The issue: Does the Federal Government have the constitutional authority to force Americans to buy government ordained and approved health insurance, or else? Or else face the wrath and punishment of government.

The government does not have the authority to force citizens to buy any product, whether it is health insurance, a car, or a box of doughnuts.

If the Supreme Court allows this government invasion of choice, what is next?

Is the government, under the guise of it knows best, going to force citizens to buy only government approved green cars, only government houses, only government food?

The health care individual mandate is a denial of liberty.

Yes, we need to fix health care, but does anyone really want to turn over the Nation's health care to the government? The government seldom does anything better.

If you like the compassion of the IRS, the efficiency of the post office, and the competency of FEMA, you will love the unconstitutional, nationalized health care bill.

And that's just the way it is.

TRAYVON MARTIN

(Mr. AL GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AL GREEN of Texas. Madam Speaker, I rise this morning to thank the many persons across the length and breadth of this country who have spoken up with reference to the injustice that has occurred in Florida with reference to the young man, Trayvon Martin.

I want to single out two people, however. The first, Joe Scarborough of MSNBC Morning Joe. When he spoke this morning, I literally had tears to well in my eyes as he took a strong position on this injustice. I beg that others would do likewise.

I would also like to thank the Reverend Al Sharpton. He has lost his mother; and I along with other people of goodwill would like to extend our condolences and our sympathies. But I am so grateful to Reverend Sharpton. He has indicated that he will be at the rally tonight in Sanford, Florida. And I thank him for what he has done and is doing.

May God continue to bless you, Reverend, and I look forward to being there with you.

Mr. CONYERS. Will the gentleman yield?

Mr. AL GREEN of Texas. I yield to the gentleman from Michigan.

Mr. CONYERS. I would like to proudly associate myself with your remarks.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. POE of Texas). Members are advised to address their remarks to the Chair.

PROTECTING ACCESS TO HEALTHCARE ACT

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

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

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 591 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 5.

□ 1019

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, with Mrs. MILLER of Michigan (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose on Wednesday, March 21, 2012, all time for general debate had expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

In lieu of the amendments recommended by the Committees on Energy and Commerce and the Judiciary printed in the bill, an amendment in the nature of a substitute consisting of the text of Rules Committee Print 112–18 is adopted and the bill, as amended, shall be considered as an original bill for the purpose of further amendment under the 5-minute rule and shall be considered as read.

The text of the bill, as amended, is as follows:

H.R. 5

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 ''Protecting Access to Healthcare Act''.

TITLE I—HEALTH ACT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2012''.

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—

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

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this title to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of ''defensive medicine'' and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals; and

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

SEC. 103. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

The time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following—

(1) upon proof of fraud;

(2) intentional concealment; or

(3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

Actions by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury or prior to the minor's 8th birthday, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

SEC. 104. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, nothing in this title shall limit a claimant's recovery of the full amount of the available economic damages, notwithstanding the limitation in subsection (b).

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of noneconomic damages, if available, may be as much

as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same injury.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—For purposes of applying the limitation in subsection (b), future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of $250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed $250,000, the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. Whenever a judgment of liability is rendered as to any party, a separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 105. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) Forty percent of the first $50,000 recovered by the claimant(s).

(2) Thirty-three and one-third percent of the next $50,000 recovered by the claimant(s).

(3) Twenty-five percent of the next $500,000 recovered by the claimant(s).

(4) Fifteen percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—The limitations in this section shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section. The requirement for court supervision in the first two sentences of subsection (a) applies only in civil actions.

SEC. 106. PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability.

If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages, if awarded, in a health care lawsuit, the trier of fact shall consider only the following—

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages, if awarded, in a health care lawsuit may be as much as $250,000 or as much as two times the amount of economic damages awarded, whichever is greater. The jury shall not be informed of this limitation.

(c) NO PUNITIVE DAMAGES FOR PRODUCTS THAT COMPLY WITH FDA STANDARDS.—

(1) IN GENERAL.—

(A) No punitive damages may be awarded against the manufacturer or distributor of a medical product, or a supplier of any component or raw material of such medical product, based on a claim that such product caused the claimant's harm where—

(i)(I) such medical product was subject to premarket approval, clearance, or licensure by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such medical product which caused the claimant's harm or the adequacy of the packaging or labeling of such medical product; and

(II) such medical product was so approved, cleared, or licensed; or

(ii) such medical product is generally recognized among qualified experts as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable Food and Drug Administration regulations, including without limitation those related to packaging and labeling, unless the Food and Drug Administration has determined that such medical product was not manufactured or distributed in substantial compliance with applicable Food and Drug Administration statutes and regulations.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) may not be construed as establishing the obligation of the Food and Drug Administration to demonstrate affirmatively that a manufacturer, distributor, or supplier referred to in such subparagraph meets any of the conditions described in such subparagraph.

(2) LIABILITY OF HEALTH CARE PROVIDERS.—A health care provider who prescribes, or who dispenses pursuant to a prescription, a medical product approved, licensed, or cleared by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such product and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or seller of such product. Nothing in this paragraph prevents a court from consolidating cases involving health care providers and cases involving products liability claims against the manufacturer, distributor, or product seller of such medical product.

(3) PACKAGING.—In a health care lawsuit for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the trier of fact by clear and convincing evidence to be substantially out of compliance with such regulations.

(4) EXCEPTION.—Paragraph (1) shall not apply in any health care lawsuit in which—

(A) a person, before or after premarket approval, clearance, or licensure of such medical product, knowingly misrepresented to or withheld from the Food and Drug Administration information that is required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and is causally related to the harm which the claimant allegedly suffered

(B) a person made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval, clearance, or licensure of such medical product; or

(C) the defendant caused the medical product which caused the claimant's harm to be misbranded or adulterated (as such terms are used in chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C 351 et seq.)).

SEC. 107. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments, in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this title.

SEC. 108. DEFINITIONS.

In this title:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term ''alternative dispute resolution system'' or ''ADR'' means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term ''claimant'' means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity, or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COMPENSATORY DAMAGES.—The term ''compensatory damages'' means objectively verifiable

monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term ''compensatory damages'' includes economic damages and noneconomic damages, as such terms are defined in this section.

(4) CONTINGENT FEE.—The term ''contingent fee'' includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(5) ECONOMIC DAMAGES.—The term ''economic damages'' means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(6) HEALTH CARE LAWSUIT.—The term ''health care lawsuit'' means any health care liability claim concerning the provision of health care goods or services or any medical product affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services or any medical product affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim. Such term does not include a claim or action which is based on criminal liability; which seeks civil fines or penalties paid to Federal, State, or local government; or which is grounded in antitrust.

(7) HEALTH CARE LIABILITY ACTION.—The term ''health care liability action'' means a civil action brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(8) HEALTH CARE LIABILITY CLAIM.—The term ''health care liability claim'' means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counterclaims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(9) HEALTH CARE ORGANIZATION.—The term ''health care organization'' means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(10) HEALTH CARE PROVIDER.—The term ''health care provider'' means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(11) HEALTH CARE GOODS OR SERVICES.—The term ''health care goods or services'' means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment or care of the health of human beings.

(12) MALICIOUS INTENT TO INJURE.—The term ''malicious intent to injure'' means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(13) MEDICAL PRODUCT.—The term ''medical product'' means a drug, device, or biological product intended for humans, and the terms ''drug'', ''device'', and ''biological product'' have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(g)(1) and (h)) and section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)), respectively, including any component or raw material used therein, but excluding health care services.

(14) NONECONOMIC DAMAGES.—The term ''noneconomic damages'' means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(15) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(16) RECOVERY.—The term ''recovery'' means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(17) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 109. EFFECT ON OTHER LAWS.

(a) VACCINE INJURY.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this title does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this title in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this title or otherwise applicable law (as determined under this title) will apply to such aspect of such action.

(b) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this title shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

SEC. 110. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this title preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this title. The provisions governing health care lawsuits set forth in this title supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this title; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) PROTECTION OF STATES' RIGHTS AND OTHER LAWS.—(1) Any issue that is not governed by any provision of law established by or under this title (including State standards of negligence) shall be governed by otherwise applicable State or Federal law.

(2) This title shall not preempt or supersede any State or Federal law that imposes greater procedural or substantive protections for health care providers and health care organizations from liability, loss, or damages than those provided by this title or create a cause of action.

(c) STATE FLEXIBILITY.—No provision of this title shall be construed to preempt—

(1) any State law (whether effective before, on, or after the date of the enactment of this title) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this title, notwithstanding section 4(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

SEC. 111. APPLICABILITY; EFFECTIVE DATE.

This title shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this title, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this title shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

TITLE II—REPEAL OF INDEPDENT PAYMENT ADVISORY BOARD

SEC. 201. SHORT TITLE.

This title may be cited as the ''Medicare Decisions Accountability Act of 2012''.

SEC. 202. REPEAL OF THE INDEPENDENT PAYMENT ADVISORY BOARD.

Effective as of the enactment of the Patient Protection and Affordable Care Act (Public Law 111–148), sections 3403 and 10320 of such Act (including the amendments made by such sections, but excluding subsection (d) of section 1899A of the Social Security Act, as added and amended by such sections) are repealed, and any provision of law amended by such sections is hereby restored as if such sections had not been enacted into law.

The Acting CHAIR. No further amendment to the bill, as amended, shall be in order except those printed in House Report 112–416. Each such further amendment may be offered only in the order printed in the report, by a Member designated in the report, shall

be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

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AMENDMENT NO. 1 OFFERED BY MR. WOODALL

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in House Report 112–416.

Mr. WOODALL. Madam Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 1, strike line 9 through page 3, line 8 and insert the following:

SEC. 102. PURPOSE.

It is the purpose of this title to implement reasonable, comprehensive, and effective health care liability reforms designed to—

The Acting CHAIR. Pursuant to House Resolution 591, the gentleman from Georgia (Mr. WOODALL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. WOODALL. Madam Chairman, my amendment is a very straightforward amendment. But before I actually talk about the text of it, I want to speak about the real accomplishment of my friend from Georgia, who is the sponsor of the underlying legislation, H.R. 5.

The Washington Times did an article on this Congress and called it one of the most ineffective Congresses in history because they looked at how many laws we passed. But then they went on, and they looked at how many days of debate we'd had, how many votes we'd had, how many issues that were important to the American people have we been able to expose in this Congress that we have not been able to expose in Congress before Congress before Congress before Congress in the past, and, Madam Chair, that's what we have today.

This bill, introduced by my good friend from Georgia, gives the American people an opportunity to discuss something that is on every single family's mind in this country when it comes to health care, and that is controlling the cost of medical malpractice litigation.

Now, in this body, I'm sure we could disagree about the myriad ways there are to control it, but we can agree, I suspect—man and woman, Democrat and Republican—that it has to be controlled. And I thank my colleague from Georgia for having the courage and the stick-to-itness to bring this bill to the floor after so many years of silence on this issue.

Madam Chair, my amendment simply strikes the findings section of the bill. As you know, findings are nonbinding parts of the legislation that speak to the intent of Congress. And this issue is, again, such a passionate one, not just for the 435 Members of this House, but for the 300 million Americans across this country. I choose to let the legislation speak for itself.

This legislation has been carved out with states' rights provisions in it, to make sure the States have the flexibility that they need. It has been carved out with input from physicians, from attorneys, from families, from providers all across the board.

So my amendment, Madam Chair, would not change the substance of the bill but would simply eliminate the findings section to allow the substance of the bill to speak for itself.

And with that, I reserve the balance of my time.

Mr. CONYERS. I rise in opposition to the Woodall amendment.

The Acting CHAIR. The gentleman from Michigan is recognized for 5 minutes.

Mr. CONYERS. Madam Chair, we're striking the findings. By striking statements of constitutional authority for the bill, the amendment recognizes that many Members of the House question Congress' constitutional authority to pass H.R. 5. So for that reason, my colleagues, the findings are all important. Supporters of states' rights ought to take the next step and eliminate the section of the bill that preempts State law. Indeed, many supporters of the underlying bill have spent years arguing that decisions about health care are fundamentally prerogatives of the State.

So I have only 18 conservative or Republican scholars and leaders that agree with me, including the Heritage Foundation; the Virginia attorney general, Mr. Cuccinelli; the constitutional law professor at Georgetown Law Center; the distinguished Senator from Oklahoma, Mr. COBURN; some of our colleagues, including Judge TED POE of Texas, our colleague from Nebraska, LEE TERRY, former judge LOUIE GOHMERT, in particular, RON PAUL; the founder of the Tea Party Nation, Judson Phillips.

It goes on and on, where we are all in agreement that the findings are, indeed, critical and ought to be left in the bill. To take the findings out is incredible because we say that the Federal Government shouldn't be involved, that it's a State matter, and tort law, itself, is a State matter.

So for those reasons, Madam Chair, I am pleased to represent a bipartisan group of Members and scholars that very strenuously object to the findings being removed in this Woodall amendment.

