did any of these things happen when we raised the minimum wage to $5.15 in 1996? As our economy is still strong and unemployment low, clearly none of these negative predictions came to be after the legislation went into effect.

Mr. Speaker, I insist we revisit the issue of raising the minimum wage. The American worker is depending on all of us.

EXTENDING SYMPATHY TO CITIZENS OF ATLANTA

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

Mr. ISAKSON. Mr. Speaker, I rise today on behalf of all the Members of this Congress to extend our sympathy to the citizens of Atlanta, to the families of the victims in the tragedy that took place yesterday, and the prayers of this House for those that are in the hospitals recovering.

I also want to extend my gratitude to the hospitals of Grady, of Northside and St. Joseph's, and to law enforcement in Atlanta and the EMT's.

And I close by saying this. In the days ahead, all of us will seek to find something to blame in this tragedy. Today, in America, we all share the blame. Violence has become all too repetitive, all too often. It is time for us in this Congress, for those in the media, for everybody in all facets of our society to understand that violence has now permeated mainstream America, and we must begin to act to change the minds and hearts of Americans, or all that we have loved and treasured will begin to be broken down no matter how great and strong our economy.

REPUBLICANS PUT ON THIS EARTH TO CUT TAXES

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

Mr. CHABOT. Mr. Speaker, I heard a criticism the other day of the way that Republicans talk about our budget proposal that I think has some merit.

The Republican budget proposal contains three major elements: Saving Social Security and Medicare, paying down the national debt, and tax relief. However, this critic pointed out that Republicans are talking almost exclusively about tax cuts and not emphasizing that we are also saving Social Security and Medicare and paying down the national debt. I think that criticism is valid, but I think I know why that is the case, too.

Republicans are just so excited about the tax cuts that some of them forget to talk about the other vital elements of the budget proposal. Let us face it, Republicans were put on this earth to cut taxes. We are the tax-cutting party, because we believe that people should have more power and control over their own lives and that the government should have less.

Let us be clear once and for all. The Republican budget proposal stands for saving Social Security and Medicare, paying down the national debt and, yes, also cutting the American people's taxes.

RECESS

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to clause 12 of rule 1, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 18 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1248

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PEASE) at 12 o'clock and 48 minutes p.m.

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO UNITED STATES AIR FORCE ACADEMY

The SPEAKER pro tempore. Without objection, and pursuant to 10 U.S.C. 9355(a), the Chair announces the Speaker's appointment of the following Members of the House to the Board of Visitors to the United States Air Force Academy:

Mr. THOMPSON, California and Mr. DICKS, Washington.

APPOINTMENT OF CONFEREES ON S. 900, FINANCIAL SERVICES ACT OF 1999

Mr. LEACH. Mr. Speaker, I ask unanimous consent that the motion to instruct be printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. LAFAULCE) and the gentleman from Iowa (Mr. LEACH) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. LAFAULCE).

Mr. LAFAULCE. Mr. Speaker, I ask unanimous consent to yield 15 minutes for the purpose of controlling time to the gentleman from Michigan (Mr. DINGELL), the distinguished ranking member of the Committee on Commerce.

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

There was no objection.

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

I move that the motion to instruct be adopted by this House, Mr. Speaker. This bill is very important to American consumers for many reasons, particularly two.

It includes the important new financial privacy protections to ensure that financial institutions do not share private financial information with other companies. Consumers are tired of the barrage of phone and mail solicitations to which they are now subjected and the careless use of their credit card and other private information which makes these solicitations possible. This bill would protect consumers against such practices and impose significant new responsibilities on financial institutions to protect consumer privacy.

This bill also contains strong community reinvestment provisions to ensure that consumers and communities receive fair and nondiscriminatory access to financial services in the new marketplace.

Our motion, therefore, instructs the House conferees in negotiations with the Senate to insist on the strongest protections against the misuse of confidential information and inappropriate marketing practices, and ensuring that consumers receive notice and the right to say "no" when a financial institution wishes to disclose a consumer's nonpublic personal information for use in telemarketing, direct marketing, or other marketing through electronic mail; and

2. Consumers enjoy the benefits of comprehensive financial modernization legislation that provides robust competition and equal and nondiscriminatory access to financial services and economic opportunities in their communities; and

3. Consumers have the strongest consumer financial privacy protections possible, including protections against the misuse of confidential information and inappropriate marketing practices, and ensuring that consumers receive notice and the right to say "no" when a financial institution wishes to disclose a consumer's nonpublic personal information for use in telemarketing, direct marketing, or other marketing through electronic mail; and

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

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. LAFAULCE) and the gentleman from Iowa (Mr. LEACH) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. LAFAULCE).

Mr. LAFAULCE. Mr. Speaker, I ask unanimous consent to yield 15 minutes for the purpose of controlling time to the gentleman from Michigan (Mr. DINGELL), the distinguished ranking member of the Committee on Commerce.

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

There was no objection.

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

I move that the motion to instruct be adopted by this House, Mr. Speaker. This bill is very important to American consumers for many reasons, particularly two.

It includes the important new financial privacy protections to ensure that financial institutions do not share private financial information with other companies. Consumers are tired of the barrage of phone and mail solicitations to which they are now subjected and the careless use of their credit card and other private information which makes these solicitations possible. This bill would protect consumers against such practices and impose significant new responsibilities on financial institutions to protect consumer privacy.

This bill also contains strong community reinvestment provisions to ensure that consumers and communities receive fair and nondiscriminatory access to financial services in the new marketplace.

Our motion, therefore, instructs the House conferees in negotiations with the Senate to insist on the strongest
possible provisions on financial privacy, community reinvestment and nondiscrimination and medical privacy.

Mr. Speaker, I urge my colleagues to support the motion.

Mr. Speaker, this bill is very important to American consumers for two reasons. It includes important new financial privacy protections to ensure that financial institutions do not share private financial information with other companies. Consumers are tired of the barrage of phone and mail solicitations to which they are now subject, and the careless use of their credit card and other private information which makes these solicitations possible. This bill would protect consumers against such practices and impose significant new obligations on financial institutions to protect consumer privacy. This bill also contains strong community reinvestment provisions to ensure that community banks, thrifts and credit unions are not safeguarded from fair and non-discriminatory access to financial services in the new marketplace that is evolving.

This motion therefore instructs the House conferees, in negotiations with the Senate, to insist on the strongest possible provisions on financial privacy, community reinvestment and non-discrimination, and medical privacy.

H.R. 10 contains strong financial privacy provisions which received virtually unanimous support, passing this House 427–1. Those provisions: Impose an affirmative obligation on all financial institutions to protect confidential information; require full disclosure of privacy policies and consumer rights to opt-out; direct regulators to establish standards for assuring the safety and confidentiality of financial records; prohibit the sharing of account numbers and access codes for marketing, including direct mail and e-mail marketing; permit consumers to block release of their private financial information for use in marketing; limit entities that receive financial information from reusing or reselling it to others; prohibit pretext calling and other deceptive means of obtaining private information; and provide for strong regulatory enforcement of privacy rights.

The Senate financial modernization bill—S. 900—contains only minimal privacy provisions regarding pretext calling. This motion instructs the House conferees to insist on the financial privacy provisions and the strongest consumer financial privacy protections possible.

Secondly, H.R. 10 contains strong community reinvestment provisions that ensure that publicly insured financial institutions equally and fairly serve all members of their communities in the new financial system that this bill otherwise creates. H.R. 10 ensures that community reinvestment laws remain relevant and viable in a more integrated financial services system. These provisions have enjoyed bipartisan support throughout this process.

Community reinvestment legislation was passed by Congress over twenty years ago to combat discrimination by publicly insured financial institutions and provide equal access for all Americans who qualify for home and small business loans and to community groups seeking loans to revitalize poor neighborhoods.

