislation.

Mr. SMITH of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the bipartisan and very credible Congressional Budget Office has said that this bill will have little or no effect on insurance premiums. It further says that if there is any effect, it will be ''quite small.''

So I do appreciate all the comments that Members are making today, and I agree with a lot of them. But we should not think that any of them pertain to this bill, or that this bill is going to have any kind of a major impact on premiums.

However, I would like to discuss one subject that will have a major impact on insurance premiums, and that is health care tort reform.

The American medical liability system, quite frankly, is broken. According to one study, 40 percent of claims are meritless; either no injury or no error occurred. Attorneys' fees and administrative costs amount to 54 percent of the compensation paid to plaintiffs. The study found that completely meritless claims account for nearly a quarter of total administrative costs.

The American civil litigation system is the most expensive in the world, more than twice as expensive as nearly any other country.

Defensive medicine is widely practiced and it is very costly. Skyrocketing medical liability insurance rates have distorted the practice of medicine. Costly but unnecessary tests have become routine as doctors try to protect themselves from lawsuits.

According to a 2008 survey conducted by the Massachusetts Medical Society, 83 percent of Massachusetts physicians reported that they practiced defensive medicine. Another study in Pennsylvania put that figure at an astounding 93 percent.

While estimates vary, the Pacific Research Institute has put the cost of defensive medicine at $124 billion. Others have arrived at even higher figures. A new study by the Pacific Research Institute estimates that defensive medicine costs $191 billion a year, while a separate study by PricewaterhouseCoopers puts the number even higher, $239 billion every year.

Lawsuit abuse drives doctors out of practice. There is a well-documented record of doctors leaving the practice of medicine and hospitals shutting down, particularly practices that have high liability exposure. This problem has been particularly acute in several fields as well as in the rural areas of our country.

The absence of doctors in vital practice areas is, at best, an inconvenience; at worst, it can have deadly consequences. Hundreds or even thousands of patients may die annually due to a lack of doctors.

According to the Massachusetts study, 38 percent of physicians have reduced the number of higher risk procedures they provide, and 28 percent have reduced the number of higher risk patients they serve out of fear of liability. The American College of Obstetricians and Gynecologists have concluded that the ''current medico-legal environment continues to deprive women of all ages, especially pregnant women, of their most educated and experienced women's health care providers.''

Excessive litigation damages the doctor-patient relationship and impairs care. Beyond the dollars and cents, when doctors begin to see their clients as potential litigants, the quality of care patients receive is seriously compromised. In a recent survey, 76 percent of doctors said that their concern about being sued has hurt their ability to provide quality patient care. Nearly half of nurses say they are prohibited or discouraged from providing needed care by rules set up to avoid lawsuits.

The States have proven that legal reform works. While some in Washington talk about the need to study the problem, States have actually acted to address it. Several States have limited noneconomic damages such as those for pain and suffering and dramatically lessened the burden of lawsuits. In States with such limits, premiums are 17 percent lower than they are in States without them.

Madam Speaker, I'll reserve the balance of my time.

Mr. CONYERS. Madam Speaker, no one comes before the Judiciary Committee that I can think of offhand more frequently than BILL PASCRELL of New Jersey. He's worked with us on a number of other issues besides this one, and we welcome his counsel. We yield him 2 minutes.

Mr. PASCRELL. Thank you, Mr. Chairman, and thank you for your

leadership and persistence on this critical matter.

''Mischaracterization,'' I think, is the word of the day. When you look back at the beginning of the discussions of health care, there's been more mischaracterizations of what was in the bill.

But this bill that is before us, H.R. 4626, is only two pages—not 2,000, not 2 million—two pages, very clear and to the point. So what this bill seems to do—if I had my way, I would have brought this bill up when we discussed the beginning, back last summer. But I'm one person. To call them out, to call out the other side, and to call out the other end of the building.

I mean, we've passed 290 pieces of legislation that they haven't even looked at yet. And this is critical. This is to end the anticompetitive, antitrust exemption. Now we have a new administration. Talk is cheap about how we're going to bolster antitrust laws. I haven't seen anything yet so far, but I'm hopeful.

In all the industries in America, there are only two that have antitrust exemptions—baseball, America's pastime; and the health insurance industry, America's nightmare—and I think it's long past time we get rid of their exemption.

Now, I've heard so many terms since the parties last summer, through the fall, through the winter, about uncompetitiveness. We want open markets.

Now we look at the system, and it's price fixing and collusion over and over and over again. Ninety-four percent of the health insurance markets are concentrated.

Here's what that means, Mr. Chairman. In every State of the Union, maybe, through the Chair, there's three or four companies that are selling insurance, that are writing insurance. This is why we are where we are today. No other reason. Because there is a lack of insurance. We have been accused of socialism. That is the biggest joke.

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

Mr. CONYERS. I yield the gentleman another 30 seconds.

Mr. PASCRELL. We're talking about the biggest profits ever, just like Wall Street declared the biggest profit year they've ever had in 2009. That's interesting.

We talk about we want to save the smaller insurance companies. We've saved nobody. In the last 60 years, all that we've done is concentrate power, and the result of it is higher cost to the average citizen that lives in my district and every district here on the floor.

I thank you, Mr. Chairman. Be persistent. Call the other folks out at the other end of the building and we'll see who really cares about the policyholders in this country.

□ 1345

Mr. SMITH of Texas. Madam Speaker, may I ask how much time remains on each side?

The SPEAKER pro tempore. The gentleman from Texas has 27 minutes, and the gentleman from Michigan has 33½ minutes.

Mr. SMITH of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, on October 9, the Congressional Budget Office pronounced that a tort reform or civil justice reform package would reduce the Federal budget deficit by an estimated $54 billion over 10 years.

CBO recognizes that civil justice reforms also have an impact on the practice of defensive medicine. Defensive medicine is when doctors order more tests or procedures than are necessary just to protect themselves from frivolous lawsuits. Studies show that defensive medicine does not advance patients' care or enhance a physician's capabilities, that billions of dollars in savings from tort reform could be used to provide health insurance for the uninsured without raising taxes on those who already have insurance policies.

As the administration rushes to enact a massive government takeover of health care, Congress must remember that there is the option of saving between $54 billion and more than $200 billion by embracing tort reform, but it will take the leadership to stand up to personal injury lawyers instead of taxing Americans and cutting Medicare benefits.

According to CBO, under the HEALTH Act, which includes tort reform, premiums for medical malpractice insurance ultimately would be an average of 25 percent to 30 percent below what they would be under current law.

Also, the Government Accountability Office, GAO, found that rising litigation awards are responsible for skyrocketing medical professional liability premiums. The report stated that GAO found that losses on medical malpractice claims—which make up the largest part of insurers' costs—appear to be the primary driver of rate increases in the long run.

The GAO also concluded that insurer profits are not increasing, indicating that insurers are not charging and profiting from excessively high premium rates, and that in most States insurance regulators have the authority to deny premium rate increases they deem excessive.

The reason the administration continues to refuse to add serious medical lawsuit reform to their health care legislation remains purely political, as was recently revealed by former Democratic National Committee Chair Howard Dean. At a recent health care town hall meeting, Mr. Dean responded to an angry constituent who wondered why a supposedly comprehensive reform of the health care system doesn't include tort reform to lower costs of malpractice insurance and reduce defensive medicine.

Mr. Dean responded, being remarkably candid, as follows: ''This is the answer from a doctor and a politician. Here is why tort reform is not in the bill. When you go to pass a really enormous bill like that, the more stuff you put in, the more enemies you make, right? And the reason why tort reform is not in the bill is because the people who wrote it did not want to take on the trial lawyers in addition to everybody else they were taking on, and that is the plain and simple truth.''

Medical malpractice premiums have risen more than 80 percent each year in some parts of the country and can cost almost half a million dollars a year in some specialties.

Regarding the offer of HHS demonstration projects—and this is what the administration has proposed—that offer rings hollow given that the Cabinet Secretary tasked with implementing this proposal for demonstration projects is Kathleen Sebelius. Before she was Governor of Kansas and the Insurance Commissioner of Kansas, she spent 8 years as the head of the Kansas Trial Lawyers Association, now the Kansas Association for Justice. And she is also the State executive who, according to The New York Times, ''failed to make significant improvement in health coverage or costs during her two terms as Governor.''

The top contributor to President Obama's Presidential campaign was the legal industry, whose donations came to more than $43 million. More than 80 percent of the money given to Congress by lawyers, mostly from the plaintiff's bar, went to the Democrats—almost $22 million.

More recently, when President Obama spoke to the American Medical Association in June of this year, he told the audience, ''I'm not advocating caps on malpractice awards.''

But the American people are demanding legal reform. A recent survey found that 83 percent of Americans believe that reforming the legal system needs to be part of any health care reform plan. As the Associated Press recently reported, most Americans want Congress to deal with malpractice lawsuits driving up the costs of medical care. Yet, Democrats are reluctant to press forward on an issue that would upset a valuable political constituency, trial lawyers, even if President Barack Obama says he's open to changes. The AP poll found that 54 percent of Americans favor making it harder to sue doctors and hospitals for mistakes made while taking care of patients.

Support for limits on malpractice lawsuits cuts across political lines, with 58 percent of Independents and 61 percent of Republicans in favor. Democrats are more divided. Still, 47 percent said they favor making it harder to sue. The survey was conducted by Stanford University with the nonprofit Robert Wood Johnson Foundation. In the poll, 59 percent said they thought

at least half the tests doctors order are unnecessary and ordered only because of fear of lawsuits.

That is the end of the AP story.

Madam Speaker, the USA Today editorial board also came out in support of tort reform, and USA Today wrote, A study last month by the Massachusetts Medical Society found that 83 percent of its doctors practice defensive medicine at a cost of at least $1.4 billion a year. Nationally, the cost is $60 billion-plus every year, according to the Health and Human Services Department—and that's the HHS of this administration. And a 2005 study in The Journal of the American Medical Association found that 93 percent of Pennsylvania doctors practice defensive medicine.

The liability system is too often a lottery; excessive compensation is awarded to some patients and little or none to others. As much as 60 percent of awards are spent on attorneys, expert witnesses, and administrative expenses. The current system is arbitrary, inefficient, and results in years of delay.

Madam Speaker, discussing the need for tort reform, the president of the American Medical Association said, If the health care bill doesn't have medical liability reform in it, then we don't see how it is going to be successful in controlling costs.