Here's what conservative scholars and leaders have to say about this hypocrisy:

Heritage Foundation: Despite H.R. 5's reliance on the Commerce Clause, Congress has no business (and no authority under the Constitution) telling states what the rules should be governing medical malpractice claims.

Ken Cuccinelli, Virginia Attorney General: Senate Bill 197 takes an approach that implies ''Washington knows best'' while trampling states'' authority and the 10th Amendment. The legislation is breathtakingly broad in its assumptions about federal power, particularly the same 1 power to regulate commerce that lies at the heart of all the lawsuits (including Virginia's) against the individual mandate of the 2010 federal health-care law. I have little doubt that the senators who brought us S. 197 oppose the use of the commerce clause to compel individuals to buy health insurance. Yet they have no qualms about dictating to state court judges how they are to conduct trials in state lawsuits. How does this sort of constitutional disconnect happen?

And if [S. 197, a medical malpractice bill] it were ever signed into law—by a Republican or Democratic president—would file suit against it just as fast as I filed suit when the federal health-care bill was signed into law in March 2010.

Randy Barnett, Constitution law professor at Georgetown Law Center and senior fellow at the Cato Institute: This bill [H.R. 5] alters state medical malpractice rules by, for example, placing caps on noneconomic damages. But tort law—the body of rules by which persons seek damages for injuries to their person and property—have always been regulated by states, not the federal government. Tort law is at the heart of what is called the 'police power' of states. What constitutional authority did the supporters of the bill rely upon to justify interfering with state authority in this way?

Constitutional law professors have long cynically ridiculed a 'fair-weather federalism' that is abandoned whenever it is inconvenient to someone's policy preferences. If House Republicans ignore their Pledge to America to assess the Constitution themselves, and invade the powers 'reserved to the states' as affirmed by the Tenth Amendment, they will prove my colleagues right.

Senator Tom Coburn (R–OK): What I worry about as a fiscal conservative and also as a constitutionalist, is that the first time we put our nose under the tent to start telling Oklahoma or Ohio or Michigan what their tort law will be, where will it stop? In other words, if we can expand the commerce clause enough to mandate that you have to buy health insurance, then I'm sure nobody would object to saying we can extend it enough to say what your tort law is going to be. Then we are going to have the federal government telling us what our tort laws are going to be in healthcare, and what about our tort laws in everything else? Where does it stop?

One of the things our founders believed was that our 13 separate states could actually have some unique identity under this constitution and maybe do things differently, and I think we ought to allow that process to continue as long as we are protecting human and civil rights.

Congressman Lee Terry (R–NE): If you're a true believer in the 10th Amendment, then why are we not allowing the states to continue to create their own laws and decide what's in their best interest for their residents?

Congressman Ted Poe (R–TX): The question is: does the federal government have the authority under the Commerce Clause to override state law on liability caps? I believe that each individual state should allow the people of that state to decide—not the federal government. . . . If the people of a particular state don't want liability caps, that's their prerogative under the 10th Amendment. . . . but I have concerns with the current bill as written.

Congressman Louie Gohmert (R–TX): The right of the states for self-determination is enshrined in the 10th Amendment . . . I am reticent to support Congress imposing its

will on the states by dictating new state law in their own state courts.

Congressman Ron Paul (R–TX): The federal government shouldn't be involved. It's a state matter; tort law is a state matter.

Congressman John Duncan (R–TN): I have faith in the people—I have faith in the jury system. It's one of the most important elements of our freedom, and it was so recognized in the Constitution, was felt to be so important, it was specifically put into the Constitution in the Seventh Amendment. And I'll tell you, it's a very dangerous thing to take away rights like that from the people.

Senator Mike Lee (R–UT) on tort reform: Congress needs to be very careful when it enters into a uniquely state law area like tort. So tort reform needs to be undertaken very carefully insofar as it done at the federal level.

Judson Phillips, founder of Tea Party Nation: Some conservatives complain opposing unconstitutional tort reform rewards the trial lawyers. The trial lawyers may benefit from stopping unconstitutional tort reform, but we fight to protect the Constitution. In this case, the trial lawyers are with us supporting the 10th Amendment.

Robert Natelson, senior fellow at the Independence Institute: To be blunt: H.R. 5 flagrantly contravenes the limitations the Constitution places upon Congress, and therefore violates both the Ninth and Tenth Amendments. . . . During the debate over ratification of the Constitution, leading Founders specifically represented that the subject-matter of H.R. 5 was outside federal enumerated powers and reserved to the states.

John Baker, Catholic University law professor: House Republicans hope to nationalize medical malpractice law, which is traditionally a matter of state tort law, by passing H.R. 5, a bill that would wipe out all state medical malpractice laws and complete the nationalization of healthcare. Passage of H.R. 5 would undercut arguments that Obamacare is unconstitutional.

Carrie Severino, chief counsel and policy director at the Judicial Crisis Network: Among other things, S. 197 sets a statute of limitations for claims, caps damages and creates standards for expert witnesses . . . but they are not within the constitutional powers granted to the federal government for the very same reasons Obamacare is not.

The law's own justification for its constitutional authority should be chilling to anyone committed to limited federal power. The bill's findings state that health care and health insurance are industries that 'affect interstate commerce,' and conclude that Congress therefore has Commerce Clause power to regulate them—even when it involves an in-state transaction between a doctor and patient, governed by in-state medical malpractice laws.

I yield back the balance of my time.

Mr. WOODALL. Madam Chair, I yield myself such time as I may consume to say that, as a freshman in this body, I've had to learn a few things over the last 15 months here serving in this body, and what I have learned is that I haven't been able to get every bill that I want out of this House the exact way I want it when it leaves here. It has been much to my chagrin. I thought I was going to be able to come here and make every bill perfect before it leaves here. But not only can I not make it perfect before it goes, but then I have to deal with that United States Senate, and that has proved to be the most complicated part of this process.

There are absolutely, as the gentleman has listed, folks who have concerns about the underlying nature of this bill. But if not for this Gingrey bill, we wouldn't be able to have this conversation at all. If not for the courage of folks to step out on the ledge and begin this conversation, we wouldn't be able to have it at all.

If we are to advance the cause of litigation reform in this country, if we are to control the inaccessibility of health care that comes from rising costs, then we have to be willing to come to the floor of this House and have the kinds of debates that my friend from Georgia has made possible today. That's true.

I may disagree with some of the ways that we've gotten here—and by striking the findings, we make no conclusions today about why we're here—but we make the certain conclusion today that if we don't begin this process, we will never bring it to conclusion. If we don't have this discussion today, Madam Chair, we will never solve these issues.

Mr. CONYERS. Would the gentleman yield?

Mr. WOODALL. I would be happy to yield to the ranking member.

Mr. CONYERS. I thank the gentleman for his courtesy. But why, as a new Member—and we welcome you to this body—why would we strike all the findings from H.R. 5?

Mr. WOODALL. Reclaiming my time, and I thank the ranking member for his question. And that's a good way to conclude, Madam Chair.

The reason is because the language of the bill speaks for itself. The language of the bill speaks for itself. When this bill passes the House today, Madam Chair, we will have the U.S. House of Representatives on record about solutions to the malpractice challenges that face this Nation. But there is no need to be on the record today, Madam Chair, about all of the different ways that we got here. Because I might disagree with my friend from Georgia about how we got here. I would certainly disagree with my friend from Michigan about how we got here.

But what is important is that we begin to take those steps forward. And with the removal of these findings, we are going to be able to let that language stand on its face for this House to have the free and open debate that I'm looking forward to today.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Georgia (Mr. WOODALL).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. CONYERS. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Georgia will be postponed.

□ 1030

AMENDMENT NO. 2 OFFERED BY MS. BONAMICI

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in House Report 112–416.

Ms. BONAMICI. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 23, line 22, strike ''date of enactment'' and insert ''effective date''.

Page 23, line 24, strike ''date of enactment'' and insert ''effective date''.

Page 24, line 2, insert after ''the injury occurred'' the following: ''This title shall take effect only on the date the Secretary of Health and Human Services submits to Congress a report on the potential effect of this title on health care premium reductions.''.

The Acting CHAIR. Pursuant to House Resolution 591, the gentlewoman from Oregon (Ms. BONAMICI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Oregon.

Ms. BONAMICI. My amendment to H.R. 5 simply requires the Secretary of Health and Human Services to submit a report to Congress detailing the effect that the tort reform provisions in this bill would have on health care premiums and delays the effective date of title I of the bill until that report is submitted.

For years, proponents of tort reform have tried to convince Americans that skyrocketing health care costs are entirely attributable to greedy plaintiffs and runaway jury awards. They recite anecdotes about doctors closing their practices, refusing to deliver babies or perform surgeries, for fear of being sued. But, Madam Chair, we should not be making Federal policy based on anecdotes.

If recent independent research is any indication, the report that the Secretary submits to Congress under this amendment is unlikely to find that the bill will have any meaningful effect on health care premiums. Recent analysis in States adopting restrictions similar to those in this bill has found no substantial impact on the consumer cost of health care, nor has access to health providers improved as a result.

Proponents of tort reform claim that capping damages will drive down the cost of medical malpractice insurance and that doctors will pass this savings along to patients. But 2 years ago, CBO found that malpractice insurance premiums, settlements, and awards account for just a tiny fraction of total health care expenditures. In 27 States where damages have been capped, the medical malpractice premiums are not lower on average than in States without caps.

My amendment asks for data on how this bill will affect the cost of health care for all Americans. Now, I want to be very clear—no one should be compensated for a frivolous lawsuit. But there are ways to address frivolous

lawsuits without infringing on the rights of those who truly have been injured by medical mistakes.

What this bill does accomplish ought to frighten anyone who believes in the rights of States to govern themselves and the rights of individuals to be compensated for loss. This bill tramples over the rights of States to enact laws governing their own tort systems, and it severely restricts individuals' rights to be compensated for all the losses caused by health care providers.

In my home State of Oregon, for example, our supreme court has held that most statutory caps on noneconomic damages are unconstitutional. And Oregon is not alone. At least 12 other States have some constitutional prohibition against these types of restrictions. This bill not only overrides State laws and constitutions governing punitive and noneconomic damage awards; it also addresses States' statutes of limitations, pleading standards, attorney-fee provisions, and joint liability. But it does not stop there.

Although this bill is being presented as medical malpractice reform, it reaches far beyond professional malpractice against doctors to include product liability cases against drug and device manufacturers, bad-faith claims against HMOs and insurance companies, and negligence suits against nursing homes. And it would take away all of the State and individual rights in far-reaching areas of the health care industry without evidence that doing so will lower the premiums for Americans. This is an unwarranted intrusion in personal liberty and a giveaway to insurance companies. So we should know if it's going to lower health care premiums.

If this Congress is going to enact a sweeping bill nullifying longstanding State law and trampling on State constitutional rights, it's not too much to ask that we arm ourselves with the knowledge of how this will actually affect American families. This amendment simply requires the Secretary of Health and Human Services to submit a report to Congress with that information before title I of this bill takes effect—a reasonable requirement.

I reserve the balance of my time.

Mr. GINGREY of Georgia. Madam Chair, I rise in opposition to the Bonamaci amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. GINGREY of Georgia. I rise in opposition to the Bonamici amendment because it would indefinitely delay critical medical liability reforms that will save American taxpayers tens of billions of dollars and save our health care system upwards of $200 billion a year in unnecessary spending.

The amendment before us would delay enactment of the tort reforms outlined in H.R. 5 until the Secretary of Health and Human Services submits a report to Congress on the potential effects of medical liability reform on health care premiums. However, the amendment does not require the Secretary to produce a report by a date certain. In fact, the Secretary could simply choose to never issue a report and forever delay the reforms at the heart of this underlying bill.

Regardless of what one thinks about H.R. 5, I do not believe it is appropriate to vest the Secretary of Health and Human Services with the authority to permanently block enactment of a law based on the inability to produce a report. I realize that there are some who might disagree because they would like to provide the Secretary with the authority under IPAB to unilaterally dictate the medical choices of seniors. Given the track record of this administration on liability reform and their failure to address the issues in ObamaCare, HHS should not be given the power to bob and weave on this issue once again.

I do find the amendment somewhat ironic, and I actually wish the author of the amendment was in Congress during debate over PPACA. Maybe if we had this type of amendment then, we would not be saddled with a law that has taken away people's health care choices and raised their health care premiums. We were promised that the law would reduce health care premiums by $2,500 a year. During debate on PPACA we knew that that was not true, and the CBO told Congress that it was not true. What was common sense is coming to fruition now. The law has given us a billion-dollar new bureaucracy, and it's fueling ever-increasing health care and premium costs.

In this case, Madam Chairman, this amendment is not needed because we have seen that real medical liability reform can and will reduce costs. It will stop the vicious cycle of frivolous lawsuits and defensive medicine. It will make our health care system more efficient and actually reduce unnecessary spending in the health care system, another thing the health care law failed to do. We do not need this amendment.

With that, Madam Chairman, I yield 1 minute to the distinguished majority leader, the gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. I thank the gentleman.

Madam Chair, I rise in opposition to this amendment, which would simply delay the implementation of what we know is a cost-savings measure to so many millions of seniors—and so many millions of Americans, not just seniors.