H.R. 10 maintains the central importance of these laws in our financial services system. S. 900 contains three provisions which substantially weaken community reinvestment laws and render them virtually irrelevant in the changing financial marketplace. President Clinton has made it abundantly clear that he will veto any bill that contains the Senate provisions. In contrast, the Administration can strongly support the bill passed by the House and the community reinvestment provisions it contains. This motion instructs House conferees to insist on the strongest possible community reinvestment provisions, reflected in the House product.

Finally, H.R. 10 contains a provision authored by Congressman Ganske on medical privacy which the Administration, privacy groups, medical groups and many commentators argue contain substantial loopholes. In their current form, these provisions in fact represent less protection than what is available under existing law, and pre-empt strong privacy provisions in the states. The Administration strongly opposes the Ganske provision. This motion instructs House conferees to insist that any medical privacy provisions give consumers the strongest medical privacy protections possible, prevent financial institutions from disclosing or making unrelated uses of health, medical and genetic information without consumer consent, and therefore recede to the Senate.

I urge my colleagues to support the motion.

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

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

First, Mr. Speaker, let me say I intend to yield 15 minutes to the gentleman from Iowa (Mr. Ganske) as a representative of the Committee on Commerce at the appropriate point.

Mr. Speaker, I agree with, in fact, the first two provisions of the motion to instruct and will reluctantly accede to the third, but I am compelled to note that the House owes the medical privacy provisions that this motion to instruct seeks to strike from the bill presents one of the most ironic circumstances that I have dealt with as a committee chairman.

The same Members who have quite properly insisted on placing privacy protections for consumers of financial services in the bill are now strenuously insisting on deleting from it a provision that would offer consumers powerful new protections in an area where there is perhaps the greatest sensitivity to privacy, that relating to personal health and medical records.

I continue to believe that the medical privacy provision championed by the gentleman from Iowa (Mr. Ganske) and others has been widely misunderstood both by Members of this body and outside groups that have expressed certain skepticism.

Here let me be clear. The provisions would block the sharing of the individually identifiable customer health, medical, and genetic information by an insurance company either within an affiliate structure or with outside third parties unless the customer expressly consents to such disclosure with a limited number of exceptions related to medical research or normal and customary underwriting in business functions.

It should be emphasized that the Ganske language does nothing to undermine the more comprehensive medical privacy proposals being developed by other congressional committees or by the Clinton administration. The provision plainly states that it will not take effect or shall be overridden if and when Congress enacts comprehensive medical privacy legislation satisfying the requirements of the Health Insurance Portability and Accountability Act of 1996.

Moreover, as both the gentleman from Iowa (Mr. Ganske) and I made clear as legislative intent in House debate on the subject, the provision in no way undermines the authority of the Secretary of Health and Human Services to promulgate regulations in this area if the Congress fails to meet its statutory mandate by August 21 of this year.

In short, the provision was carefully designed to supplement rather than supplant or supersede other private and public sector legal and institutional barriers to the sharing of private health and medical information.

As I have repeatedly stated, I was prepared to work at conference to further clarify the bill or to give the HHS rulemaking would not be preempted. I also agreed to seek to remedy any imperfections in language that might realistically be deemed to compromise patient confidentiality. However, in light of the controversy generated by the provision and because I would like to proceed in as bipartisan a fashion as possible in producing a financial modernization bill that the President can sign into law, I am prepared not to fight instruction that the House recede to the Senate on this issue. But in so doing I would reiterate my belief that opposition to the Ganske approach is based upon an underlying premise that is frail and upon outside advocacy that may be misdirected.

Accordingly, it is my hope that those Members and outside associations that have so vehemently opposed addressing the issue of health and medical privacy in this bill will re-examine their positions. Little, after all, would seem more self-apparently inappropriate than to prohibit sharing of medical records within or outside financial services companies without patient consent.

Further congressional administrative actions to fashion law and regulation in this complex area will no doubt be modeled in large part on the provision that this instruction is designed to delete. But here the irony should further be underscored that HHS discretion, which the gentleman from Iowa (Mr. Ganske) and I are totally willing to protect, in any event
only goes to health insurance. So what is happening here is that the motion to instruct is knocking out legislative protections possible, including protections against the misuse of confidential information and inappropriate marketing practices. The conferences must also ensure that consumers receive notice and the right to say no when a financial institution chooses to disclose a consumer’s nonpublic personal information for use in telemarketing, direct marketing, or other marketing through electronic mail. Now I ask my colleagues what is wrong with that? What is wrong with that?

Second, the motion instructs the House conferences to ensure that consumers have the strongest medical privacy protections possible and thereby prevent financial institutions from disclosing or making unrelated uses of health and medical and genetic information without the consent of their customers and strike the flawed Ganske language that would weaken protections under current State or federal laws or regulations.

Finally, the motion by the gentleman from New York, the LaFalce motion, instructs the House conferences to ensure that consumers enjoy the benefits of comprehensive financial modernization.

These are critical issues that need to be properly addressed. There are tremendous opportunities for innovation and for entrepreneurship in finances, banking moves online. But we have a difference that is developing between the privacy keepers, on the one hand, and the information reapers on the other.

The CEO of Capital One Financial recently noted, credit cards are not banking, they are information. And the data miners fully intend to exploit their access to and control of consumer personal information for fun and for profit.

We believe that is wrong. We believe that the LaFalce instructions are critical to ensuring that, as we move forward with all of the new efficiencies in the financial services world, that we also ensure that we are protecting individuals against those that might seek to take advantage of it.

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

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

Mr. Speaker, I think there has been a lot of miscommunication, misunderstanding about the medical privacy provisions that we passed here in the House. I will just briefly go over those.

Those medical privacy provisions would not preempt State privacy laws, they would not obstruct future State privacy laws, they would not allow insurance companies to sell medical information to drug companies, they would not block the Secretary of HHS from issuing regulations under HIPAA, which interestingly, as the chairman of the Committee on Banking and Financial Services pointed out, is limited to health insurance, whereas the provisions on medical privacy in the bill that we passed here in the House goes for all insurance. So the conference included the entire HIPAA. And it would say that, unless a customer specifically agreed, an insurer could not give any medical information to its affiliates, much less any third party; and I think that is important.

I think the bill would be better with that provision in there. Now, there has been a lot of controversy about some of the exceptions in that provision, and I have shared with all of the colleagues in the House, Republican and Democrats, a “Dear Colleague” that goes into some detail on this, which I will insert into the RECORD at this time.

Mr. MARKEY. Mr. Speaker, I yield myself 3 minutes.

The SPEAKER pro tempore. Does the gentleman seek to claim the time allocated to the gentleman from Michigan (Mr. DINGELL)?

Mr. MARKEY. I do, Mr. Speaker.

The SPEAKER pro tempore. Without objection, the gentleman from Massachusetts is recognized.

There was no objection.

Mr. MARKEY. Mr. Speaker, I rise in strong support of the LaFalce motion to instruct the House conferences. With this legislation the Congress will be breaking down the Glass-Steagall walls that long have restricted limited affiliations between banks, securities firms and insurance companies and allow these financial services institutions to merge and to affiliate with one another.

I support this effort. The gentleman from Michigan (Mr. DINGELL) supports this effort. This is not really what we are debating here today. The great truth, however, of finance in the information age is that it is the telecommunication wires that have reshaped the financial services industry. It is the telecommunication revolution which has made possible this global financial revolution. It is this telecommunication revolution which makes it possible for the first time to really bring together all of these various services in a way that can serve individuals and nations much more efficiently than they ever have in the past.