Madam Speaker, I reserve the balance of my time.

Mr. CONYERS. Madam Speaker, I am pleased now to recognize DAVID SCOTT, the gentleman from Georgia, who has been waiting patiently to get time here on this. I yield him 2 minutes at the point.

Mr. SCOTT of Georgia. Thank you, Mr. Chairman. Let me commend you for the excellent leadership that you have provided on this issue.

In this debate today, the one point that has been missing is this: What about the American people? That's what this debate should be about.

As we speak, 14,000 American citizens and families are losing their health care insurance every single day. And the number one reason they're losing it is because of the high costs of health care insurance. And one of the major reasons why we have the high cost of health care insurance is because the insurance companies do not have competition. And the biggest reason they don't have competition is because they have this shield. They are exempt from competition. That's why we passed the antitrust laws in the very beginning. Go back to John D. Rockefeller and the American Standard Oil companies. That's what it was all about. It was so we could have that competition.

Now, there has been much argument on the other side about the sharing of this information. Madam Speaker, I call to your point and the point of this Congress what the Supreme Court said about the sharing of the information in the 1925 case of Maple Flooring Manufacturers' Association v. The United States. It said the pooling of statistics does not violate the antitrust laws. As a matter of fact, it's there, and it helps both small and large businesses. He said it's legitimate. But they said the collusive joint coordination of future pricing, of output, of marketing decisions to take meaningful choice away from customers, to rob the American people of the benefits they would receive from competition, must not be allowed.

That's what the antitrust provision prohibits. That's why it's important to us to remove it today for the American people.

Mr. SMITH of Texas. Madam Speaker, I will reserve my time.

Mr. CONYERS. Madam Speaker, I am pleased now to recognize the gentleman from Rhode Island, JIM LANGEVIN, a former Secretary of State, for 2 minutes.

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

Mr. LANGEVIN. I thank the gentleman for yielding.

Madam Speaker, I rise in strong support of H.R. 4626, the Health Insurance Industry Fair Competition Act, which will finally require the health insurance industry to comply with the same Federal antitrust laws as virtually every other industry in the United States.

The recent economic recession dealt a crushing blow to Rhode Islanders. Many are out of work and simply don't have insurance coverage. The ones who do are struggling to afford the perpetual rate increases year after year. Although Rhode Island is a State with strong health insurance consumer protections, this fact provides little comfort to the thousands of people who will lose their coverage because it's simply too expensive.

Madam Speaker, we must do everything in our power to hold down the rising costs of insurance premiums, which includes ensuring healthy market competition. After all, competition is the driving force of economic prosperity. And even in the time of FDR and numerous Supreme Court decisions, it established the fact that there is a legitimate public policy interest in ensuring competition.

But for over 65 years, the health insurance industry has played by a different set of rules, allowing them to engage in anticompetitive practices which drive up the costs of premiums.

Well, this bill before us today will outlaw existing health insurance practices like price-fixing, bid-rigging, and market allocations that drive up costs for all Americans. It will protect honest competition from collusion and other destructive practices within the health insurance industry so we can achieve greater affordability, improve quality, increase innovation, and more consumer choice, just as the antitrust laws have done for the rest of the economy for over a century.

Madam Speaker, Americans can no longer afford to give insurance companies special treatment. I urge my colleagues to vote in favor of the Health Insurance Industry Fair Competition Act so that we can finally break the vise grip that the insurance companies have on the lives of the American people and their health care.

Mr. SMITH of Texas. Madam Speaker, how much time remains on each side?

The SPEAKER pro tempore. The gentleman from Texas has 20 minutes. The gentleman from Michigan has 29½ minutes.

Mr. SMITH of Texas. I will reserve my time.

Mr. CONYERS. Madam Speaker, I am very pleased to recognize the most experienced member of the civil rights struggle in the 20th century, the gentleman from Georgia, JOHN LEWIS, a strong advocate of universal health care, and I yield him 2 minutes.

□ 1400

Mr. LEWIS of Georgia. Thank you, Mr. Chairman, for yielding.

Madam Speaker, I still believe that health care is a right and not a privilege, and this Congress must not rest until we make health care a reality for all Americans. I know we will get the job done for the American people, but until that day comes, we must do what we can to make health insurance work for people who depend on it.

This bill, this piece of legislation is long overdue. The health insurance industry has been treated differently for over 60 years, and they have abused that privilege. In too many States there is no competition and no choice for consumers.

Insurance companies are raising rates, denying care, and dropping people when they get sick, all the while making record profits. We need to put people first and not profits.

For too long, insurance companies have had the upper hand. It is not fair, it is not just, and it is not right. Today, at this hour, we said, ''No more.'' It is time to repeal the antitrust exemption and put the American people first.

Mr. SMITH of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, President Obama's own doctor of over two decades also supports medical tort reform. David Scheiner was Mr. Obama's doctor from 1987 until he entered the White House. He vouched for the then-candidate's excellent health in a letter last year. This was recently reported in Forbes Magazine. Dr. Scheiner worries about whether the health care legislation currently making its way through Congress will actually do any good, particularly for doctors like himself who practice general medicine. ''I am not sure Obama really understands what we face in primary care,'' Dr. Scheiner says.

One of the Nation's top surgeons, with credibility and acclaim the world over for the pioneering surgeries he has

and his personal story of overcoming hardship, recently severely criticized the health care legislation before Congress. Benjamin Carson, Director of Pediatric Neurosurgery at the Johns Hopkins Children's Center in Baltimore, Maryland, and recipient of numerous awards, including the Presidential Medal of Freedom, criticized, in a recent interview, the current bill's lack of malpractice liability reform.

He pointed to excessive litigation, pointing out how much malpractice insurance and other forms of defensive medicine to protect against lawsuits add to medical costs. In an interview with a local television station, Carson insisted that tort reform must go hand in hand as part of any true health care reform.

''We have to bring a rational approach to medical litigation. We're the only nation in the world that really has this problem. Why is it that everybody else has been able to solve this problem but us? Simple. Special interest groups like the trial lawyers association. They don't want a solution.''

As Stanley Goldfarb, MD, and Associate Dean of Clinical Education at the Pennsylvania School of Medicine has written: ''The President points to for-profit insurance companies, but for-profit insurance companies only make up 25 percent of the system, and they are not that profitable, ranking 85th among all U.S. industries. 'Reform' will redistribute the money, not reduce the overall costs. There is much that can be done to make our system more efficient. Tort reform is a great place to start.''

Even prominent Democrat strategist Bob Beckel has conceded medical tort reform is essential, recently writing that CBO has reviewed the few credible reports that do exist and concluded: ''A number of those studies have found that State-level tort reforms have decreased the number of lawsuits filed, lowered the value of claims and damage awards . . . thereby reducing general insurance premiums. Indeed, premiums fell by 40 percent for some commercial policies.''

From a CBO report in June 2004, one irrefutable fact remains: Between 1997 and 2007, medical tort costs, including insurance premiums, have risen from $15 billion to $30 billion a year. That fact alone should ensure that yearly savings in the billions for medical tort reform would pass the credibility test.''

As Kimberley Strassel has written in The Wall Street Journal: Tort reform is a policy no-brainer. Experts on left and right agree that defensive medicine—ordering tests and procedures solely to protect against Joe Lawyer—adds enormously to health costs. The estimated dollar benefits of reform range from a conservative $65 billion a year to perhaps $200 billion a year. In context, Mr. Obama's plan would cost about $100 billion annually. That the President won't embrace even modest change that would do so much, so quickly, to lower costs has left Americans suspicious of his real ambitions.

It's also a political no-brainer. Americans are on board. Polls routinely show that between 70 percent and 80 percent of Americans believe the country suffers from excess litigation. The entire health community is on board. Republicans and swing-State Democrats are on board. State and local governments, which have struggled to clean up their own civil justice systems, are also on board.

Mr. Speaker, Republican-sponsored legislation would make Federal law the same legal reforms California implemented over 30 years ago. That legislation, called the HEALTH Act, remains the gold standard for health care legal reform, and it continues to be supported by every major medical association.

The HEALTH Act does not limit in any way an award of ''economic damages'' from anyone responsible for harm. Economic damages include anything whose value can be quantified, including lost wages or home services, including lost services provided by stay-at-home mothers, medical costs, the cost of pain-reducing drugs, therapy and lifetime rehabilitation care, and anything else to which a receipt can be attached.

Only economic damages, which the Federal legislation does not limit, can be used to pay for drugs and services that actually reduce pain. So, nothing in the HEALTH Act prevents juries from awarding very large amounts to victims of medical malpractice, including stay-at-home mothers and children. California's legal reforms, just like the HEALTH Act, cap noneconomic damages at $250,000 but do not cap quantifiable economic damages.

The administration's health care bill not only fails to contain any of the tort reforms that CBO concluded would save at least $54 billion in health care costs, but it also contains a provision that actually deters States from enacting such reforms in the future by explicitly prohibiting tort reform ''demonstration project'' funds to States that enact limits on damages or attorneys' fees.

One section of an earlier bill states that ''the Secretary of HHS shall make an incentive payment . . . to each State that has an alternative medical liability law in compliance with this section,'' but then goes on to say a State can take advantage of such funds only if ''the law does not limit attorneys' fees or impose caps on damages,'' which are precisely the tort reforms the CBO concluded yield real health care cost savings.

Mr. Speaker, so not only does the administration's bill fail to contain any of the tort reforms we know bring health care costs down from decades of experience, but it even prohibits States that want to try such reforms from taking part in the government-funded tort reform demonstration projects. This is not only a blow to State reform efforts, it is a federally funded bribe discouraging States from enacting real reform, and, of course, it is a giant bailout for trial lawyers.

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

The SPEAKER pro tempore (Mr. SERRANO). The Chair will note that the gentleman from Texas has 13 minutes remaining and the gentleman from Michigan has 28 minutes remaining.

Mr. CONYERS. Mr. Speaker, I am pleased now to recognize the distinguished Member of the House who has had insurance experience as a State commissioner, EARL POMEROY of North Dakota, for 2 minutes.

Mr. POMEROY. I thank the chairman for yielding for the purpose of a colloquy.

I would like to thank Chairman CONYERS, Congressman TOM PERRIELLO of Virginia, Congresswoman BETSY MARKEY of Colorado, and others for their leadership in bringing to the floor this important bill aimed at creating greater competition in the health insurance marketplace in order to promote greater affordability, improve quality, and greater consumer choice.

