

NAYS—179

Abercrombie	Hall (TX)	Oberstar
Ackerman	Hastings (FL)	Obey
Allen	Hill (IN)	Olver
Baca	Hilliard	Ortiz
Baird	Hinchey	Owens
Baldacci	Hinojosa	Pastor
Baldwin	Hoeffel	Payne
Barcia	Holden	Peterson (MN)
Barrett (WI)	Hooley	Phelps
Becerra	Hoyer	Pomeroy
Bentsen	Inslee	Price (NC)
Berkley	Jackson (IL)	Rahall
Berman	Jackson-Lee	Rangel
Berry	(TX)	Reyes
Bishop	Jefferson	Rivers
Blagojevich	John	Rodriguez
Blumenauer	Johnson, E. B.	Roemer
Bonior	Jones (OH)	Roybal-Allard
Borski	Kanjorski	Rush
Boswell	Kaptur	Sabo
Boyd	Kennedy	Sanchez
Brady (PA)	Kildee	Sanders
Brown (FL)	Kilpatrick	Sandlin
Brown (OH)	Kind (WI)	Sawyer
Capps	Klecza	Schakowsky
Capuano	Klink	Scott
Cardin	Kucinich	Serrano
Carson	LaFalce	Sherman
Clayton	Lampson	Shows
Clyburn	Lantos	Sisisky
Condit	Larson	Skelton
Conyers	Lee	Slaughter
Costello	Levin	Smith (WA)
Coyne	Lewis (GA)	Snyder
Cramer	Lipinski	Spratt
Crowley	Lofgren	Stabenow
Cummings	Lowe	Stenholm
Davis (FL)	Lucas (KY)	Strickland
Davis (IL)	Luther	Stupak
DeFazio	Maloney (CT)	Tanner
DeGette	Maloney (NY)	Tauscher
Delahunt	Mascara	Taylor (MS)
DeLauro	McCarthy (MO)	Thompson (CA)
Dingell	McCarthy (NY)	Thompson (MS)
Dixon	McDermott	Thurman
Doggett	McGovern	Tierney
Dooley	McKinney	Towns
Doyle	McNulty	Turner
Edwards	Meehan	Udall (CO)
Engel	Meek (FL)	Udall (NM)
Eshoo	Meeks (NY)	Velazquez
Etheridge	Millender	Visclosky
Evans	McDonald	Waters
Farr	Minge	Watt (NC)
Filner	Mink	Weiner
Ford	Moakley	Weygand
Frank (MA)	Moore	Wise
Frost	Moran (VA)	Woolsey
Gejdenson	Nadler	Wynn
Gephardt	Napolitano	
Gonzalez	Neal	

NOT VOTING—24

Boucher	Gordon	Oxley
Clay	Hall (OH)	Pelosi
Clement	Hefley	Pickett
Cook	Markey	Shuster
Danner	Martinez	Stark
Dicks	Matsui	Stearns
Fattah	Miller, George	Vento
Goodling	Murtha	Waxman

□ 2303

Messrs. DEUTSCH, WEXLER, ROTHMAN, and MCINTYRE changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PEASE). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote

is objected to under clause 6 of rule XX.

Such rollcall votes, if postponed, will be taken tomorrow.

SENSE OF THE HOUSE CONCERNING USE OF ADDITIONAL PROJECTED SURPLUS FUNDS TO SUPPLEMENT MEDICARE FUNDING

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 535) expressing the sense of the House of Representatives concerning use of additional projected surplus funds to supplement Medicare funding, previously reduced under the Balanced Budget Act of 1997.

The Clerk read as follows:

H. RES. 535

Whereas Congress is responsible for oversight and spending under the Medicare program;

Whereas the Balanced Budget Act of 1997 was passed in response to major economic concerns about inflation in costs in the Medicare program;

Whereas the savings resulting from enactment of that Act exceeded the estimates at the time of enactment and has resulted in payment rates for classes of providers below the rates previously anticipated;

Whereas the Congress adjusted some elements of the Medicare program in the Balanced Budget Refinement Act of 1999;

Whereas a significant number of Medicare+Choice organizations is withdrawing, or considering withdrawing, from the Medicare+Choice program because of inadequate reimbursement rates;

