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## Senate

The Senate met at 10 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, who speaks in the winds' whispers, enable our lawmakers to hear Your call above the many voices of the world. Grant that the claims of labor, the attractions of ambition, or the cares of this world may not make them fail to hear You speak. Lord, give them the wisdom to obey You promptly, refusing to put off until tomorrow the decisions they ought to make today. Cleanse them from any lack of discipline which would keep them from making the efforts which obedience demands. Honor their obedience by permitting them to share in Your glory. May their example of faithfulness and patriotism raise up a new generation of Americans who will love You and country.

We pray in Your loving Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, October 14, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Following leader remarks, there will be a period of morning business. It will be for 1 hour, with Senators permitted to speak for up to 10 minutes each during that time. The majority will control the first 30 minutes and Republicans will control the final 30 minutes. Following morning business, the Senate will proceed to consideration of the conference report to accompany the Energy and Water appropriations bill, H.R. 3183. Under the previous order, there will be 10 minutes for debate equally divided and controlled between the managers of the bill. I ask unanimous consent that there also be 10 minutes under the control of Senator COBURN and that the provisions under the previous order notwithstanding remain in effect.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Upon the use or yielding back of the 20 minutes for debate, the Senate will proceed to a cloture vote on the Energy and Water appropriations conference report. That vote is expected before noon today. The Senate will recess from 12:30 until 2:15 to allow for the weekly caucus luncheons. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### MEASURE PLACED ON THE CALENDAR—S. 1776

Mr. REID. Mr. President, S. 1776 is at the desk and due for a second reading; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

The clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (S. 1776) to amend title XVIII of the Social Security Act to provide for the update under the Medicare physician fee schedule for years beginning with 2010 and to sunset the application of the sustainable growth rate formula, and for other purposes.

Mr. REID. I object to any further proceedings.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

### FALLEN POLICE OFFICER MILBURN BEITEL

Mr. REID. Mr. President, I was a police officer during the time I was going to law school. I worked at night time. I have some knowledge of law enforcement. My brother Larry was a long-time officer for the sheriff's department in Las Vegas. That has now been

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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combined with the Las Vegas police department and is called the Clark County Metropolitan Police Department. The reason I mention that is anytime we see someone killed in the line of duty as a police officer, it is scary and sad. The men and women who protect us live with danger every day.

In Las Vegas, we had a police officer by the name of Milburn Beitel who is going to be buried today. His friends called him Millie. He was 30 years old. He died early last Thursday morning after his patrol car crashed at the intersection of Washington Avenue and Nellis Boulevard in Las Vegas. The officer with him is in very serious but stable condition. They expect him to live, thank goodness.

My thoughts and those of anyone within the sound of my voice and anyone who cares about law enforcement, which is everybody in America with rare exception, are with Officer Beitel's family, his friends and fellow officers. Our thoughts are also with the second officer, whom we wish a full and speedy recovery.

We also share the grief of the Las Vegas Metropolitan Police Department. This is the second time in 5 months that the department has lost one of its own. This past May, Las Vegas police officer James Manor, a husband and a brandnew father, was responding to a call in the same Las Vegas community where he grew up. He was struck by a drunk driver and killed. He was 28 years old.

Terrible events such as this one make us appreciate the selfless police officers who have fallen in the line of duty—far too many. We think of their loved ones, people whose father or mother went to work in the morning and never came home, those who know the terrible experience of mourning a son or daughter, those whose husband, wife, or best friend was taken from them too soon.

This morning, we are reminded of the bravery of those who go to work every day and put their lives at risk to protect people they don't know. We remember and honor Officer Beitel. We thank him and his fellow officers and their families for their service and sacrifice, not only the Las Vegas Metropolitan Police Department but police departments all over the country, for the valiant work they do, including the men and women who take care of this beautiful Capitol and protect us and the millions of visitors who come here every year.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### MILITARY COMMISSIONS AMENDMENT

Mr. McCONNELL. Mr. President, most Americans recognize that our

continued success in preventing another terrorist attack on U.S. soil depends on our ability as a nation to remain vigilant and clear-eyed about the nature of the threats we face at home and abroad. Some threats come in the form of terror cells in distant countries, others come from people plotting attacks within our own borders, and still others can come from a failure to recognize that distinction between everyday crimes—everyday crimes—and war crimes.

This last category of threat is extremely serious but sometimes overlooked, and that is why Senators GRAHAM, LIEBERMAN, and MCCAIN have offered an amendment to the Commerce, Justice, and Science appropriations bill that would reassure the American people the Senate has not taken its eye off the ball.

The amendment is simple and straightforward. It explicitly prohibits any of the terrorists who were involved in the September 11, 2001, attacks from appearing for trial in a conventional U.S. courtroom. Instead, it would require the government to use military commissions; that is, the courts proper to war for trying these men.

By requiring the government to use military commissions, the supporters of this amendment are reaffirming two things: first, that these men should have a fair trial; and, second, we are reaffirming what American history has always shown; namely, that war crimes and common crimes are to be tried differently and that military courts are the proper forum for prosecuting terrorists who violate the laws of war.

Some might argue that terrorists such as Zacarias Moussaoui, one of the 9/11 coconspirators, are not enemy combatants, that they are somehow on the same level as a convenience store stickup man. But listen to the words of Moussaoui himself. He disagrees.

Asked if he regretted his part in the 9/11 attacks, Moussaoui said:

I just wish it will happen on the 12th, the 13th, the 14th, the 15th, the 16th, the 17th, and [on and on].

He went on to explain how happy he was to learn of the death of American servicemen in the Pentagon on 9/11. Then he mocked an officer for weeping about the loss of men under her command, saying:

I think it was disgusting for a military person to pretend that they should not be killed as an act of war. She is military. She should expect that people who are at war with her will try to kill her. I will never cry because an American bombed my camp.

There is no question Moussaoui believes he is an enemy combatant engaged in a war against us.

The Senate has also made itself clear on this question. Congress created the military commissions system 3 years ago, on a bipartisan basis, precisely to deal with prosecutions of al-Qaida terrorists consistent with U.S. national security, with the expectation that they would be used for that purpose. The Senate reaffirmed this view 2 years

ago when it voted 94 to 3 against transferring detainees from Guantanamo stateside, including 9/11 coconspirators.

We reaffirmed it, again, earlier this year when we voted 90 to 6 against using any funds—any funds—from the war supplemental to transfer any of the Guantanamo detainees to the United States. Just this summer, the Senate reaffirmed the view that military commissions are the proper forum for bringing enemy combatants to justice when we approved, without objection, an amendment to that effect as part of the Defense authorization bill.

Sometimes it seems like the only people who do not believe that men such as 9/11 mastermind Khalid Shaikh Mohammed should be treated as enemy combatants are working in the administration. How else can we explain the fact that over the summer the administration flew Guantanamo detainee Ahmed Ghailani to New York to face trial for bombing Embassies of the United States in Kenya and Tanzania, an attack that killed more than 200 people, including 12 Americans? This was an act of war. Ghailani does not belong in civilian court alongside con men and stickup artists.

Our past experiences with terror trials in civilian courts have clearly been shown to undermine our national security. During the trial of the mastermind of the first Trade Center bombing, we saw how a small bit of testimony about a cell phone battery was enough to tip off terrorists that one of their key communication links had been compromised.

We saw how the public prosecution of the Blind Sheikh, Abdel Rahman, inadvertently provided a rich source of intelligence to Osama bin Laden ahead of the 9/11 attacks. We remember that Rahman's lawyer was convicted of smuggling orders to his terrorist disciples. These are just some of the concerns that arise from bringing terror suspects to the United States.

Trying terror suspects in civilian courts is also a giant headache for local communities, as evidenced by the experience over here in Alexandria, VA, during the Moussaoui trial. As I have pointed out in previous floor statements, parts of Alexandria became a virtual encampment every time Moussaoui was moved to the courthouse. Those were the problems we saw in Northern Virginia, when just one terrorist was tried in civilian court. What will happen to Alexandria or other cities if several men who describe themselves as "terrorists to the bone" are tried in civilian courts there?

It is because of dangers and difficulties such as these that we established the military commissions in the first place. If we cannot expect the very people who masterminded the 9/11 attacks to fall within the jurisdiction of these military courts, then whom can we?

Democratic leaders, including the President, assure us they would never release terror suspects into the United States. But lawyers have repeatedly

warned about our inability to control the process once the suspects are given civilian trials. Once you bring them here, you cannot control the process.

To illustrate the point, last year a Federal judge ordered the Uighurs, a group of men detained at Guantanamo, including some who received combat training in Afghanistan, to be released into the United States. Fortunately, the DC Circuit reversed this order. Why? Because the Uighurs had not been brought to the United States and, therefore, did not have a right to be released here. We do not know what would have happened if they had been transferred here already. But we do know that because they were not, they remain outside our borders, safely away from our communities.

The American people have made themselves clear on this issue. They do not want Gitmo terrorists brought into the United States, and they certainly do not want the men who conspired to commit the 9/11 attack on America tried in civilian courts—risking national security, their potential release, and civic disruption in the process.

Congress created military commissions for a reason. But if the administration fails to use military commissions for self-avowed combatants such as Khalid Shaikh Mohammed, then it is wasting this time-honored and essential tool in the war on terror.

The amendment by Senators GRAHAM, LIEBERMAN, and MCCAIN gives us all an opportunity to express ourselves, once again, on this vital issue. The question is not whether terror suspects should be brought to justice. The question is where and how. The answer is perfectly clear: The right forum is military commissions at the secure facility we already have at Guantanamo, not in civilian courts in the United States.

#### HEALTH CARE WEEK XIII, DAY II

Mr. MCCONNELL. Mr. President, sometime in the coming days, the Treasury Department will make an announcement that should startle all of us. It will announce that in the fiscal year that ended just 2 weeks ago, the Federal Government spent \$1.4 trillion more than it actually had. What this announcement means is that lawmakers in Washington ran up a Federal deficit in 2009 greater than the deficits of the last 4 years combined.

This is a staggering statistic. It is impossible for most of us to imagine sums of money this large, let alone the unprecedented amount of money we have borrowed this year alone. But one way to think of it is to realize that since January 20 of this year, the Federal Government has borrowed \$1.2 trillion or more than \$10,500 for every household in the United States—this year alone; \$10,500 for every household in our country. Just since last January, the Federal Government, as I indicated, has borrowed more than \$10,500 for every single household in America.