In particular, I appreciate that the bill is narrowly tailored to repeal the McCarran-Ferguson antitrust exemption only for the business of health insurance. But despite the clear wording of the bill, I have heard concerns from some that courts might somehow interpret the bill broadly to include nonhealth lines of insurance such as life insurance, long-term care insurance, disability income insurance, even property/casualty insurance.

As one of only two former State insurance commissioners in the U.S. House of Representatives, I know health insurance is different than these other insurance lines. I would appreciate, Mr. Chairman, your confirmation of my understanding that the bill we are now debating does not apply to any insurance except for health insurance, and your expectation that courts will interpret it properly to not include nonhealth lines of insurance.

Is the gentleman's understanding of my expectation correct?

Mr. CONYERS. If the gentleman will yield, I want to commend him for clearing up something that perhaps in more reasonable circumstances should not need to be cleared up.

I still have confidence in the courts that they can read the simple understanding that when we say ''health insurance,'' we don't mean life insurance. I mean, this is getting pretty fundamental here. But, of course, you are correct, Mr. POMEROY. It's health insurance only; no disability income insurance, no long-term care insurance, no property insurance.

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

Mr. CONYERS. I yield the gentleman an additional 1 minute.

Mr. POMEROY. I yield to the chairman.

Mr. CONYERS. No casualty insurance, no other kind of insurance but the one plainly listed in a two-page

bill. So my confidence in the courts is unrestricted that they can get this right.

The lack of a statutory definition is intended solely to give the courts the ability to ensure that all forms of health insurance are appropriately included so that unreasonable and artificial distinctions do not arise between two essentially equivalent kinds of insurance products and how they are treated under antitrust laws.

I am glad that the gentleman raised this issue in the hearings.

Mr. POMEROY. I thank the chairman.

Reclaiming the time, I believe the chairman's words are very clear and will make a very clear part of the legislative record on this bill.

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

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia who has done so much in working with the committee on this bill, Mr. PERRIELLO, who has been great.

Mr. PERRIELLO. Thank you, Mr. Chairman, thank you to Chairwoman SLAUGHTER, as well, for their great leadership on this bill. This is a great day.

It's a great day for consumers, it's a great day for competition, and it's a great day for common sense. I am new to Washington, and I know this is a town full of grays, but sometimes things are as simple as black and white. This is a chance for people to decide whether they stand for patients or whether they stand for the profiteering of health insurance monopolies, whether they stand for competition or for collusion.

This is a victory for common sense in the midst of the health care reform debate. Only inside the beltway would those people argue that the best way to protect competition is to protect monopolies. Only inside the beltway would people try to argue that the best way to help the little guy is to make sure that we protect monopolies.

The status quo is not working for the small insurers. There are those with very good intentions who want to talk about safe harbors, but I have not had constituents come up to me and say, Congress, please have more carve-outs. Congress, please have more exemptions and exceptions, please make the bills even longer. Here we have a two-page bill, 24 lines long—one that is supported by conservatives and liberals alike in my district—that makes a simple rule that health insurance companies should have to play by the same rules as everyone else.

If two plumbers in my district get together and start to collude and set prices, they will go to jail. Why should the biggest health insurance companies in the country not have to play by the same rules? People say to us, How about a shorter bill? Two pages. People say to us, What about bipartisanship? Well, in 2007, all of the attorneys general across the country, without a single dissenting vote across party lines, said we want this bill. We want more Federal power for us to be able to go after these monopolies that are sticking it to consumers.

□ 1415

This will not solve every problem in the health care debate, but if we can't come together and agree on something this simple—pro-competition, pro-consumer, two pages long—how will we ever come together on anything?

It is estimated to save consumers $10 billion. In States that have removed such protections before, premiums have risen at one-fifth the rate of other folks. This means real money in the pockets of working and middle class Americans. Voters say, who is standing up for us—working and middle class Americans who play by the rules—instead of for the interest groups? Here is a chance for a victory for common sense and for consumers.

If you are a health insurance company and you are not engaged in monopolistic practices, you're not colluding, you have nothing to worry about. But if you are, be afraid, be very afraid, because you are no longer going to enjoy the monopoly protections you have enjoyed for 65 years.

We are going to stand up for patients today with no loopholes and no monopolies to ensure a basic sense of accountability, competition, and Main Street values, and maybe take one step forward towards bipartisanship and common sense in this health care reform debate.

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

Mr. CONYERS. Mr. Speaker, I would like to yield to PAUL KANJORSKI of Pennsylvania for a unanimous consent request.

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

Mr. KANJORSKI. Mr. Speaker, I rise in support of H.R. 4626.

Mr. Speaker, as the Chairman of the House Financial Services Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises and on behalf of the Financial Services Committee and its Chairman (the gentleman from Massachusetts, Mr. FRANK), I would like to thank the Chairman of the Judiciary Committee (the gentleman from Michigan, Mr. CONYERS), the gentleman from Virginia (Mr. PERRIELLO), the gentlewoman from Colorado (Ms. MARKEY), and others for their leadership in bringing this important legislation to the floor. I also appreciate their cooperation with the Financial Services Committee—which has primary jurisdiction over most insurance regulatory issues, except for health insurance matters—in developing this bill. In particular, I appreciate that the legislation before us is narrowly tailored to repeal the McCarran-Ferguson antitrust exemption only for the business of health insurance.

Today, Congress is engaged in robust debate on reforming the health insurance marketplace for the nation. There are also many additional types of insurance that impact citizens' lives on a daily basis. When looking broader at insurance regulatory reform and allowing insurers to cross state lines, Congress should look at these matters comprehensively across all lines of insurance. I look forward to working together with House leadership and multiple committees on these important matters in the future.

Mr. CONYERS. Mr. Speaker, I recognize the distinguished Member who allowed us to testify in his subcommittee on universal single-payer legislation, ROB ANDREWS of New Jersey, and I yield him 2 minutes.

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

Mr. ANDREWS. Mr. Chairman, thank you for your leadership on this bill. I would like to thank and congratulate Mr. PERRIELLO, Ms. MARKEY and Ms. SLAUGHTER for their leadership.

Members of the House have a choice to make this afternoon: If you believe that the Members of the two parties can work together to solve a problem in our health care system, then the correct vote is ''yes''; if you believe that there can be simple and clear solutions that do not involve thousands of pages of legislative language, then the correct vote is ''yes''; if you believe that health insurance companies should be held to the same standard that car dealers, supermarkets, television networks, candy stores, all kinds of people are held to in this country, then the correct vote is ''yes.''

The choice here is competition versus crony capitalism. Competition means the best competitors get the market share and get the business. It means that health insurance companies cannot meet behind closed doors and fix the prices of their product. We've seen enough of crony capitalism on Wall Street, we have seen enough of crony capitalism in our banking industry, and I think we've seen more than enough of crony capitalism in health insurance.

This is the chance for the Members to come together and say we want the health insurance industry to compete for the business of the American people the same way everybody else does. It is pro-consumer, it is pro-competition. It should be profound evidence that the two parties can work together and start to solve the health care problem.

I congratulate the authors. I would urge my friends on both sides to vote ''yes'' in favor of this bill.

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

Mr. CONYERS. Mr. Speaker, I am now pleased to recognize BETSY MARKEY of Colorado. She has done yeoman's work on this measure in her first term, and I will yield her 3 minutes.

Ms. MARKEY of Colorado. Thank you, Mr. Chairman, for your work on this very important bill.

A few years ago, before I ever even decided to run for Congress, I owned a small coffee shop in Old Town, Fort Collins. As a business owner, I knew that my success or failure depended on my business plan and my ability to

compete. None of the other shopowners needed the government to offer them some sort of special protection in order to survive. Capitalism is the basis of our democracy, and a competitive marketplace is at the heart of capitalism.

Since 1945, just two industries have enjoyed special protection from antitrust laws by the United States Government: Major League Baseball and the health insurance industry. Since Americans don't rely on baseball tickets to vaccinate their children or get cancer screenings, the gentleman from Virginia and I felt it important that we tackle the special protections offered to the health insurance industry today.

I consider myself a pragmatic person. I think companies should be left alone to succeed or fail based on the fitness of their business plan and on the quality of the products they offer to consumers, not because they got a special deal from Washington.

I believe that consumer protection laws keep our markets competitive and are crucial to our democracy and economy, and that the exceptions offered to the insurance industry for over half a century leave the doors wide open to price-fixing that can't be regulated.

If any Member of this body were to come and suggest that the United States Government give one industry immunity from protection and from price-fixing, the outrage from the American public would be swift and heartfelt. It is not fair that small business owners across America—many of them struggling to survive in today's economy—have to play by a separate set of rules.

The underlying premise of this bill is not a partisan issue. Prominent Members of both parties have advocated removal of McCarran-Ferguson for 2 years. In 2007, Senator Trent Lott cosponsored legislation with PATRICK LEAHY that would have repealed an even broader swath of antitrust exemptions benefiting the entire insurance industry. At the same time, Senator Lott made the astute point that if the industry were not engaging in price-fixing, it wouldn't have to worry about losing its antitrust exemption.

When Lott testified before the Judiciary Committee in 2007, he said, ''I cannot for the life of me understand why we have allowed this exemption to stay in place so long.'' Perhaps even more telling, the National Association of Attorneys General strongly supports the repeal of McCarran-Ferguson. One assistant attorney general noted, ''The most egregiously anticompetitive claims, such as naked agreements, fixing price, or reducing coverage, are virtually always found immune'' from prosecution under the law.

The SPEAKER pro tempore. The gentlewoman's time has expired.

Mr. CONYERS. I yield the gentlewoman an additional 30 seconds.

Ms. MARKEY of Colorado. For years, one industry has enjoyed an unfair advantage over every other business in the United States. I don't think this has anything to do with being a Republican or a Democrat, I think it has to do with being fair.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, we have heard several speakers in the last few minutes say that there are only two industries exempted from the antitrust laws, insurance and baseball. This, of course, is not true. There are more than 20 such exemptions. If the majority is intent on eliminating simple exemptions, perhaps they would be willing to eliminate the labor union's antitrust exemption as well.

I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, MARY JO KILROY of Ohio has worked hard on this legislation, and I would like to recognize her for 2 minutes.