Whereas the Medicare prescription drug bill pending in the Congress will delay the date by which Medicare+Choice organizations must decide whether to remain in the Medicare+Choice program from July 1, 2000, to October 1, 2000; and

Whereas, because of improved economic performance, it is anticipated that the Congressional Budget Office in its mid-year re-estimates will project dramatically increased non-Social Security surpluses above those assumed in the adoption of the most recent Congressional Budget Resolution for fiscal year 2001: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that, upon receipt of such mid-year CBO re-estimates, the House of Representatives shall promptly assess the budgetary implications of such reestimates and provide for appropriate adjustments to the Medicare program during this legislative session.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from Tennessee (Mr. TANNER) each will control 20 minutes.

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

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

Mr. Speaker, House Resolution 535 is an important resolution because just as we have discussed, and the House has passed, Medicare modernization and prescription drugs for seniors, there are still other areas of Medicare that continue to need adjustment.

If we have additional surplus money, we want to make sure that we alert both the seniors who are the recipients

and the providers of that Medicare care that we believe a high priority is to make sure that a significant portion of that surplus is reserved for reinvestment back into Medicare.

Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. BILBRAY) and ask unanimous consent that he be permitted to control the time and yield further blocks of time.

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

There was no objection.

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

Mr. Speaker, today we have had a discussion between Democrats and Republicans that I think the American people would prefer to see us avoid in the future. Yesterday, we had some bipartisan efforts of people reaching out across the aisle to work for betterment of this country.

Resolution 535 is one of those resolutions that we can do this. This is a chance for us to reach across the aisle in a bipartisan effort to show that Medicare really is a priority of this body; and hopefully, in the future we will find the funds to be able to do all of things that both sides and America would like us to do.

Mr. Speaker, it is my pleasure to yield such time as she may consume to the gentlewoman from New Mexico (Mrs. WILSON). Let me point out to every Member, this Member has fought hard to raise this issue, to articulate the issue that we have to continue to do better for our seniors when it comes to Medicare. She has been a constant champion of the fact that Republicans and Democrats need to put their differences aside and truly work for our seniors in America.

□ 2310

Mrs. WILSON. Mr. Speaker, I thank the gentleman from California (Mr. BILBRAY) for his kind words.

Mr. Speaker, when it became clear that we were going to do a prescription drug bill, there is a part of this bill in title 3 that we did not get a chance to talk about much today, and that has to do with some changes that are needed for Medicare to provide some urgent relief to hospitals in this country, particularly in a program called Medicare+Choice. About half of the citizens in my district in New Mexico choose Medicare+Choice. It is kind of managed care for Medicare. They have the Lovelace Senior Plan or the Presbyterian Senior Plan.

The problem is that the reimbursement rates for Medicare+Choice and for most of the other Medicare programs in the State of New Mexico are terribly low. In New Mexico, if one is a part of the Lovelace plan, Lovelace gets about \$370 per member per month to cover one's health care in the rural parts of New Mexico. It is about \$430 a month if one is in Albuquerque. That compares with a reimbursement rate in

Staten Island, New York of \$811 and in Dade County, Florida of almost \$800 per member per month.

The reason is that New Mexico had managed care so much earlier than other parts of the country. We had one of the earliest HMOs in the country, Lovelace Hospital. We had controlled many of the costs that everyone else was struggling to control. But we were penalized for that, penalized for that continuing efficiency.

Now as CIGNA pulls out of Medicare+Choice and a lot of other different States, we are facing that potential in New Mexico as well. But it is not unique to New Mexico. There are seven States who are suing the Federal Government because of the inequities in reimbursement under Medicare, and they are right.

Mr. Speaker, what I wanted to try to do is to get some immediate relief so that seniors do not lose their preferred medical care coverage. The 1st of July is when a lot of companies have to decide whether they are going to stay in Medicare+Choice. The bill that we passed earlier today will extend that deadline to the 1st of October.

But there are some things I think we can do without hurting those States that have high reimbursement rates to get some changes and some fixes for those of us who are on the low end of the scale and losing money because the Federal Government is inadequately subsidizing Medicare.

Many of those fixes were included in this bill, but I wanted to see them accelerated because the need is not 2004, the need is now. Companies are having to decide whether the 1st of July or at the latest the 1st of October whether they are going to continue to be able to insure people under Medicare.