Madam Chair, today we will vote to repeal one of PPACA's most harmful provisions, the Independent Payment Advisory Board. IPAB is emblematic of the two very different visions held by Republicans and Democrats about the path to quality care and how to control costs in our health care system.

Madam Chair, the President and his party want a centralized board of bureaucrats to control decisions about how health care is allocated to our Nation's seniors. He proposes to restrict health care choices in order to lower cost. Our American system of free enterprise, innovation, and ingenuity has made our health care centers the best in the world. Our doctors transform dire health care conditions into promising outcomes and healthy lives. We produce the world's lifesaving drugs, disease-prevention regimens, biologics, and devices. But IPAB hamstrings the best available care for our seniors by imposing artificial and arbitrary constraints on cost.

Neither the President nor congressional Democrats have proposed a solution to strengthen Medicare. Instead, the President gives 15 bureaucrats the power to make fundamental decisions about the care that seniors will have access to. Not to be deterred, the President has proposed expanding this board numerous times over the past year, vastly growing the board's scope and ability to fix prices and ultimately ration care for our Nation's seniors.

Madam Chair, the President and I do agree on this: the current Medicare reimbursement system is broken. But we don't need a board of unelected bureaucrats to control costs. As we have proposed today, there is a better path forward.

During the health care debate, the President agreed with our Nation's doctors that defensive medicine practices are driving up costs. Yet meaningful medical liability reform was not included in the 2,000-page health care law.

Madam Chair, as my colleagues have proposed today, we can model medical liability reforms on State-based laws. California, Texas, and Virginia have all implemented working solutions that drive down the cost of care. We can even propose more creative medical liability reform solutions. We're always open to new ideas and suggestions. But not delay. Moving forward with commonsense medical liability reforms will mean that doctors can continue serving patients.

□ 1040

It means that injured patients will be compensated more quickly and fairly. It means health care costs will go down.

Madam Chair, you don't need a new rationing board to save $3 billion. You simply need to enact liability reform policies that are so commonsense even States like California and others have had them on the books for decades.

When the entire medical community stands opposed to an idea, I would hope that our colleagues on the other side of the aisle and the President would listen. ObamaCare's IPAB is not the solution our seniors are expecting us to deliver. Our seniors deserve better.

Madam Chair, I thank Dr. PHIL ROE, the gentleman from Tennessee, and Dr. PHIL GINGREY, the gentlemen from Georgia, for sponsoring the PATH Act. I'd also like to recognize Chairman FRED UPTON, Chairman DAVE CAMP, and Chairman LAMAR SMITH for working to strengthen Medicare for our seniors. Under their leadership, our House

committees are advancing policies that will deliver the quality of health care the American people deserve.

Ms. BONAMICI. Madam Chair, I yield 15 seconds to my colleague from Michigan (Mr. CONYERS).

Mr. CONYERS. Just to get the facts into this debate, I rise in strong support of the Bonamici amendment. I include for the RECORD the Congressional Budget Office letter to Chairman DREIER on March 19 in which the CBO estimates that enacting the provision will increase the deficits, if you use IPAB, by $3.1 billion.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, March 19, 2012.

Hon. DAVID DREIER,
Chairman, Committee on the Rules, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 5, the Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2011, as posted on the Web site of the House Committee on Rules on March 12, 2012. CBO estimates that enacting the bill would reduce direct spending and increase revenues; therefore, pay-as-you-go procedures apply. Together, the changes to direct spending and revenues would reduce future deficits by $13.7 billion over the 2013–2017 period and by $45.5 billion over the 2013–2022 period.

Federal spending for active workers participating in the Federal Employees Health Benefits program is included in the appropriations for federal agencies, and is therefore discretionary. H.R. 5 would also affect discretionary spending for health care services paid by the Departments of Defense and Veterans Affairs. CBO estimates that implementing H.R. 5 would reduce discretionary spending by $1.1 billion, assuming appropriations actions consistent with the legislation.

H.R. 5 would impose limits on medical malpractice litigation in state and federal courts by capping awards and attorney fees, modifying the statute of limitations, and eliminating joint and several liability. It also would repeal the provisions of the Affordable Care Act (ACA) that established the Independent Payment Advisory Board (IPAB) and created a process by which that Board (or the Secretary of the Department of Health and Human Services) would be required under certain circumstances to modify the Medicare program to achieve certain specified savings.

CBO estimates that the changes in direct spending and revenues resulting from enactment of the limitations on medical malpractice litigation would reduce deficits by $48.6 billion over the 2013–2022 period. CBO also estimates that implementing those provisions would reduce discretionary spending by $1.1 billion, assuming appropriations actions consistent with the legislation. The basis for that estimate is described in the cost estimate CBO transmitted on March 10, 2011, for the HEALTH Act as ordered reported by the House Committee on the Judiciary on February 16, 2011. The estimated budgetary effects have been updated to assume enactment near the end of fiscal year 2012 and to reflect CBO's current budgetary and economic projections.

CBO estimates that enacting the provision that would repeal the Independent Payment Advisory Board would increase deficits by $3.1 billion over the 2013–2022 period. The basis for that estimate is described in the cost estimates CBO transmitted on March 7 and March 8, 2012, for H.R. 452 as ordered reported by the House Committee on Energy and Commerce and by the House Committee on Ways and Means, respectively.

H.R. 5 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt state laws that provide less protection for health care providers and organizations from liability, loss, or damages (other than caps on awards for damages). CBO estimates the cost of complying with the mandate would be small and would fall well below the threshold established in UMRA for intergovernmental mandates ($73 million in 2012, adjusted annually for inflation).

H.R. 5 contains several mandates on the private sector, including caps on damages and on attorney fees, the statute of limitations, and the fair share rule. The cost of those mandates would exceed the threshold established in UMRA for private-sector mandates ($146 million in 2012, adjusted annually for inflation) in four of the first five years in which the mandates were effective.

Mr. GINGREY of Georgia. Madam Chair, I respect my colleague from Oregon, and I know she is well meaning and very thoughtful, but I must oppose her amendment. At this time, I urge my colleagues to vote against the amendment, and I reserve the balance of my time.

Ms. BONAMICI. Madam Chairman, this is a reasonable amendment. It simply asks that before we make sweeping Federal policy that overrides State and individual rights we know what we're getting in return.

I urge my colleagues to support this very reasonable amendment. I yield back the balance of my time.

Mr. GINGREY of Georgia. Madam Chair, I yield back the balance of my time as well.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Oregon (Ms. BONAMICI).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Ms. BONAMICI. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Oregon will be postponed.

The Chair understands that amendment No. 3 will not be offered.

AMENDMENT NO. 4 OFFERED BY MR. DENT

The Acting CHAIR. It is now in order to consider amendment No. 4 printed in House Report 112–416.

Mr. DENT. Madam Chair, I rise for the purpose of offering an amendment.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, insert the following:

TITLE III—HEALTH CARE SAFETY NET ENHANCMENT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Health Care Safety Net Enhancement Act of 2012''.

SEC. 302. PROTECTION FOR EMERGENCY AND RELATED SERVICES FURNISHED PURSUANT TO EMTALA.

Section 224(g) of the Public Health Service Act (42 U.S.C. 233(g)) is amended—

(1) in paragraph (4), by striking ''An entity'' and inserting ''Subject to paragraph (6), an entity''; and

(2) by adding at the end the following:

''(6)(A) For purposes of this section—

''(i) an entity described in subparagraph (B) shall be considered to be an entity described in paragraph (4); and

''(ii) the provisions of this section shall apply to an entity described in subparagraph (B) in the same manner as such provisions apply to an entity described in paragraph (4), except that—

''(I) notwithstanding paragraph (1)(B), the deeming of any entity described in subparagraph (B), or of an officer, governing board member, employee, contractor, or on-call provider of such an entity, to be an employee of the Public Health Service for purposes of this section shall apply only with respect to items and services that are furnished to an individual pursuant to section 1867 of the Social Security Act and to post stabilization services (as defined in subparagraph (D)) furnished to such an individual;

''(II) nothing in paragraph (1)(D) shall be construed as preventing a physician or physician group described in subparagraph (B)(ii) from making the application referred to in such paragraph or as conditioning the deeming of a physician or physician group that makes such an application upon receipt by the Secretary of an application from the hospital or emergency department that employs or contracts with the physician or group, or enlists the physician or physician group as an on-call provider;

''(III) notwithstanding paragraph (3), this paragraph shall apply only with respect to causes of action arising from acts or omissions that occur on or after January 1, 2012;

''(IV) paragraph (5) shall not apply to a physician or physician group described in subparagraph (B)(ii);

''(V) the Attorney General, in consultation with the Secretary, shall make separate estimates under subsection (k)(1) with respect to entities described in subparagraph (B) and entities described in paragraph (4) (other than those described in subparagraph (B)), and the Secretary shall establish separate funds under subsection (k)(2) with respect to such groups of entities, and any appropriations under this subsection for entities described in subparagraph (B) shall be separate from the amounts authorized by subsection (k)(2);

''(VI) notwithstanding subsection (k)(2), the amount of the fund established by the Secretary under such subsection with respect to entities described in subparagraph (B) may exceed a total of $10,000,000 for a fiscal year; and

''(VII) subsection (m) shall not apply to entities described in subparagraph (B).

''(B) An entity described in this subparagraph is—

''(i) a hospital or an emergency department to which section 1867 of the Social Security Act applies; and

''(ii) a physician or physician group that is employed by, is under contract with, or is an on-call provider of such hospital or emergency department, to furnish items and services to individuals under such section.

''(C) For purposes of this paragraph, the term 'on-call provider' means a physician or physician group that—

''(i) has full, temporary, or locum tenens staff privileges at a hospital or emergency department to which section 1867 of the Social Security Act applies; and

''(ii) is not employed by or under contract with such hospital or emergency department, but agrees to be ready and available to provide services pursuant to section 1867 of the Social Security Act or post-stabilization services to individuals being treated in the hospital or emergency department with or without compensation from the hospital or emergency department.

''(D) For purposes of this paragraph, the term 'post stabilization services' means, with respect to an individual who has been treated by an entity described in subparagraph (B) for purposes of complying with section 1867 of the Social Security Act, services that are—

''(i) related to the condition that was so treated; and

''(ii) provided after the individual is stabilized in order to maintain the stabilized condition or to improve or resolve the condition of the individual.

''(E)(i) Nothing in this paragraph (or in any other provision of this section as such provision applies to entities described in subparagraph (B) by operation of subparagraph (A)) shall be construed as authorizing or requiring the Secretary to make payments to such entities, the budget authority for which is not provided in advance by appropriation Acts.

''(ii) The Secretary shall limit the total amount of payments under this paragraph for a fiscal year to the total amount appropriated in advance by appropriation Acts for such purpose for such fiscal year. If the total amount of payments that would otherwise be made under this paragraph for a fiscal year exceeds such total amount appropriated, the Secretary shall take such steps as may be necessary to ensure that the total amount of payments under this paragraph for such fiscal year does not exceed such total amount appropriated.''.

SEC. 303. CONSTITUTIONAL AUTHORITY.

The constitutional authority upon which this title rests is the power of the Congress to provide for the general welfare, to regulate commerce, and to make all laws which shall be necessary and proper for carrying into execution Federal powers, as enumerated in section 8 of article I of the Constitution of the United States.

The Acting CHAIR. Pursuant to House Resolution 591, the gentleman from Pennsylvania (Mr. DENT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. DENT. Madam Chair, I'm pleased to join my colleague, PETE SESSIONS from Texas, on the floor this morning to support a very important amendment that we've introduced that would address the crisis in access to emergency care by extending liability coverage to on-call and emergency room physicians.

The underlying bill we're debating here today is about patient access to care. Now I recognize that ideology may divide the House on the underlying bill. But common sense should unite the House on this particular amendment. Our former colleague, Bart Gordon of Tennessee, had introduced this legislation with me last year. In this session, we have bipartisan support for this concept. Mr. MATHESON, Mr. LANGEVIN, and Mr. RUPPERSBERGER all have cosponsored this legislation that I am offering as an amendment. They cosponsored the original bill.

There's a growing shortage of physicians and specialists willing to work in emergency rooms. We've seen it all over the country. A 2006 Institute of Medicine report, ''The Future of Emergency Care,'' noted that the availability of on-call specialists is an acute problem in emergency departments and trauma centers. Emergency and trauma care is delivered in an inherently challenging environment. Every day, physicians providing emergency care make life-and-death decisions with little information or time about the patients they're treating.

I've spoken with surgeons who've told me they dread a Code Blue out of fear of a lawsuit. They want to serve these people who are coming into these emergency centers but are fearful for their families of a lawsuit. That's what medicine has become, unfortunately, because of this out-of-control litigation system.

As a result, these physicians providing emergency and trauma care face extraordinary exposure to medical liability claims. Forty percent of hospitals say the liability situation has resulted in less physician coverage for their emergency departments. According to a report from the GAO, soaring medical liability premiums have led specialists to reduce or stop on-call services to emergency departments. This trend threatens patients' access to emergency surgical services. Neurosurgery, orthopedics, and general surgery are the most impacted. They also are the services that emergency departments most frequently require. Trauma centers across the country have closed. In my home State of Pennsylvania, this has been a very serious problem.