But, as I have said before, there is a Dickensian quality to this wire. It is the best of wires, and it is the worst of wires simultaneously. Yes, it can make the banking and insurance and brokerage industries more efficient, but yes, at the same time it can also compromise the privacy of every single family in the United States.

The LaFalce motion to instruct says that the conferences shall ensure, consistent with the scope of the conference, that consumers have the strongest consumer financial privacy protections possible, including protections against the misuse of confidential information and inappropriate marketing.
a basic business function. These activities are then covered by the insurance company for a policy in the first place. Companies may use third party billing agencies and administrators to process this information. A company that doesn't today, may tomorrow; and we need to be sure that they can, so that consumers can be served.

Reporting, Investigating or Preventing Fraud or Material Misrepresentation: There are certainly times when individuals may not want to disclose all of their health information for valid reasons. However, there are other times that include health information relevant to whether a policy would be issued or what would be charged for that policy. For example, nonsmokers usually pay less for insurance than smokers. On the other hand, if you have a chronic illness your premium may be higher. If an individual is engaged in fraud of material misrepresentation, it is highly unlikely that they would give their consent so that the insurer could disclose this information, for example, to its law firm to undertake an investigation or to the insurance commissioner or other appropriate authorities.

Risk Control: Credit card companies and other financial institutions involving the issuing, conduct internal audits to ensure the integrity of the billing system. During this process, the company verifies that merchants, credit card users and transactions are legitimate. These audits are done on random samples in which transactions dealing with medical services are not segregated or treated differently from other types of transactions. However, if this exception were not included, the company would be prevented from verifying the validity of transactions dealing with medical services. This would open the door for much fraud and abuse or the inability for consumers to write checks or use credit cards to pay for medical co-payments.

Research: Insurers do research for many purposes. For example, life insurers will do research related to health status and mortality to price more accurately underwrite and classify risk. This provision is needed so that insurers can continue to do research.

Information to the Customer's Physician: This exception is necessary to allow insurers to release information to an individual's physician. For example, during the underwriting process, an insurer may conduct blood tests on an applicant. If the blood tests indicate that there may be something wrong, the insurer needs to be able to share the information with the individual's designated physician or health care provider so that they, together, can determine the best course of treatment. Enabling the Purchase, Transfer, Merger or Sale of Any Insurance Related Business: No one has a crystal ball. A company does not know in advance when they will engage in these activities. It would be impractical if not impossible to obtain the tens of thousands of authorization forms signed and returned to the company so that a company could purchase or transfer mergers or sell insurance related business. Without this language, companies will not be able to serve their customers by forging new business frontiers. This provision provides all insurance companies the purchasing company will have to abide by the same restrictions as the original company.

As a general rule or Specifically Permitted by Federal or State Law: There are some states that require or specifically permit the disclosure of medical information by insurers. For example, a company may have to disclose health information to a state insurance commissioner so that the commissioner can determine if the company is complying with state law. A company may have information that would help the police in an investigation where they suspect an individual has murdered someone in order to collect life insurance benefits. This language is necessary for these and other important public interests. I hope that this brief explanation of the exceptions to the strong "opt-in" provisions of the medical privacy provisions of H.R. 10 clears up some misperceptions. During floor debate, I said I would work to include explicit language stating that this provision does not prohibit the secretary of HHS from issuing regulations on medical privacy as specified by HIPAA.

Furthermore, I hope consensus can be achieved on a comprehensive medical privacy bill. However, I remain convinced that the financial services entities that combine banking, securities and insurance are created by H.R. 10, it is important that personal health data can be shared inside, or outside, the company with the patient's permission. That is what the Ganske Amendment did.

If you need additional information, please contact Heather Eilers at 5–4426.

Sincerely,

Greg Ganseke, Member of Congress.

Mr. Speaker, I think that this is a very important bill. And I do not think this bill should rise or fall on this issue. Clearly, there are a number of privacy groups that have thought that the provisions were not as complete. On the other hand, many of the insurance companies we have received communications from have said that they are more than what they are comfortable with.

So at this point in time, I would agree with the chairman of the Committee on Banking and Financial Services, and I would accede to his decision in terms of the motion to instruct. I hope that we are able to come up with a comprehensive bill on medical privacy. Our committee will be working on that. I regret that without this provision I think the bill is not as strong as it should be, but I think that we will be working on this in other venues.

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

Mr. LaFalce. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Minnesota (Mr. Vento).

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in support of the LaFalce motion to the effect.

Mr. Speaker, the fact is that the Senate and House bills, with regard to financial modernization, are significantly different. While they both embrace financial modernization and extend new authority to the insurance securities and banking entities, bringing about really a revolution in terms of the way we engage our financial services, the fact is that it is only the House bill that offers strong, new consumer protections that are vitally necessary in that electronic world, including the privacy provisions that have been written by the Committee on Banking and Financial Services and the Committee on Commerce and strongly supported on a bipartisan basis, at least on the floor.

The fact is that the House provisions ought to be retained in terms of this conference. I think that the House can empower the conference by, in fact, supporting this motion and giving us a strong vote and a reendorsement in defiance to the Senate’s position, which has very few protections or hardly addresses this basic issue. They do have pretext-calling and some other matters, but we need the power of the House behind us in conference, and I think it should be.

Similarly, the provisions that deal with service to consumers and community reinvestment, the House bill actually expands on those powers and maintains them, while the Senate bill actually stops them in their tracks and would reduce the effectiveness of financial institutions in terms of serving their community, taking away the responsibilities, and these are basically the consumer games.

On the issue of medical privacy, obviously there is a great deal of concern here. Many are happy with the bird in hand and the language in the bill and think that it can be corrected; others are looking at two birds in the bush and think that they can actually gain more through the administrative procedures and through a separate act in terms of action. I would just point out that most of the issue with medical privacy and the way we approach it has dealt with what doctors and patients do. The fact of the matter is we need to address insurance companies, we need to address life insurance, we need to address disability. The facts I think are somewhat clouded today as to what that affects.

So I think people will keep somewhat of an open mind. I think we are seeking a common cause in terms of the greatest privacy, the greatest medical privacy that can be written. I just think it is important to point out with the House issue of privacy that we are with financial institutions going to have the strongest statement in terms of law with regards to privacy that exist in any entities, any businesses in this nation, including commercial and many other businesses, and the Internet itself, incidentally, which has few, if any restrictions on it, and even there, the regulators, which some had sought to empower, are offering voluntary compliance as adequate.

Perhaps it changes the minds of consumers as they see the technological advances eroding barriers, linking heretofore random data, shrinking the world, and sharing their personal profiles with others.
In these post-H.R. 10, post-Know Your Customer days, we have become, finally, a very sensitized Congress. With every day it becomes clearer that the American economy is running on data: customer data. We collect, disseminate, study, share and peddle profiles and preferences of people to run companies, enforce laws, and sell products. But what voice and choice does any consumer have over their own personal and public data? What is the right balance of free information flow vs. privacy protection? Should the only choice a consumer has be that she/he doesn't like their privacy policies?

This House passed strong privacy provisions when it passed H.R. 10 earlier this month. This motion to instruct would serve as a notice to the House Conferences and the Senate’s Conferences that we will be looking for the strongest privacy provisions for American consumers. As passed by the House, the bill affords consumers with new important safeguards for their financial privacy, putting banks, credit unions, securities and insurance firms at the forefront of many other U.S. sectors.

H.R. 10 provides strong affirmative provisions of law to respect and provide for a consumer’s financial privacy and to have a privacy policy that meets federal standards to protect the security and confidentiality of the consumer’s personal information. H.R. 10 prohibits the sharing of consumer account numbers for the purposes of third party marketing. This protection applies to all consumers and requires no action on their part. Consumers can “opt-out” of sharing of information with third parties in a workable fashion that protects consumers’ privacy while allowing the processing of services they request. And importantly, regulatory and enforcement authority is provided to the specific regulators of each type of financial institutions.