For a variety of procedural reasons, that is not possible today and was not possible in the bill, mostly because we do not have the new estimates from the Congressional Budget Office of projected surplus next year.

But everyone in this House on both sides of the aisle knows that we have a problem. It seems to me the right thing to do is to stand up and acknowledge to the people of this country that we know we have a problem with Medicare reimbursement rates, whether it is for physicians or Medicare+Choice. We know that, within a month, we are probably going to have some new projections on the amount of money we will have available, and we also know and agree that a significant amount of that money has to be put into health care in this country.

I support a prescription drug benefit, and I supported the Patients' Bill of Rights. But if one does not have a doctor, a Patients' Bill of Rights or prescription drug benefit does not do one much good.

While we were not able to solve everything in this bill, I would like to see this House come together in a common commitment to fix some of the problems in Medicare and the immediate

crisis facing our health care system. Because if we do not, we are going to have a lot of seniors who are told that they are going to have to change their doctors or that they can no longer have Medicare+Choice.

While some may think that that really affects those who are at the upper end of the income scale, that is not the case in my district. Those who are most likely to choose Medicare+Choice have an income of below \$20,000 a year. That is the option for those who cannot afford some pretty expensive Medigap plans.

In fact, as this chart shows, this is insurance coverage by household income in Albuquerque, New Mexico. Those who rely most on Medicare HMOs are here. Almost 60 percent of those who have an income of \$20,000 and less are on Medicare+Choice, and it goes down from there. Those who have Medicare Plus, a supplement, are generally upper income folks. But still almost half of the folks in Albuquerque, New Mexico have Medicare+Choice.

I would like to see us commit here tonight that we will use some of the surplus that we expect to be available when the budget estimates come out to fix some of the immediate problems with Medicare, to accelerate some of these appeals mechanisms, and to provide some immediate relief for the people who are providing health care to our seniors.

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

Mr. Speaker, we do not have any particular problem with this House resolution, but it is almost surrealistic what we are seeing here. This is not even a concurrent resolution, it is a sense of the House.

Now, 2 weeks ago, in the committee, I offered in statutory legislative language an amendment to the debt reduction bill that would have done just exactly what this House resolution says ought to be done, and we would have it passed in law by the House tonight for immediate relief for the providers in this country if it had not been ruled out of order by the majority.

So it is hard to understand, given the fact that we have had three different times we could have actually done something in law rather than come down here with a House resolution after this procedure that we witnessed all day today.

Number one, it could have been put on the debt reduction package. Number two, it could have been put in the Medicare lockbox. Number three, an hour ago, the majority voted down the motion to recommit which says exactly what this House resolution says.

So when I say it is hard to understand, it is hard to understand from the standpoint of asking what can we do as Members of Congress to bring relief to these procedures. We could have already done it. We could have already had the Medicare restoration fund that captures these unanticipated savings. We could already be in the process of

giving immediate relief to the country. But, no, it was our idea, so I guess that that is not the way this place runs.

We come with this House resolution. Real good. It says a lot of things that everybody agrees with, but it does not do anything.

I understand being ruled out of order when it is not one's idea, and I understand, I guess, a little something about politics. But when one has an amendment on a bill that, in my view, is clearly in order 2 weeks ago that would have done this in law and been passed so that we could replenish the Medicare trust fund with these captured savings that were unanticipated when the Balanced Budget Act of 1997 was passed, and then have a resolution to say we really want to do this, it is awfully hard for some of us to believe in the credibility of this one pager that says we really want to do something to help the providers in Medicare.

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

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

Mr. Speaker, I would just like to say to the gentleman from Tennessee (Mr. TANNER) that I am not on his committee. The gentlewoman from New Mexico (Mrs. WILSON) and I are on the Committee on Health of the Committee on Commerce.

Let me assure my colleagues that, even those of us who were on the Committee on Commerce get ruled out of order every once in a while when we know it is the right thing to do, it is common sense to do, but sometimes procedures here stand in the way. I had that on the floor here this week three times. So I appreciate that.

We did not have a chance to vote with the gentleman from Tennessee on that issue. We did not have a chance to stand up and speak for him on that motion at that time. But we do have a chance now using this procedure to say party affiliation, procedural guidelines, whatever we want to talk about, there is a consensus here that, if the projections come in the way we are hoping it comes in, that Medicare should be a priority.