This is an urgent issue that needs to be addressed. This amendment would protect access to emergency room care and reduce health care costs by allowing emergency and on-call physicians who deliver EMTALA-related services medical liability protections. EMTALA, the Emergency Medical Treatment and Active Labor Act, ensures that any person who seeks emergency medical care at a covered facility is guaranteed an appropriate screening exam and stabilization treatment before transfer or discharge, regardless of their ability to pay. EMTALA is a Federal mandate that protects all our citizens, the insured and the uninsured alike. This amendment will provide a backstop for the doctors who provide these critical services.

Specifically, the amendment would ensure medical services furnished by a hospital, emergency department, or a physician or on-call provider under contract with a hospital or emergency department pursuant to the EMTALA mandate are provided the same liability coverage currently extended to community health centers and health professionals who provide Medicaid services at free clinics.

This amendment will not impact the rights of individuals who have been harmed to seek redress. What this amendment will do is ensure medical professionals are available to provide critical, timely, lifesaving emergency and trauma medical care to all Americans when and where it is needed.

Please join me and Representative SESSIONS in supporting this amendment. If an accident ever happened to any of us, Heaven forbid, we want to make sure that there are people in these trauma centers and those emergency rooms ready to deal with us and who have nothing on their mind but saving our lives, not worrying about lawsuits. So I urge adoption of this amendment.

At this time, I reserve the balance of my time.

Mr. CONYERS. Madam Chairman, I rise in opposition to this amendment.

The Acting CHAIR. The gentleman from Michigan is recognized for 5 minutes.

Mr. CONYERS. To my colleague, Mr. DENT, hold up. You're giving complete immunity to hospitals, physicians, and providers for any emergency activity. Do you want to do away with all liability whatsoever because it's in an emergency room? Of course, you don't. But this amendment requires the Federal Government to pay for the medical errors committed and denies our government any ability to address or reprimand those who commit medical errors. You don't want to do that. You don't want to go that far.

The Federal Government would be responsible for all occurrences of negligence in an emergency room. Please. Ninety-eight thousand patients die every year due to preventable medical errors.

I reserve the balance of my time.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Members are advised to address their remarks to the Chair.

Mr. DENT. Madam Chair, just very briefly in answer to my colleague's comments, I want to say very briefly that this does not waive liability. It simply says that when care is federally mandated under EMTALA that there will be Federal liability protection provided to those who are providing the care. That's only fair. People still can bring action, but there will be Federal liability protection, as there should be, because this care is being required under Federal law. I think it's completely reasonable.

At this time, I reserve the balance of my time.

Mr. CONYERS. But what we're doing in the amendment is to provide immunity to all hospitals and physicians and require the Federal Government to pay for medical errors committed by them.

Look, we have 98,000 patients dying every year due to preventable medical errors. I'm not slamming the docs and the hospitals. I'm saying that we don't want to provide complete immunity.

□ 1050

This Dent amendment, Madam Chairman, does just that: it provides complete immunity.

So I'm asking my colleagues to please slow down and realize that irreparable harm due to negligence in the emergency room—and we've got pages

and pages of examples—would be not subject to adjudication because of this amendment. It's a very dangerous amendment. It goes way too far. It's overbroad. And I urge my colleagues to carefully examine the consequences of this provision.

I reserve the balance of my time.

The Acting CHAIR. The gentleman from Pennsylvania has 30 seconds remaining.

Mr. DENT. The only thing I would like to say in response, once again, is this immunity protection only applies to care provided under EMPALA, and that's federally mandated care. Other activities going on in that emergency room or trauma center would not be given this exemption from liability, only federally mandated care. It can't be any more clear.

I reserve the balance of my time.

The Acting CHAIR. The gentleman from Michigan has 2 minutes remaining.

Mr. CONYERS. Madam Chairman, this amendment would actually lower the incentive to practice safe medicine, and I say this on careful examination.

I'm surprised that my colleague, the leader on the other side, himself a distinguished doctor, would be silent on this provision because it shields hospitals, employed physicians, even physicians who are already covered by private insurance; and physicians working in an emergency room setting will never be held accountable when they wrongfully injure their patient. That is my only reservation and objection to what is otherwise an honorably intended revision of this measure.

When hospitals and emergency room departments are not held accountable for medical errors and for negligence, then they have no incentive to offer quality care or hire competent physicians. Please, I beg you to carefully examine the dangers implicit in the Dent-Sessions amendment.

I yield back the balance of my time.

The Acting CHAIR. The gentleman from Pennsylvania has 15 seconds remaining.

Mr. DENT. In conclusion, this amendment has bipartisan support. As I said, our former colleague, Bart Gordon, who was a cosponsor, introduced this bill along with me last session. Mr. LANGEVIN is a cosponsor of the bill, Mr. MATHESON, Mr. RUPPERSBERGER. It makes sense. This is important to make sure our citizens have access to emergency care should they ever need it.

At this time, I urge support of the amendment, and I yield back the balance of my time.

Mr. SESSIONS. Madam Chair, I rise to support the amendment to H.R. 5 that I have cosponsored with my good friend Congressman CHARLIE DENT of Pennsylvania. The amendment extends critical liability coverage to emergency room and on-call physicians and physician groups.

Madam Chair, we are at a crisis point in this country. In these difficult economic times, our emergency rooms have become a source of primary care to many of our fellow citizens. At the time that we need them the most, nearly half of all emergency rooms in medical liability crisis states are under staffed. We face this shortage not because of a lack of trained specialists, but because liability coverage costs too much due to the unique set of medical challenges that are seen in emergency situations.

By law, emergency rooms must treat anyone who needs care regardless of if they have insurance or can afford it. Over the past several years, emergency rooms have seen an increase in patients due to the number of unemployed and/or uninsured people needing care. We have found that our emergency room cases are becoming more complicated and frequent, and our doctors do not have the luxury of a complete patient history.

Our emergency physicians are the first line of defense for the health care community. As such, we must provide basic liability protections to these emergency and on-call physicians. This liability protection is critical to maintaining the state of the art emergency facilities that we have at our disposal today.

The Dent-Sessions amendment would deem hospitals, emergency rooms, physicians and physicians groups that provide emergency care to individuals to be employees of the Public Health Service for purposes of any civil action that may arise due to health care items and services provided under the Public Health Service Act.

I commend Congressman DENT for his leadership on this issue and would ask my colleagues to support this amendment which is critical for patient care.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. DENT).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. GOSAR

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in House Report 112–416.

Mr. GOSAR. Madam Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

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

TITLE III—RESTORING THE APPLICATION OF ANTITRUST LAWS TO HEALTH SECTOR INSURERS

SEC. 301. SHORT TITLE.

This title may be cited as the ''Health Insurance Industry Fair Competition Act of 2012''.

SEC. 302. APPLICATION OF THE ANTITRUST LAWS TO THE BUSINESS OF HEALTH INSURANCE.

(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. For the purposes of this subsection, the term 'business of health insurance' shall—

''(1) mean 'health insurance coverage' offered by a 'health insurance issuer' as those terms are defined in section 9001 of the Patient Protection and Affordable Care Act, which incorporates by reference and utilizes the definitions included in section 9832 of the Internal Revenue Code (26 U.S.C. 9832); and

''(2) not include—

''(A) life insurance and annuities;

''(B) property or casualty insurance, including but not limited to, automobile, medical malpractice or workers' compensation insurance; or

''(C) any insurance or benefits defined as 'excepted benefits' under section 9832(c) of the Internal Revenue Code (26 U.S.C. 9832(c)), whether offered separately or in combination with products described in subparagraph (A).''.

(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.

(c) LIMITATION ON CLASS ACTIONS.—

(1) LIMITATION.—No class action may be heard in a Federal or State court on a claim against a person engaged in the business of health insurance for a violation of any of the antitrust laws (as defined in section 3(c) of the Act of March 9, 1945 (15 U.S.C. 1013), commonly known as the McCarran-Ferguson Act).

(2) EXEMPTION.—Paragraph (1) shall not apply with respect to any action commenced—

(A) by the United States or any State; or

(B) by a named claimant for an injury only to itself.

The Acting CHAIR. Pursuant to House Resolution 591, the gentleman from Arizona (Mr. GOSAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. GOSAR. Madam Chair, I rise to address the House today in support of my amendment to H.R. 5 to amend the McCarran-Ferguson Act. This act exempts the business of insurance from many Federal antitrust laws. In this modern day and age, it is hard to see why this exemption still persists.

One of the original reasons to carve this exemption for the industry, which dates all the way back to 1945, was that insurance companies needed to share actuarial information in order to balance risk when setting premiums. However, since 1945, our Federal law has evolved to include safe harbors to permit companies to share this data as needed. I believe that violations of antitrust law cannot always be dealt with on the State level anymore as cash-strapped States lack the resources to enforce the law against these large, multi-state insurance companies. Therefore, it is time for this exemption to be repealed so that we can empower health insurance companies to compete more aggressively for the consumer dollar, increase competition, increase

insurance options, empower patients to a patient-centered system, and they decrease premiums. Therefore, we all win.

Lowering the cost of health insurance is a goal we should all share. That is why the House passed a very similar measure, H.R. 4626, with over 400 votes in 2010.

There is one key difference between H.R. 4626 and this amendment, a difference of which I am proud. My amendment includes a prohibition on class action lawsuits in Federal court against these health insurance companies.

The FTC should have the power to investigate bad actors in the health insurance industry, but it helps no one if these companies—or for that matter, any American businesses—get mired in lawsuits that will cost millions. Class action lawsuits often result in big bucks in attorney fees for greedy trial attorneys, while leaving only pennies in the hands of plaintiffs who are allegedly wronged in the first place.

For example, let's take the Cobell settlement. Fifteen years ago, a group of Native Americans sued the Federal Government and Secretary of the Interior, Bruce Babbitt, for mismanagement of their funds and won a $3.4 billion settlement only to find out that their attorneys were petitioning the judge for over $200 million in fees. This is outrageous.

When the poorest of poor are wronged in this country and are awarded a settlement in court, they shouldn't have to split pennies amongst themselves as their lawyers walk away with a big fat check. That is the spirit behind the tort reform piece of my amendment. I am pleased to see this House ready to pass significant tort reform today and encourage all my colleagues to support my amendment as well as the underlying bill.

I reserve the balance of my time.

Mr. CONYERS. Madam Chairman, I rise in strong opposition to this amendment.

The Acting CHAIR. The gentleman from Michigan is recognized for 5 minutes.

Mr. CONYERS. It is my position that within the good that this does is a poison pill. The good is that consumers would also benefit from a repeal of McCarran-Ferguson. We salute you. But the poison pill is that this measure would ban class actions on a claim for violation of antitrust law, which is the cleverest way of ending antitrust law. Unless you have a class action—well, my doctor-Congressman is not a lawyer, but without class actions, you can't bring a claim because nobody's going to file a suit on a $30 issue, 1 million people suing for $30 each. So it's a poison pill.

I'd like to yield such time as he may consume to the gentleman from Oregon (Mr. DEFAZIO), who had an amendment that had huge bipartisan support.

Mr. DEFAZIO. I thank the gentleman for yielding.

We had, at the end of last Congress, a tremendous bipartisan vote—406–19—on repealing straight up the antitrust immunity of the insurance industry.

The American people, no matter where they are on the Affordable Care Act, agree on one thing: insurance companies should not be able to get together and collude to either exclude people from coverage or drive up prices. Yet they do. They have an exemption under a law from the 1940s.

Now, what the gentleman is offering sounds pretty good, but it won't get us there because 90 percent of the antitrust cases are private, and almost every single one of those cases is a class action. So if you preclude class actions, you can pretend you're being tough with the insurance industry while you can wink and nod and say, hey, don't worry about it because there really won't be any litigation under this; and you're still going to be able to skate, and you're still going to be able to collude, and you're still going to be able to drive up prices.

Think of the context in what we're doing. We're talking about IPAB today, but they've already voted to repeal the entire Affordable Care Act. That means no more restrictions on rescissions—the dirty little practice where you've been paying your premium for years and you get sick and the insurance company says, sorry, we're not going to renew your policy. That's been outlawed.

□ 1100

They're going to do away with the prohibitions on age discrimination. They're going to do away with the prohibitions on preexisting conditions. So now we're going to have an insurance industry that is, essentially, free from antitrust law, that can take away your policy when you get sick, that can discriminate against you because you're old, can discriminate against you because you're sick or you have been sick, and it would take away the protections and the review of excessive rate increases.

So if we were doing a straight-up, take away their antitrust immunity, make them play by the same rules as every other business in America, except for professional sports, who are exempt from antitrust law, that would be fine. But let's not have this phony fig leaf so you can wink and nod to the insurance industry and say, ''Hey, don't worry about it; it won't have any impact,'' but we can say to consumers we're with them.