As you can imagine, there is a limit to how much we can borrow without facing serious consequences, such as dramatically higher interest rates that will further hamper job creation and massive spending cuts and taxes down the road. That is precisely why Congress sets a limit on how much debt the government can carry at any one time. But the administration has decided to worry about all these things at a later date. For now, it wants to continue to borrow and spend, borrow and spend, as it has done all year.

But we are in dangerous territory. As a result of all this borrowing, Congress is about to reach the limit on the amount of debt it can legally carry. The administration expected this would happen, and that is why it recently asked Congress to raise the debt ceiling. Rather than cut spending or implement reforms that would reduce costs, the administration is proposing we borrow even more to finance its industry bailouts and now its health care proposal. What this amounts to is a public admission it cannot live within its means.

Think about the message that sends to American people. At a time when millions of Americans are experiencing a financial hangover from overusing their own credit cards, the government is still at it. Rather than pay down some of the principal, the government is asking the credit card company to increase its limit. What does it plan to buy with the room it gets on its credit card? More government spending programs.

This is fiscal madness. The primary reason we are in so much trouble financially is the fact that we cannot afford our current spending patterns. The projected deficit for 2009 is nearly twice as large as the previous postwar record from 1983. Yet instead of reforming existing programs such as Medicare and Social Security in order to make them financially sound and stable, the administration does not want to make any hard choices.

This is one of the reasons the administration has a problem on its hands with the American people when it comes to health care. Most of the health care bills the administration supports would raise our debt by hundreds of billions of dollars. Yet the administration knows Americans are concerned about all this spending and debt; otherwise, it would not have touted a report last week saying that a conceptual version of one of several health care bills being discussed in Congress could cut the deficit by \$80 billion over 10 years.

Leaving aside the fact that this particular bill will never see the light of day, an important question arises: How can an administration that is asking Congress for a \$1 trillion increase on its credit card limit claim with a straight face to be excited about \$80 billion in deficit savings? That is like putting a new Mercedes on the government credit card and then calling a

press conference on frugality because the dealer threw in a complimentary cup holder.

Americans do not buy any of it, and that is why they are overwhelmingly opposed to the administration's health care proposals. At the outset of this debate, there was one criterion for success: Reform would lower the cost of health care. Yet no one—no one—outside Washington believes that creating a new \$1 trillion entitlement will do anything but increase costs and increase debt.

We are headed down a dangerous road. It is long past time for the administration and its allies in Congress to face the hard choices Americans have had to face over the past several months: No more spending money we do not have on things we do not need; no more debt. Real reform will lower costs and debt, not raise both when we can least afford it.

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half of the time and the Republicans controlling the final half.

The Senator from Illinois.

#### ORDER OF PROCEDURE

Mr. DURBIN. Mr. President, I ask unanimous consent that the morning business time on the majority side be evenly divided between myself and Senator HARKIN of Iowa.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### MILITARY COMMISSIONS AMENDMENT

Mr. DURBIN. Mr. President, I would like to address several points raised by the Republican minority leader in his opening statement this morning. He stood in support and defense of an amendment that has been proposed by the Senator from South Carolina, Mr. GRAHAM. What it basically would say is, we cannot try terrorists in the courts of America; in the criminal courts of America we cannot bring a terrorist to trial; they have to be tried, according to the Graham amendment and the position of the Republican leader, in military tribunals or commissions only. That is a dramatic

change from the law as we know it, and very bad policy.

Since 9/11, we have successfully prosecuted 195 terrorists in America's criminal courts. During that same period of time, we successfully prosecuted in our military commissions and tribunals three—three—terrorists. So if one wants to know where we are more likely to end up putting a terrorist behind bars, I would suggest going to the Department of Justice and letting them decide whether the case best be tried in a criminal court in America or in a military tribunal. That is the current policy. But the position of the Republican side is to take away this discretion of the Attorney General and to tell them under no circumstances can you try a terrorist for violating American law in an American court.

It makes no sense.

Recently we had a case where a man named Ahmed Ghailani was brought to the United States for his involvement in the 1998 bombings of our embassies in Kenya and Tanzania which killed 224 people, including 12 Americans. President Obama said this man is going to be tried for killing Americans, for his terrorist acts in Africa. I have seen the devastation it caused; almost unimaginable. The President said he will be brought to New York City and he will be tried in our courts. That is under way. It is the right thing to do. The surviving loved ones of those who died in that embassy have praised the administration for their leadership in bringing this man to justice.

Under the amendment which the Republicans are supporting, we would not be able to bring this man to trial in an American courtroom. Why? If the laws are on the books and can be successfully used to prosecute terrorists, why would we throw away this important opportunity and tool to stop terrorism? I will let the Republican side of the aisle explain why. But in the meantime, perhaps they can explain why we should ignore the reality that there are 355 convicted terrorists currently serving time in American prisons and 350 or more of them were convicted in our courts. We know we can do it. We know we can successfully prosecute them under American law. Why would the Republicans want to shield them from prosecution under American law and instead use military commissions and tribunals which have been very controversial and have only successfully prosecuted three terrorists over the last 7 or 8 years since 9/11? It is the Republican position and it makes no sense. We should use every tool in our arsenal to stop terrorism, and give the Attorney General every authority he needs to decide where is the best place to prosecute these individuals.

This notion that somehow we can't bring a terrorist to justice in America for fear they will be held in a jail in America—how do you explain 350 terrorists currently serving time in American prisons? They are being treated as

every other criminal should be treated: incarcerated, isolated, away from the population. That is the way it should be. There are places other than Guantanamo to hold these prisoners safely, and I think the record speaks for itself.

#### NATIONAL DEBT

The second issue that was raised by the Republican leader was about our national debt. He is arguing that the debt is too high, and he is right. But he also ought to be very candid and open about how we reached this point in history. President Obama has been in office now for 9 months, and what did he inherit? The biggest debt in the history of the United States. What did his predecessor, George W. Bush, inherit? A surplus in the Federal Treasury. When President Clinton left office, he left behind a surplus. It is the first time in 30 years we had a surplus. President Bush took that surplus and turned it into the biggest debt in history, and took that and left the weakest economy in 70 years to the Obama administration. Now comes the Republican side saying this is a shame that the Obama people have gotten us into this mess with this debt.

How did we reach this point? Decisions under President George W. Bush to wage two wars without paying for them, simply to add to the national debt; to do what had never been done before by any President, to give tax cuts to the wealthiest people in America in the midst of a war; and to create a Medicare prescription drug program that wasn't paid for. The cumulative impact of those decisions increased the debt of America to record-breaking levels, and that is what was handed to President Obama when he took office. Now come the Republicans who supported those policies under President Bush and blame President Obama for the debt left behind by the previous President. That is unfair and it is not accurate.

I am sorry we have this debt. Once this economy turns—and I hope it does soon—and jobs are created and businesses are back generating the profits they need, our economy will be strong again and revenues will be created, but we are going to have to claw our way out of this recession and create jobs to make that happen. Twisting and distorting the history of our American debt does not help that conversation.

#### HEALTH CARE REFORM

Incidentally, the minority leader said one thing which I hope he will come back to correct. He said the health care reform now underway is going to add to that national debt. If there is one thing President Obama made clear when he spoke to us about this health care reform issue it is that we cannot add to the debt. This bill reported by the Finance Committee yesterday does not add to the national debt. In fact, it reduces the deficit over the next 10 years. That is the standard the President has held us to when it comes to dealing with the deficit and health care reform.

Make no mistake. The opponents to health care reform are being led and inspired by many people but primarily by one group: the health insurance industry. The health insurance industry, one of the most profitable in America, has made its money by saying no and denying care to people when they need it the most. When we try to bring about real health insurance reform so they can't turn you down because of a pre-existing condition discovered in some old document filed years before and they can't put limits on the coverage you need when you do get sick, the health insurance industry is fighting us tooth and nail, and many on the other side of the aisle are arguing their case. I think it is a tough case to argue to most Americans.

Most Americans understand we need to bring the costs of health care under control so that Americans have security and stability and don't see health insurance premiums going through the roof, businesses cancelling coverage, and individuals unable to protect themselves. They understand we need real health insurance reform. I have yet to hear the first Republican Senator stand on this floor and call for real health insurance reform, because the health insurance industry doesn't want it and many on the other side of the aisle are not going to cross them when it comes to this debate.

Finally, it is imperative that America move to the point where more Americans have the peace of mind of health insurance protection. To think that 40 million-plus Americans are going to go to bed tonight uncertain about whether a diagnosis tomorrow or an accident tomorrow will plunge them deeply into debt for medical bills they can't pay is unacceptable in this country. Today 14,000 Americans will lose their health insurance coverage by losing a job or reaching a point where they can no longer pay for it. That is the sad reality of the current system. The Republican side of the aisle has no alternative, no proposal for health insurance reform, or health care reform.

I wish to salute Senator SNOWE of Maine for her extraordinary courage yesterday, stepping up and voting—the only Republican so far who has voted for health care reform in the U.S. Congress. I am sure she took a lot of grief for it, a lot of pressure, but she showed real courage, extraordinary courage in voting to join us in this effort for real health care reform.

We have heard from former Republican leader Frist; we have heard as well from Republican Governor Schwarzenegger; the mayor of New York, Mr. Bloomberg; the mayor of Minnesota, and others who have talked about the need for health insurance reform. It tells me that many of the congressional Republicans should listen to the leaders in their party across the country who understand what America needs and wants.

Now is our chance. In the next few weeks we are going to do something

which we have been trying to do for 40 or 50 years: Bring real health care reform debate to the floor of the U.S. Senate. It won't be easy. There are a lot of differences of opinion about the goals we want to reach. But I want to tell my colleagues that we are finally taking that important step under the leadership of President Obama to do what America wants done: to make sure we have health care reform that will serve our Nation and serve families and businesses in the 21st century.

I see my colleague from Iowa is on the floor.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BENNET). The Senator from Iowa is recognized.

### HEALTH CARE REFORM

Mr. HARKIN. Mr. President, all five congressional committees involved in the health care reform debate have completed their work now and the core elements of this landmark legislation are now clear.

The media has done a good job of reporting that the emerging bill will crack down on abuses by health insurance companies and extend quality health coverage to the vast majority of Americans. In addition, much attention has been paid to the public option which I am confident will be in the bill we send to the President later this year. So there has been a lot in the press about the public option; about coverage; how much this costs; will there be an excise tax; what will the penalties be. Almost all of the debate we see—I should say discussion—surrounding the health care reform is about how we pay the bills, when we think about it. It is about how are we going to pay all of these bills.