□ 2320

And I would just say to my colleague from Tennessee that I understand his frustration; I have gone through the same thing. Here is a chance for us, though, to say, yes, we can do what the gentleman wanted to do on that day and at least move the ball forward. And as it was said with campaign finance reform, let us not let the perfect be the enemy of the good. This is an opportunity to move one step forward, and I hope the gentleman will support us on that.

Mr. Speaker, I yield 4 minutes to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. First of all, Mr. Speaker, let me commend the gentleman from California and the gentlewoman from New Mexico for bringing forward

what I think is an opportunity for this entire House to make a strong and unanimous statement that this surplus that we have, a lot of it, can be placed on Medicare.

Achieving a balanced budget has long been a Republican economic objective, and it is a good one; and we can credit our current strong vibrant economy to our fiscal discipline. But damaging our health care system was never our intent in passing the Balanced Budget Act. It was the intent of Congress to slow the growth of Medicare to a manageable 5 percent. However, in 1999, it was actually a negative 1 percent. Hopefully, we can all agree that is not acceptable.

The CBO now reports that Medicare reductions achieved through the Balanced Budget Act are \$124 billion larger than Congress actually voted for, \$124 billion; and part of that, a good bit of that, is because of HCFA's restrictive interpretations.

Our hospitals are experiencing increasingly smaller profit margins, and we should all realize that this threatens to diminish the quality of care that they provide. Credible sources report that these margins are currently at their lowest point in years. And some valid responsible authorities are projecting that within 4 years half our Nation's hospitals will actually be losing money.

In my home State of Alabama, studies are projecting that 70 percent of our hospitals are currently running in the red and several will close. We cannot stand by and let this happen and call it an unintended consequence. That is what this resolution is about. We owe our constituents more than that. Our challenge is to find a balance, responsibly controlling government spending on one hand and sufficiently funding our hospitals on the other.

America can boast the finest health care system in the world. There have been incredible advances in medicine in recent years, with the real hope of miraculous achievement in defeating illness, pain and suffering. Just this week the magnificent accomplishment of mapping the human Genome was formally announced, bringing with it the promise of major breakthroughs in preventive medicine. But all of these new miraculous developments come with a hefty price tag. Our hospitals must have sound and reliable financial support to be able to offer these new miracles to all of us. Making sure that our financial support is available is a mandate we in Congress cannot sidestep. We should be true to our obligations.

I close by saying, Mr. Speaker, that there is a bottom line in this discussion. When our loved one is seriously ill, only the very best medical care is good enough. We must not fail to provide sufficient funding to assure such care is reasonably available to all. American medical care is an honest and undeniable bargain by any measure. Its true cost is not measured in dollars and cents alone but also in the health and well-being of all our people.

For that reason, I enthusiastically support this resolution and hope that people on both sides of the aisle will join with me.

Mr. TANNER. Mr. Speaker, I yield myself 1 minute to reply to my friend from California that I understand about being ruled out of order. What I am saying is an hour ago we had a motion to recommit that did this. The gentleman could have joined with us on that motion to recommit, any number of my Republican colleagues could have if they had wanted to do something now.

This resolution is fine, but it ought to be a special order instead of coming into the legislative process. We have a bill, 4770, that will do this very thing. And so I understand that the gentleman is not on the committee, but what goes on from here is nothing except, well, we are going to do something later. Another promise.

Mr. Speaker, I yield 4 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I think this is kind of a fitting ending to this day. My colleague, the gentleman from Tennessee (Mr. TANNER), says he cannot understand what this is. Well, let me give my colleagues my interpretation. This is press release time. The Washington Post called this the Pretend Congress, and this is a piece of activity we are going to go through here that pretends to do something.

Now, there was a cartoonist by the name of Walt Kelly who created Pogo. And one of his most famous cartoons is one in which they are searching for who is doing some bad deed, and finally Pogo gets up and says, "We have found the enemy, and they is us." Well, the fact is that it is the Congress that created the problems. We should not be blaming bureaucrats.

The balanced budget amendments of 1997 were designed by the Republicans, passed by the Republicans, to do one thing, let Medicare wither on the vine, as we know it, and create Medicare+Choice. Now, a few of us voted no because we knew enough about the situation to know what they were doing.