Ms. KILROY. Thank you, Chairman CONYERS, for allowing me this opportunity. Also, I want to give thanks to the work of my freshman colleagues, TOM PERRIELLO and BETSY MARKEY, for their work on this important piece of legislation that I am very proud to be a cosponsor of.

I have been listening to this debate this afternoon, and it is very surprising—and actually highly ironic—to hear the opposition from the Republican side of the aisle to a bill that would simply make the health insurance industry operate fairly in a competitive marketplace. After all, it was a great Republican President, Teddy Roosevelt, who was the great trust buster, the one who brought antitrust principles into American jurisprudence and legislation. And as we have heard this afternoon from others, versions of this bill have had bipartisan support over the course of the years when there have been attempts to introduce antitrust legislation addressing this issue with respect to the health insurance industry. After all, competition is the engine that drives our economy, spurs innovation, and ensures that the American consumer would receive a fair deal. But for far too long the insurance industry has been able to avoid accountability by dividing up the territories among themselves like the robber barons once did on the backs of ordinary Americans.

I also serve with several of my colleagues on the Competitiveness Task Force, and I know that for our economy to regain its footing, we need central Ohio and American business to be competitive, something this bill will help to ensure.

This bill is needed because the health insurance industry is sick, and we need to fix it. We know that we have an unhealthy insurance system because we see that the signs and symptoms are there. Ninety-six percent of all health insurance markets are highly concentrated, meaning consumers have little or no choice between insurers, and it is too easy for insurance industries to conspire on practices.

I urge my colleagues to support passage of the Health Insurance Industry Fair Competition Act.

Mr. SMITH of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from California, the former Attorney General of that State, Mr. LUNGREN.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman for yielding.

Mr. Speaker, as I've said repeatedly—and perhaps the gentlelady from Ohio who just spoke didn't hear—I support the bill. I think she also heard—well, maybe she wasn't here to hear the ranking Republican say he is not going to oppose the bill, so let's be clear about what we're talking about here.

While I do support this bill and while I do think it could be perfected and while I hope that the motion to recommit will be adopted to actually make it a better bill, I would say, however, this is not the first bill we should have on the floor dealing with the overall issue of health care. The first one should be the one the American people have asked us to look at, and that is reform of the medical malpractice system.

The interesting thing is, as the gentleman from Texas pointed out, that in the bill that we have in the Senate and the House, there is reference, as the President of the United States said, to medical malpractice litigation alternatives. That bill does give incentives, financial incentives, Federal moneys from the Federal Government to the States if they will engage in alternatives to the litigation system in areas of medical malpractice. But as the gentleman from Texas pointed out, there is a kicker in there, and it says that if your State dares to in any way put any limitations on attorneys fees or on any part of the recovery in medical malpractice cases, that State will be ineligible for the funds; in other words, you will be punished relative to other States.

Now, the gentleman from Texas referred to the landmark legislation we had in California called MICRA, which was adopted in the mid-1970s at a time when we had a crisis in medical malpractice premiums. We actually had an exodus of doctors, particularly in the specialties. Neurosurgeons, I remember anesthesiologists, other high specialties with high-risk practices were actually leaving the State of California because of the significant increase in premiums on a yearly basis as a result of the true historical data of what was happening in the courts.

□ 1430

I recall at this time, because I actually did some representation in the courts of doctors and hospitals and of even a couple of plaintiff cases—but primarily defense cases—that it was becoming a crisis.

So, in California, it came together on a bipartisan basis, and we passed legislation better known as MICRA. In there, we have a limitation on a sliding scale on the amount of money that can go to the attorneys, and it's a slightly higher percentage at the lower recoveries. As the recovery gets larger and

larger, the percentage of return to the attorneys, percentage-wise for that segment of the recovery, is less.

While putting no limitation whatsoever on recovery for loss of income and for all medical costs, there was a cap put on noneconomic damages. As one who has been in the courtroom and has seen what happens, that is logical because the one area in which you saw extraordinary amounts of money that really were not truly indicative of approvable damage—I'm not saying there isn't pain and suffering, but trying to quantify it is extremely difficult, and it proved to be impossible, and it proved to be the area in which you had the outrageous jury verdicts that had the impact of distorting the system. So California adopted both of those.

In other words, the bill that has been presented by the President and Democrats in the House and the Senate not only does not really deal with reform of the medical malpractice system, but it takes us back more than 30 years to the position in which we were then when we had not an academic exercise about the possibility of a crisis but a true crisis. We literally had a crisis in medical care in the State of California until we enacted this change.

So that is why it is at least as strange to ask and to see why we don't have some litigation reform moving through our Judiciary Committee and through the other committees that may have jurisdiction in the House of Representatives and placed on the floor. That's why it was very important for the gentleman from Texas to make reference to the California system, because that is one that has worked, and it specifically is the one that is singled out in the legislation that the President supports to be punished. Now, if that is not irony, I don't know what is.

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

Mr. SMITH of Texas. Mr. Speaker, I yield the gentleman an additional 1 minute.

Mr. DANIEL E. LUNGREN of California. So I would just hope that people would understand, as important as this bill is, that we should be at least listening to the American people, who have said number one on their issue list in dealing with this problem, as they see it, as they understand it, as they are affected by it, is the reform of the medical malpractice litigation system as it currently exists.

So it is somewhat disappointing that we don't have that even on the horizon. I think the gentleman, the ranking member on the committee, would agree we haven't seen anything on this subject that has been scheduled for our committee.

While I support this legislation—and let me repeat that—I support this legislation. I think it is good legislation. I think it may have a slightly bigger impact than, maybe, my ranking member thinks it will have, although not as large an impact as suggested by the other side. I would hope that the other side would look with open eyes and would listen with open ears to our motion to recommit because I think it will make a better bill, will clear up some definitions that are not defined in this bill and will help us move in the right direction.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the leader of the Progressive Caucus in the House for so many years, the gentlewoman from California, LYNN WOOLSEY.

Ms. WOOLSEY. Thank you, Congressman CONYERS, for your great leadership.

Mr. Speaker, can you imagine the health care industry being exempt from the McCarran-Ferguson antitrust rules right now, particularly after Anthem raised their rates 39 percent a couple of weeks ago when their parent company had just announced that they had had—I believe it was 2.9—around a $2 billion profit last quarter, and when one of their subsidiaries has to raise their rates 39 to 40 percent?

H.R. 4626 will lift the antitrust exemptions that health insurance companies have enjoyed for far too long. It will protect us from the Anthems of the world. These exemptions have given the companies a near monopoly control of health insurance markets—preventing meaningful competition, competition that would bring down the cost of premiums and competition that would make health care affordable for all Americans, which we know is not right now. Through the lifting of the insurance companies' antitrust exemptions and through the creation of an exchange, we will increase competition. The insurance industry will then have to control their costs, control their premiums and control their copays because they will have competition.

Another important way to increase competition is to give the American people a choice, a choice of a public health insurance option—an option that will compete with private health insurance companies and will bring down the costs of premiums and the costs of coverage.

The CBO, the Congressional Budget Office, has stated that a public option would save at least $25 billion if we included that right now in our health care bill. That $25 billion could be used for subsidies to ensure the affordability of all health insurance plans.

Mr. SMITH of Texas. Mr. Speaker, I have no further requests for time on this side, and I am prepared to close at the appropriate time.

I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. GARAMENDI).

Mr. GARAMENDI. Chairman CONYERS, thank you so very much.

Mr. Speaker, I keep thinking about that movie ''Casablanca.'' The guy says, I am shocked to learn that the Republican Party that has championed itself with the free market economy would oppose a measure that would, in fact, allow for competition.

Now, a lot has been said on the floor today, but the fact of the matter is—and I spent 8 years of my life as the insurance commissioner in California, and I am here to tell you that the insurance companies, using the exemption from the antitrust laws, are able to conspire to fix prices on premiums and on payments to doctors. That has been proved in cases, national cases, brought by States and by private attorneys as well as by the attorney general of New York.

Similarly, they are able to vertically integrate. In a case that took place in New York, where UnitedHealthcare owns a company called Ingenix, which actually sets the reimbursement rates, they are able to have a serious conflict of interest. The lower the normal reimbursement rates, the more the copay to consumers.

So there are varieties of practices that take place in the insurance industry, practices which are anticompetitive and anticonsumer. What we are doing here is very simple and very, very straightforward. It is this:

Under the antitrust laws that have been in place since Teddy Roosevelt is a long history of people pushing back against the powerful interest groups—in this case, the powerful interest groups of the insurance industry. It is time for us to simply say, You must compete as every other part of the American economy must. Vertical integration to the detriment of consumers: not allowed. Price-fixing on selling the products: not allowed. Not able to use that market power to set prices on the payment to doctors and hospitals. All of those things have taken place. The proof is there.

With regard to the States' ability to do this, yes, many States do have antitrust laws, and we are thankful for that, but the Federal Government, the Federal Attorney General, is precluded from involving in the matter of competition in this industry.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to a former member of the House Judiciary Committee, the gentlewoman from Ohio, BETTY SUTTON.

Ms. SUTTON. Thank you, Mr. Chairman, for the time.

Mr. Speaker, I rise in strong support of this bill, to repeal the antitrust exemption for health insurance companies.

For far too long, the health insurance industry has been exempted from playing by the rules that most other American businesses must live by. Since 1945, they have been operating beyond the reach of these important consumer protection laws. The result has been excessive consolidation in the health insurance industry and the insurance companies taking advantage of honest, ordinary Americans. This legislation will finally put an end to insurance company collusion, and it will bring much needed competition to the industry.

According to the Consumer Federation of America, repealing these antitrust exemptions will save consumers more than $40 billion in insurance premiums. I, for one, want consumers to save that money. The families that I proudly represent have the right to be confident that the cost of their insurance and the actions of their health insurance providers are reflective of competitive market conditions, not of collusion.

This bill is a historic step to ensure competition in the insurance industry and to provide access to quality, affordable health care for all Americans. Now, who would be against that?

The choice is clear and easy. It is a two-page bill, easily understood, hard to mischaracterize. A vote for the bill is a vote for our constituents. A vote against the bill is doing exactly what the insurance industry wants. Let's think about that. For our constituents versus for the health insurance industry. It's an easy choice. Because the American people need all of us to be on their side, I urge people on both sides of the aisle to vote for this bill.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Canton, Ohio, JOHN BOCCIERI.