H.R. 10 specifically prohibits the repackaging of consumer information. Data can not be resold or shared by third parties or profiled or repackaged to avoid privacy protections. Further, consumers must be notified of the financial institution’s privacy policy at the time that they open an account and at least annually thereafter.

These are giant steps forward. These common sense, hopefully workable provisions were added to the substantial protections already included in H.R. 10 that prohibit obtaining customer information through false pretenses. H.R. 10 specifically prohibits what is currently in law for consumers to protect their privacy.

Mr. Speaker, what is clear is that a law that requires consumer action is appropriate but third party and affiliate “opt-out” is hardly the first and last word in consumer rights. We can do more and can do better. The fact is that a number of consumers have such a right today under Fair Credit Reporting Act or institution policies. Even with that authority, only a small fraction of individuals, less than 1 percent, exercise their consumer choice. I have never chided you or us a positive feeling of a remedy but what does it really accomplish—what is the bottom line? Does it provide choice if only a fraction of 1% responds to “opt out”?

The fundamentals of this are that people want to know what information is being collected, how and why. U.S. citizens want to know how their personal information is being protected. Consumers want to know to correct false information. Americans want to know how the laws are enforced. Businesses seeking customers ultimately need to bear this in mind, or they will not be in business. Business wants a fair opportunity to provide options and use information to better serve their customers. Business wants a level playing field across economic sectors. Business wants to develop the means to keep data confidential and accurate. The Conferences must advance the strongest possible privacy provisions within this framework.

Additionally, this motion would instruct the Conferences to seek the best possible conclusion for consumers and communities so that they remain a core constituency that can benefit from increased consumer mod- ernization. Consumers must enjoy the benefits of comprehensive financial modernization legislation that provides vigorous competition. All consumers regardless of race, class or creed, need and deserve access to financial services and economic opportunities in their communi- nities, wherever they may be in this country: rural or urban, suburban or exurban, East or West, and North and South. All are entitled to investment in their communities and equal op- portunity for credit and services. The Con- ferees for the House will do well for this House and the American people if they en- deavor to balance such consumer concerns with those of the giants of industry seeking to blend their products and companies to be competitive for the future.

Thousands upon thousands of successful partnerships have been forged to provide local businesses with access to credit, homeowners with mortgages and community development organizations with the wherewithal to make a difference in their neighborhoods. Laws like the Community Reinvestment Act provide the framework for these partnerships and we must work to strengthen CRA and other laws that help assure the creditworthy needs of communities are served fairly.

Finally, Mr. Speaker, with regard to medical privacy, we seek to have the highest and best protections for consumers that have relationship- ships with financial institutions that could receive and share confidential health and medical information. While I have differences regarding the language in the motion, we all agree that we must seek the strongest provi- sions that prevent the unauthorized disclosure of health, medical and genetic informa- tion. Further we should not weaken any fed- eral or state protections in law or regulation.

As most are aware, there is currently a much larger process outside of this bill. Many interested parties are working on either a legisla- tive solution or the possibility of regulations from the Department of Health and Human Services to address comprehensively for all health industry businesses and entities, re- gardless of corporate structure, that will hope- fully in the very near future. As we think about what is the definitive and proper practice for sharing medical information. To the degree that that process works to cover the affiliated structures, life insur- ance and property and casualty insurance entities that would affiliate with banks, we do not want to undermine it. Where it is not suffi- cient, we hope to complement and strengthen it.

This motion should not be out of line with what we have tried to do—in good faith—in the House-passed version of financial services modernization. The statements of so many members allude to their firm belief that we should not and would not supersede the work of HHS in response to the 1996 Health Insur- ance Portability and Accountability Act of 1996 (HIPAA), passed by this Congress and signed into law. We must assure that the language neither supplants nor has a negative effect on the law or the regulations. Moreover, we must be absolute in assuring that stronger state laws are not preempted. Finally, we must be diligent in assuring that we are prepared for the possibility that the HHS regulations or po- tential law passed by Congress regarding the very carefully at whatever was done to other insurance entities. In that event, we must with no uncertainty, obtain the strongest possible medical privacy provision so that all Americans are not vulnerable to the misuse of such information in credit or other decisions made by affiliated companies.

I understand that this is a priority of the President, who spoke to this in his State of the Union address to the Nation. We share the goal that we must make true medical privacy a reality for all Americans as soon as is prac- tically possible. Medical privacy should not be breached by financial modernization. The ulti- mate legislative and regulatory solutions must properly affect the structures we hope to create under financial services modernization so that we are not left with a void that leaves customers vulnerable to inappropriate medical information sharing.

So I rise in support, and I urge Mem- bers to give us this vote of confidence. Mr. LEACH. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey, Mrs. ROUKEMA.

Mrs. ROUKEMA. Mr. Speaker, I find myself in agreement, mostly in agree- ment with what has been said on dif- ferent sides of this subject today, and I certainly agree with my chairman and with what the gentleman from Iowa (Mr. GANSKE) has stated in terms of conceding to this motion to instruct.

However, I think there are two im- portant things that should be included here, and one is that when we are in conference, we not only have to look very carefully at what is done with the Ganske amendment, as this motion instructs us to do; but also, we want to be very sure that in doing this, we are not opening up another loop- hole. I think we all have good inten- tions here and intellectual competence in this area so that we can constructively and honestly address that.

Mr. Speaker, I also want to state that I have been working for a long time, both in my subcommittee with the Ganske amendment, as well as outside the sub- committee, with those medical groups that have raised some legitimate con- cerns on this subject. I am going to con- tinue those hearings on privacy,
whether it be financial privacy or medical privacy; but whatever is done here is only a first-step foundation. The issue of privacy, more comprehensive, will have to be addressed by this Congress across the board. I want to be part of that project.

Mr. MARKEY. Mr. Speaker, I ask unanimous consent to transfer control of the remaining time of the Committee on Commerce minority to the gentleman from Michigan (Mr. DINGELL), the ranking member of that full committee.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in support of the motion to instruct the conferees on H.R. 10, the Financial Services Act of 1999.

I support the idea that we should have responsible modernization legislation. That legislation must contain strong protection for taxpayers, consumers, investors, that ensures the safety and soundness of the banking system, as well as the efficiency, competitiveness and integrity of the capital markets of the United States, and also fair and nondiscriminatory access to our economic opportunities by all Americans.

I voted against H.R. 10 on final passage earlier this month because it did not meet these tests, and I intend to work hard in the House-Senate conference to improve this legislation so that all Members can support it in good conscience. We cannot come back to the House with a conference report that does not give consumers adequate control over their private, financial, and medical records.

Mr. Speaker, I would note that the so-called health information protections in H.R. 10 serve only to protect the insurance industry, not consumers. Proponents of the medical privacy provisions of H.R. 10 contend that consent is required before the insurer discloses personally identifiable health information to another party, but they never note that there is a two-page list of exemptions to this rule that basically guts any real right of the consumer to be protected, or his right of consent.

In fact, there is nothing in H.R. 10 that would prevent insurers from selling one’s health information for profit. Neither are there any restrictions whatsoever on companies or companies that receive one’s medical records may do with them. They are free to sell one’s records to employers, information brokers, banks, pharmaceutical companies, or anybody else they please for good motive or bad. Once one’s medical privacy, they cannot get it back.

The medical privacy provisions of H.R. 10 would actually preempt strong State protections already in effect. It would wipe out over 57 State laws, many of which have stricter safeguards for sensitive medical information such as mental illness or HIV. There is also a question of whether enactment of the medical privacy provisions of H.R. 10 would preclude authority otherwise already available to the Secretary of Health and Human Services, to go forward with the issuance of real consumer privacy protections that apply to health information held by doctors, hospitals, and government agencies.