There is one huge part of the health reform bill that is not being discussed very much that I believe will have a transformative effect on the system we have in America today, which I have often referred to as not a health care system but a sick care system. When we think about it, that is what we have in America: a sick care system. If you get sick, you get care one way or the other, but we do precious little to keep you healthy in the first place. As one of the comedians on one of these late night talk shows I happened to tune in to one night said, you know, they are talking about everything except health care.

What do we need to do to keep people healthy in the first place? Well, quite frankly, that is in our bill. That is what I wanted to discuss this morning, which is some of the aspects of the bill that I believe will bend the cost curve in the future and make us a genuine wellness society. The bill we reported out of our HELP Committee creates a sharp new emphasis on fitness, physical activity, good nutrition, disease prevention; in short, keeping people out of the hospital in the first place. This will give Americans access to a

21st century true health care system focused on preventing disease and helping us live healthy, active, productive lives, and it will reduce wasteful, avoidable costs that are built into our current system. Again, this sort of disease management approach we have in our country now is about patching things up after people develop a serious illness or a chronic condition. It is a system that overspends, which we know, and underperforms. It has been a colossally expensive failure.

We can and must do better. As President Obama said in his speech to Congress back in February:

[It is time] to make the largest investment ever in preventive care, because that's one of the best ways to keep our people healthy and keep our costs under control.

To most of us, it is self-evident that cost-effective preventive services will save money in the long term. This first chart is of a poll taken which shows that 76 percent of the American people said we should invest more in preventive care—76 percent. They get it. The American people get it. This support comes from across the political spectrum. Eighty-six percent of Democrats, 71 percent of Republicans, and 70 percent of Independents say we should be spending more on prevention.

This next chart shows that 77 percent of Americans support a new emphasis on prevention in a health care reform bill because they know it is the right thing to do. It is common sense. If we can use cost-effective screenings and other upfront intervention programs to prevent tens of millions of occurrences of chronic diseases such as cancer, diabetes, and cardiovascular disease, it is self-evident that we are going to slash health care costs very significantly.

Some critics have claimed that a new emphasis on wellness and prevention will cost more money and it will drive up health care costs. To support this claim, they have created a straw man, assuming that we are going to do all of these preventive services for everybody all the time, but that is not what is in our bill. I wish to emphasize that our committee's bill takes a very rigorous approach to prevention. We target appropriate preventive services and screenings only to those segments of the population that are at risk of a disease or a condition.

For example, under our bill, mammogram screenings would be free—no copays, no deductibles—but to those most at risk of breast cancer—women over the age of 40.

At every step, what we have relied on are the latest recommendations of the U.S. Preventive Services Task Force. This task force has been in existence since the early 1980s. It evaluates clinical preventive services on the basis of scientific evidence related to effectiveness, appropriateness, and cost-effectiveness. So what we have said is that if the U.S. Preventive Services Task Force gives a certain preventive measure or screening an A or a B score, then the insurance companies and providers

must provide that without any copays or deductibles. So it is targeted. It is not everything, but we are targeting the most cost-effective.

We also say that this task force has to meet at least once every 5 years and take in the latest scientific evidence and make recommendations for revising the mix of clinical preventive services.

Let me review some of the ways the Senate HELP Committee bill, in a very careful way, will put prevention and wellness at the very heart of health reform.

First, we create a Federal level prevention and public health council to improve coordination among Federal agencies in incorporating wellness into a national policy, and will develop a national prevention and a public health strategy. All of the departments should be doing this, not just the Department of Health and Human Services but the Department of Agriculture, the Department of Defense, the Department of Veterans Affairs, the Department of Transportation, and on and on. All of them ought to have as an integral part of their deliberations and proposals for future legislation that they might propose in the Congress an element of prevention and wellness. Take the Department of Transportation, for example. When they are thinking about highways, bridges, roads, and things such as that, are they thinking about bike paths and walking paths and sidewalks in cities that could be incorporated into the planning if they want Federal money? Well, they have not so far. This is what I mean. We need this kind of an overall coordinating council at the White House level, at the department level.

We also start a prevention and public health investment fund to provide for expanded and sustained national investments in prevention and public health programs in communities all across America.

A 2007 study by the Trust for America's Health found major savings from community-based prevention programs. There is clinic-based prevention where you get a screening, but then there are community-based programs to improve physical activities, nutrition, reduce smoking rates, and things such as that. They found that a national investment of just \$10 per person per year—think about that, \$10 per person per year—in certain community-based wellness programs would yield these kinds of savings: in 1 to 2 years, \$2.8 billion; 5 years, \$16 billion; and 10 to 20 years, \$18.5 billion.

Again, on both the community level and the clinical level, we provide for funding and a structure to make wellness and prevention an integral part of our health care system. For example, our bill would target nutrition counseling to prediabetic patients. Right now, under Medicare, for example, and most insurance companies, they will reimburse thousands of dollars to take care of your diabetic conditions once you get diabetes. They

will pay for amputating a foot or a leg. They will pay for all these expensive things after you get diabetes. They will pay for a lifetime of treatment. But now they will not reimburse for the cost of nutrition counseling—a few hundred dollars for someone who is prediabetic and who could prevent the disease through changes in diet. That doesn't make sense. Our bill would change this by requiring insurance plans to reimburse for nutrition counseling for prediabetic individuals—another example of a cost-effective approach.

For essential screenings and annual physicals, our bill would get rid of copays and deductibles for things such as your annual physical checkups, vaccinations, mammogram screenings, and colonoscopies for the right population group, things like that—no copays, no deductibles.

We are going to make major new investments in the public health and primary care workforce. Senator MURRAY, of Washington, did a great job of incorporating workforce development in our committee bill. A lot of that workforce development is in the area of primary care and preventive care and wellness.

Finally, we give a powerful boost to employer-sponsored wellness programs. Our bill would allow employers to reward employees for participating in wellness programs by giving them a health insurance premium discount of up to 30 percent. In other words, if you participate in a wellness program that is provided by your employer, you can get a discount of up to 30 percent on your health insurance premium. I believe this is something that has been done by Safeway and others, and they have shown that they have had great results. People can see the benefit of wellness and prevention by getting a reduction in their health care premiums.

Workplace wellness programs—everything from nutrition counseling to smoking cessation—typically cost about \$20 to \$200 per employee per year. Again, they have a proven rate of return, ranging from \$2 to \$10 within 18 months, for every dollar spent. If you don't believe me, ask Pitney-Bowes what they did or Safeway. I single those two out, but many companies have gone way ahead of us in providing wellness programs for their employees. Are they doing it just out of sheer generosity? No. They know the bottom line. They know that when they provide wellness and prevention programs for their employees, their rate of return per dollar spent on an employee is 2 to 10 times as much within just a year or two. They have healthier employees. They don't go to the hospital as often. They don't have chronic diseases and they are more productive. They show up for work and they are more productive. What we have done in our bill is expanded this nationwide to give more companies the incentive to do that.

Our bill also directs the CDC to study and evaluate the best employer-based

wellness programs and to create an educational campaign to promote these workplace wellness programs throughout America.

We think about the United States and our sick care system this way: We spend twice as much per capita on health care as European countries—twice as much—but we are twice as sick with chronic diseases. How is this possible? The reason is clear: We have neglected wellness prevention and disease prevention. In the United States, 95 cents of every health care dollar is spent on treating illnesses and conditions after they occur. Two-thirds of the increase in health care spending is due to increased prevalence of treated chronic disease. This chart illustrates that. In the late 1980s, we were spending about \$313 billion a year on chronic disease. We have now doubled that. It is up to \$627 billion, and it is going up at an ever-increasing rate. These are diseases that are mostly preventable. Yet we just continue to spend the money dealing with these chronic diseases.

The good news is that by reforming our system and keeping people healthy and preventing chronic illnesses, we have a great opportunity to not only save hundreds of billions of dollars but to improve the health of the American people.

Right now, 75 percent of health care costs are accounted for by heart disease, diabetes, prostate cancer, breast cancer, and obesity—five of them. These five diseases account for 75 percent of our health care costs. What do they have in common? They all have this in common: They are largely preventable, and even reversible, by changes in nutrition, physical activity, and lifestyle.

Again, for every dollar spent, 75 cents went toward treating patients with chronic disease. The CDC said this:

The United States cannot effectively address escalating health care costs without addressing the problem of chronic diseases.

Ninety-six cents of every Medicare dollar—we always hear that we are not going to have enough money for Medicare in the next 10 or 12 years, however long it is. Well, 96 cents goes for chronic disease. If you want to cut down on how much money we spend on Medicare, let's focus on prevention and wellness, especially for that group of individuals who are between 55 and 65, about ready to go on Medicare. Eighty-three cents of every dollar spent on Medicaid is spent on chronic diseases. Why don't we understand this and get it right? Yet, just like blind dodos, we say we will just keep spending the money and we won't address wellness and prevention. And we wonder why we can't get health care costs under control. Well, that is why. We are not addressing the underlying issues of wellness and prevention.

Again, it makes no sense to me that we spend all this time and all this effort to figure out a better way to pay the bills in a system that is dysfunc-

tional, ineffective, and broken. We have to change the health care system itself. We have to change from a sick care system to a health care system, beginning with a sharp new emphasis on prevention and public health and wellness. That is in this bill, and that is not being talked about by the media. It is one of the fundamental parts of the health care reform we are going to be putting through here on the Senate floor and, hopefully, in Congress and to the President by the end of the year.

It also has to be comprehensive. Not everything that deals with wellness and prevention can be done in this bill. For example, very soon we have to reauthorize the child nutrition bill, which deals with the School Lunch Program and the Breakfast Program. We have to get better food, more nutritional food for our kids in school and get the junk food out. Why do we have vending machines in schools? Do we have vending machines in schools to provide more healthy food for kids in school? You know the answer to that. Of course not. Why do you have the vending machines in schools? Is it so that the school can make money so it can buy band uniforms or maybe football uniforms and things like that? Is it so we can get our kids on junk food and high-sugar sodas, which leads to obesity and leads to diabetes and other kinds of chronic illnesses? Do we really want that for our kids in school? We have to have more nutritional foods. That is the child nutrition reauthorization.