Mr. BOCCIERI. Thank you, Mr. Chairman.

Mr. Speaker, the American people have asked for common sense in their government, but all too often it is just not that common.

You see, our friends on the other side have asked for simplicity, for substance, and for competition in the health care debate, but only in Washington will we argue that competition doesn't reduce costs. Only in Washington will we argue that we haven't had time to read a two-page bill. Only in Washington will we argue process over results for consumers.

What does it mean for consumers in Ohio?

Well, let me tell you, small businesses in Ohio, their premiums have risen about 129 percent. There are 7.4 million people in Ohio who get their insurance on the job, averaging about $13,000. Small businesses make up 72 percent of all business in Ohio, while only 47 percent of them can afford to offer health insurance for their people.

We have seen 400 mergers in the health care industry over the last 14 years, so 95 percent. According to the Department of Justice, health insurance markets are highly concentrated. It means there is collusion. It is simple economics. We increase competition. We lower prices.

On this matter, we have to know who we will stand with at this hour. Are we going to stand for families or are we going to stand for monopolies? Are we going to stand for competition or are we going to stand for price-fixing and collusion? Are we going to be Congress men and women who stand for consumers and for open markets or are we going to be Congress men and women who stand for collusion and corruption in the industry? There are not all bad actors out there, but on this day, at this hour, we need to stand with consumers.

Mr. CONYERS. Mr. Speaker, this has been an important debate, and I would like to take this opportunity to commend the leader of the Republicans in the House, and especially one Member on the Judiciary Committee, LAMAR SMITH.

We have had a very civil debate. I think, in the course of the incredible amount of time that we have been allotted for this bill, that we have reached closure on some issues. There are now more things that we agree to on both sides of the aisle than there are things that we may have differences about.

□ 1445

I attribute it to the goodwill and the cooperation of my Republican colleagues on the House Judiciary Committee. I also solicit their vote, but I will respect any way that they may choose to dispose of this matter and our friendship will not be diminished or impaired in any way whatsoever.

Now, LAMAR SMITH mentioned the fact that there were other exemptions, and to be perfectly candid, I did not know that there were more than two exemptions, and it turned out that there are. As a matter of fact, there are 27. But many of them—and I haven't researched this yet. Many of them are partial exemptions. Many of them are very small exemptions that are very limited in terms of the economic scope of our reach in the United States. But they, nevertheless, exist.

Mr. SMITH may remember that the baseball antitrust exemption was given very close scrutiny only 2 or 3 years ago, and it reminded them of the fact that their conduct hadn't always been such that deserved a continuation of the exemption, and I'm hopeful that baseball will still deserve it.

But here in the field of health care, I think it's hard to defend any argument that the health insurance industry deserves or requires or needs an exemption, and for that reason I am urging all of my colleagues to examine this two-page bill and scrutinize it. Let's see if we can get a refreshingly large bipartisan vote that could lead the American people to reflect on the fact that we can be liberals and conservatives without rancor or animosity or personalizing our philosophical differences, and that's the appeal that I offer to my colleagues on the other side.

There are those that wonder if this would create some kind of a chill or curtailment of creativity if this exemption were removed, and I don't think that that is very logical. We think that the antitrust laws are fairly elementary. They don't conspire against competition. They don't try to reserve creativity. We want competition, and it is the exemption from antitrust liability that this becomes very, very critical.

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

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, let me thank Chairman CONYERS for his comments. He is always gracious in making those. He is right. We have had a good discussion today about this particular piece of legislation. And I also want to say that he and I have a very good working relationship on the Judiciary Committee as well.

In regard to this bill, Mr. Speaker, I have to say that as much as some might hope that it did something or hope that it accomplished something or might wish that the bill did something or might pretend that the bill did something, in point of fact, the Congressional Budget Office disagrees. Members are free to wish upon a star, but this bill is a dim bulb.

Mr. Speaker, the Congressional Budget Office says that ''whether premiums would increase or decrease as a result of this legislation is difficult to determine, but in either case, the magnitude of the effects is likely to be quite small.'' ''Quite small.''

So, Mr. Speaker, what's the point of this bill? CBO goes on to say that premium reductions from this bill are likely to be small because ''State laws already bar the activities that would be prohibited under Federal law if this bill was enacted.''

So again, Mr. Speaker, what's the point of this bill?

I could list all the reasons why this bill is ineffective, useless, unproductive, pointless, futile, and meaningless. Instead, I would like to highlight something we could do to actually drive down health care costs.

Last October, the CBO concluded that a tort reform package consisting of reasonable limits on frivolous lawsuits would reduce the Federal budget deficit by an estimated $54 billion over the next 10 years. That $54 billion in savings from tort reform could be used to provide health insurance for many of the uninsured without raising taxes on those who already have health insurance policies.

Also, according to the CBO, under a Republican-sponsored health care tort reform bill called the HEALTH Act, ''premiums for medical malpractice insurance ultimately would be an average of 25 percent to 30 percent below what they would be under current law.''

And a GAO report stated that ''losses on medical malpractice claims, which make up the largest part of insurers' costs, appear to be the primary driver of rate increases in the long run.''

Mr. Speaker, rather than spend time on a bill that the CBO said would yield a ''quite small,'' if any, change in health care premiums, we should instead take up a bill the CBO concluded would save us $54 billion. The American people deserve real health care reform, not a feeble and feckless substitute.

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

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Maryland, Mr. FRANK KRATOVIL.

Mr. KRATOVIL. Mr. Speaker, for months we have been debating how to improve the health care system. We have focused on two major goals: One is increasing the number of those who have coverage, and the second major goal is doing what we can to reduce the costs for those that do. One way, obviously, to accomplish these goals is to increase competition. In fact, it's one of the few areas where, in this debate, we have seen bipartisanship. There have been recommendations, various recommendations, on how to do that. One is the bill that we have today. There have been other suggestions, allowing for competition across State lines.

The point is we all know that one of the ways to accomplish the major goals that we seek to accomplish is to create competition, and that is what this bill does. We need to ask the question: Why would we allow this exemption to continue when we do not do that for other industries? Why would we do that when no public interest is served by doing so?

Now, this may not be the silver bullet, but certainly everyone agrees that in order to improve our health care system, we must increase competition. That's not a partisan issue. That's what this bill does. And for that reason, I ask my colleagues to support it.

Mr. CONYERS. Mr. Speaker, NANCY PELOSI is the first female Speaker of the House in American history. She is the third ranking person in our Federal Government. And we are all honored to recognize her for 1 minute at this time.

Ms. PELOSI. I thank the chairman for his generous remarks and for his tremendous leadership in bringing this important legislation to the floor. Mr. CONYERS is well known as a champion of the people, and today he demonstrates that once again.

This House of Representatives, Mr. Chairman, is called the people's House, and you are a leader in the people's House. Today we live up to that name by passing legislation that increases leverage for people. By changing the playing field, a playing field that has been dominated by the insurance industry for over 65 years. And now it's the people's turn. The insurance companies will now be playing on the people's field.

Mr. CONYERS, thank you for your ongoing leadership, for fairness, for competition, for a better deal for the American people.

I also want to commend chairwoman of the Rules Committee, LOUISE SLAUGHTER, for her ongoing and persistent insistence that this legislation come to the floor. When she served in the State legislature in New York, she was fighting this fight.

This antitrust exemption was passed, again, over 60 years ago and it was supposed to last 3 years. Sixty-five years later we are on the floor of the House to finally repeal the special exemption that insurance companies have that no other industry, except Major League Baseball, has in our country.

I also want to commend Mr. DEFAZIO, who has been a champion on this issue, Congressman DEFAZIO from Oregon. He has worked with our new Members of Congress, and they have been a source of energy to move this legislation: Congresswoman BETSY MARKEY of Colorado; Congressman TOM PERRIELLO of Virginia, the author of this bill. We're grateful to them for their courage and their leadership, because the insurance companies don't want this bill but the American people do, and I commend those who have worked so hard.

Another new Member of Congress, Congressman GARAMENDI, a former insurance commissioner of the State of California, played a role effective from the start as soon as he arrived to get this legislation to the floor. And, again, I believe that the legislation has many Republican supporters as well. So that, of course, is really a source of confidence to us as we go forward into the health care debate.

One year ago, we began this debate on health care, quality, affordable health care for all Americans. We got a running start on it in the recovery package with big investments in basic biomedical research and health information technology, so we were on the cutting edge of science and technology for this. We had a running start on it by passing the SCHIP in a bipartisan way, State Children's Health Insurance Program, insuring 11 million children in America. And then the debate has gone on from the summit the President had a year ago in a bipartisan way to a summit he will have tomorrow as well. But in the meantime, this very important piece of legislation is before us today.

I have always said that any health care reform had to make the AAA test. It had to have affordability for the middle class, accessibility for many more people, and accountability for the insurance companies. Accountability for the insurance companies. No longer would they have it all their way. And that's what this legislation does.

We had this on the agenda, and then the snows came and we had to put it off. And in between the time when we all got snowed out or snowed in, Anthem in California announced that it was going to raise its rates 39 percent: 39 percent, Anthem Insurance Company; 39 percent for health insurance.

□ 1500

Over the past decade, insurance rates have gone up over 150 percent. And this continues in Michigan, Kansas, other places in the country these insurance rates have gone up because the insurance companies simply have not been accountable. And this has worked to the disadvantage of the American people.

So again, I commend all of those who played a part in bringing this to the floor, to the bipartisan discussion that took place in committee that has been mentioned, and for hopefully the strong bipartisan support we will see today.

But again I want to come back to Chairman CONYERS, because he is the person when it comes to speaking out for the people, chairman of the Judiciary Committee, a very prestigious position, one with a great deal of responsibility to make sure that the pledge we take each day, with liberty and justice for all, is lived up to. And today we are providing much more competition, much more freedom for the American people by expanding their choices with this important legislation.

I urge our colleagues to support the legislation, once again salute all those who made it possible to bring this before the people's House today. Thank you, Mr. Chairman.

Mr. VAN HOLLEN. Mr. Speaker, as an original cosponsor, I rise in strong support of legislation that will end the unfair advantages that health insurance companies currently enjoy today. I want to commend my colleagues Representatives PERRIELLO and BETSY MARKEY for their leadership and advocacy on this very important issue.