In addition, the bill contains some rather laughable financial privacy provisions that tell a bank simply to disclose its privacy policy, if it has one. H.R. 10 also gives very weak protection to investors for transfers of sensitive financial information to third parties, leaving the door wide open for sharing one’s personal financial information with affiliated telemarketers and others.

By voting to instruct the conferees on this bill, the House will be on record in favor of the minimal provisions to protect consumer privacy, both with regard to financial records and health records. A vote in favor will also put the House on record in favor of ensuring that this legislation will allow all consumers to ensure not only the benefits of the legislation and nondiscriminatory access to financial services and their communities. I urge all of my colleagues to support this motion.

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

Mr. GANSKE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, as chairman of the Committee on Ways and Means for the last 10 years, I have been working on confidentiality legislation. That legislation in 1996 and working on the legislation commonly known as HIPAA, there was a clear understanding that more and more as we computerize records and indeed, even today with paper records, we need a greater degree of security to provide for confidentiality for patients. That is why we purposefully put Congress under the gun. That is, we said in that legislation in 1996 that Congress had 3 years to act. If Congress did not act in 3 years, the Secretary of Health and Human Services would then write the provisions.

One would think that Congress would act on its own. I have to tell everyone within my voice, Congress is an institution that almost always reacts in favor of the movement of this product is absolutely appropriate. It says that the paragraph will not take effect, or shall cease to be effective, on and after the date on which legislation is enacted that satisfies the requirements. It says, if Congress does its job, this provision does not do its job.

I want Members to understand what the Democrat motion does. It says, they will recede to the Senate on that provision I just read. What is in the Senate? Nothing. In other words, they are asking us to recede to the Senate on nothing.

Everybody knows the phrase, less is more. This drives to the position that nothing is maximum. It removes the anvil. It means there is less pressure on us to do our job that we said we were going to do 3 years ago. Where is the pressure to force the appropriate compromise if we have no pressure at all on these Members, without the administration to write the regulations?

We think Congress ought to do its job. It makes no sense whatsoever to recede to the Senate when the Senate has nothing. The only useful language is to say that this is a holder, and it will be here until Congress does its job.

Please, let Congress do its job using the time frame that forces us to agree. Do not vote on this. Do not recede. Do not say there should be nothing; instead of the very excellent amendment that the gentleman from Iowa (Mr. GANSKE) put in that is in this measure.

When we go to conference, keep the anvil. Make us do our job.

Mr. VENTO. Mr. Speaker, I claim the time of the gentleman from New York (Mr. LAFAULCE), in his absence.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, despite the rosy picture of unprecedented wealth on Wall Street and the strong performing economy for some Americans, many Americans still face social and economic problems. As conferees prepare to negotiate H.R. 10, the Financial Services Act of 1999, there are two ways that the conferees can help to eliminate the unfortunate predicament of America’s less fortunate persons.

First, conferees must take an uncompromising position on strong Community Reinvestment Act language. The
Congressional Record—House  
July 30, 1999

Community Reinvestment Act was enacted in 1977 to cure the lingering effects of past discrimination and to re-vitalize underserved communities. But the CRA also failed to help Americans realize the dream of ownership.

CRA has led to over $1 trillion in loans to low- and moderate-income communities. However, language in the Senate’s financial services modernization bill, S. 900, threatens to undermine the progress of community revitalization. The Senate bill undermines the Community Reinvestment Act by weakening the CRA enforcement provisions in H.R. 10, eliminating the ability of community groups to participate in the CRA review process, and by providing unconscionable small bank exemptions that would cause harm to rural communities.

Congress must be strong on CRA. Americans deserve nothing less.

Second, we must understand that lifeline banking provides banking services to low-income persons, and in the last bank modernization bill an amendment to lifeline banking was not included. This time we were not able to get it in on the House side, but it is extremely important. It is necessary because over 30 million Americans do not have bank accounts with a traditional financial institution. Lifeline banking is good for consumers and good public policy that will help to bring America’s poor into the banking mainstream.

Additionally, the conferees must address the important issue of financial privacy. So I would submit for the conferees that they should include this information.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from California (Ms. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, I rise in strong support of this motion to instruct the conferees on H.R. 10. In particular, I want to commend the gentleman from New York (Mr. LaFALCE) and the gentleman from Michigan (Mr. DINGELL) for the language contained in this motion regarding the importance of medical privacy.

Let me say first that I strongly believe this Congress should pass financial services modernization this year. Laws governing this industry are outdated and inefficient. They increase consumer costs and they limit consumer choices. They need to be changed. But in so doing, we must ensure that we protect not only the privacy of consumers’ sensitive financial information, but also of their medical records, as well.

As a nurse, I know that in order to be effectively treated, patients must share all the health information with their doctors, therapists, and other providers. No diagnosis is complete without it. But if patients do not feel that their information will stay put with their health care provider or insurance company, if they cannot be sure that their most private and sensitive information will be kept confidential, they will not be so forthcoming. That would hurt patient care.

I wish to submit now for the record a list of national organizations opposed to the medical records provisions in H.R. 10.

In contrast to the House version of H.R. 10, we must ensure that the financial modernization legislation that comes out of conference protects patient privacy. With that in mind, I urge a yes vote on this motion to instruct.

The list of organizations opposed to the medical records provisions in H.R. 10 is as follows:

Organizations Opposed to the Medical Records Provisions in H.R. 10

Physician Organizations
American Medical Association
American Psychiatric Association
American College of Surgeons
American Society of Physicians/American Academy of Family Physicians
American Psychological Association

Nurse Organizations
American Nurses Association
American Association of Occupational Health Nurses

Patient Organizations
National Breast Cancer Coalition
National Alliance for Citizens with Disabilities Privacy Working Group
National Association of People with AIDS
AIDS Action
National Organization for Rare Disorders
National Mental Health Association
Myositis Association
Infectious Disease Society

Privacy/Civil Rights Organizations
Consumer Coalition for Health Privacy
American Civil Liberties Union
Bazelon Center for Mental Health Law

Labor Organizations
AFL-CIO
American Federation of State, County, and Municipal Employees
Service Employees International Union

Senior and Family Organizations
American Association of Retired Persons
National Senior Citizens Law Center

Planned Parenthood Federation of America, Inc.
National Partnership for Women and Families

American Family Foundation

Other Organizations
American Academy of Child and Adolescent Psychiatry
American Association for Psycho-social Rehabilitation

American College of Occupational and Environmental Medicine
American Counseling Association
American Lung Association
American Occupational Therapy Association
American Osteopathic Association
American Psychoanalytic Association
American Society of Cataract and Refractive Surgery
American Society of Clinical Psychopharmacology
American Society for Gastrointestinal Endoscopy
American Society of Plastic and Reconstructive Surgeons
American Thoracic Society

Anxiety Disorders Association of America
Association for the Advancement of Psychiatry
Association for Ambulatory Behavioral Health
Center for Women Policy Studies
Children & Adults with Attention-Deficit/Hyperactivity Disorder
Corporation for the Advancement of Psychiatry

Federation of Behavioral, Psychological, and Cognitive Sciences
International Association of Psychological Social Rehabilitation Services
Legal Action Center

National Association of Alcoholism and Drug Abuse Counselors
National Association of Developmental Disabilities Councils
National Association of Psychiatric Treatment Centers for Children
National Association of Social Workers
National Council for Community Behavioral Healthcare

National Depressive and Manic Depressive Association
National Foundation for Depressive Illness
Renal Physicians Association

Mr. GANSKE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, I thank my friend for yielding time to me.

