

MOTION TO RECOMMIT WITH INSTRUCTIONS

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

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

1 (a) AMENDMENT TO McCARRAN-FERGUSON ACT.—
2 Section 3 of the Act of March 9, 1945 (15 U.S.C. 1013),
3 commonly known as the McCarran-Ferguson Act, is
4 amended by adding at the end the following:
5 “(c)(1) Nothing contained in this Act shall modify,
6 impair, or supersede the operation of any of the antitrust
7 laws with respect to the business of health insurance. For
8 purposes of the preceding sentence, the term ‘antitrust
9 laws’ has the meaning given it in subsection (a) of the
10 first section of the Clayton Act, except that such term in-
11 cludes section 5 of the Federal Trade Commission Act to
12 the extent that such section 5 applies to unfair methods
13 of competition.

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

6 “(3)(A) Paragraph (1) shall not apply to—

7 “(i) collecting, compiling, classifying, or dis-
8 seminating historical loss data;

9 “(ii) determining a loss development factor ap-
10 plicable to historical loss data;

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

13 “(iv) information gathering and rate setting ac-
14 tivities of a State insurance commission or other
15 State regulatory entity with authority to set insur-
16 ance rates.

17 “(B) The term ‘historical loss data’ means informa-
18 tion respecting claims paid, or reserves held for claims re-
19 ported, by any person engaged in the business of insur-
20 ance.

21 “(C) The term ‘loss development factor’ means an ad-
22 justment to be made to the aggregate of losses incurred
23 during a prior period of time that have been paid, or for
24 which claims have been received and reserves are being

1 held, in order to estimate the aggregate of the losses in-
2 curred during such period that will ultimately be paid.”.

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

3 **SEC. 3. GAO REPORT.**

4 Three years after date of enactment of this Act, the
5 Government Accountability Office shall submit, to the
6 Committee on the Judiciary of the House of Representa-
7 tives and the Committee on the Judiciary of the Senate,
8 a report on whether this Act has reduced unfair competi-
9 tion in the health insurance market in each of the 50
10 States. Such report shall specify whether, as a result of
11 this Act, the reduction in unfair competition, if any, has
12 resulted in increased price competition in the business of
13 health insurance.