Next year, under our committee, I say to the occupant of the chair, who is now a distinguished member of our committee, we are going to reauthorize the Elementary and Secondary Education Act, which is also called No Child Left Behind. What about making sure we leave no child behind also in terms of their health? Right now, we are cutting down on physical activity with kids in school. We are cutting down on recess and time for them to exercise. That is just nonsense. We have to do more to provide for exercise and healthy foods for our kids in school. That is where it all begins.

To close, Winston Churchill once said something I always thought was pretty much right on point:

Americans always do the right thing—after they have tried everything else.

We have tried everything else in health care, and it has failed. It has led us to bad health and to the brink of bankruptcy. Let's try something new—wellness and prevention. Times change the paradigm of health care. Let's recreate America as a genuine wellness society. Let's change the focus and make it easier to be healthy and harder to be unhealthy. Right now, it is easier to be unhealthy and hard to be healthy. Let's change that around, and in doing so we will build a health care system and bend that cost curve. That is the only way to get the job done.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I wonder if the Senator from Iowa will yield for a question.

The PRESIDING OFFICER. The Senator has no time remaining.

Mr. COBURN. On our time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Mr. President, the Senator from Iowa listed five diseases. I think he mentioned prostate cancer and breast cancer. Can he give us a reference of where he gets that data? Having practiced medicine for 25 years, most of my prostate cancer patients and breast cancer patients would want to know what the prevention is to prevent those diseases. Since we don't have anything in scientific literature right now that says that, I was wondering if he could refer us to the data.

Mr. HARKIN. Mr. President, I will be glad to get that for the Senator. I will get that to the Senator.

Mr. COBURN. I thank the Senator.

### HEALTH CARE

Mr. COBURN. Mr. President, I plan on taking about 10 minutes of our time.

I serve on the HELP Committee with the distinguished chairman. There is no question we have not emphasized prevention in this country, but there is a reason we have not. We do not pay for it. Medicare does not pay for it. The insurance companies follow what Medicare does.

We have heard some pretty good claims this morning in terms of the HELP bill. I sat through almost 3 weeks of markup on that bill. I don't believe there is anybody in Congress who does not want us to change the way we look at prevention because there is no way we can control health care costs unless we both try to prevent chronic disease and also manage the chronic disease we have.

One of the reasons we have more chronic disease than other countries is because we keep people with chronic disease alive a lot longer. They let them die. They ration the care out, and they determine what the value of their life is. With a chronic disease, eventually they quit treating them. The numbers get skewed because we do a pretty good job. Even though we did not prevent it, we do a wonderful job, and we can actually do far better in managing chronic disease.

What the Senator and the HELP committee put out is a government-centered bill. Let me give an example. Duke University set up a clinic for heart failure patients. They were having phenomenal results. These are all Medicare patients, class III, class IV, class V heart patients. They dropped hospital admissions 27 percent. They shut it down. Why did they shut it down? Medicare would rather pay—because they are not flexible, they will not recognize prevention—they shut down a clinic that was saving them \$100 million a year, even though it cost

about a significant portion of that, 10 percent or so, to run the clinic. They would rather spend the \$90 million than to pay for prevention. So what was a great clinic—keeping people out of the hospital, maintaining their chronic disease. Medicare did that.

That is the reason I am very opposed to the bill—not the principles of the bill but the bill that came out of committee. The bill that came out of our committee creates 88 new government programs—88. Think about it. What do we want in health care? What we want in health care is to be able to determine our own future, to determine our own doctor, and to be able to afford to buy the health care our families need. That is what we want. We create 88 new Federal Government programs managing our health care, and that freedom to choose, that freedom to make a judgment is going to go out the window.

The other points the Senator mentioned, he talked about increasing to 30 percent the ability of performance bonuses for people to get into reduction plans, wellness plans. He mentioned Safeway. They can spend 21 percent under HIPAA now. Safeway's testimony was, give us the flexibility everybody else in the country has and let's go up to 50 percent. We don't trust them to do that, even though Safeway has had no increase in health care costs in the last almost now 5 years because they have truly incentivized prevention.

He mentioned workforce development, and he mentioned all these incentives to help people become primary care doctors. They are not going to become primary care doctors. Do you know why? I am a primary care doctor. They are not going to pay them. The reason we have a disproportionate number of specialists versus primary care doctors in this country is because there is a 350-percent payment differential. How do you think that came about? Medicare created that differential.

If we want more primary care doctors, then what we have to do is pay people to go into primary care, and they will come running because it is the best place in the world to practice medicine. They get to care for entire families. They get to manage every type of conceptual disease one can think of, and the rewards are out of this world. But when the average medical student comes out of medical school owing \$170,000, and their pay is one-fourth of somebody who spends 1 or 2 more years in training, there is no reason to think why they don't all go into additional training so they can be compensated at a level that matches the debt and the sacrifice they put in. They average 8 years of medical school and residency. We don't have many other people who have that kind of training. Yet Medicare created the shortage we have today by limiting the payment to primary care physicians.

The reason I make that point is the plans that are coming to the Senate

floor are totally government centered. They are totally government managed. They are totally government created. He talked about sidewalks and bike paths. In that bill, we set up \$10 billion a year for concrete, supposedly for wellness. I can think of a whole lot better things. We can put \$10 billion in NIH and do a whole lot more in terms of savings for this country in terms of our health care.

Where do I agree with the chairman? We will never control our costs in health care and we will never make health care affordable for us as a nation or individually until we manage the chronic disease we have out there officially and until we incentivize the prevention of it. He is right on that. But there are two approaches to doing that. One says the government is going to do all of it, and the other says maybe we could incentivize individuals in the public to make good decisions for themselves. One costs a whole lot of money; the other does not cost any.

Let me tell you how well the government does. Go to any School Lunch Program you want to today. Go look at it. Look at what we feed our kids at breakfast and lunch, and then ask yourself: No wonder our kids are unhealthy. We are feeding them a high-fat, high-carbohydrate, simple-sugar, simple-starch meal. We are creating, through the government School Lunch Program and breakfast program, the very obesity the Senator says he wants to stop.

Then look at the food stamp purchases we incentivize. There are no limits on them—a government program. Then look at the people on the Food Stamp Program—and this is no discrimination toward them at all; they need the help—but look at the choices they make. There is no effort to limit to only buy what are good foods with food stamp money rather than junk food that, in fact, enhances chronic disease.

There are a lot of ways to approach it, but if we look at what the government is doing now—what does it do? In health care, what does the government do right now that is effective and efficient? Nothing.

The chairman talked about the fact that Medicare is going to go broke. It is. In 5½ years, the Medicare trust fund will be belly up. Nobody disputes that point. The Medicare trustees are saying that. We have all these problems in Medicare. Why don't we fix those? We have a full 15 percent, at a minimum, of fraud in Medicare. Where is the fix? Why don't we fix it? Instead, we are going to bring to the floor 88 new government programs, a government-centric run health care system that is going to defeat and destroy the best health care system in the world.

It is not the most efficient, but there is no question if you are sick, this is the best place in the world to get sick. If you have cancer, your cure rate is 40 to 50 percent better than anywhere else



in the world. If you have heart disease, your outcome is better than any other place in the world. Prevention is key, but as we try to fix the problems in health care, our first goal ought to be "do no harm" to what is good about American health care.

I yield for my colleague from Tennessee and note I have consumed over 10 minutes. I apologize to him for that.

The PRESIDING OFFICER. The Senator consumed 10 minutes.

Mr. ALEXANDER. Mr. President, the Senator from Oklahoma, a practicing physician who has delivered hundreds or thousands of babies—

Mr. COBURN. Thousands.

Mr. ALEXANDER. Thousands of babies is one of the most eloquent spokesmen for what needs to be done in health care in the Senate. I am delighted he took time to come to the Senate floor today. It helps to have someone here who has such a passion for patients and who can talk to the American people on this complicated subject in terms of what this health care plan means for us. That is why so many of us on the Republican side agree with what eight Democratic Senators wrote to the majority leader the other day.

They said: We would like to read the bill and know what it costs before we start voting on it. That seems so sensible that maybe the American people would laugh out loud if that would be a request, but it is. It is important to us and them and many more of the Senators—I believe virtually all of the American people—that we honor that request.

What that means is that the legislative text being put together by Majority Leader REID somewhere—the merging of the Finance bill and the HELP bill—that full text, and as the Democratic Senator said, the complete budget scores should be made available for 72 hours on the Internet before we begin to vote.

The Director of the Budget Office has said it might take 2 weeks, 3 weeks, to have complete budget scores so we can know what the bill costs. But if it takes 2 weeks, if it takes 3 weeks, if it takes 4 weeks, we need to know. The President has said we cannot add a dime to the deficit. How are we going to know if we are adding a dime to the deficit if we do not read the bill and do not know what it costs? We cannot guess what is in the bill. We cannot guess at what it costs when we are talking about huge numbers—hundreds of billions, trillions of dollars.

We have our work cut out for us. We can stay here and do this. We are prepared to do this. We Republicans agree with the Democratic Senators that we need to read the bill and know what it costs. We need to see the complete legislative text and the complete budget numbers.

Why is that so important? Among other reasons, what we are hearing is that what the bill coming out of the Finance Committee does is, among

other things, three big things. Instead of reducing costs, it has higher premiums, it has higher taxes, and it has Medicare cuts. That is not health care reform if it has higher premiums, higher taxes, and Medicare cuts for more government.

What is the goal of this exercise? The first goal is reducing costs for each person who buys insurance. How many of us go home and hear that every weekend? I cannot afford my insurance; do something about it. Reducing costs.

What else do we hear? People are saying: I cannot afford my government. You guys are running up the debt trillions of dollars, hundreds of billions of dollars.

What we need to do is to reduce the cost of health care for individuals across America and for the government of individuals. But this bill raises premiums, raises taxes, and cuts Medicare to create more government.

How does it drive up premiums? The Congressional Budget Office has said the obvious, which is that when we impose taxes on medical devices and on the insurance companies, what do they do with it? It is \$900 billion-plus worth of taxes. They pass it on to us. So our premiums go up.

Or there are new "government approved" policies that we will need to buy. If you are one of those Americans who likes to buy a catastrophic policy—that is, pay a lower premium so that you pay your own medical expenses unless something really terrible happens to you or your family—that is a pretty wise choice for many Americans. You may not be able to do that quite so easily under this bill because you will have to buy a government-approved plan or pay a fine. And then younger Americans may be surprised by the amount of money they have to pay. So it is very likely that for millions of Americans this bill will raise their premiums instead of reducing their cost, and 250 million Americans either pay premiums or have premiums paid for them.