I hope most of us would agree that health insurance companies should play by the same rules as every other industry in America. For far too long, the health insurance industry has been exempt from the Federal antitrust laws that govern other businesses. As a result, they are not subject to Federal laws banning price fixing, market manipulation, collusion, or other anticompetitive business practices.

It is apparent that there is no real competition in parts of the health insurance market. In the last few weeks, we have seen health insurance companies impose huge premium increases on consumers. Anthem Blue Cross of California announced a 39 percent price hike in premiums for their consumers. The Department of Health and Human Services has reported that several large health insurance companies across the country have requested premium increases of anywhere between 16 percent and 56 percent. These huge premium increases come after a year of record profits for the top five health insurance companies in America. Last year, as Americans struggled to pay their health insurance costs, insurance companies' profits jumped by 56 percent.

Quite simply, the legislation we are considering today will repeal the blanket antitrust exemption afforded to health insurance companies under the McCarran-Ferguson Act. We must hold health insurers accountable when they engage in anti-competitive behaviors that benefit their profit margins at the expense of American families.

Mr. Speaker, we are taking a small but very critical step towards health insurance reform and fixing a part of our broken health care system while Congress continues to work on comprehensive health care reform to bring more affordable and accessible care for all Americans. I urge my colleagues to support this much-needed bill.

Mr. HOLT. Mr. Speaker, I rise in strong support of the Health Insurance Industry Fair Competition Act, H.R. 4626, legislation that

would remove the health insurance industry's antitrust exemption. As a cosponsor of this important legislation, I urge my colleagues to join me in supporting this bill to expand competition, improve the affordability of health insurance, and give families more choices.

I have heard from many hard-working New Jerseyans, who are struggling under the current insurance system. The system is too expensive and leaves too many people without good, secure coverage. Families are paying higher and higher premiums for less coverage. Our businesses are struggling to afford health care for their employees and find themselves at a competitive disadvantage compared to companies in other countries. Those problems have not gone away and must be addressed.

The legislation we are considering today would lower costs and provide new insurance options for families by repealing the insurance special exemption to antitrust law. This exemption was created by the 1945 McCarran-Ferguson Act with the intention of helping new small insurance companies by allowing them to access historical insurance data for setting their premiums and left all antitrust regulation to the states.

Instead of encouraging new small insurance companies, this antitrust exemption has stifled competition. A single insurance company controls more than half the insurance market in 16 states, while in New Jersey the top two companies control almost 60 percent of the market. Lack of competition has led to growing insurer profits, increased costs and reduced coverage for patients, and an epidemic of deceptive and fraudulent conduct.

By repealing the special antitrust exemption for health insurance companies, health insurers would be held accountable for fixing prices, dividing up market territories, using predatory pricing, or rigging bids. This bill makes the federal government a partner with states who lack the resources to go after insurance companies that have violated the law.

This bill is one part of reform needed to improve the health care that all Americans receive by holding health insurance companies to the same good-competition rules that other industries face. I encourage my colleagues to vote in favor of this bill to lower costs and provide new options for patients.

Mr. LOEBSACK. Mr. Speaker, I am submitting the following statement for the record in support of the Health Insurance Industry Fair Competition Act, which would end the antitrust exemption that currently gives special privileges to health insurance companies.

If we do not pass this legislation, American consumers will continue to pay more for health insurance, if they can afford it at all, because of a lack of competition in the insurance market.

According to the AFL–CIO, profits at 10 of the country's largest publicly traded health insurance companies rose 428 percent from 2000 to 2007. At the same time, consumers paid more for less coverage. At the root of this problem is the growing lack of competition in the private health insurance industry that has led to near monopoly conditions in many markets.

There is no reason why health insurance companies should continue to receive this favored treatment from the federal government while millions of Americans pay the price.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today as an original cosponsor and strong supporter of H.R. 4626 the Health Insurance Industry Fair Competition Act.

Since 1940s, the McCarran-Ferguson Act has exempted the insurance industry from all federal antitrust laws giving health insurers freedom to raise premium prices, deny coverage for preexisting conditions, and change their reimbursement rates.

Right now millions of Americans are at the mercy of the health insurance companies with premium increases going up in the double digit percentage points across the country. These premium increases are not to enhance insurance plans, but to add to the extremely large profit margins of insurance companies.

Seemingly, there is no end in sight to this business practice because there is little competition in the health insurance market that benefits the consumer. If this continues health insurance premiums will continue to rise as long as we allow the insurance companies to control markets.

We know that competition in the marketplace leads to lower prices and more options that benefit the consumer. There is no reason why the health insurance industry, with their outrageous spending on lavish retreats and executive salaries at the expense of the consumer, should not be forced to compete for business on a level playing field and control their costs and spending on non-health care related items.

Right now, health insurance costs are out of control and if individuals cannot afford health insurance they end up in emergency rooms forcing the health care system and the taxpayer to pay for their expenses. Yet, the insurance companies continue to see increased profits while making it nearly impossible for individuals to gain access to or afford a policy.

H.R. 4626 is one way we can fix the monopolies the health insurance industry has over the consumer and will make insurance coverage more affordable for individuals and small businesses.

This is a step in the right direction, but we desperately need health reform in this country. All individuals should have access to quality and affordable health insurance and we will not accomplish that without reforms throughout our health care system.

I strongly support H.R. 4626 because insurance anti-trust reform is one piece of the pie as we move forward.

Ms. DELAURO. Mr. Speaker, this past summer, in my home state of Connecticut, Anthem tried to raise health insurance premiums by up to 32 percent. Right now, in California, the same company is trying to pull the same trick—trying to increase their rates by as much as 39 percent.

Unfortunately, we now know that the top five insurers in America saw record-breaking profits in 2009. We have seen increases in profits of 91 percent at WellPoint, and a whopping 346 percent at Cigna.

How is this happening, in the midst of an historic recession? A lot of reasons, and central among them the fact that, according to long-established antitrust standards, there is no real competition in the insurance market today. In fact, there have been more than 400 mergers among health insurers in the past 14 years. So, insurers get away with price-gouging mainly because they can.

We have coddled this industry far too long. It is time to remove insurers' special antitrust exemption and to make them play on the same level playing field as every other business in America. I hope that all my colleagues who consistently espouse the virtues of a free market will join us in passing this bill today.

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

The SPEAKER pro tempore. All time has expired.

Pursuant to House Resolution 1098, the previous question is ordered.

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

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

MOTION TO RECOMMIT

Mr. SMITH of Texas. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SMITH of Texas. I am in its current form.

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

The Clerk read as follows:

Mr. Smith of Texas moves to recommit the bill (H.R. 4626) to the Committee on the Judiciary, with instructions to report the bill back to the House forthwith with the following amendments:

Strike subsection (a) of section 2 of the bill and insert the following (and make such technical and conforming changes as may be appropriate):

(a) AMENDMENT TO MCCARRAN-FERGUSON ACT.—Section 3 of the Act of March 9, 1945 (15 U.S.C. 1013), commonly known as the McCarran-Ferguson Act, is amended by adding at the end the following:

''(c)(1) Nothing contained in this Act shall modify, impair, or supersede the operation of any of the antitrust laws with respect to the business of health insurance. For purposes of the preceding sentence, the term 'antitrust laws' has the meaning given it in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

''(2) Paragraph (1) shall apply only to health insurance issuer (as that term is defined in section 2791 of the Public Health Service Act (42 U.S.C. § 300gg-91) to the extent that the issuer engages in the business of health insurance.

''(3)(A) Paragraph (1) shall not apply to—

''(i) collecting, compiling, classifying, or disseminating historical loss data;

''(ii) determining a loss development factor applicable to historical loss data;

''(iii) performing actuarial services if doing so does not involve a restraint of trade, or

''(iv) information gathering and rate setting activities of a State insurance commission or other State regulatory entity with authority to set insurance rates.

''(B) The term 'historical loss data' means information respecting claims paid, or reserves held for claims reported, by any person engaged in the business of insurance.

''(C) The term 'loss development factor' means an adjustment to be made to the aggregate of losses incurred during a prior period of time that have been paid, or for which claims have been received and reserves are being held, in order to estimate the aggregate of the losses incurred during such period that will ultimately be paid.''.

At the end of the bill, add the following (and make such technical and conforming changes as may be appropriate):

SEC. 3. GAO REPORT.

Three years after date of enactment of this Act, the Government Accountability Office shall submit, to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, a report on whether this Act has reduced unfair competition in the health insurance market in each of the 50 States. Such report shall specify whether, as a result of this Act, the reduction in unfair competition, if any, has resulted in increased price competition in the business of health insurance.

Mr. SMITH of Texas (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read.

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

Mr. DEFAZIO. Mr. Speaker, reserving the right to object, is this the one previously noticed and delivered a couple hours ago? Is that the motion to recommit? I just want to make sure it is exactly the same language.

The SPEAKER pro tempore. The pending motion is at the desk.

Mr. DEFAZIO. I withdraw my reservation.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas is recognized for 5 minutes in support of the motion.

Mr. SMITH of Texas. Mr. Speaker, I support this motion to recommit on H.R. 4626, the Health Insurance Industry Fair Competition Act. As I stated in my earlier comments, this legislation does little, if anything. However, if you are going to do nothing, you might as well do it better.

This motion corrects three drafting errors that create problems with the bill. First, it adds a definition for health insurers that was absent from the base bill. If we are going to eliminate McCarran-Ferguson for a limited subset of insurers, then we should clarify who those insurers are.

Second, this motion to recommit includes the exchange of data provision that Mr. LUNGREN added at the Judiciary Committee markup of a similar bill. It is necessary to ensure that small and medium health insurers can in fact compete in the marketplace.

Third, the motion to recommit includes language that protects the rate gathering and rate setting activities of State insurance commissions. The majority assumes this will be protected by the State action doctrine. But if Congress is going to repeal a 65-year-old law, shouldn't we make clear that we do not want this to undermine State insurance commissions?

Finally, the motion to recommit includes a GAO study on the impact of this legislation on competition in the health insurance market. Specifically, the GAO must report on whether or not this legislation has enhanced competition, resulting in lower prices and new competitors in the market. Let's put political rhetoric aside and see what the bill really does. We shouldn't be afraid of the truth.

In short, this motion to recommit includes definitions and clarifications that the majority has already included in earlier versions of this legislation that either were reported favorably by the Judiciary Committee or were passed by the full House. This isn't much of a bill, but let's try to improve what little there is.