Mr. Speaker, I am standing here because I think there has been a gross mischaracterization of the medical privacy provisions in this bill. When we had the debate on H.R. 10, legislation which I am very pleased got 343 votes when it was reported out of this House, criticisms that came from many on the other side, and frankly, from many in the media who took advantage of that mischaracterization. I think, make it necessary that we address it.

H.R. 10 and the provisions that were included here in fact will not, as we pointed out in the debate at that time, preempt State privacy laws. It does not in any way make it impossible for insurance companies to sell medical information to drug companies. It does not, as we found already in this debate, block the Secretary of Health and Human Services
from issuing privacy regulations as required by current law. I want to commend my friend, the gentleman from Iowa (Mr. GANSKE), who has spent a long time working on this, and at the same time, my colleague, the gentleman from California (Mr. THOMAS), the chairman of the subcommittee, does make a very valid point in his call to make sure that we continue to have that pressure point recognized there.

I think that the only real, legitimate debate here is whether the medical privacy issue is better addressed in H.R. 10 or in some other fashion. So I think we are going to see what obviously is going to be an interesting challenge here.

I think it is important for us to clarify exactly what the gentleman from Iowa (Mr. GANSKE) was trying to do. Clearly we want to make sure that privacy is recognized and is in no way jeopardized.

The SPEAKER pro tempore. Without objection, the time previously claimed by the gentleman from Minnesota (Mr. VENTO) will be reclaimed by the gentleman from New York (Mr. LAFAULCE).

There was no objection.

Mr. LAFAULCE. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, most of the debate up to this point has been focused on the issue of privacy, that is, in fact, an important issue as we move forward to modernize financial services. We have to assure the protection of the privacy of consumers' financial and medical records.

I want to direct my colleagues' attention to paragraph 2 of the motion to instruct and rise in support of the motion to instruct conferees, because that paragraph gets to the heart of what financial modernization is about.

We are instructing conferees to ensure that we come back with a bill that ensures consumers enjoy the benefits of comprehensive financial modernization legislation, that provides robust competition, and equal and nondiscriminatory access to financial services and economic opportunities in their communities.

As we move forward in this process, we are modernizing financial services, but we have to keep in mind that this is for the benefit of consumers and communities. Let us support the motion to instruct for that reason.

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. MALONEY).

Mr. MALONEY of Connecticut. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise to commend the gentleman from New York (Mr. LAFAULCE) for his leadership on this issue, and to urge support of his motion to instruct conferees on H.R. 10.

Today's motion to instruct contains three important elements. It would ensure the strongest consumer privacy possible, it would provide equal and nondiscriminatory access to financial services, and it would protect medical privacy.

Unfortunately, the House hastily included medical privacy provisions in H.R. 10 that may actually be harmful to consumers because they do not rise to the level of basic protections afforded under any of the major medical confidentiality bills now being considered by Congress. That unintended result may in fact deter many patients from seeking necessary health care out of fear of disclosure.

The motion instructs the conferences to restore the confidence of the American public in the privacy of their sensitive health care information by removing medical-related provisions currently contained in H.R. 10.

Mr. Speaker, we have an historic opportunity to pass a balanced bill. I urge passage of the motion to instruct.

Mr. MEESK of New York. Mr. Speaker, today we send our Members of the House and the Members of the Senate to work out a compromise on the Financial Services Act of 1999. While we know, understand, and recognize that banks and other financial companies must be able to compete in an environment that will allow them to expand their powers and become competitive globally, and that our financial institutions are one of the most critical components to ensuring a healthy U.S. economy, our first and foremost responsibility is to those individuals who send us here to Washington each and every election day.

Therefore, we must ensure that consumers as well as financial institutions benefit from banking reform. It is meant to protect the misuse of their confidential personal information, this amendment, for marketing or other purposes, maintaining their medical privacy, and to make certain that our financial institutions that receive the benefit of government support continue to contribute to the economic health of low- and moderate-income communities.

Let me say, we must support CRA. It is an absolute necessity if we are to have a successful bill.

Mr. Speaker, today we send our members of the House to work with the members of the Senate to work out a compromise on the Financial Services Act of 1999. The purpose of this act is to provide banks and other financial companies with an environment that will allow them to expand their powers and become more competitive globally. Our financial institutions are one of the most critical components to ensuring a healthy U.S. economy. They are so critical that this Nation developed an independent body known as the Federal Reserve to regulate them. Thus it is vital that this House and the Senate work diligently and efficiently to develop a final version of the Financial Services Act that will make certain American institutions have a fair opportunity to be the most competitive in the world. However, each of the conferees must remember that their primary goal as Members of this House is to protect the interest of the individual citizens of this nation who send us to Congress and who own this nation.

Therefore, we must insure that consumers as well as financial institutions benefit from banking reform. It is meant to protect them from the misuse of their confidential personal information for marketing or other purposes, maintain their medical privacy, and make certain that our financial institutions that receive the benefit of government support continue to contribute to the economic health of low- and moderate-income communities.

Let me take a moment to emphasize the importance of the Community Reinvestment Act or CRA. There are some in the Senate who believe that CRA is a burden to banks. Let me assure those individuals that they are mistaken. The facts are clear, the overwhelming majority of evidence states that CRA has been a major success. It has been a benefit to low and moderate-income individuals, their communities, and most of all to banks. Since 1977 we have seen in excess of over $1.057 trillion in loan pledges to low-income areas. CRA investments have been widely credited with dramatically increasing homeownership, restoring distressed communities, helping small businesses and meeting the unique credit needs of rural communities. Financial institutions such as Citigroup, BankAmerica, Southwest Bank of Texas, Iron and Glass Bank, and a host of others have all made it clear that CRA is good policy and good for business.

I urge my colleagues to vote in favor of banking legislation that is good for banks and good for consumers. Vote for the motion to instruct.

Mr. GANSKE. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. Mr. Speaker, this is getting curiouser and curiouser. In the Committee on Banking and Financial Services when this thing came through it was the Democrats, the gentleman from Washington (Mr. INSLEE) who demanded privacy language, very strict privacy language.

It was the gentleman from Minnesota (Mr. VENTO) who, with the gentleman from Iowa (Mr. LEACH) late at night worked out a compromise on the privacy language, the first consumer protection language in the banking bill.

It got to the Committee on Commerce and the gentleman from Massachusetts (Mr. MARKET) passed on a voice vote strong consumer privacy language, but even he was shocked it passed, and made it a huge point on the floor of the House that his language was not being adhered to. It had to be stronger.

Now they come out today and say, we do not want anything; accede to the Senate’s nothingness, no consumer protection at all. Or is it maybe that they would rather have the administration write the language? They are acceding to a bill that is absent the language. They cannot have it both ways.
I urge an “aye” vote on the LaFalce motion to instruct.

Mr. LAFAULCE. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONEST).

Mrs. JONES of Ohio. Mr. Speaker, I am pleased to join with the ranking member of the Committee on Banking and Financial Services in support of the motion to instruct the conference.

We need strong consumer protection for the final bill, H.R. 10. We need strong community reinvestment provisions in the final bill, because if the community-minded banks will come to the floor with a bill.

Mr. LAFAULCE. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, as a consumer advocate, I have been asking from day one what is in this financial modernization act that I can bring home for ordinary consumers in my district, the soccer moms, schoolteachers, small businesses.

Face it, they are not worrying about the ability of banks, insurance companies, and security companies to merge. But I warn my colleagues, they will be interested if we let those companies poke around in their most private medical and financial records.

Do not underestimate the American public. Americans are interested if hopes for their small businesses and mortgages and investments to improve their neighborhoods dry up, which is what the Senate bill will do because it dangerously undermines the Community Reinvestment Act.