Then raising taxes. Here we are in the middle of a recession, 10 percent unemployment, and we are talking about nearly \$1 trillion of tax increases that will be passed on to us in one way or the other. There is a \$1,500 penalty per family if you don't buy insurance. There is an employer mandate. So if you are a small business, you will have to either provide insurance or pay that penalty.

Then the governors of both parties—Democrats and Republicans—are in a near cardiac arrest over the prospect of the Medicaid expansion. I mean 14 million new people—low-income Americans—dumped into State Medicaid Programs. I say "dumped" because doctors and hospitals are reimbursed so poorly that only 40 percent of doctors will see Medicaid patients. So we are going to say: Congratulations, Mr. and Ms. Low-Income American, into the Medicaid you go in your State.

Not only is it not health care reform for those individuals, but the governors

can't manage it, the legislators can't manage it, and the taxpayers can't manage it. I have read, on the floor, comments from most Democratic Governors and most Republican Governors. They are in a situation where their States' budgets are in the worst shape since the 1960s. Medicaid is going up at 6 and 7 percent. They are taking money from higher education and K-12 grades and spending it on Medicaid, and now we are about to dump not only more low-income Americans into Medicaid, but we are going to send a part of the bill to the State governments which can't afford it. So that is State taxes, and it cuts your Medicare.

The question I would like to raise is, what about those Medicare cuts and are doctors themselves going to be paying for this bill? There is an article today, or October 13, the former head of the Congressional Budget Office, Douglas Holtz-Eakin. These Congressional Budget Office heads are known to be pretty straight. This one was appointed by the Republican Congress; Mr. Elmendorf, whom we all respect, was appointed by a Democratic Congress, but they are all nonpartisan. Mr. Holtz-Eakin says:

... the plan proposed by the Democrats and the Obama administration would not only fail to reduce the cost burden on middle-class families, it would make that burden significantly worse. The bill creates a new health entitlement program that the Congressional Budget Office estimates will grow over the longer term at a rate of 8 percent annually. To avoid the fate of the House bill ... the Senate did three things: It promised that future Congresses would make tough choices to slow entitlement spending, and it dropped the hammer on the middle class.

Mr. President, could you let me know when I have consumed 10 minutes?

The PRESIDING OFFICER. The Chair will let the Senator know.

Mr. ALEXANDER. I thank the Chair. Here is what Mr. Holtz-Eakin said:

One inconvenient truth is the fact that Congress will not allow doctors to suffer a 24 percent cut in their Medicare reimbursements.

Doctors today are paid about 80 percent of what private insurers will pay if they see Medicare patients and, under the law, that gets cut every year and every year we come in and fix that. Continuing to read from his article:

Senate Democrats chose to ignore this reality and rely on the promise of a cut to make their bill add up. Taking note of this fact pushes the cost of the bill well over \$1 trillion and destroys any pretense of budget balance.

In other words, Mr. Holtz-Eakin is saying he doesn't believe we in Congress are going to cut doctors' pay when they serve Medicare patients by roughly \$250 billion over the next 10 years. That is about the amount of money it would take just to pay doctors 10 years from now what they are being paid today, and most wouldn't be happy with that. So either the doctors are going to pay for this bill—\$250 billion of it—or you are, because it is going to add to your debt, or your children or your grandchildren are. It is



one way or the other. It is either doctors pay or your kids pay because it is not deficit neutral.

He says:

It is beyond fantastic to promise that future Congresses, for 10 straight years, will allow planned cuts in reimbursements to hospitals, other providers, and Medicare Advantage—thereby reducing the benefits of 25 percent of seniors in Medicare.

His point is these are not only cuts in Medicare—\$½ trillion worth of cuts—the cuts are being used to start a new government program. And here, as both Senator HARKIN and Senator COBURN reminded us, Medicare in 5 or 6 years is going bankrupt—belly up.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. ALEXANDER. I thank the Chair very much. I will conclude my remarks.

What we are proposing to do is cut Medicare—take money from grandma—and instead of spending it on grandma by making Medicare more solvent, we are going to take that money, while the program is about to go insolvent, and create a new program. So these are the kinds of questions the American people have a right to ask and have answered.

That is why we want to read the bill. Because we see, as we look at this bill, higher premiums, higher taxes, Medicare cuts for more government, and we don't believe that is health care reform.

Mr. President, I ask unanimous consent to have printed in the RECORD the entire article from which I quoted.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 13, 2009]

THE BAUCUS BILL IS A TAX BILL

(By Douglas Holtz-Eakin)

Remember when health-care reform was supposed to make life better for the middle class? That dream began to unravel this past summer when Congress proposed a bill that failed to include any competition-based reforms that would actually bend the curve of health-care costs. It fell apart completely when Democrats began papering over the gaping holes their plan would rip in the federal budget.

As it now stands, the plan proposed by Democrats and the Obama administration would not only fail to reduce the cost burden on middle-class families, it would make that burden significantly worse.

Consider the bill put forward by the Senate Finance Committee. From a budgetary perspective, it is straightforward. The bill creates a new health entitlement program that the Congressional Budget Office (CBO) estimates will grow over the longer term at a rate of 8% annually, which is much faster than the growth rate of the economy or tax revenues. This is the same growth rate as the House bill that Sen. Kent Conrad (D., N.D.) deep-sixed by asking the CBO to tell the truth about its impact on health-care costs.

To avoid the fate of the House bill and achieve a veneer of fiscal sensibility, the Senate did three things: It omitted inconvenient truths, it promised that future Congresses will make tough choices to slow entitlement spending, and it dropped the hammer on the middle class.

One inconvenient truth is the fact that Congress will not allow doctors to suffer a 24% cut in their Medicare reimbursements. Senate Democrats chose to ignore this reality and rely on the promise of a cut to make their bill add up. Taking note of this fact pushes the total cost of the bill well over \$1 trillion and destroys any pretense of budget balance.

It is beyond fantastic to promise that future Congresses, for 10 straight years, will allow planned cuts in reimbursements to hospitals, other providers, and Medicare Advantage (thereby reducing the benefits of 25% of seniors in Medicare). The 1997 Balanced Budget Act pursued this strategy and successive Congresses steadily unwound its provisions. The very fact that this Congress is pursuing an expensive new entitlement belies the notion that members would be willing to cut existing ones.

Most astounding of all is what this Congress is willing to do to struggling middle-class families. The bill would impose nearly \$400 billion in new taxes and fees. Nearly 90% of that burden will be shouldered by those making \$200,000 or less.

It might not appear that way at first, because the dollars are collected via a 40% tax on sales by insurers of "Cadillac" policies, fees on health insurers, drug companies and device manufacturers, and an assortment of odds and ends.

But the economics are clear. These costs will be passed on to consumers by either directly raising insurance premiums, or by fueling higher health-care costs that inevitably lead to higher premiums. Consumers will pay the excise tax on high-cost plans. The Joint Committee on Taxation indicates that 87% of the burden would fall on Americans making less than \$200,000, and more than half on those earning under \$100,000.

Industry fees are even worse because Democrats chose to make these fees non-deductible. This means that insurance companies will have to raise premiums significantly just to break even. American families will bear a burden even greater than the \$130 billion in fees that the bill intends to collect. According to my analysis, premiums will rise by as much as \$200 billion over the next 10 years—and 90% will again fall on the middle class.

Senate Democrats are also erecting new barriers to middle-class ascent. A family of four making \$54,000 would pay \$4,800 for health insurance, with the remainder coming from subsidies. If they work harder and raise their income to \$66,000, their cost of insurance rises by \$2,800. In other words, earning another \$12,000 raises their bill by \$2,800—marginal tax rate of 23%. Double-digit increases in effective tax rates will have detrimental effects on the incentives of millions of Americans.

Why does it make sense to double down on the kinds of entitlements already in crisis, instead of passing medical malpractice reform and allowing greater competition among insurers? Why should middle-class families pay more than \$2,000 on average, by my estimate, in taxes in the process?

Middle-class families have it tough enough. There is little reason to believe that the pain of the current recession, housing downturn, and financial crisis will quickly fade away—especially with the administration planning to triple the national debt over the next decade.

The promise of real reform remains. But the reality of the Democrats' current effort is starkly less benign. It will create a dangerous new entitlement that will be paid for by the middle class and their children.

Mr. ALEXANDER. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

#### AFGHANISTAN TROOP SURGE

Mr. KYL. Mr. President, I was critical of the President's decisions when he canceled the so-called missile shield that would have been located in Poland and in the Czech Republic, among others things, because I was concerned about the message it sends to our allies in the region. After working with them to develop the political and public consensus for this missile shield, the United States essentially pulled the rug out from under these allies and left the consensus in Central and Eastern Europe that the United States, once again, proved to be an unreliable ally.

Throughout the Baltic States, Central Europe and other people in the world couldn't fail to notice the same. I am thinking of countries in the Persian Gulf that have relied upon the presence of the United States but have, I think, wondered from time to time whether we are the ally they want to stick with because of the fact that sometimes we have proven to be unreliable.

I am concerned about that same issue with respect to Pakistan and Afghanistan. Will our continued public debate over the recommendations that General McChrystal has made to the President result in both allies in the region as well as the leaders of Afghanistan and Pakistan concluding that they better make book with others in the area, including potentially the Taliban? Because after all, those people are going to continue to be in the area; the United States may not.

This is where I think the debate about General McChrystal's recommendations about troop levels and other resources in Afghanistan become so very important. I think we need to listen to the advice of the commander in the field, General McChrystal, who produced a very straightforward assessment of the situation in Afghanistan.

Obviously, the President is the Commander in Chief, and the decisions are his to make. It is appropriate for him to rely upon others for advice as well as on the commander in the field. But there is a point at which the President's own strategy, which he announced in March, needs to be adequately resourced and we need to move forward. Here is what the President said:

The American people must understand that this is a downpayment on our own future.

He was talking about the resources that would be needed in Afghanistan. So he selected General McChrystal to implement his strategy. We unanimously confirmed General McChrystal, and then the President asked him to give an assessment of what it was going to take. That assessment was provided in August. It has now been about 50 days since that assessment

has been made public—since the President received it. Yet we still don't have a decision.