I yield to the gentleman from California, a senior member of the Judiciary Committee.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I would like to refer to that part of the motion to recommit that deals with the amendment that I offered and that was contained in the bill that passed out of the Judiciary Committee. It simply allows historical data to be utilized by insurance companies large and small. This is something that is requested by the small insurance companies, this is something supported by the American Bar Association. Their representative who testified before our subcommittee on behalf of or in support of the underlying legislation supported this amendment so that in fact small insurers would not be disadvantaged.

Let's get this right. There are some who have told me on the other side that, well, we don't need this because it will be allowed by the U.S. Justice Department or by the courts. We ought not to wait for that. We ought to give some real solid certainty to insurance companies, particularly the small insurance carriers. So if we wish to permit the collection of historical data, let's make it clear what we intend. Just because we haven't brought forward on this floor some answer to the medical malpractice litigation issue is no reason for us to commit legislative malpractice here. We ought to do our job. We ought to not pass it on.

Now, there are a few people who don't think that historical data should even be allowed. If that is the way they feel, I understand it. Most Members I have spoken to believe it ought to be allowed. They understand the absolute essence of it in terms of the continued existence of small insurers across the country.

Let's get it right. I have the language virtually the same that was contained in the majority's health care bill that passed just a couple of months ago. It is the same as contained in the bipartisan bill that came out of our committee. And most importantly, it is the same language contained in the various bills presented to this House by the late great Jack Brooks, chairman at that time of the House Judiciary Committee, about whom Members on the other side have waxed eloquently. And in tribute to him, I would hope they would support the gentleman's motion to recommit that contains my amendment.

Mr. SMITH of Texas. I yield back the balance of my time.

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

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

Mr. DEFAZIO. I thank the Speaker.

Simple question before the House today. Should the health insurance industry live under the same antitrust rules and have the same consumer protections as are provided for every other major industry in America without special exception, without carve-outs, without loopholes? No more collusion to get together, to conspire to limit markets, coverage, and drive up rates. The American people want and they need this protection.

Now, they say there is a study throughout that says this won't save money. That study was actually based on the language they are offering. Yes, if we provide these loopholes it well may not bring down rates. But if we don't vote for their loopholes, we will bring down rates. The Consumer Federation of America says we will save $10 billion in ratepayer premiums next year if we adopt this amendment straight up without their loopholes.

With that, I yield to the gentleman from California.

Mr. GARAMENDI. Thank you.

Mr. Speaker, directly to Mr. LUNGREN's proposed amendments, actually there are three major elements. If you look at those major elements, they do in fact give the insurance industry the opportunity to collude, because that is the data that sets future prices for consumers as well as payments for doctors.

I know this business. I was the Insurance Commissioner in California for 8 years. And I know that if an insurance company is able to collude in collecting, compiling, classifying, or disseminating historic data and determining a loss development factor, and finally, using actuarial services, they have the power to collude. This is an incredible loophole. It should never be allowed.

And the final point having to do with the insurance commissioners collecting data, nowhere in any antitrust laws are States precluded from any collection of data. This ought not be put forth. I ask for a ''no'' vote.

Mr. DEFAZIO. I yield to the gentleman from New York.

Mr. WEINER. You know, you got to love these Republicans. I mean, you guys have chutzpah. The Republican Party is . . . That is the fact. They say that, well, this isn't going to do enough, but when we propose an alternative to provide competition, they are against it. They say that, well, we want to strengthen State insurance commissioners, and they will do the job. But when we did that in our national health care bill, they said we are against it. They said they want to have competition, and when we proposed requiring competition, the Republicans are against it. They are . . . That is the fact.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I ask that the gentleman's words be taken down.

The SPEAKER pro tempore. The gentleman will suspend. The gentleman from New York will be seated.

The Clerk will report the words.

Mr. WEINER. Mr. Speaker, I ask unanimous consent to address the House for the purpose of amending my remarks.

The SPEAKER pro tempore. Does the gentleman seek unanimous consent to withdraw his words?

Mr. WEINER. I would request unanimous consent to substitute other words.

The SPEAKER pro tempore. That would require a withdrawal.

Mr. WEINER. I ask unanimous consent to withdraw my words.

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

There was no objection.

Mr. WEINER. How much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Oregon has 3 minutes remaining.

The gentleman from New York is recognized.

Mr. WEINER. Make no mistake about it: . . .

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I ask the gentleman's words be taken down once more.

The SPEAKER pro tempore. The gentleman will suspend. The gentleman from New York will be seated.

The Clerk will report the words.

Mr. WEINER. Mr. Speaker, I ask unanimous consent to withdraw the offending comments.

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

Mr. DANIEL E. LUNGREN of California. Reserving the right to object, has the Chair ruled as to whether the gentleman's words are inappropriate under the rules of the House and the precedents of the House?

The SPEAKER pro tempore. There has been no ruling at this time. The gentleman has offered to withdraw the words.

Mr. DANIEL E. LUNGREN of California. I withdraw my reservation.

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

There was no objection.

Mr. DEFAZIO. May I inquire as to the time now that is left?

The SPEAKER pro tempore. The gentleman from Oregon has 2 minutes and 50 seconds remaining.

Mr. DEFAZIO. I yield to the gentleman from New York.

Mr. WEINER. I thank you very much. But the point is very simple. There are inequities in the present way we distribute insurance, the way we distribute health care. There are winners, and there are losers. The winners are the insurance industry. And our efforts to reel in the insurance profits, not just because they shouldn't make profits—they're doing what they're supposed to. But what they're doing is driving up taxes, they're driving our economy into the ground, and we need competition and choice to deal with that. That's what this legislation does, and the motion to recommit undermines it.

I've heard a couple of times today, well, we have an effort for bipartisanship here. No, there is not bipartisanship on this fundamental issue; and that is, the people who sit on this side, at the risk of offending anyone, generally support the idea of standing up for the American people in their daily battles against high insurance. And the people, generally speaking, who sit on this side of the Chamber, and specifically speaking as well, in a lot of cases, simply won't permit that to happen and haven't for a generation.

That's going to end now. That is going to end because we are going to have competition. We are going to make sure that there are regulations, and we're going to make sure that the American people aren't gouged. That's what the American people stand for. And time and time again people say, well, I don't really want to undermine this bill, I just want to weaken it to the point that it's meaningless.

And then I've heard my good friend from Texas say, well, this doesn't do anything. But every single time we've tried to do something, like a tiny sliver of competition called the public option, they've said, no; we can't withstand competition. We can't have that.

Enough of the phoniness. We are going to solve this problem because for years our Republican friends have been unable to and unwilling to. Deal with it.

Mr. DEFAZIO. I thank the gentleman for those remarks.

The SPEAKER pro tempore. The gentleman from Oregon has 1½ minutes remaining.

Mr. DEFAZIO. We have before us a simple question: Will we repeal a 62-year old artifact that is a special favor for the insurance industry, an exemption from the laws of the land of antitrust, which are designed to promote competition, to protect consumers, and for a free market economy.

You can't have a free market economy when people can collude, when they can get together to limit markets and competition, when companies become so huge they dominate urban areas and entire States; one company. Consumers have virtually no choice in much of America. They have to eat those huge rate increases or not. We can take a meaningful step here today to bring down the cost of health insurance for all Americans. The Consumer Federation of America says this will save consumers $10 billion next year, and they say that's nothing. Well, say that to your consumers at home if you vote against this bill.

Creating these loopholes undermines the entire effort here today. We do not need these loopholes. We need this industry to play by the same rules as every other industry in America.

Vote against the motion to recommit, and vote for competition and consumer protection for all Americans in health insurance.

With that, I yield back the balance of my time.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I would like to ask unanimous consent if I might revise my remarks. I referred to Jack Brooks as the late great. I didn't mean to suggest that he is no longer with us. He is great but he is not late.

The SPEAKER pro tempore. Without objection.

There was no objection.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

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

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

Mr. SMITH of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on passage of H.R. 4626, if ordered; and suspension of the rules with regard to House Resolution 1085.

The vote was taken by electronic device, and there were—yeas 170, nays 249, not voting 13, as follows:

[Roll No. 63]

YEAS—170

Aderholt	Diaz-Balart, L.	Latham
Adler (NJ)	Diaz-Balart, M.	LaTourette
Akin	Dreier	Latta
Alexander	Duncan	Lee (NY)
Austria	Ehlers	Lewis (CA)
Bachmann	Emerson	Linder
Bachus	Fallin	LoBiondo
Bartlett	Flake	Lucas
Barton (TX)	Fleming	Luetkemeyer
Biggert	Forbes	Lummis
Bilbray	Fortenberry	Lungren, Daniel E.
Bilirakis	Foxx	Mack
Bishop (UT)	Franks (AZ)	Manzullo
Blackburn	Frelinghuysen	Marchant
Boehner	Gallegly	Marshall
Bonner	Garrett (NJ)	McCarthy (CA)
Bono Mack	Gerlach	McCaul
Boozman	Gingrey (GA)	McCotter
Boustany	Gohmert	McHenry
Brady (TX)	Goodlatte	McKeon
Bright	Granger	McMorris Rodgers
Broun (GA)	Graves	Mica
Brown (SC)	Griffith	Miller (FL)
Brown-Waite, Ginny	Guthrie	Miller (MI)
Buchanan	Hall (TX)	Miller, Gary
Burgess	Harper	Moran (KS)
Burton (IN)	Hastings (WA)	Murphy, Tim
Calvert	Heller	Myrick
Camp	Hensarling	Neugebauer
Campbell	Herger	Nunes
Cantor	Hunter	Olson
Capito	Inglis	Paul
Carter	Issa	Paulsen
Cassidy	Jenkins	Pence
Castle	Johnson (IL)	Petri
Chaffetz	Johnson, Sam	Platts
Coble	Jordan (OH)	Poe (TX)
Coffman (CO)	Kilroy	Posey
Cole	King (IA)	Price (GA)
Conaway	King (NY)	Putnam
Crenshaw	Kingston	Rehberg
Culberson	Kirk	Roe (TN)
Deal (GA)	Kline (MN)	Rogers (AL)
Dent	Lamborn	
	Lance	

Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Teague
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wittman
Wolf
Young (AK)
Young (FL)

NAYS—249

Abercrombie
Ackerman
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Cao
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Jones
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Markey (CO)
Markey (MA)
Massa
Matheson
Matsui
McCarthy (NY)
McClintock
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Space
Speier
Spratt
Stupak
Sutton
Tanner
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wilson (OH)
Woolsey
Wu
Yarmuth

NOT VOTING—13

Barrett (SC)
Blunt
Buyer
Davis (KY)
Dingell
Hoekstra
Maloney
Pitts
Radanovich
Reichert
Schock
Stark
Wilson (SC)

□ 1545

Ms. ESHOO, Messrs. BERRY, BOSWELL, GONZALEZ, BUTTERFIELD, Ms. BERKLEY, Messrs. CLEAVER, GEORGE MILLER of California, ORTIZ, WALZ, GUTIERREZ, Ms. VELÁZQUEZ, Ms. ROYBAL-ALLARD, Mr. CROWLEY, Ms. SUTTON, and Mr. CHILDERS changed their vote from ''yea'' to ''nay.''