This motion to instruct addresses both the issues of privacy and CRA, possibly the only two provisions most of our constituents care about.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, I stand in strong support of this motion, and I do it because I have been listening to my constituents a lot lately about financial privacy.

What they have been asking me to do is simple. They have been asking me to try to win for them the right to tell their banks not to give their credit card numbers to telemarketers so that they can call them.

Those constituents deserve that right. What possible reason is there to be not to accept this motion to give consumers the simple right to financial privacy that we supported 427 votes to 1? We are not just talking about certain folks who want to defend their privacy. I want to tell my colleagues about something I learned in hearings in the last 2 weeks. I asked five lobbyists of the banking industry a simple question. Let us say Emma Smith writes her bank and says, Mr. or Mrs. Banker, do not share my financial information with anyone.

Two days later, Mrs. Smith inherits $10,000. Should the bank be able to call a telemarketer and tell them to call Emma Smith and try to sell her a hot stock in hotstock.com? Should they be able to ignore her request not to violate her privacy? Do my colleagues know that those five people paid for the banking industry? To a person, they said no, that would be wrong.

Those five lobbyists for the banking industry were right. Consumers ought to have the right to protect their privacy. Those five lobbyists were right. Four hundred twenty-seven Members of this House were right when they stood up for consumer privacy. Americans ought to be right, too, in insisting that we pass this motion.

Mr. GANSKE. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think the debate on the floor on this issue demonstrates what a Gordian knot the whole issue of medical privacy is.

The provisions that were in this bill on health care privacy are good ones. I think that if my colleagues look at the “Dear Colleague” that I have sent out, it explains it. It is not a comprehensive piece of medical privacy, but I thought it would improve the bill. The intentions were good for that.

However, a very large number of privacy groups have argued against this provision. I think it has been mischaracterized. It will be a serious impediment in terms of our getting the overall bill passed.

If, in fact, my colleague from California and others on the other side of the aisle can come up with a bipartisan agreement, then I am sure that it can be reintroduced at some time. I am for a comprehensive bill. I will vote for the motion to instruct.

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

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I would begin by expressing great respect and affection for every person who has participated in this debate, especially the gentleman from Iowa (Mr. GANSKE) who is an outstanding Member of this body in all particulars.
I do think it is important we understand what is at stake here. I will address only the question of protection of medical privacy.

Here is what the administration says. The administration strongly opposes the medical privacy provisions of the bill. Unfortunately, those provisions would preempt important existing protections and do not reflect extensive legislative work that has already been done on this complex issue.

The administration thus urges striking the medical privacy provisions and will pursue medical privacy in other fora.

Now listen to what some of the unanimous voices of all professional organizations in the field of medicine have had to say. First, the American Medical Association, I quote, “Medical records provision of H.R. 10 undermine patient privacy. The bill would allow the use and disclosure of medical records information without consent of the patient, in extraordinarily broad circumstances. Unfortunately, medical records confidentiality provisions of H.R. 10 will deter many patients from seeking needed health care and deter patients from making full and frank disclosure of critical information needed in their treatment.”

The American Nurses Association said this, “The proposed language would facilitate the broad sharing of sensitive health and medical information without the consent of the consumer.”

Here is what the American Civil Liberties Union said, “This proposal will preempt existing medical privacy protections and offers essentially no privacy at all. It replace the ones which the amendment, if enacted, will usurp. It is deeply flawed.”

AFL-CIO: “This provision would facilitate the broad sharing of sensitive medical information in a matter that is harmful to the consumer.”

That tells my colleagues what is said about this. I would urge the adoption of the motion.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding. The consequences that the gentleman described, in fact, may take place if given this language as a sunset does not produce congressional legislation; is that correct?

Mr. DINGELL. Mr. Speaker, no, that is not correct.

Mr. THOMAS. Mr. Speaker, it is not a trigger that says it will sunset?

Mr. DINGELL. Mr. Speaker, what is correct, I would observe to the gentleman from California, is that, if this language in here, the fears that I have expressed and the fears that are expressed by the professional health care organizations and individuals would occur.

Mr. THOMAS. But if we passed legislation, that language goes away, Mr. Speaker?

Mr. DINGELL. The way to address the matter is to take out unfortunate language and put in good language in a separate medical records privacy bill. At least, if we do not allow this language to remain in the legislation when it finally goes to the President, if that occurs, it would then assure that we would keep in place existing protections of patient privacy which are supported by the Senate which has no title on medical privacy. It is a conundrum, a logical inconsistency.

I would say to the gentleman in furtherance of certain earlier comments that only about 18 States have prohibitions on the use and disclosure of information. This bill is not designed to supplant, replace, or weaken any State provision or deny future State provisions. It may not be quite as strong as the gentleman would prefer, but it is the first serious prohibition on an insurance company giving medical privacy information without patient consent to an affiliate or third party.

As chairman of the Committee on Banking and Financial Services and as a conferee, I am willing to accede to this motion under the understanding that it is a conflicted motion. There is a call for medical privacy and then a call for a deletion.

So what I think the gentleman and what this instruction is saying is that there should be a medical privacy provision in this bill. That being the case, I cannot object to this particular instruction as a conferee.

So I would urge my colleagues to recognize that the first two provisions are a call to support the House provision. The third provision is a call to maintain medical privacy, although in a way that is perhaps illogically stated.

So my recommendation is to vote “yes” on a deeply flawed, deeply ironic motion to instruct.

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

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

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

Mr. DINGELL. Mr. Speaker, I yield the balance of my time to the gentleman from Iowa (Mr. LEACH).

Mr. LAFAULCE. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I would observe something in response. There is a comment here on the part of some of my distinguished friend, the gentleman from Iowa (Mr. LEACH). This medical privacy provision has no more assurance of protection of the ordinary citizen or patient than does a lace doily on storming a flood. The simple fact of the matter is existing law is better than the provision that we are talking about.

And I would observe something else. Very shortly the provisions of HIPAA will kick in and the secretary will come forward with decent regulations which will protect the people.

I am not going to enact a fraud, sham or delusion of the magnitude that we have before us with regard to medical health care protection and protection of medical information when I know full well that existing law is better and that further improvements will be coming along when the secretary issues her regulation.

The gentleman from Iowa (Mr. LEACH) has said the third presents somewhat of a conundrum. Let me articulate again what we are attempting to do. We are attempting to insist upon the strongest possible privacy protections for every American consumer, the strongest possible community reinvestment protections for every American consumer.

With respect to title III, there sometimes can be a difference between the principal purpose and the primary effect of proposed legislation. I do not think there is any difference whatsoever between the principal purpose of the gentleman from Iowa (Mr. LEACH), the gentleman from Iowa (Mr. GANSKE), the gentleman from Michigan (Mr. DINGELL) and myself at all. There is a difference of opinion as to what the primary effect of that language would be.

The conferences will work to make sure that there is a complete marriage between principal purpose and primary effect.

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

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

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from New York (Mr. LAFAULCE).
The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it. Mr. DINGELL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members. The vote was taken by electronic device, and there were—yeas 241, nays 132, not voting 61, as follows:

[Roll No. 355]

CONGRESSIONAL RECORD—HOUSE

July 30, 1999

Mr. ROEMER. Mr. Speaker, due to a family commitment I was unable to cast House rollcall vote 355 on July 30th, 1999, to instruct conferees on the Financial Services Modernization bill, H.R. 10. If I had been present I would have voted “yea.”

The SPEAKER pro tempore (Mr. PEAKE). Without objection, the Chair appoints the following conferees:

From the Committee on Banking and Financial Services, for consideration of titles I, III (except section 300), IV and VII of the Senate bill, and title I of the House amendment, and modifications committed to conference:

Mr. LEACH, Mr. MCCOLLUM, Mrs. ROUKEMA, and Messrs. BERGER, BAKER, LAZIO, BACHUS, CASTLE, LAFAULFE, and VENTO.