My concern is that this continuing public debate is going to raise doubts around the world about the staying power of the United States; about our willingness to continue commitments we make. Remember, the President himself called this a war of necessity, both during the campaign and after his inauguration. He stressed the fact that we had to do what it took to win in Afghanistan. There are those around the world who are wondering whether we mean to resource this effort to the extent that General McChrystal has said is necessary.

What did General McChrystal's assessment say? First, he speaks of what ISAF—that is the international force, including NATO forces—will require.

ISAF requires an increase in the total coalition force capability and end strength.

In other words, more troops. He warned of the risk of not providing adequate resources, and here is what he said:

Failure to provide quality resources risks a longer conflict, greater casualties, higher overall costs, and ultimately, a critical loss of political support. Any of these risks, in turn, are likely to result in mission failure.

Is that what we want—mission failure? If we don't quickly make a decision, support the President—if he makes the decision to adequately resource our effort there, then we are not only going to be losing, we are not only going to have mission failure, but we will send a message to everybody around the world that, once again, the United States can't be trusted. Here is what the General said about why it matters:

Time matters; we must act now to reverse the negative trends and demonstrate progress. I believe the short-term fight will be decisive. Failure to gain the initiative and reverse insurgent momentum in the near-term—next 12 months—while Afghan security capacity matures—risks an outcome where defeating the insurgency is no longer possible.

Do we want to take the risk that we take so long in getting the additional troops there that success is no longer possible? I hope not. Finally, General McChrystal underscored the reason for his conclusions during a recent speech he gave in London, where he said:

I believe that the loss of stability in Afghanistan brings a huge risk that transnational terrorists such as al-Qaida will operate from within Afghanistan again.

Now we are having this big public debate. Some prominent Democrats have said we shouldn't resource this the way General McChrystal has announced, and this is why I think we are sending the wrong message. I understand there is some declining support for the war, but this is where Presidential and congressional leadership comes in.

I remember, during the debate over the Iraq war, we had a lot of armchair generals and even a lot of pundits who thought they knew better. Well, Gen-

eral Petraeus, it turned out, was right. Thankfully, President Bush at the time followed his recommendations. As a result, the surge in Iraq was successful. General McChrystal and General Petraeus are essentially saying the same thing again.

Remember, General McChrystal is an expert in both counterterrorism and counterinsurgency policy. He understands the difference and he understands it takes resources to fight a counterinsurgency campaign because you not only have to defeat an enemy but you have to continue to hold the area you have taken until the indigenous forces—in this case the Afghan police and army—are trained in sufficient numbers to hold the territory. You have to protect the populace. In a counterinsurgency strategy, the key is not killing the enemy, the key is protecting the populace. That is why it takes more troops.

Let me read a couple other things the general said:

My conclusions were informed through a rigorous multi-disciplinary assessment by a team of accomplished military personnel and civilians, and my personal experience and core beliefs. Central to my analysis is a belief that we must respect the complexities of the operational environment and design our strategic approach accordingly.

This is a carefully thought-out strategic assessment with a lot of support.

There is a recent article in the *Weekly Standard* magazine by Fred and Kim Kagan that does an excellent job of explaining why this advice is so wise. It focuses on the nature of the al-Qaida threat that emanates from Afghanistan and the network of support that is established there. Part of this is what has informed General McChrystal's assessment. The article says, and I quote:

We should fight [the Taliban and Haqqani groups]—

Another terrorist-led group—

because in practice they are integrally connected with al Qaeda. Allowing the Taliban and the Haqqani networks to expand their areas of control and influence would offer new opportunities to al Qaeda that its leaders appear determined to seize. It would relieve the pressure on al Qaeda, giving its operative more scope to protect themselves while working to project power and influence around the world.

In other words, against the United States. The Haqqani group he is referring to is another terrorist-led group.

Secretary of State Clinton said it quite succinctly when she stated:

If Afghanistan were taken over by the Taliban, I can't tell you how fast al-Qaida would be back in Afghanistan.

That is the point. That is why I think we need to get on with our decision.

I noted, with interest, a column by E.J. Dionne in the *Washington Post* entitled "No Rush to Escalate." He quotes in his column historian Robert Dallek, who recently advised President Obama:

"In my judgment," he recalls saying, "war kills off great reform movements."

Then he goes on to talk about how World War I brought the Progressive

Era to a close; that Franklin Roosevelt would have done better if not for World War II; that Vietnam hurt Lyndon Johnson's Great Society. He says:

It may just be that some of the President's senior advisers and supporters may be urging him not to devote the necessary resources to Afghanistan because they don't want him to become a war president.

That would be most unfortunate. President Obama is the Commander in Chief. He campaigned to become the war President. He said he wanted to end the war in Iraq, which he called a war of choice, and he wanted to win the war in Afghanistan—a war of necessity.

He won the election and he, now, as Commander in Chief, has to make these critical decisions. Whether he likes it or not, he is a war President and he will be judged by history not only by his domestic agenda but by how well he leaves the situation in Iraq and Afghanistan. The key with Afghanistan is not to leave the country in the hands of dangerous Taliban or other terrorists who would work with al-Qaida and give them the kind of place they had before from which to train and plan attacks on the rest of the world.

Also at stake in this debate is the message we are sending to the rest of the world, to our allies in the Middle East, in the Persian Gulf, to Pakistan. Is it safe to throw in with the United States and to help us in our war against these terrorists or, because the United States may bug out when the going gets tough, do we decide to make book with the other side, as Pakistan had done in the past with various groups including the Taliban? That is part of what is at stake. It is not just Afghanistan but our reputation around the rest of the world as to how we deal with our allies and how we resolve conflicts we get involved in.

General McChrystal said it best when he said:

We must show resolve. Uncertainty disheartens our allies, emboldens our foes.

That is the key message today. I urge the President, in continuing this debate, to bring it to a close as quickly as he can to make the decision. I know Republicans will support a decision that follows the recommendations of General Petraeus and General McChrystal.

I ask unanimous consent to have printed in the *RECORD* two articles from the *Weekly Standard* magazine: One, "How Not to Defeat al-Qaida, To Win in Afghanistan Requires Troops on the Ground" and "Don't Go Wobbly on Afghanistan; President Obama Was Right in March," both by Fred and Kimberly Kagan.

There being no objection, the material was ordered to be printed in the *RECORD*, as follows:

[From the *Weekly Standard*, Oct. 5, 2009]

HOW NOT TO DEFEAT AL QAEDA

(By Frederick W. Kagan and Kimberly Kagan)

President Obama has announced his intention to conduct a review of U.S. strategy in

Afghanistan from first principles before deciding whether or not to accept General Stanley McChrystal's proposed strategy and request for more forces. This review is delaying the decision. If the delay goes on much longer, it will force military leaders either to rush the deployment in a way that increases the strain on soldiers and their families or to lose the opportunity to affect the spring campaign. The president's determination to make sure of his policy before committing the additional 40,000 or so forces required by General McChrystal's campaign plan is, nevertheless, understandable. The conflict in Afghanistan is complex, and it is important that we understand what we are trying to do.

At the center of the complexity is a deceptively simple question: If the United States is fighting a terrorist organization—al Qaeda—why must we conduct a counterinsurgency campaign in Afghanistan against two other groups—the Quetta Shura Taliban and the Haqqani Network—that have neither the objective nor the capability to attack the United States outside Afghanistan? Shouldn't we fight a terrorist organization with a counterterrorist strategy, customarily defined as relying on long-range precision weapons and Special Forces raids to eliminate key terrorist leaders? Why must we become embroiled in the politics and social dysfunctionality of the fifth-poorest country in the world? Surely, some surrounding President Obama appear to be arguing, it makes more sense to confine our operations narrowly to the aim we care most about: defeating the terrorists and so preventing them from killing Americans.

This argument rests on two essential assumptions: that al Qaeda is primarily a terrorist group and that it is separable from the insurgent groups among whom it lives and through whom it operates. Let us examine these assumptions.

Al Qaeda is a highly ideological organization that openly states its aims and general methods. It seeks to replace existing governments in the Muslim world, which it regards as apostate, with a regime based on its own interpretation of the Koran and Muslim tradition. It relies on a reading of some of the earliest Muslim traditions to justify its right to declare Muslims apostates if they do not behave according to its own interpretation of Islam and to kill them if necessary. This reading is actually nearly identical to a belief that developed in the earliest years of Islam after Muhammad's death, which mainstream Muslims quickly rejected as a heresy (the Kharijite movement), and it remains heretical to the overwhelming majority of Muslims today. The question of the religious legality of killing Muslims causes tensions within al Qaeda and between al Qaeda and other Muslims, leading to debates over the wisdom of fighting the "near enemy," i.e., the "apostate" Muslim governments in the region, or the "far enemy," i.e., the West and especially the United States, which al Qaeda believes provides indispensable support to these "apostate" governments. The 9/11 attack resulted from the temporary triumph of the "far enemy" school.

Above all, al Qaeda does not see itself as a terrorist organization. It defines itself as the vanguard in the Leninist sense: a revolutionary movement whose aim is to take power throughout the Muslim world. It is an insurgent organization with global aims. Its use of terrorism (for which it has developed lengthy and abstruse religious justifications) is simply a reflection of its current situation. If al Qaeda had the ability to conduct guerrilla warfare with success, it would do so. If it could wage conventional war, it would probably prefer to do so. It has already made clear that it desires to wage

chemical, biological, and nuclear war when possible.

In this respect, al Qaeda is very different from terrorist groups like the IRA, ETA, and even Hamas. Those groups used or use terrorism in pursuit of political objectives confined to a specific region—expelling the British from Northern Ireland, creating an independent or autonomous Basque land, expelling Israel from Palestine. The Ulstermen did not seek to destroy Britain or march on London; the Basques are not in mortal combat with Spaniards; and even Hamas seeks only to drive the Jews out of Israel, not to exterminate them throughout the world. Al Qaeda, by contrast, seeks to rule all the world's 1.5 billion Muslims and to reduce the non-Muslim peoples to subservience. For al Qaeda, terrorism is a start, not an end nor even the preferred means. It goes without saying that the United States and the West would face catastrophic consequences if al Qaeda ever managed to obtain the ability to wage war by different means. Defeating al Qaeda requires more than disrupting its leadership cells so that they cannot plan and conduct attacks in the United States. It also requires preventing al Qaeda from obtaining the capabilities it seeks to wage real war beyond terrorist strikes.