Messrs. GINGREY of Georgia and COLE changed their vote from ''nay'' to ''yea.''

So the motion to motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. SMITH of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

The vote was taken by electronic device, and there were—yeas 406, nays 19, not voting 8, as follows:

[Roll No. 64]

YEAS—406

Abercrombie
Ackerman
Aderholt
Adler (NJ)
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boccieri
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Braley (IA)
Bright
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Frelinghuysen
Fudge
Gallegly
Garamendi
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Graves
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Pelosi
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (NC)
Putnam
Quigley
Rahall
Rangel
Rehberg
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—19

Akin
Boehner
Brady (TX)
Broun (GA)
Buyer
Franks (AZ)
Garrett (NJ)
Jenkins
Jordan (OH)
King (IA)
Lamborn
Linder
Moran (KS)
Paul
Price (GA)
Ryan (WI)
Sensenbrenner
Tiahrt
Westmoreland

NOT VOTING—8

Barrett (SC)	Hoekstra	Reichert
Blunt	Pitts	Stark
Dingell	Radanovich	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in the vote.

□ 1555

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HONORING THE CONTRIBUTIONS OF AFRICAN AMERICANS TO THE TRANSPORTATION AND INFRASTRUCTURE OF THE UNITED STATES

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 1085, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. CORRINE BROWN) that the House suspend the rules and agree to the resolution, H. Res. 1085.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 419, nays 0, not voting 13, as follows:

[Roll No. 65]

YEAS—419

Abercrombie	Brown (SC)	Cummings
Ackerman	Brown, Corrine	Dahlkemper
Aderholt	Brown-Waite, Ginny	Davis (CA)
Adler (NJ)	Buchanan	Davis (IL)
Akin	Burgess	Davis (KY)
Alexander	Burton (IN)	Davis (TN)
Altmire	Butterfield	Deal (GA)
Andrews	Buyer	DeFazio
Arcuri	Calvert	DeGette
Austria	Camp	Delahunt
Baca	Campbell	DeLauro
Bachmann	Cantor	Dent
Bachus	Cao	Diaz-Balart, L.
Baird	Capito	Diaz-Balart, M.
Baldwin	Capps	Dicks
Barrow	Capuano	Doggett
Bartlett	Carnahan	Donnelly (IN)
Barton (TX)	Carney	Doyle
Bean	Carson (IN)	Dreier
Becerra	Carter	Driehaus
Berkley	Cassidy	Duncan
Berman	Castle	Edwards (MD)
Berry	Castor (FL)	Edwards (TX)
Biggert	Chaffetz	Ehlers
Bilbray	Chandler	Ellison
Bilirakis	Childers	Ellsworth
Bishop (GA)	Chu	Emerson
Bishop (NY)	Clarke	Engel
Bishop (UT)	Clay	Eshoo
Blackburn	Cleaver	Etheridge
Blumenauer	Clyburn	Fallin
Boccieri	Coble	Farr
Boehner	Coffman (CO)	Fattah
Bonner	Cohen	Filner
Bono Mack	Cole	Flake
Boozman	Conaway	Fleming
Boren	Connolly (VA)	Forbes
Boswell	Conyers	Fortenberry
Boucher	Cooper	Foster
Boustany	Costa	Foxx
Boyd	Costello	Frank (MA)
Brady (PA)	Courtney	Franks (AZ)
Brady (TX)	Crenshaw	Frelinghuysen
Braley (IA)	Crowley	Fudge
Bright	Cuellar	Gallegly
Broun (GA)	Culberson	Garamendi
Garrett (NJ)	Lummis	Rooney
Gerlach	Lungren, Daniel E.	Ros-Lehtinen
Giffords	Lynch	Roskam
Gingrey (GA)	Mack	Ross
Gohmert	Maffei	Rothman (NJ)
Gonzalez	Maloney	Roybal-Allard
Goodlatte	Manzullo	Royce
Gordon (TN)	Marchant	Ruppersberger
Granger	Markey (CO)	Rush
Graves	Markey (MA)	Ryan (OH)
Grayson	Marshall	Ryan (WI)
Green, Al	Massa	Salazar
Green, Gene	Matheson	Sánchez, Linda T.
Griffith	Matsui	Sanchez, Loretta
Grijalva	McCarthy (CA)	Sarbanes
Guthrie	McCarthy (NY)	Scalise
Gutierrez	McCaul	Schakowsky
Hall (NY)	McClintock	Schauer
Hall (TX)	McCollum	Schiff
Halvorson	McCotter	Schmidt
Hare	McDermott	Schock
Harman	McGovern	Schrader
Harper	McHenry	Schwartz
Hastings (FL)	McIntyre	Scott (GA)
Hastings (WA)	McKeon	Scott (VA)
Heinrich	McMahon	Sensenbrenner
Heller	McMorris Rodgers	Serrano
Hensarling	McNerney	Sessions
Herger	Meek (FL)	Sestak
Herseth Sandlin	Meeks (NY)	Shadegg
Higgins	Melancon	Shea-Porter
Hill	Mica	Sherman
Himes	Michaud	Shimkus
Hinchey	Miller (FL)	Shuler
Hinojosa	Miller (MI)	Shuster
Hirono	Miller (NC)	Simpson
Hodes	Miller, Gary	Sires
Holden	Minnick	Skelton
Holt	Mitchell	Slaughter
Honda	Mollohan	Smith (NE)
Hoyer	Moore (KS)	Smith (NJ)
Hunter	Moore (WI)	Smith (TX)
Inglis	Moran (KS)	Smith (WA)
Inslee	Moran (VA)	Snyder
Israel	Murphy (CT)	Souder
Issa	Murphy (NY)	Space
Jackson (IL)	Murphy, Patrick	Speier
Jackson Lee (TX)	Murphy, Tim	Spratt
Jenkins	Myrick	Stearns
Johnson (GA)	Nadler (NY)	Stupak
Johnson (IL)	Napolitano	Sullivan
Johnson, E. B.	Neal (MA)	Sutton
Johnson, Sam	Neugebauer	Tanner
Jones	Nunes	Taylor
Jordan (OH)	Nye	Teague
Kagen	Oberstar	Terry
Kanjorski	Obey	Thompson (CA)
Kaptur	Olson	Thompson (MS)
Kennedy	Olver	Thompson (PA)
Kildee	Ortiz	Thornberry
Kilpatrick (MI)	Owens	Tiahrt
Kilroy	Pallone	Tiberi
Kind	Pascrell	Tierney
King (IA)	Pastor (AZ)	Titus
King (NY)	Paul	Tonko
Kingston	Paulsen	Towns
Kirk	Payne	Tsongas
Kirkpatrick (AZ)	Pence	Turner
Kissell	Perlmutter	Upton
Klein (FL)	Perriello	Van Hollen
Kline (MN)	Peters	Velázquez
Kosmas	Peterson	Visclosky
Kratovil	Petri	Walden
Kucinich	Pingree (ME)	Walz
Lamborn	Platts	Wamp
Lance	Poe (TX)	Wasserman Schultz
Langevin	Polis (CO)	Waters
Larsen (WA)	Pomeroy	Watson
Larson (CT)	Posey	Watt
Latham	Price (GA)	Waxman
LaTourette	Price (NC)	Weiner
Latta	Putnam	Welch
Lee (CA)	Quigley	Westmoreland
Lee (NY)	Rahall	Whitfield
Levin	Rangel	Wilson (OH)
Lewis (CA)	Rehberg	Wilson (SC)
Lewis (GA)	Reyes	Wittman
Lipinski	Richardson	Wolf
LoBiondo	Rodriguez	Woolsey
Loebsack	Roe (TN)	Wu
Lofgren, Zoe	Rogers (AL)	Yarmuth
Lowey	Rogers (KY)	Young (AK)
Lucas	Rogers (MI)	Young (FL)
Luetkemeyer	Rohrabacher	
Luján		

NOT VOTING—13

Barrett (SC)	Dingell	Radanovich
Blunt	Hoekstra	Reichert
Cardoza	Linder	Stark
Culberson	Miller, George	
Davis (AL)	Pitts	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on this vote.

□ 1605

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCMAHON). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

RECOGNIZING THE DIFFICULT CHALLENGES AND HEROISM OF BLACK VETERANS

Mr. FILNER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 238) recognizing the difficult challenges Black veterans faced when returning home after serving in the Armed Forces, their heroic military sacrifices, and their patriotism in fighting for equal rights and for the dignity of a people and a Nation.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

H. CON. RES. 238

Whereas there has been no war fought by or within the United States in which Blacks did not participate, including the Revolutionary War, the Civil War, the War of 1812, the Spanish American War, World Wars I and II, the Korean War, the Vietnam War, the Gulf War, Operation Enduring Freedom, and Operation Iraqi Freedom;

Whereas Frederick Douglass voiced his opinion in one of his autobiographies, ''Life and Times of Frederick Douglass'', writing, ''I . . . urged every man who could, to enlist; to get an eagle on his button, a musket on his shoulder, the star-spangled banner over his head,'' later remarking that ''there is no power on Earth which can deny that he has earned the right to citizenship in the United States.'';

Whereas during the Civil War, Black soldiers, commonly referred to as the United States Colored Troops, were treated as second-class citizens, the health care and hospitals available to them were substandard, and they often died from neglect of services that was supposed to be administered by medical personnel;

Whereas Dr. W.E.B. DuBois and William Monroe Trotter, members of the first generation of freedom's children, founded the Niagara Movement in 1905;