This is not mystery. This is no bureaucratic created problem. It was created by the Subcommittee on Health of the Committee on Ways and Means, and they did it without talking to us. They did not want to have any input. They said, we know what we are doing; we are going to get rid of that old Medicare that does not work, and we are going to have all these HMOs out everywhere.

We have had HMOs out all over everywhere, and they have been pulling out. A million people have lost their health coverage in this country in the last couple of years because of the system that my colleagues tried to push onto people. My colleagues wanted to push them all into the arms of the Medicare HMOs, and today it is bogging that having had that experience

with HMOs and insurance companies not working, that we would go through and set up exactly the same process for delivering prescription medications to seniors in this country.

My Republican colleagues are telling 90-year-old women like my mother to go out and find themselves an insurance company and ask them if they will sell them a policy that they can afford. And if they cannot afford it, well then they can go on down to the welfare office and can ask them for money, and they will cover what cannot be covered because they are poor. That is what we set up today.

And the fact is, if I had done that, I would want to come out here and put something in that looked like I was really in favor of really fixing Medicare. But as the gentleman from Tennessee (Mr. TANNER) has said, we have had opportunity after opportunity. That bill that went through today was done without Democratic input. Not one single amendment was accepted in the committee. Our Republican colleagues did not allow an amendment out here. And when it fails, and my colleagues are looking around for who did this, who put this plan out here, they will have to take a good look in the mirror, because they did it to themselves; and now they are trying to fix it.

I will bet when this is all done that all the money that we saved in 1997 we will have put back into the budget piece by piece by piece, always blaming somebody else; well, they looked at the rules too carefully, or they were too tight-fisted or something.

□ 2330

But it was us who made those cuts. And we offered them right here \$21 billion to fix Medicare, and we were ruled out of order. Everybody said, no, we cannot do that. But less than an hour later, we are seriously out here looking as though there is money right around the corner.

We know that money is there. They know that money is there. But they did not want to do it tonight. They want to do it tomorrow. Vote yes. It will not hurt anything.

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

Mr. Speaker, my colleague the gentleman from Washington (Mr. MCDERMOTT) said we know the money is there. Look, there are some of us that are trying to work bipartisan here and have for years. But every time we try to reach across the aisle, we hear the rhetoric about the fact that we are just not spending money, let us keep going.

Why this resolution is here is because not until July are we going to know if the money is there. Now, if this is a sin of saying let us not spend or commit money until we have at least the commitment down there that we think is coming down the pike. We are trying to be responsible with this.

Now, in all fairness, I just asked any colleagues on the other side how did

they sign on to the DeGette bill. I have signed on to the bill of the gentlewoman from Colorado (Ms. DEGETTE). And though she may be a member of the minority party, she is right on how to address that issue.

The gentleman from Kentucky (Mr. WHITFIELD) has got a Republican version. But always we have to take the political cheap shot. We have always got to do that.

For once, even on a resolution, if it does not say enough, then it does not do that much damage. Can my colleagues not, at least, try to meet us halfway? Those of us that have met them halfway more times than they have ever come across our side of the aisle are standing here today and asking them, those of us that have crossed the aisle consistently, that on this resolution, all it is saying is, in July, let us see if the money is there and let us make the effort.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Mexico (Mrs. WILSON).

Mrs. WILSON. Mr. Speaker, I know my colleagues wanted to do it today. So did I. And that is why I offered an amendment in the Committee on Rules.

The reason I was not ruled in order is probably the same reason my colleagues were not ruled in order is because we cannot spend money in this House that we do not yet have. But we all know in this room that we expect new estimates within a month.

It would have, I think, been irresponsible on our part to not move forward on prescription drugs and to keep this process moving forward to get a prescription drug plan. And I support that. But I would not want to have held that back to get a fix on more Medicare fixes this year and in the year starting in October just because we do not have the budget estimates yet. And that is the nature of this.

I have kind of taken this up as my personal cause on this side of the aisle. I think some of my colleagues sitting here know that I make it a pretty regular effort to do things in a bipartisan way, whether it is on low-power radio or Superfund or a whole variety of other things we are working on, Baca land in northern New Mexico, and quite a few things in the Committee on Commerce. That is just kind of who I am, and that is my style.