Al Qaeda does not exist in a vacuum like the SPECTRE of James Bond movies. It has always operated in close coordination with allies. The anti-Soviet jihad of the 1980s was the crucible in which al Qaeda leaders first bonded with the partners who would shelter them in Afghanistan. Osama bin Laden met Jalaluddin Haqqani, whose network is now fighting U.S. forces in eastern Afghanistan, as both were raising support in Saudi Arabia for the mujahedeen in the 1980s. They then fought the Soviets together. When the Soviet Army withdrew in 1989 (for which bin Laden subsequently took unearned credit), Haqqani seized the Afghan city of Khost and established his control of the surrounding provinces of Khost, Paktia, and Paktika. Haqqani also retained the base in Pakistan—near Miranshah in North Waziristan—from which he had fought the Soviets. He established a madrassa there that has become infamous for its indoctrination of young men in the tenets of militant Islamism.

Haqqani held onto Greater Paktia, as the three provinces are often called, and invited bin Laden to establish bases there in the 1990s in which to train his own cadres. When the Taliban took shape under Mullah Mohammad Omar in the mid-1990s (with a large amount of Pakistani assistance), Haqqani made common cause with that group, which shared his ideological and religious outlook and seemed likely to take control of Afghanistan. He became a minister in the Taliban government, which welcomed and facilitated the continued presence of bin Laden and his training camps.

Bin Laden and al Qaeda could not have functioned as they did in the 1990s without the active support of Mullah Omar and Haqqani. The Taliban and Haqqani fighters protected bin Laden, fed him and his troops, facilitated the movement of al Qaeda leaders and fighters, and generated recruits. They also provided a socio-religious human network that strengthened the personal resilience and organizational reach of bin Laden and his team. Islamist revolution has always been an activity of groups nested within communities, not an undertaking of isolated individuals. As American interrogators in Iraq discovered quickly, the fastest way to get a captured al Qaeda fighter talking was to isolate him from his peers. Bin Laden's Taliban allies provided the intellectual and social support network al Qaeda needed to keep fighting. In return, bin Laden shared his wealth with the Taliban and later sent

his fighters into battle to defend the Taliban regime against the U.S.-aided Northern Alliance attack after 9/11.

The relationship that developed between bin Laden and Mullah Omar was deep and strong. It helps explain why Mullah Omar refused categorically to expel bin Laden after 9/11 even though he knew that failing to do so could lead to the destruction of the Taliban state—as it did. In return, bin Laden recognizes Mullah Omar as *amir al-momineen*—the "Commander of the Faithful"—a religious title the Taliban uses to legitimize its activities and shadow state. The alliance between al Qaeda and the Haqqanis (now led by Sirajuddin, successor to his aging and ailing father, Jalaluddin) also remains strong. The Haqqani network still claims the terrain of Greater Paktia, can project attacks into Kabul, and seems to facilitate the kinds of spectacular attacks in Afghanistan that are the hallmark of al Qaeda training and technical expertise. There is no reason whatever to believe that Mullah Omar or the Haqqanis—whose religious and political views remain closely aligned with al Qaeda's—would fail to offer renewed hospitality to their friend and ally of 20 years, bin Laden.

Mullah Omar and the Haqqanis are not the ones hosting al Qaeda today, however, since the presence of U.S. and NATO forces in Afghanistan has made that country too dangerous for bin Laden and his lieutenants. They now reside for the most part on the other side of the Durand Line, among the mélange of anti-government insurgent and terrorist groups that live in the Federally Administered Tribal Areas and the Northwest Frontier Province of Pakistan. These groups—they include the Tehrik-e Taliban-e Pakistan, led until his recent death-by-Predator by Baitullah Mehsud; the Tehrik-e Nafaz-e Shariat-e Mohammadi; and the Lashkar-e-Taiba, responsible for the Mumbai attack—now provide some of the same services to al Qaeda that the Taliban provided when they ruled Afghanistan. Mullah Omar continues to help, moreover, by intervening in disputes among the more fractious Pakistani groups to try to maintain cohesion within the movement. All of these groups coordinate their activities, moreover, and all have voices within the Peshawar Shura (council). They are not isolated groups, but rather a network-of-networks, both a social and a political grouping run, in the manner of Pashtuns, by a number of shuras, of which that in Peshawar is theoretically pre-eminent.

All of which is to say that the common image of al Qaeda leaders flitting like bats from cave to cave in the badlands of Pakistan is inaccurate. Al Qaeda leaders do flit (and no doubt sometimes sleep in caves)—but they flit like guests from friend to friend in areas controlled by their allies. Their allies provide them with shelter and food, with warning of impending attacks, with the means to move rapidly. Their allies provide communications services—runners and the use of their own more modern systems to help al Qaeda's senior leaders avoid creating electronic footprints that our forces could use to track and target them. Their allies provide means of moving money and other strategic resources around, as well as the means of imparting critical knowledge (like expertise in explosives) to cadres. Their allies provide media support, helping to get the al Qaeda message out and then serving as an echo chamber to magnify it via their own media resources.

Could al Qaeda perform all of these functions itself, without the help of local allies? It probably could. In Iraq, certainly, the al Qaeda organization established its own administrative, logistical, training, recruiting,

and support structures under the rubric of its own state—the Islamic State of Iraq. For a while, this system worked well for the terrorists; it supported a concerted terror campaign in and around Baghdad virtually unprecedented in its scale and viciousness. It also created serious vulnerabilities for Al Qaeda in Iraq, however. The establishment of this autonomous, foreign-run structure left a seam between Al Qaeda in Iraq and the local population and their leaders. As long as the population continued to be in open revolt against the United States and the Iraqi government, this seam was not terribly damaging to al Qaeda. But as local leaders began to abandon their insurgent operations, Al Qaeda in Iraq became dangerously exposed and, ultimately, came to be seen as an enemy by the very populations that had previously supported it.

There was no such seam in Afghanistan before 9/11. Al Qaeda did not attempt to control territory or administer populations there. It left all such activities in the hands of Mullah Omar and Jalaluddin Haqqani. It still does—relying on those groups as well as on the Islamist groups in Waziristan and the Northwest Frontier Province to do the governing and administering while it focuses on the global war. Afghans had very little interaction with al Qaeda, and so had no reason to turn against the group. The same is true in Pakistan today. The persistence of allies who aim at governing and administering, as well as simply controlling, territory frees al Qaeda from those onerous day-to-day responsibilities and helps shield the organization from the blowback it suffered in Iraq. It reduces the vulnerability of the organization and enormously complicates efforts to defeat or destroy it.

The theory proposed by some in the White House and the press that an out-of-country, high-tech counterterrorist campaign could destroy a terrorist network such as al Qaeda is fraught with erroneous assumptions. Killing skilled terrorists is very hard to do. The best—and most dangerous—of them avoid using cellphones, computers, and other devices that leave obvious electronic footprints. Tracking them requires either capitalizing on their mistakes in using such devices or generating human intelligence about their whereabouts from sources on the ground. When the terrorists operate among relatively friendly populations, gaining useful human intelligence can be extremely difficult if not impossible. The friendlier the population to the terrorists, the more safe houses in which they can hide, the fewer people who even desire to inform the United States or its proxies about the location of terrorist leaders, the more people likely to tell the terrorists about any such informants (and to punish those informants), the more people who can help to conceal the movement of the terrorist leaders and their runners, and so on.

Counterterrorist forces do best when the terrorists must operate among neutral or hostile populations while under severe military pressure, including from troops on the ground. Such pressure forces terrorist leaders to rely more on communications equipment for self-defense and for coordination of larger efforts. It greatly restricts the terrorists' ability to move around, making them easier targets, and to receive and distribute money, weapons, and recruits. This is the scenario that developed in Iraq during and after the surge, and it dramatically increased the vulnerability of terrorist groups to U.S. (and Iraqi) strikes.

Not only did the combination of isolation and pressure make senior leaders more vulnerable, but it exposed mid-level managers as well. Attacking such individuals is important for two reasons: It disrupts the ability

of the organization to operate at all, and it eliminates some of the people most likely to replace senior leaders who are killed. Attacking middle management dramatically reduces the resilience of a terrorist organization, as well as its effectiveness. The intelligence requirement for such attacks is daunting, however. Identifying and locating the senior leadership of a group is one thing. Finding the people who collect taxes, distribute funds and weapons, recruit, run IED cells, and so on, is something else entirely—unless the counterterrorist force actually has a meaningful presence on the ground among the people.

The most serious operational challenge of the pure counterterrorist approach, however, is to eliminate bad guys faster than they can be replaced. Isolated killings of senior leaders, spread out over months or years, rarely do serious systemic harm to their organizations. The best-known example is the death of Abu Musab al Zarkawi, founder and head of Al Qaeda in Iraq, in June 2006, following which the effectiveness and lethality of that group only grew. It remains to be seen what the effect of Baitullah Mehsud's death will be—although it is evident that the presence of the Pakistani military on the ground assisted the high-tech targeting that killed him. Such is the vigor of the groups he controlled that his death occasioned a power struggle among his deputies.

One essential question that advocates of a pure counterterrorism approach must answer, therefore, is: Can the United States significantly accelerate the rate at which our forces identify, target, and kill senior and mid-level leaders? Our efforts to do so have failed to date, despite the commitment of enormous resources to that problem over eight years at the expense of other challenges. Could we do better? The limiting factor on the rate of attrition we can impose on the enemy's senior leadership is our ability to generate the necessary intelligence, not our ability to put metal on target. Perhaps there is a way to increase the attrition rate. If so, advocates of this approach have an obligation to explain what it is. They must also explain why removing U.S. and NATO forces from the theater will not make collecting timely intelligence even harder—effectively slowing the attrition rate. Their argument is counterintuitive at best.

Pursuing a counterinsurgency strategy against the Taliban and Haqqani groups—that is, using American forces to protect the population from them while building the capability of the Afghan Army—appears at first an indirect approach to defeating al Qaeda. In principle, neither the Taliban nor the Haqqani network poses an immediate danger to the United States. Why then should we fight them?

We should fight them because in practice they are integrally connected with al Qaeda. Allowing the Taliban and the Haqqani network to expand their areas of control and influence would offer new opportunities to al Qaeda that its leaders appear determined to seize. It would relieve the pressure on al Qaeda, giving its operatives more scope to protect themselves while working to project power and influence around the world. It would reduce the amount of usable intelligence we could expect to receive, thus reducing the rate at which we could target key leaders. Allowing al Qaeda's allies to succeed would seriously undermine the counterterrorism mission and would make the success of that mission extremely unlikely.