Mr. GOSAR. We failed to realize that what we did here in repeal of McCarran-Ferguson is the FTC. It is the FTC. It is the FTC and the Department of Justice.

Right now, privately, yes, you're right. Without the repeal of McCarran-Ferguson, there is more coming from the private aspect, but that's because we have limited the Federal oversight in the FTC and the Department of Justice.

This compromise is weighted very carefully to make sure that we get back to a balance, both Federal and State, and does not oversee the states' rights as well.

I reserve the balance of my time.

Mr. CONYERS. Madam Chairman, I yield myself the balance of my time.

We are here debating an overwhelming proposition offered by the gentleman from Oregon (Mr. DEFAZIO), which would have corrected this problem so beautifully. But now comes the poison pill, which says no more class actions. If you can't bring class actions in this matter, then there's no way people with small, valid claims can go into court and sue for 30 bucks.

Now, I think most people understand this without going to law school. If you eliminate class actions, you have effectively destroyed the McCarran-Ferguson repeal that we are bragging about. So it's a kind of undercover scheme. We pretend we're doing something good. We ignore DEFAZIO's overwhelmingly bipartisan supported provision, and we let the insurance company through, and they live to continue the vile practices that have been revealed and discussed in this debate.

I yield back the balance of my time.

Mr. GOSAR. Once again, I want to make sure that everybody understands that you're giving Federal oversight of collusion and monopoly. In class action lawsuits, what you're doing is not giving it all away, but you're limiting the vast improprieties that occur right now with class action.

This is carefully manipulated so that we're moving the balance down the field and it balances it out with competition and having some oversight over our jurisdiction of judgements that are impugned with class action. Class action has gotten way out of line, and most American people do understand that classification.

I yield back the balance of my time.

Mr. SMITH of Texas. Madam Chair, 2 years ago, during the debate over the Obama administration's unconstitutional health care bill, this House considered a measure similar to this amendment.

During that debate, I argued that the repeal of the McCarran-Ferguson antitrust exemption for health insurers had ''all the substance of a soup made by boiling the shadow of a chicken.'' However, I reluctantly supported that bill because I believed that it would have no meaningful effect. Compared to the administration's health care bill, a bill that does nothing looked like a great idea.

As I noted during the debate 2 years ago, the repeal of the McCarran-Ferguson exemption for health insurers will not bring down premiums.

The Congressional Budget Office (CBO) 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 effect is likely to be quite small.''

The effects of the repeal of this exemption will be small. The CBO says, ''State laws already bar the activities that would be prohibited under Federal law if this bill was enacted.'' Every State's insurance regulations

ban anticompetitive activities like bid rigging, price fixing and market allocation. Every State has insurance regulators who already actively enforce these prohibitions.

This amendment, like the bill we considered 2 years ago, will have no meaningful impact and may have minor negative unintended consequences.

But I will once again reluctantly support this measure because this amendment takes important steps to limit its unintended consequences and to reaffirm the McCarran-Ferguson exemption for non-health lines of insurance.

This amendment contains language that clearly limits its application to the business of health insurance. While the repeal of the McCarran-Ferguson exemption for health insurance does essentially nothing, repealing it for other types of insurance could be disastrous.

One of the main benefits of the McCarran-Ferguson exemption is that it allows insurance companies, subject to state regulation, to share historical and actuarial data.

The antitrust laws generally frown on competitors that share data. But in the insurance market, sharing data improves competition. This is because a shared pool of data about the risks and loss rates of various kinds of insurance allows small and medium-sized insurers to enter the market and compete.

If insurance companies did not pool data, only the largest insurers would have access to enough data to account for risk and price their policies.

For a number of reasons, which include the size of most health plans, the availability of health care data from various public and private sources, and the relative predictability of health care costs, health insurers rely much less on sharing data than other insurers.

This amendment contains a clear definition that limits its application to the business of health insurance. It clarifies that the McCarran-Ferguson exemption continues to apply to life insurance, annuities, property and casualty insurance, and other non-health types of insurance. It is an improvement over other proposals that are not so limited, defined and clear about their intent.

This amendment also prevents private class action antitrust lawsuits against health insurers. This limits the possible unintended negative effects.

Because this amendment is much improved in ways that will limit its unintended consequences, and because it reaffirms the importance of the McCarran-Ferguson exemption to non-health lines of insurance, I support the amendment.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. GOSAR).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. STEARNS

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in House Report 112–416.

Mr. STEARNS. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following:

TITLE III—PROTECTIONS FOR GOOD SAMARITAN HEALTH PROFESSIONALS

SEC. 301. SHORT TITLE.

This title may be cited as the ''Good Samaritan Health Professionals Act of 2012''.

SEC. 302. LIMITATION ON LIABILITY FOR VOLUNTEER HEALTH CARE PROFESSIONALS.

(a) IN GENERAL.—Title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by inserting after section 224 the following:

''SEC. 224A. LIMITATION ON LIABILITY FOR VOLUNTEER HEALTH CARE PROFESSIONALS.

''(a) LIMITATION ON LIABILITY.—Except as provided in subsection (b), a health care professional shall not be liable under Federal or State law for any harm caused by an act or omission of the professional if—

''(1) the professional is serving as a volunteer for purposes of responding to a disaster; and

''(2) the act or omission occurs—

''(A) during the period of the disaster, as determined under the laws listed in subsection (e)(1);

''(B) in the health care professional's capacity as such a volunteer; and

''(C) in a good faith belief that the individual being treated is in need of health care services.

''(b) EXCEPTIONS.—Subsection (a) does not apply if—

''(1) the harm was caused by an act or omission constituting willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious flagrant indifference to the rights or safety of the individual harmed by the health care professional; or

''(2) the health care professional rendered the health care services under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or an intoxicating drug.

''(c) STANDARD OF PROOF.—In any civil action or proceeding against a health care professional claiming that the limitation in subsection (a) applies, the plaintiff shall have the burden of proving by clear and convincing evidence the extent to which limitation does not apply.

''(d) PREEMPTION.—

''(1) IN GENERAL.—This section preempts the laws of a State or any political subdivision of a State to the extent that such laws are inconsistent with this section, unless such laws provide greater protection from liability.

''(2) VOLUNTEER PROTECTION ACT.—Protections afforded by this section are in addition to those provided by the Volunteer Protection Act of 1997.

''(e) DEFINITIONS.—In this section:

''(1) The term 'disaster' means—

''(A) a national emergency declared by the President under the National Emergencies Act;

''(B) an emergency or major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; or

''(C) a public health emergency determined by the Secretary under section 319 of this Act.

''(2) The term 'harm' includes physical, nonphysical, economic, and noneconomic losses.

''(3) The term 'health care professional' means an individual who is licensed, certified, or authorized in one or more States to practice a health care profession.

''(4) The term 'State' includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

''(5)(A) The term 'volunteer' means a health care professional who, with respect to the health care services rendered, does not receive—

''(i) compensation; or

''(ii) any other thing of value in lieu of compensation, in excess of $500 per year.

''(B) For purposes of subparagraph (A), the term 'compensation'—

''(i) includes payment under any insurance policy or health plan, or under any Federal or State health benefits program; and

''(ii) excludes—

''(I) reasonable reimbursement or allowance for expenses actually incurred;

''(II) receipt of paid leave; and

''(III) receipt of items to be used exclusively for rendering the health services in the health care professional's capacity as a volunteer described in subsection (a)(1).''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This title and the amendment made by subsection (a) shall take effect 90 days after the date of the enactment of this title

(2) APPLICATION.—This title applies to any claim for harm caused by an act or omission of a health care professional where the claim is filed on or after the effective date of this title, but only if the harm that is the subject of the claim or the conduct that caused such harm occurred on or after such effective date.

The Acting CHAIR. Pursuant to House Resolution 591, the gentleman from Florida (Mr. STEARNS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

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

I have a very simple amendment today. It's the Good Samaritan Health Professionals Amendment. This amendment would allow trained medical professionals to volunteer across State lines to assist in Presidentially declared Federal disaster sites.

My colleagues, in the aftermath of Hurricane Katrina, we saw firsthand how much of a demand there is for trained professionals at disaster sites and how there is a need to provide liability protection for these very experienced individuals.

According to the Council of State Governments, the most pressing need immediately after Katrina was the availability of medical volunteers. However, out-of-state practitioners providing medical treatment face the real possibility of noncoverage under their medical malpractice policies. Those that volunteer and treat the sick are at risk of violating existing statutes and potentially facing criminal or administrative penalties or civil liabilities.

A Baton Rouge newspaper, The Advocate, ran a story in September 2005 that talked about Dr. Mark Perlmutter, who was in the midst of giving a woman chest compressions when FEMA asked him to stop because of issues of liability protection.

CNN ran a story about a doctor who was evacuated to the New Orleans' airport. The doctor was amazed to see hundreds of sick people and wanted to help them. He wanted to ply his professional talents and heal the sick, but

was prevented from doing so because of legal liability. ''They told us, you know, you could help us by mopping the floor,'' and that's what he was forced to do. And so he mopped the floor while people died all around him.

What was the cost of inaction because of the litigious society that we have? It's incidents like these, my colleagues, that's why I introduced the Good Samaritan Health Professionals Act, H.R. 3586. It's a very simple bill, and its the foundation for this amendment to the PATH Act.

This amendment would allow medical professionals to volunteer at disaster sites. It would provide limited civil liability protection to medical volunteers who act on a good faith effort.

This is limited protection. It still allows victims to sue for serious acts such as criminal misconduct, reckless misconduct, or gross negligence. It does not cover criminal acts by health volunteers.

You shouldn't have someone that spent years in college, years in medical school, through residency, spent years as a practicing physician, push a mop when there's clear need for their services. This is wrong, and my amendment will correct that.

My colleague from Utah Mr. MATHESON and myself have a very simple amendment today. It is the Good Samaritan Health Professional Amendment. This amendment would allow trained medical professionals to volunteer across State lines to assist at presidentially declared disaster sites.

In the aftermath of Hurricane Katrina, we saw first hand how much of a demand there is for trained professionals at disaster sites and how there is a need to provide liability protection.

According to the Council of State Governments, the most pressing need immediately after Katrina was the availability of medical volunteers.

However, out-of-State practitioners providing medical treatment face the real possibility of non-coverage under their medical malpractice policies. Those that volunteer and treat the sick are at risk of violating existing statues and potentially facing criminal or administrative penalties or civil liability.

A Baton Rouge newspaper, The Advocate, ran a story in September 2005 that talked about Dr. Mark Perlmutter, who was in the midst of giving a woman chest compressions when FEMA asked him to stop because of issues of liability protection.

CNN ran a story about a doctor who was evacuated to the New Orleans airport. The doctor was amazed to see hundreds of sick people and wanted to help. He wanted to ply his profession and heal the sick, but was prevented from doing so because of legal liability. ''They told us, you know, you could help us by mopping the floor.'' And so he mopped the floors while people died around him.

What was the cost of inaction because of our litigious society?

Its incidents like this, that's why I introduced the Good Samaritan Health Professional Act, H.R. 3586. It's a very simple bill, and it's the foundation for this amendment to the PATH Act.

This amendment would allow medical professionals to volunteer at disaster sites. It would provide limited civil liability protection to medical volunteers who act on a good faith effort.

This is limited protection. It still allows victims to sue for serious acts such, as criminal misconduct, reckless misconduct or gross negligence. It does not cover criminal acts by health volunteers.

But for everyone working in good faith and doing the right thing, it will provide this basic protection to any trained medical volunteer. It will protect:

Doctors, nurses or physician assistants that treat the injured;

The psychiatrist, psychologist or therapist that provide emotional assistance to those grieving, and;

The pharmacists or respiratory therapists that helps treat chronic conditions like diabetes or COPD.

You shouldn't have someone that spent years in college, years in medical school, been through residency, and spent years as a practicing physician, push a mop when there is a clear need for their services.

This is wrong, and my amendment will correct this.

The Good Samaritan Health Professional Amendment has a broad coalition of supporters. They include:

The American College of Surgeons
The American Medical Association
The American Hospital Association
The College of Emergency Physicians
The Neurologists
The Physician Insurers Association
The Roundtable of Critical Care

These are just a sample; there are more medical groups that support this amendment. I also would like to submit these letters of support into the RECORD.

This is a good amendment. It will save lives.

AMERICAN COLLEGE OF SURGEONS,
March 21, 2012.

Hon. JOHN BOEHNER,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On behalf of the more than 78,000 members of the American College of Surgeons (ACS), I would like to express our support for amending H.R. 5, the Protecting Access to Healthcare (PATH) Act of 2011 to include H.R. 3586, the Good Samaritan Health Professionals Act of 2011 (Stearns/Matheson Amendment). The ACS supports this amendment which would ensure disaster victims' access to medically necessary care in a declared emergency.

Rapid medical response in a disaster can greatly decrease loss of life and improve outcomes for patients who desperately need assistance. Surgeons in particular, with their training in trauma and critical care, play a major role in the health care community's response to most disaster situations. Properly trained volunteers are critical in such circumstances.