As additional conferees from the Committee on Banking and Financial Services, for consideration of title V of the Senate bill, and title II of the House amendment, and modifications committed to conference:

Mr. FRANK of Massachusetts, Mr. KANJORSKI, Mrs. WATERS, and Mrs. MALONEY of New York.

As additional conferees from the Committee on Banking and Financial Services, for consideration of title II of the Senate bill, and title III of the House amendment, and modifications committed to conference:

Mr. KANJORSKI, Mrs. MALONEY of New York, Mr. WATTS of North Carolina, and Mr. MALONEY of Connecticut.

As additional conferees from the Committee on Banking and Financial Services, for consideration of title II of the Senate bill, and title IV of the House amendment, and modifications committed to conference:

Ms. WATTERS, Mrs. MALONEY of New York, Mr. GUTTERREZ, and Mr. BENTSEN.

As additional conferees from the Committee on Banking and Financial Services, for consideration of section 304 of the Senate bill, and title V of the House amendment, and modifications committed to conference:

Mr. KANJORSKI, Mr. WATTS of Massachusetts, and Mr. ACKERMAN.

Mr. RAMSTAD. Mr. WHITFIELD and Mrs. WILSON changed their vote from “yea” to “nay.”

Msrs. SHOWS, ROGAN, WELLER, KINGSTON, COOK, MCCOLLUM, Mrs. CUMBER, and EMERSON changed their vote from “nay” to “yea.”

So the motion was agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table. Stated for:
Provided, that Mr. RUSH is appointed in lieu of Mrs. CAPP for consideration of section 316 of the Senate bill.

From the Committee on Agriculture, for consideration of title V of the House amendment, and modifications committed to conference:

Messrs. COMBEST, EWING, and STENHOLM.

From the Committee on the Judiciary, for consideration of sections 104(a), 104(d)(3), and 104(f)(2) of the Senate bill, and sections 104(a)(3), 104(b)(3)(A), 104(b)(4)(B), 130(b), 130(d)(e), 141–44, 197, 301, and 306 of the House amendment, and modifications committed to conference:

Messrs. HYDE, GEKAS, and CONYERS.

There was no objection.

PERSONAL EXPLANATION

Mr. ORTIZ. Mr. Speaker, on rollcall Nos. 354 and 355, on July 30, 1999, I was unavoidably detained. Had I been present, I would have voted “yea” on rollcall No. 354 and “yea” on rollcall No. 355.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

LEGISLATIVE PROGRAM

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

Mr. FROST. Mr. Speaker, I yield to the gentleman from Texas to inquire about next week’s schedule.

Mr. ARMEY. Mr. Speaker, I thank the gentleman from Texas.

Mr. Speaker, I am pleased to announce that we have completed legislative business for the week.

The House will next meet on Monday, August 2, at 12:30 p.m. for morning hour and at 2 p.m. for legislative business. We will consider a number of bills under suspension of the rules, a list of which will be distributed to Members’ offices this afternoon.

Mr. Speaker, subject to last night’s unanimous consent agreement, we will also complete consideration of H.R. 2606, the Foreign Operations Appropriations Act, on Monday. Debate on Foreign Operations amendments will not begin before 4 p.m.

Members should note that there will be recorded votes after 6 p.m. on Monday, August 2.

On Tuesday, August 3, and the balance of next week, the House will take up the following measures:

H.R. 2031, The 21st Amendment Enforcement Act;

H.R. 987, The Workplace Preservation Act;

H.J. Res. 58, Regarding the Jackson-Vanik Waiver for Vietnam;

The VA-HUD Appropriations Act; and

The Commerce, State, and Justice Appropriations Act.

Mr. Speaker, we also expect a number of conference reports to be available next week for consideration in the House.

Mr. Speaker, because this will be our last week of legislative business before the Summer District Work Period, Members should expect late nights throughout the week. That includes, Mr. Speaker, Friday, August 6, which may stretch beyond 2 p.m. and into the evening.

Mr. Speaker, I thank the Members for their attention and I wish all my colleagues safe travel back to their districts.

Mr. FROST. Mr. Speaker, I have several questions for the majority leader at this point. Will we complete action on the Juvenile Justice bill next week?

Mr. ARMEY. I thank the gentleman for his inquiry. We just went to conference, Mr. Speaker, on Juvenile Justice this morning. We are obviously encouraging the conferees, we are anxious to have that, and the floor schedule will accommodate the conference report if they can bring it back. We will encourage them. I am sure the gentleman from Texas and his leadership will do the same on their side of the aisle.

Mr. FROST. I would further ask my friend from Texas, I do not see the Patients’ Bill of Rights on the schedule. Is there any possibility that that will come up next week or when can we expect it to be brought to the floor?

Mr. ARMEY. If the gentleman will yield further, Mr. Speaker, we have three committees of jurisdiction that are working on the Patient Protection and Affordable Care Act. That work is in progress. It is, of course, very important work. As soon as our committees complete their work and are able to make the bill available to the floor, we will have it on the floor, but I do not anticipate that next week.

Mr. FROST. I would further ask the gentleman from Texas, does he expect the tax conference report to be on the floor next week?

Mr. ARMEY. I thank the gentleman for asking that.

If the gentleman will continue to yield, Mr. Speaker, yes, we do in fact expect that we will go to conference on the tax bill sometime Monday, and we anticipate having that conference report back before we complete business next week.

Mr. FROST. The only other question I would have to the gentleman from Texas is he has indicated that we will be working late, probably each night. Does the gentleman have any idea how late that will be?

Mr. ARMEY. As the gentleman from Texas knows, when we do appropriations bills, we do those under the 5-minute rule. We try to make unanimous consent requests as we did last night to expedite the consideration of a bill in consideration of all the Members with their amendments. We will still work under that 5-minute rule, hope to have those kinds of accommodations between Members, but one must anticipate that late in the evening will mean precisely that in perhaps the most rigorous terms.

Mr. FROST. As the gentleman knows, in some cities where they play baseball at night, there is a rule that no inning can begin after a certain hour. I was just wondering if there is any possibility we could go to that in our night sessions.

Mr. ARMEY. The gentleman makes a fine point. I can only assure him that or around dinner time, we will provide a seventh inning stretch that will be sufficient to nourish our bodies so we can continue on into the evening.

Mr. FROST. Mr. Speaker, if I could ask the gentleman one final question. Is there any possibility that we will be here next Saturday? The gentleman indicated the real possibility that we will be here after 2 p.m. on Friday. Could it also be that we would be here next Saturday?

Mr. ARMEY. I thank the gentleman for that question. I think that is really a key concern. We are all anxious to get on with our work in our districts for the District Work Period.

I thank this is the best, most reliable answer: A prudent, experienced Member understands that the getaway day before a District Work Period of this length is tenuous. We should expect to work in the evenings and on the weekends and are able to make the bill available to the floor, we will have it on the floor, but I do not anticipate that next week.

Mr. FROST. I would respond to my friend from Texas, that based on my 21 years of experience in the House of Representatives, I never book a flight on the day that we are scheduled to leave. I always book my flight for the following day.

Mr. ARMEY. I thank the gentleman.

Mr. Speaker, if the gentleman would yield for one final point on that point. The point is very important to the Members and if I may make this point. We will monitor the process of the week’s schedule as closely as we can as we see the work developing, and we will try to maintain a constant posture where when we know things with greater degrees of certainty about that Friday and those travel arrangements, we will announce that to the House.

Mr. FROST. I thank the gentleman.