I commit to work with those of my colleagues who are concerned about Medicare reimbursement rates and the disparity in different parts of the country to try to make this work as soon as we have the budget estimates to do so. I give my colleagues my personal word on that.

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

Mr. Speaker, I just say to my friend from California (Mr. BILBRAY), as I said at the outset of my remarks, we are going to support his resolution here. And there is nothing wrong with it.

It is just that when, at the end of this day, we had probably one of the most

important Medicare bills in the history of the program here, this prescription drug benefit, and his leadership would not even give the Democrats an alternative.

Today, an hour ago, we tried to do this very thing this resolution does in a motion to recommit. Not one single vote for help. And so, when my colleague says they reach across the aisle more than we do, when their leadership does not even give us an alternative, reduces us to nothing more than a motion to recommit and we cannot get that, when we have a bill that does this, when we have an amendment that did this, after a while we begin to say, what is going on here? Do these people really want to do this?

We have the wherewithal to do it. It is called a bill. This resolution is fine, and we are going to support it, and we are going to reach across every time we can.

But I just tell my colleague, when we try to work legislatively and we are virtually shut out, as we were today, from any input at all and then after the fact, as the gentleman from Washington (Mr. MCDERMOTT) said, they have a resolution that says we are going to promptly do this, well, we could have promptly done it 2 weeks ago or tonight but we did not.

So I do not want to be partisan, either. I just say there is a way to do this called a bill and we are ready, willing, and able to do it. In fact, we would have done it an hour ago if we would have had some help.

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

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

Mr. Speaker, I would just like to say that I appreciate the support for this resolution. I just want to articulate that the gentleman is not the only one who gets frustrated the way sometimes this House is run. A lot of people were frustrated the way the House was run before the new majority took over.

Remember, I have got family that served with the gentleman that talked about the bad old days. So everybody gets frustrated with the leadership, even those of us on the majority side.

What we are asking as two individuals here and three individuals here that represent a lot of people out there that do not hold the Members responsible for party affiliation. When my colleagues look across the aisle, I hope they see the gentleman from California (Mr. BILBRAY), representative of San Diego, not just a Republican. And I think we need to do more of that.

The gentlewoman from New Mexico (Mrs. WILSON) is probably the most sincere individual that could ever work on this issue, and I think that my colleagues recognize that she has worked hard with both sides of the aisle.

The gentleman from Alabama (Mr. BACHUS) has made his efforts. All we are asking is that here is a place we may disagree, we might have had disagreements today, but let us finish off

the evening by at least saying this is something we can meet halfway and start building a future from now on rather than talking about animosity in the past.

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

The SPEAKER pro tempore (Mr. PEASE). The question is on the motion offered by the gentleman from California (Mr. BILBRAY) that the House suspend the rules and agree to the resolution, H.Res. 535.

The question was taken.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

DRUG IMPORT FAIRNESS ACT OF 1999

Mr. BILBRAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3240) to amend the Federal Food, Drug, and Cosmetic Act to clarify certain responsibilities of the Food and Drug Administration with respect to the importation of drugs into the United States.

The Clerk read as follows:

H.R. 3240

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 "Drug Import Fairness Act of 1999".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Pharmacists, patients, and other persons sometimes have reason to import into the United States drugs that have been approved by the Food and Drug Administration ("FDA").

(2) There have been circumstances in which—

(A) a person seeking to import such a drug has received a notice from FDA that importing the drug violates or may violate the Federal Food, Drug, and Cosmetic Act; and

(B) the notice failed to inform the person of the reasons underlying the decision to send the notice.

(3) FDA should not send a warning notice regarding the importation of a drug without providing to the person involved a statement of the underlying reasons for the notice.

SEC. 3. CLARIFICATION OF CERTAIN RESPONSIBILITIES OF FOOD AND DRUG ADMINISTRATION WITH RESPECT TO IMPORTATION OF DRUGS INTO UNITED STATES.

Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by adding at the end the following subsection:

"(g)(1) With respect to a drug being imported or offered for import into the United States, the Secretary may not send a warning notice to a person (including a pharmacist or wholesale importer) unless the following conditions are met:

"(A) The notice specifies, as applicable to the importation of the drug, that the Secretary has made a determination that—

"(i) importation is in violation of section 801(a) because the drug is or appears to be adulterated, misbranded, or in violation of section 505;