However, due to inconsistent state laws and lack of federal policy, it is often unclear whether protections against unnecessary lawsuits exist for medical volunteers who cross state lines. Sadly, this lack of uniformity has greatly hindered the ability of volunteer health professionals to provide care; in some cases, volunteer health professionals have even been turned away due to uncertainty about potential liability.

Enactment of the Stearns/Matheson amendment would provide volunteer health professionals with the same level of civil immunity that they have in their home state when they provide urgently needed care in a declared emergency. Removing barriers that prohibit licensed surgeons and other qualified health care professionals from voluntarily administering medically necessary care during disasters will ensure citizens access to high-quality surgical services in the event of a crisis.

Again, we strongly support the Stearns/Matheson amendment to H.R. 5 and look forward to working with you to ensure its enactment.

Sincerely,
DAVID B. HOYT, MD, FACS,
Executive Director.

MARCH 21, 2012.

DEAR MEMBER OF CONGRESS: The undersigned organizations strongly support the Stearns/Matheson amendment to the Protecting Access to Healthcare Act (H.R. 5) and urge you to vote for the amendment when it is considered on the House floor.

The Stearns/Matheson amendment will provide liability protections to health professionals, including physicians, who volunteer to help victims of federally-declared disasters. The medical profession has a long history of stepping forward to assist disaster victims. Rapid medical response in a disaster can greatly decrease loss of life and improve outcomes for patients who desperately need care.

Thousands of health professionals volunteered in the aftermath of Hurricanes Katrina and Rita to help the hurricane victims with their medical needs. Unfortunately, much needed medical volunteers were turned away due to inconsistent Good Samaritan laws as well as confusion and uncertainty about the application of these laws. Sadly, this lack of uniformity has greatly hindered the ability of volunteer health professionals to provide care; and in many cases, health care providers could not provide these critical services, even if they wanted to, due to lack of liability protections.

The Stearns/Matheson amendment will help ensure that health professionals who volunteer their services in future disasters will not face similar uncertainties, thereby allowing them to focus on providing aid to victims. We urge a ''Yes'' vote on the Stearns/Matheson amendment.

Sincerely,

Advocates for EMS, American Association of Neurological Surgeons, American Association of Orthopaedic Surgeons, American College of Emergency Physicians, American College of Surgeons, American Medical Association, American Trauma Society, Congress of Neurological Surgeons, Orthopaedic Trauma Association, Physician Insurers Association of America, The Roundtable on Critical Care Policy, Trauma Center Association of America.

I reserve the balance of my time.

Mr. CONYERS. I rise in opposition to the Stearns amendment.

The Acting CHAIR. The gentleman from Michigan is recognized for 5 minutes.

Mr. CONYERS. Madam Chairman, the problem here is we don't have a problem. The 1997 law, which is called the Volunteer Protection Act, which I don't recall being mentioned, already provides immunity to all volunteers, not just doctors, to everybody, all volunteers, and has worked very effectively to ensure that nonprofit or government entities remain responsible for background checks.

I remind my colleagues of the Tenth Amendment to the Constitution, which is violated in H.R. 5, which preserves our system of federalism that allows States to legislate their own State tort laws and the qualifications of health care professions. What could be more simple than that?

This is one of the least debated provisions of our great Constitution. And so amendments that limit liability of health care professionals by our Congress and provide a virtual blanket immunity to any individual for any harm while acting in a volunteer capacity during a disaster violates the Tenth Amendment to the Constitution.

Madam Chairman, I reserve the balance of my time.

Mr. STEARNS. Madam Chairman, how much time do I have left on my side?

The Acting CHAIR. The gentleman from Florida has 2 minutes and 15 seconds remaining, and the gentleman from Michigan has 3 minutes remaining.

□ 1110

Mr. STEARNS. The one thing I would say to the gentleman, this is not unlimited. As I pointed out, there are provisions to allow for stipulations.

I yield 1 minute to the cosponsor on the Democrat side, Mr. MATHESON from Utah.

Mr. MATHESON. Madam Chair, I stand in strong support of this amendment, as I do to the underlying bill.

The amendment before us will provide much-needed liability protections to medical professionals to ensure that they are able to do what they are trained to do, which is save lives.

As Mr. STEARNS indicated, in the aftermath of Hurricane Katrina, it became clear that a uniformity of Good Samaritan laws is needed in this country. In several instances, qualified and certified physicians and other medical professionals from across the country were turned away from providing much-needed and critical care to victims of this disaster even when it was plainly apparent that the medical resources in the communities that were affected by the disaster were far beyond the capacity to provide adequate emergency care.

Yet doctors from Utah who volunteered to provide emergency care in situations such as this shouldn't fear unnecessary lawsuits and, above all else, should not be turned away due to uncertainty about liability protections.

I want to thank my friend and colleague, Mr. STEARNS, for his work and his partnership on this amendment. This commonsense measure to provide sensible protections to those Good Samaritans who volunteer their medical services to help those struck by disaster is an amendment we should all support. I urge colleagues on both sides of the aisle to support this bipartisan amendment.

Mr. CONYERS. Madam Chair, I raise a question to my good friend from Florida.

If you feel strongly about this, why don't we modify the Volunteer Protection Act of 1997 rather than go into the business of a constitutional violation by changing all of the State laws with this wholesale limitation of liability? Why not do it in a more appropriate way, which we would be bound to consider with you?

I yield to the gentleman if he cares to make a comment on that.

Mr. STEARNS. Mr. CONYERS, the point is this is a Federal disaster, and a Federal disaster like Katrina, in which the Federal Government is involved, you want to have a bill that's a Federal bill.

Mr. CONYERS. The Volunteer Protection Act, I say to my colleague from Florida, is a Federal bill enacted in 1997, and that's the one that I would urge you to want to join with me and others to modify if there is a problem.

What you're doing by Stearns-Matheson is that you are now changing the law in all 50 States without going through the Volunteer Protection Act over which we have jurisdiction. That's the reason that I urge my colleagues that there is no need to upend existing State laws to provide unnecessary immunity.

I reserve the balance of my time.

Mr. STEARNS. Madam Chairman, I'd just say that the 50 State laws are not allowing a physician to help. He has to mop the floors.

I yield 45 seconds to Mr. FRANKS from Arizona. He's chairman of the Constitution Subcommittee of the House Judiciary Committee.

Mr. FRANKS of Arizona. Madam Chair, I just rise in strong support of this very commonsense amendment by my friend, Mr. STEARNS from Florida.

This amendment is to provide liability protection to health care workers who volunteer to help in disaster response for their fellow human beings.

Madam Chair, rescue efforts often can be chaotic; and without the help of volunteers, government Agencies cannot always help everyone effectively. Many State tort laws, including those of Louisiana, the State hardest hit by Hurricane Katrina, are unclear in regards to who is covered under State Good Samaritan protections.

Madam Chair, this is a country of Good Samaritans. We should encourage our fellow human beings to help their fellow human beings and not offer impediments to them. I think this amendment does that, and I support it with the strongest conviction.

Mr. CONYERS. Madam Chair, that's what we're doing under the Volunteer Protection Act is protecting our volunteers, our good citizens that come forward.

Please, I would like to focus on the amendment here that provides a lesser degree of liability protection while allowing weaker State standards to remain in place.

What we need to do is to preserve our system of federalism and support the Volunteer Protection Act which is constitutional, which does not violate the prerogative of the States to manage and legislate on their own tort laws and determine the qualifications of health care professionals.

The Acting CHAIR. All time for debate has expired.

The question is on the amendment offered by the gentleman from Florida (Mr. STEARNS).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. STEARNS. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida will be postponed.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 112–416 on which further proceedings were postponed, in the following order:

Amendment No. 1 by Mr. WOODALL of Georgia.

Amendment No. 2 by Ms. BONAMICI of Oregon.

Amendment No. 6 by Mr. STEARNS of Florida.

The Chair will reduce to 2 minutes the minimum time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. WOODALL

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Georgia (Mr. WOODALL) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 173, answered ''present'' 2, not voting 22, as follows:

[Roll No. 122]

AYES—234

Adams	Broun (GA)	Culberson
Aderholt	Buchanan	Davis (KY)
Akin	Bucshon	Denham
Alexander	Buerkle	Dent
Amash	Burgess	DesJarlais
Amodei	Burton (IN)	Diaz-Balart
Bachmann	Calvert	Doggett
Barletta	Camp	Dreier
Bartlett	Canseco	Duffy
Barton (TX)	Cantor	Duncan (SC)
Bass (NH)	Capito	Duncan (TN)
Benishek	Carter	Ellmers
Berg	Cassidy	Emerson
Biggert	Chabot	Farenthold
Bilirakis	Coble	Fincher
Black	Coffman (CO)	Fitzpatrick
Blackburn	Cole	Flake
Blumenauer	Conaway	Fleischmann
Bonner	Costa	Fleming
Boustany	Cravaack	Flores
Brady (TX)	Crawford	Forbes
Braley (IA)	Crenshaw	Fortenberry
Brooks	Cuellar	Foxx

Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kissell
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
Lipinski
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paulsen
Pearce
Pence
Petri
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ruppersberger
Ryan (WI)
Scalise
Schilling
Schmidt
Schweikert
Scott (SC)
Scott, Austin
Sessions
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stivers
Stutzman
Sullivan
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner (NY)
Turner (OH)
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (AK)
Young (FL)
Young (IN)

NOES—173

Altmire
Andrews
Baca
Baldwin
Barrow
Bass (CA)
Becerra
Berkley
Berman
Bilbray
Bishop (GA)
Bishop (NY)
Bonamici
Boren
Boswell
Brady (PA)
Butterfield
Campbell
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costello
Courtney
Critz
Crowley
Cummings
Davis (CA)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Dold
Donnelly (IN)
Doyle
Edwards
Ellison
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Green, Al
Green, Gene
Grijalva
Gutierrez
Hahn
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hochul
Holden
Holt
Honda
Hoyer
Israel
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kildee
Kind
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Levin
Lewis (GA)
Loebsack
Lofgren, Zoe
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pascrell
Pastor (AZ)
Pelosi
Perlmutter
Peters
Peterson
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Reyes
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schock
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Terry
Thompson (CA)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Yarmuth

ANSWERED ''PRESENT''—2

Griffith (VA)
Sensenbrenner

NOT VOTING—22

Ackerman
Austria
Bachus
Bishop (UT)
Bono Mack
Brown (FL)
Chaffetz
Davis (IL)
Engel
Gonzalez
Jackson (IL)
Kinzinger (IL)
Lee (CA)
Lowey
Manzullo
Marchant
Marino
McIntyre
Paul
Platts
Rangel
Thompson (MS)

□ 1145

Messrs. BRADY of Pennsylvania, BARROW, GEORGE MILLER of California, BERMAN, KEATING, BUTTERFIELD, NADLER, and TONKO changed their vote from ''aye'' to ''no.''

Mr. PETRI, Mrs. CAPITO, Messrs. HUELSKAMP, HERGER, Mrs. LUMMIS, and Mr. YODER changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MS. BONAMICI

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from Oregon (Ms. BONAMICI) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 179, noes 228, answered ''present'' 1, not voting 23, as follows:

[Roll No. 123]

AYES—179

Altmire
Andrews
Baca
Baldwin
Barrow
Bass (CA)
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Boswell
Brady (PA)
Braley (IA)
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (CA)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Fudge
Garamendi
Gibson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hahn
Hanabusa
Harper
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hochul
Holden
Holt
Honda
Hoyer
Israel
Jackson Lee (TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Kaptur
Keating
Kildee
Kind
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meeks
Michaud
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pascrell
Pastor (AZ)
Pelosi
Perlmutter
Peters
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Reyes
Richardson
Richmond
Ross (AR)
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Shuler
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Yarmuth

NOES—228

Adams
Aderholt
Akin
Alexander
Amash
Amodei
Bachmann
Barletta
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Black
Blackburn
Bonner
Boren
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Carter
Cassidy
Chabot
Coble
Coffman (CO)
Cole
Conaway
Cravaack
Crawford
Crenshaw
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kissell
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paulsen
Pearce
Pence
Peterson
Petri
Pitts

Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sessions
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stivers
Stutzman
Sullivan
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner (NY)
Turner (OH)
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (AK)
Young (FL)
Young (IN)

ANSWERED ''PRESENT''—1

Sensenbrenner

NOT VOTING—23

Ackerman
Austria
Bachus
Bishop (UT)
Bono Mack
Brown (FL)
Chaffetz
Davis (IL)
Frank (MA)
Gonzalez
Jackson (IL)
Kinzinger (IL)
Lee (CA)
Lowey
Manzullo
Marchant
Marino
McIntyre
Paul
Platts
Rangel
Terry
Thompson (MS)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There is 1 minute remaining.

□ 1150

Messrs. JOHNSON of Georgia and WALZ of Minnesota changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 6 OFFERED BY MR. STEARNS

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. STEARNS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 251, noes 157, answered ''present'' 1, not voting 22, as follows:

[Roll No. 124]

AYES—251

Adams
Aderholt
Akin
Alexander
Amodei
Bachmann
Barletta
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Berkley
Biggert
Bilbray
Bilirakis
Black
Blackburn
Bonner
Boren
Boustany
Brady (TX)
Brooks
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Cardoza
Carson (IN)
Carter
Cassidy
Chabot
Coble
Coffman (CO)
Cole
Conaway
Connolly (VA)
Costa
Cravaack
Crawford
Crenshaw
Cuellar
Culberson
Davis (KY)
DeFazio
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fattah
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garamendi
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Hochul
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kissell
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Larsen (WA)
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Lynch
Mack
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paulsen
Pearce
Pence
Perlmutter
Petri
Pitts
Platts
Polis
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Reyes
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ruppersberger
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schrader
Schweikert
Scott (SC)
Scott, Austin
Sessions
Shimkus
Shuler
Shuster
Simpson
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stivers
Stutzman
Sullivan
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner (NY)
Turner (OH)
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (AK)
Young (FL)
Young (IN)

NOES—157

Altmire
Amash
Andrews
Baca
Baldwin
Barrow
Bass (CA)
Becerra
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Boswell
Brady (PA)
Braley (IA)
Broun (GA)
Capps
Capuano
Carnahan
Carney
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costello
Courtney
Critz
Crowley
Cummings
Davis (CA)
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Filner
Fudge
Green, Al
Grijalva
Gutierrez
Hahn
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Holden
Holt
Honda
Hoyer
Israel
Jackson Lee (TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Kaptur
Keating
Kildee
Kind
Kucinich
Langevin
Larson (CT)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Luján
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pascrell
Pastor (AZ)
Pelosi
Peters
Peterson
Pingree (ME)
Poe (TX)
Price (NC)
Quigley
Rahall
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Yarmuth

ANSWERED ''PRESENT''—1

Sensenbrenner

NOT VOTING—22

Ackerman
Austria
Bachus
Bishop (UT)
Bono Mack
Brown (FL)
Chaffetz
Davis (IL)
Gohmert
Gonzalez
Jackson (IL)
Kinzinger (IL)
Lee (CA)
Lowey
Manzullo
Marchant
Marino
McIntyre
Paul
Rangel
Terry
Thompson (MS)

□ 1156

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There is 1 minute remaining.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. KINZINGER of Illinois. Madam Chair, on March 22, 2012, I was unavoidably detained because fog delayed my return flight from Illinois and I was unable to cast a vote on H.R. 5, the Protecting Access to Healthcare Act. Had I been able to I would have cast an ''aye'' vote in favor of final passage of this legislation. I would also have cast an ''aye'' vote in favor of Amendment No. 1 by Representative WOODALL; a ''no'' vote against Amendment No. 2 by Representative BONAMICI; and an ''aye'' vote in favor of Amendment No. 6 by Representative STEARNS.

The Acting CHAIR. There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. YODER) having assumed the chair, Mrs. MILLER of Michigan, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, and, pursuant to House Resolution 591, she reported the bill, as amended by that resolution, back to the House with sundry further amendments adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any further amendment reported from the

Committee of the Whole? If not, the Chair will put them en gros.

The amendments were agreed to.

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

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

MOTION TO RECOMMIT

Mr. LOEBSACK. Mr. Speaker, I have a motion to recommit at the desk.

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

Mr. LOEBSACK. I am opposed, in its current form.

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

The Clerk read as follows:

Mr. Loebsack moves to recommit the bill H.R. 5 to the Committees on Ways and Means and Energy and Commerce with instructions to report the same to the House forthwith with the following amendment:

Add at the end the following new section:

SEC. 203. PROHIBITING ELIMINATION OF MEDICARE PROGRAM AND INCREASED COSTS OR REDUCED BENEFITS TO SENIORS AND PEOPLE WITH DISABILITIES.

(a) The repeal of section 1899A of the Social Security (42 U.S.C. 1395kkk) pursuant to section 202 of this Act shall not, with respect to the Medicare program under title XVIII of the Social Security Act, be construed as furthering or promoting any of the following:

(1) Eliminating guaranteed health insurance benefits for seniors or people with disabilities under such program.

(2) Establishing a Medicare voucher plan that provides limited payments to seniors or people with disabilities to purchase health care in the private health insurance market or otherwise increasing Medicare beneficiary costs.

(b) The repeal of section 1899A(c)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395kkk(c)(2)(A)(ii)) pursuant to section 202 of this Act shall not, with respect to seniors or people with disabilities, be construed as providing for or promoting any of the following:

(1) Rationing health care.

(2) Raising revenues or premiums for seniors or people with disabilities under section 1818 of the Social Security Act, section 1818A of such Act, or section 1839A of such Act.

(3) Increasing cost-sharing (including deductibles, coinsurance, and copayments) under the Medicare program for seniors or people with disabilities.

(4) Otherwise restricting benefits or modifying eligibility criteria under such program for seniors or people with disabilities.

Mr. ROE of Tennessee (during the reading). Mr. Speaker, I ask unanimous consent to dispense with the reading of the motion.

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

There was no objection.

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

Mr. LOEBSACK. Mr. Speaker, while I oppose the underlying bill, I'm offering this final amendment on a topic that I know is important to all of us here in this Chamber: our Nation's seniors. I grew up in poverty, and my grandmother took care of my siblings and me during my childhood. She relied on Social Security survivor benefits to put food on the table, and because of her, I know firsthand how important programs like Social Security and Medicare are to our seniors. In my grandmother's case, it meant the difference between putting food on the table and my family going hungry.

□ 1200

Before these historic programs were enacted, far too many seniors struggled just to meet their basic needs, let alone access the appropriate medical care to keep them safe and healthy. These important safety net programs have been incredibly successful as well in lowering senior poverty rates in America.

Just like my grandmother, today's seniors made sacrifices big and small to pave the way for a better life for future generations. Our country is what it is today because of them. That is why I believe that seniors who worked hard all of their lives should have access to the best medical care available. We need to care for them just like they cared for us.

If my colleagues join me in passing this amendment, it will be incorporated into the bill and the bill will be immediately voted on. It would ensure that the underlying bill does not eliminate guaranteed health insurance benefits for seniors or people with disabilities on Medicare. It would also ensure that the underlying bill does not lead to a voucher system, ration health care, raise premiums and copayments, or otherwise restrict Medicare benefits.

I recently held senior listening sessions around my district in Iowa. When I talk to Iowa seniors, I hear far too often that many of them are struggling just to make ends meet. That is unacceptable. No hardworking American should ever have to retire into poverty, and they certainly shouldn't see their hard-earned savings wiped out because of medical bills.

During my listening sessions, I heard time and again from seniors about how much they rely on Medicare in order to stay healthy and stay afloat financially. Seniors' medical and prescription drug costs already eat up a growing portion of their income, and many of them are stretched thin even without rising gas prices, utility costs, and an economic downturn that has hit savings hard. They pay attention to what is happening here in Washington—we should all be reminded of that—and they're upset about proposals to cut and weaken Medicare.

Our seniors did not get us into the fiscal mess that we're in today in the first place, and I think it's unfair to punish them for Washington's irresponsible behavior. They cannot and they should not bear more of this burden. Unfortunately, the Republican plan for Medicare would force seniors to do just that. It would end the Medicare guarantee, replacing it with a voucher system. The voucher would not keep up with health care inflation, and it would force seniors to pay more and more of their health care costs out of pocket.

In these tough economic times, we need to find ways to be more efficient while maintaining quality of care. There are ways to do that, such as moving Medicare from a fee-based to a value-based payment system, something that I have supported all along since I've been in this Congress. However, the Republican plan for Medicare ignores these options and, instead, undermines traditional Medicare while doing nothing to reduce health care costs. This would shift costs to beneficiaries.

For low-income seniors like my grandmother was, enacting this plan could be disastrous. That is why my final amendment would ask the Members of this Chamber simply to uphold their commitment to America's seniors.

From my listening sessions, I know that seniors don't want a voucher that forces them to buy insurance in the private market. They don't want higher costs or reduced benefits, and they don't want some newfangled program. They want to keep Medicare the way it is: a guaranteed benefit they can count on when they need it.

Seniors in my district and across the country know we have big problems, but we can strengthen and preserve Medicare without ending the guarantee—a guarantee, by the way, that is neither Republican nor Democratic, but it's an American guarantee. I think we all need to keep that in mind and remember that.

Mr. Speaker, I urge all of my colleagues in the House to join me in voting for this final amendment to preserve and to strengthen the most successful health insurance program our Nation has ever created, namely, Medicare.

Our grandparents have stood by us, folks; I think it's time that we stand by them.

I yield back the balance of my time.

Mr. ROE of Tennessee. Mr. Speaker, I rise in opposition to the motion to recommit and strongly support H.R. 5.

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

Mr. ROE of Tennessee. Mr. Speaker, 2½ years ago in this body, we debated the Affordable Care Act, and I remember being part of that debate here on the House floor. Part of that debate was to increase access for American citizens and to maintain the physician-patient relationship.

I have a letter here that was signed by 75 of us, both Democrats and Republicans, opposing, in part, because in the House version of the Affordable Care Act the Independent Payment Advisory Board was not there.

This bill is very simple. H.R. 5 is to repeal the Independent Payment Advisory Board and to vote for malpractice reform, a very simple bill, one that should be easy to support. Let's just discuss and see what occurred.

Based on the Independent Payment Advisory Board—most seniors don't

know about this—after the $500 billion has been taken out to pay for a new benefit. The Independent Payment Advisory Board are 15 unelected bureaucrats, appointed by the President and approved by the Senate to oversee Medicare spending.

Why does this bring angst to a physician? I practiced medicine for 31 years in Tennessee. My concern is I've already seen two examples of this, and this will be the third.

The first is a sustainable growth rate, a formula based on how to pay doctors in Medicare. This was established in 1997. Each year—almost every year since then—the Congress has had the ability to change this because, why? We were afraid if reimbursements to physicians were cut, access to our patients would be denied.

Let's look at what's going on right now.

Two weeks ago in this body, we extended the SGR for 10 months, preventing a 27 percent cut to physicians. Well, as a doctor, what would this mean for me in providing care for my patients? Well, what this would mean is you couldn't afford to see the patients. With IPAB, a formula based on spending, not quality or access, what would happen, I believe, is that this would occur, this 27 percent—at the end of this year, a 31 percent cut, which would be catastrophic for our Medicare patients.

So it's a very simple bill. We don't want Washington-based bureaucrats getting in between the physician-patient relationship. Medical decisions should be made between not an insurance company, and certainly not 15 unelected bureaucrats in Washington. It should be made between a patient, the doctor, and that family.

The second part of this bill, very simply, is medical-legal malpractice reform.

When I began my medical practice in Tennessee, my malpractice premiums were $4,000 a year. When I left 4 years ago to come to Congress, $74,000 a year. During that time, from 1975 until I left to come here, there's basically one insurance company in Tennessee, and over half the premium dollars that were paid during that time went to attorneys, not to the injured party. Less than 40 cents of the malpractice premium dollar in that State have gone to people who have actually been injured. It's a very bad system.

The tort system we have for medical liability now is a very bad system. It needs to be reformed. No one has ever argued about paying actual damages. No one has ever argued about paying medical bills. It's the unintended consequences of this bill that have run the cost up at no value to patients.

I strongly encourage my colleagues to support this bipartisan bill, and I yield back the balance of my time.

CONGRESS OF THE UNITED STATES,
Washington, DC, December 17, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives, Capitol Building, Washington, DC.

DEAR MADAM SPEAKER: In July, 75 members of the U.S. House of Representatives wrote to express strong opposition to proposals, such as the ''Independent Medicare Advisory Council (IMAC) Act of 2009'' and the ''Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009'' (H.R. 2718, S. 1110, S. 1380), that would divest Congress of its authority for Medicare payment policy and place this responsibility in an executive branch commission or board. This letter clearly stated opposition to the inclusion of these or any other similar proposals in health reform or any other legislation, but with recent developments, we, the undersigned members, believe it is imperative to restate our strong opposition to any proposal or legislation that would place authority for Medicare payment policy in an unelected, executive branch commission or board.

Consistent with the July letter, on November 7, 2009, the House passed the ''Affordable Health Care for America Act'' (H.R. 3962) did not include provisions to create an unelected Medicare board. Yet, at present, the Senate is considering the ''Patient Protection and Affordable Care Act of 2009,'' which includes provisions to create an ''Independent Medicare Advisory Board'' (IMAB) that would effectively end Congress's authority over Medicare payment policy.

To create an unelected, unaccountable Medicare commission as envisioned in the Senate's IMAB proposal would end Congress's ability to shape Medicare to provide the best policies for beneficiaries in our communities around the country. Through the legislative process, and from Medicare's beginning, Members have been able to represent the needs of their communities by improving benefits for seniors and the disabled, affecting policies that fill the health care workforce pipeline, and ensuring that hospitals are equipped to care for diverse populations across our individual districts. Such a responsibility is one that is not taken, nor should be given away, lightly.

These proposals would severely limit Congressional oversight of the Medicare program, and to place this authority within the executive branch, without Congressional oversight or judicial review, would eliminate the transparency of Congressional hearings and debate. Without the open and transparent legislative process, Medicare beneficiaries and the range of providers who care for them would be greatly limited in their ability to help develop and implement new policies that improve the health care of our nation's seniors. An executive branch Medicare board would also effectively eliminate Congress's ability to work with the Centers for Medicare and Medicaid Services to create and implement demonstration and pilot projects designed to evaluate new and advanced policies such as home care for the elderly, the patient-centered medical home, new less invasive surgical procedures, collaborative efforts between hospitals and physicians, and programs designed to eliminate fraud and abuse.

The creation of a Medicare board would also effectively eliminate state and community input into the Medicare program, removing the ability to develop and implement policies expressly applicable to different patient populations. Instead, national policies that would flow from such a board would ignore the significant differences and health care needs of states and communities. Geographic and demographic variances that exist in our nation's health care system and patient populations would be dangerously disregarded. Furthermore, all providers in all states would be required to comply even if these policies were detrimental to the patients they serve. Such a commission could not only threaten the ability of Medicare beneficiaries, but of all Americans, to access the care they need.

Finally, as the people's elected representatives, we much oppose any proposal to create a board that would surrender our legislative authority and responsibility for the Medicare program to unelected, unaccountable officials within the very same branch of government that is charged with implementing the Medicare policies that affect so many Americans. Therefore, we must strongly oppose the creation of IMAB, IMAC, a reconstituted MedPac or any Medicare board or commission that would undermine our ability to represent the needs of the seniors and disabled in our own communities. Again, we urge you to reject the inclusion of these or any like proposal in health reform or any other legislation.

Sincerely,

Richard E. Neal; Mary Bono Mack; Patrick J. Tiberi; Phil Gingrey; Marsha Blackburn; Joe Courtney; Stephen F. Lynch; Michael C. Burgess; John Lewis; Jerry McNerney; James P. McGovern; G. K. Butterfield; Bill Cassidy; Jim McDermott; John W. Olver; Doris O. Matsui; Fortney Pete Stark; Timothy H. Bishop; Allyson Y. Schwartz; Shelley Berkley.

David P. Roe; Brett Guthrie; Mike Rogers; Henry C. ''Hank'' Johnson, Jr.; Linda T. Sánchez; Eric J. J. Massa; Michael E. Capuano; Donna M. Christensen; Susan A. Davis; Daniel Maffei; Michael M. Honda; Laura Richardson; John Hall; Sam Farr; John Fleming; Yvette D. Clarke; Kendrick B. Meek; Alan Grayson; Mike Thompson; Edward J. Markey.

Eliot L. Engel; Gary L. Ackerman; John F. Tierney; Edolphus Towns; Carolyn B. Maloney; Nita M. Lowey; Donald M. Payne; Gregory W. Meeks; Lynn C. Woolsey; Ken Calvert; Bob Filner; Pete Sessions; Steve Buyer; Jerrold Nadler; Dana Rohrabacher; Brian P. Bilbray; Gene Green; Barney Frank; Wm. Lacy Clay; Maurice D. Hinchey.

William D. Delahunt; Bill Pascrell, Jr.; Steve Kagen; Steve Israel; Joseph Crowley; Ginny Brown-Waite.

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

There was no objection.

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

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

RECORDED VOTE

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

A recorded vote was 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 the bill, if ordered, and approval of the Journal, if ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 229, answered ''present'' 2, not voting 20, as follows:

[Roll No. 125]

AYES—180

Altmire
Andrews
Baca
Baldwin
Barrow
Bass (CA)
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Boren
Boswell
Brady (PA)
Braley (IA)
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (CA)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Green, Al
Green, Gene
Grijalva
Gutierrez
Hahn
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hochul
Holden
Holt
Honda
Hoyer
Israel
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kildee
Kind
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Luján
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pascrell
Pastor (AZ)
Pelosi
Perlmutter
Peters
Peterson
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Reyes
Richardson
Richmond
Ross (AR)
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Yarmuth

NOES—229

Adams
Aderholt
Akin
Alexander
Amash
Amodei
Bachmann
Barletta
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Black
Blackburn
Bonner
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Carter
Cassidy
Chabot
Coble
Coffman (CO)
Cole
Conaway
Cravaack
Crawford
Crenshaw
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paulsen
Pearce
Pence
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sessions
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stivers
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner (NY)
Turner (OH)
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (AK)
Young (FL)
Young (IN)

ANSWERED ''PRESENT''—2

Bartlett
Sensenbrenner

NOT VOTING—20

Ackerman
Austria
Bachus
Bishop (UT)
Bono Mack
Brown (FL)
Chaffetz
Davis (IL)
Gonzalez
Jackson (IL)
Kinzinger (IL)
Lee (CA)
Lowey
Manzullo
Marchant
Marino
McIntyre
Paul
Rangel
Thompson (MS)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1229

Messrs. CARNEY and BECERRA changed their vote from ''no'' to ''aye.''

So the 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.

RECORDED VOTE

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

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 223, noes 181, answered ''present'' 4, not voting 23, as follows:

[Roll No. 126]

AYES—223

Adams
Aderholt
Akin
Alexander
Amodei
Bachmann
Barletta
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Black
Blackburn
Bonner
Bonner
Boren
Boustany
Brady (TX)
Brooks
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Cardoza
Carter
Cassidy
Chabot
Coble
Coffman (CO)
Cole
Conaway
Cravaack
Crawford
Crenshaw
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Dreier
Duncan (SC)
Ellmers
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Gerlach
Gibbs
Gibson
Gingrey (GA)
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Hochul
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
King (NY)
Kingston
Kissell
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paulsen
Pearce
Pence
Peterson
Petri
Pitts
Platts
Pompeo
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Scott, David
Sessions
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stivers
Stutzman
Sullivan
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner (NY)
Turner (OH)
Upton
Walberg
Walden
Walsh (IL)
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Yoder
Young (AK)
Young (FL)
Young (IN)

NOES—181

Altmire
Amash
Andrews
Baca
Baldwin
Barrow
Bass (CA)
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Boswell
Brady (PA)
Braley (IA)
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (CA)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Duncan (TN)
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Garrett
Gohmert
Green, Al
Green, Gene
Griffith (VA)
Grijalva
Hahn
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono

Holden	Miller, George	Schiff
Holt	Moore	Schrader
Honda	Moran	Schwartz
Hoyer	Murphy (CT)	Scott (VA)
Israel	Nadler	Serrano
Jackson Lee (TX)	Napolitano	Sewell
Johnson (GA)	Neal	Sherman
Johnson (IL)	Olver	Shuler
Johnson, E. B.	Owens	Sires
Kaptur	Pallone	Slaughter
Keating	Pascrell	Smith (WA)
Kildee	Pastor (AZ)	Speier
Kind	Pelosi	Stark
Kucinich	Perlmutter	Sutton
Langevin	Peters	Terry
Larsen (WA)	Pingree (ME)	Thompson (CA)
Larson (CT)	Poe (TX)	Tierney
Levin	Polis	Tonko
Lewis (GA)	Posey	Towns
Lipinski	Price (NC)	Tsongas
Loebsack	Quigley	Van Hollen
Lofgren, Zoe	Rahall	Velázquez
Luján	Reyes	Visclosky
Lynch	Richardson	Walz (MN)
Maloney	Richmond	Wasserman Schultz
Markey	Ross (AR)	Waters
Matsui	Rothman (NJ)	Watt
McCarthy (NY)	Roybal-Allard	Waxman
McCollum	Ruppersberger	Webster
McDermott	Rush	Welch
McGovern	Ryan (OH)	Wilson (FL)
McNerney	Sánchez, Linda T.	Woolsey
Meeks	Sanchez, Loretta	Yarmuth
Michaud	Sarbanes	
Miller (NC)	Schakowsky	

ANSWERED ''PRESENT''—4

Broun (GA)	Sensenbrenner
King (IA)	Woodall

NOT VOTING—23

Ackerman	Davis (IL)	Manzullo
Austria	Duffy	Marchant
Bachus	Gonzalez	Marino
Bishop (UT)	Gutierrez	McIntyre
Bono Mack	Jackson (IL)	Paul
Brown (FL)	Kinzinger (IL)	Rangel
Castor (FL)	Lee (CA)	Thompson (MS)
Chaffetz	Lowey	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1236

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. DUFFY. Mr. Speaker, on rollcall No. 126, I was unavoidably detained. Had I been present, I would have voted ''aye.''

PERSONAL EXPLANATION

Ms. LEE of California. Mr. Speaker, I was not present for rollcall votes 122–126. Had I been present, I would have voted ''no'' on No. 122, ''yes'' on No. 123, ''no'' on No. 124, ''yes'' on No. 125, and ''no'' on No. 126.

THE JOURNAL

The SPEAKER pro tempore. The unfinished business is the question on agreeing to the Speaker's approval of the Journal, which the Chair will put de novo.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

□ 1240

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I am pleased to yield to my friend from Virginia (Mr. CANTOR), the majority leader, for the purpose of inquiring of the schedule for the week to come.

Mr. CANTOR. I thank the gentleman from Maryland, the Democratic whip, for yielding.

Mr. Speaker, on Monday, the House will meet at noon for morning-hour and 2 p.m. for legislative business. Votes will be postponed until 6:30 p.m. On Tuesday and Wednesday, the House will meet at 10 a.m. for morning-hour and noon for legislative business. On Thursday, the House will meet at 9 a.m. for legislative business, and the last votes of the week are expected no later than 3 p.m. No votes are expected in the House on Friday.

Mr. Speaker, the House will consider a few bills under suspension of the rules, which will be announced by the close of business tomorrow. The House will also consider H.R. 3309, the Federal Communications Commission Process Reform Act, offered by Congressman GREG WALDEN of Oregon. And for the second year in a row, the House will consider and pass a budget resolution. Mr. Speaker, we also expect to take further action on our Nation's infrastructure, with authority expiring at the end of next week. Finally, I am hopeful that the Senate will clear the House's bipartisan JOBS Act today. This bill has been delayed too long, but I look forward to the President signing it into law.

I thank the gentleman from Maryland, and I yield back.

Mr. HOYER. I thank the gentleman for his information with respect to the legislation that is going to be considered next week.

I would note that he talks about the highway bill, the infrastructure bill that is pending. Obviously, we had expected to consider that bill on the House floor. On our side, at least, our expectation was that it was going to be considered a number of weeks ago. It has not come to the floor here. As I understand it, we are now talking about an extension of some period of time. We are concerned that you rightfully, personally and as a party, made it very clear that certainty was an important aspect of growing our economy. That's a proposition on which I agree. I think you are absolutely right. I think that we need to create certainty and, clearly, we need to create jobs.

I said this morning, Mr. Leader, to the press—and I'm sure you get it as well—that the public says to me: When are you guys going to start working together? When are you going to get something done in a bipartisan way?

The Senate has done that, I will say to my friend. The Senate has done it in an overwhelming fashion. They had 74—it would have been 75, but Mr. LAUTENBERG was absent but was for the bill. So 75 percent of the Senate, three-quarters of the Senate voted for what was a very bipartisan bill. And, as a matter of fact, half the Senate Republicans essentially voted for that bill.

As you know, it had a technical flaw in the bill in that it had revenues which need to be initiated in the House of Representatives. Representative TIM BISHOP of New York has introduced the Senate bill, which has overwhelming support in the United States Senate and, very frankly, in my view, would have at least 218 votes in this House if it were put on the floor.

The Speaker has said in the past that he is committed to letting the House work its will, obviously referring to the open amendments process. But if a bill doesn't come to the floor, we have no opportunity either to amend or to vote. That's been one of our problems, of course, with the jobs bill that the President proposed that we had hoped would have been brought to the floor which has not been to the floor.

But I ask my friend, rather than continue to delay—and both sides have done that on the highway bill—to give that confidence, of which you have spoken and others on your side of the aisle have spoken I think absolutely correctly, in order to give the confidence that we can, in fact, act, that we can work in a bipartisan fashion, I would ask my friend whether or not he, as the majority leader, would be prepared to bring the Bishop bill to the floor, which, again, is the Senate bill, supported by 75 Members of the United States Senate, half of the Republican caucus in the Senate, and which will give some degree of certainty for a highway program which clearly is also a jobs bill and will have an impact on almost 2 million jobs and maybe another million jobs along the way.

We think that's the way that would be good for our country to proceed, and it would send a message—because I think it would get bipartisan support if you brought it to the floor—that it would send a good message to the country that, yes, from time to time, we can work together. And, very frankly, Mr. Leader, if we did that, it would be consistent with every transportation bill that we have passed since 1956 under Dwight Eisenhower, where we worked together in a bipartisan fashion. This is the first time that I have experienced a partisan divide—I mean, people have had differences of opinion, but a partisan divide on the highway bill.

As you know, Senator BOXER and Senator INHOFE came together to agree. I think that's a pretty broad ideological spectrum of the United States Senate. They came together, they agreed, and they led the effort to pass that bipartisan bill.

I would very much hope that, Mr. Majority Leader, that you could bring that bill to the floor and see whether or not, in fact, it could pass. I think that would be good for the country.