[From the Weekly Standard, Oct. 12, 2009]

DON'T GO WOBBLY ON AFGHANISTAN

(By Frederick W. Kagan and Kimberly Kagan)

“To defeat an enemy that heeds no borders or laws of war, we must recognize the funda-

mental connection between the future of Afghanistan and Pakistan—which is why I've appointed Ambassador Richard Holbrooke . . . to serve as Special Representative for both countries.” That “fundamental connection” between Afghanistan and Pakistan was one of the important principles President Obama laid out in his March 27, 2009, speech announcing his policy in South Asia. It reflected a common criticism of the Bush policy in Afghanistan, which was often castigated as insufficiently “regional.” It also reflected reality: The war against al Qaeda and its affiliates is a two-front conflict that must be fought on both sides of the Durand Line.

Now, however, some of the most vocal supporters of the regional approach are considering—or even advocating—a return to its antithesis, a purely counterterrorism (CT) strategy in Afghanistan. Such a reversion, based on the erroneous assumption that a collapsing Afghanistan would not derail efforts to dismantle terrorist groups in Pakistan, is bound to fail.

Recent discussions of the “CT option” have tended to be sterile, clinical, and removed from the complexity of the region—the opposite of the coherence with which the administration had previously sought to address the problem. In reality, any “CT option” will likely have to be executed against the backdrop of state collapse and civil war in Afghanistan, spiraling extremism and loss of will in Pakistan, and floods of refugees. These conditions would benefit al Qaeda greatly by creating an expanding area of chaos, an environment in which al Qaeda thrives. They would also make the collection of intelligence and the accurate targeting of terrorists extremely difficult.

If the United States should adopt a small-footprint counterterrorism strategy, Afghanistan would descend again into civil war. The Taliban group headed by Mullah Omar and operating in southern Afghanistan (including especially Helmand, Kandahar, and Oruzgan Provinces) is well positioned to take control of that area upon the withdrawal of American and allied combat forces. The remaining Afghan security forces would be unable to resist a Taliban offensive. They would be defeated and would disintegrate. The fear of renewed Taliban assaults would mobilize the Tajiks, Uzbeks, and Hazaras in northern and central Afghanistan. The Taliban itself would certainly drive on Herat and Kabul, leading to war with northern militias. This conflict would collapse the Afghan state, mobilize the Afghan population, and cause many Afghans to flee into Pakistan and Iran.

Within Pakistan, the U.S. reversion to a counterterrorism strategy (from the counterinsurgency strategy for which Obama reaffirmed his support as recently as August) would disrupt the delicate balance that has made possible recent Pakistani progress against internal foes and al Qaeda.

Pakistani president Asif Ali Zardari, army chief of staff General Ashfaq Kayani, and others who have supported Pakistani operations against the Taliban are facing an entrenched resistance within the military and among retired officers. This resistance stems from the decades-long relationships nurtured between the Taliban and Pakistan, which started during the war to expel the Soviet Army. Advocates within Pakistan of continuing to support the Taliban argue that the United States will abandon Afghanistan as it did in 1989, creating chaos that only the Taliban will be able to fill in a manner that suits Pakistan.

Zardari and Kayani have been able to overcome this internal resistance sufficiently to mount major operations against Pakistani Taliban groups, in part because the rhetoric

and actions of the Obama administration to date have seemed to prove the Taliban advocates wrong. The announcement of the withdrawal of U.S. combat forces would prove them right. Pakistani operations against their own insurgents—as well as against al Qaeda, which lives among those insurgents—would probably grind to a halt as Pakistan worked to reposition itself in support of a revived Taliban government in Afghanistan. And a renewed stream of Afghan refugees would likely overwhelm the Pakistani government and military, rendering coherent operations against insurgents and terrorists difficult or impossible.

The collapse of Pakistan, or even the revival of an aggressive and successful Islamist movement there, would be a calamity for the region and for the United States. It would significantly increase the risk that al Qaeda might obtain nuclear weapons from Pakistan's stockpile, as well as the risk that an Indo-Pakistani war might break out involving the use of nuclear weapons.

Not long ago, such a collapse seemed almost imminent. Islamist groups operating under the umbrella of the Tehrik-e Taliban-e Pakistan (TTP), led by Baitullah Mehsud until his recent death, had occupied areas in the Swat River Valley and elsewhere not far from Islamabad itself. Punjabi terrorists affiliated with the same group were launching attacks in the heart of metropolitan Pakistan.

Since then, Pakistani offensives in Swat, Waziristan, and elsewhere have rocked many of these groups back on their heels while rallying political support within Pakistan against the Taliban to an unprecedented degree. But these successes remain as fragile as the Pakistani state itself. The TTP and its allies are damaged but not defeated. Al Qaeda retains safe-havens along the Afghan border.

What if the United States did not withdraw the forces now in Afghanistan, but simply kept them at current levels while emphasizing both counterterrorism and the rapid expansion of the Afghan security forces? Within Afghanistan, the situation would continue to deteriorate. Neither the United States and NATO nor Afghan forces are now capable of defeating the Taliban in the south or east. At best, the recently arrived U.S. reinforcements in the south might be able to turn steady defeat into stalemate, but even that is unlikely.

The accelerated expansion of Afghan security forces, moreover, will be seriously hindered if we fail to deploy additional combat forces. As we discovered in Iraq, the fastest way to help indigenous forces grow in numbers and competence is to partner U.S. and allied units with them side by side in combat. Trainers and mentors are helpful—but their utility is multiplied many times when indigenous soldiers and officers have the opportunity to see what right looks like rather than simply being told about it. At the current troop levels, commanders have had to disperse Afghan and allied forces widely in an effort simply to cover important ground, without regard for partnering.

As a result, it is very likely that the insurgency will grow in size and strength in 2010 faster than Afghan security forces can be developed without the addition of significant numbers of American combat troops—which will likely lead to Afghan state failure and the consequences described above in Afghanistan and the region.

The Obama administration is not making this decision in a vacuum. Obama ran on a platform that made giving Afghanistan the resources it needed an overriding American priority. President Obama has repeated that commitment many times. He appointed a new commander to execute the policy he

enunciated in his March 27 speech, in which he noted: “To focus on the greatest threat to our people, America must no longer deny resources to Afghanistan because of the war in Iraq.” If he now rejects the request of his new commander for forces, his decision will be seen as the abandonment of the president's own commitment to the conflict.

In that case, no amount of rhetorical flourish is likely to persuade Afghans, Pakistanis, or anyone else otherwise. A president who overrules the apparently unanimous recommendation of his senior generals and admirals that he make good the resource shortfalls he himself called unacceptable can hardly convince others he is determined to succeed in Afghanistan. And if the United States is not determined to succeed, then, in the language of the region, it is getting ready to cut and run, whatever the president and his advisers may think or say.

That is a policy that will indeed have regional effects—extremely dangerous ones.

#### ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2010—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. CASEY). Under the previous order, the Senate will proceed to consideration of the conference report to accompany H.R. 3183, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report to accompany H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

The PRESIDING OFFICER. Under the previous order, there is 10 minutes of debate with the Senator from Oklahoma, Mr. COBURN, and 10 minutes of debate equally divided between the Senator from North Dakota, Mr. DORGAN, and the Senator from Utah, Mr. BENNETT. Who yields time?

Mr. DORGAN. Mr. President, is there an order in the unanimous consent request?

The PRESIDING OFFICER. The only order is that the Senator from North Dakota is to control the final 5 minutes.

Mr. DORGAN. I believe the Senator from Oklahoma has been allotted 10 minutes. I saw him just walk through the Chamber a moment ago. The ranking member of the subcommittee, the Senator from Utah, is allotted 5 minutes. Let me reserve my time and perhaps ask the Senator from Utah to begin, and then we hope the Senator from Oklahoma would return and use his 10 minutes.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I am pleased to come to the floor and recommend passage of the energy and water conference report for the fiscal year 2010. Despite the President sending up his budget in May, nearly 4 months after the budget had been traditionally sent to Congress, this subcommittee worked hard to produce a conference report that is ready earlier than any that I can remember. I com-

pliment my chairman, Senator DORGAN, for his hard work in developing a balanced bill in a legitimate time period.

The subcommittee produced a bill that is under the President's budget request by nearly \$1 billion. That is quite extraordinary in this world where we are trying to shovel more money out the door, to come in with a number that is less than the request of the President.

The House and Senate bills differed significantly in their priorities, but I believe the conference report before us balances the funding interests of both bodies and those of the administration as well. The Corps of Engineers remains an area of great interest. The budget request for the corps is down \$277 million from fiscal year 2009. The conference report has restored \$320 million to meet the large number of member requests, and the conferees allocated \$313 million to work off significant construction backlogs.

The Senate bill did not include new starts in the mark. Both the House and the administration proposed new starts, so we had to resolve that issue in the conference. The conference provides \$100,000 per project in new starts in this bill.

Turning to the Bureau of Reclamation, the budget request was \$55 million below fiscal year 2009 levels. The conferees provided an additional \$67 million for the Bureau of Reclamation, which is 6.3 percent over the request and 1 percent over fiscal year 2009. Once again, as the Corps of Engineers, the Bureau of Reclamation has a tremendous backlog of underfunded and meritorious projects, and we did our best to try to work into that backlog.

Finally, as to the Department of Energy, the conference report recommends \$27.1 billion for the Department of Energy, which is \$1.3 billion below the President's request and \$318 million above the current year.

We cannot ignore the fact that \$44 billion was provided in stimulus funding for the Department this year, including \$16 billion provided for renewable energy accounts. That is why we have been able to make the changes we did.

In restoring balance to the energy programs, the committee recommends an additional \$25 million for nuclear energy R&D, including an \$85 million increase for the Nuclear Power 2010 Program.

With respect to the concerns raised by the Senator from Oklahoma, I point out the Senate adopted his amendments by unanimous consent. I was in support of those amendments and would be happy to support them again as they come in other appropriations bills. The reaction on the part of the House was that there were two amendments proposed by the Senator from Oklahoma: one they were willing to accept and one they were not. We had to make a decision as to which of the two we would support and, with Senator

DORGAN, I supported one of the amendments of the Senator from Oklahoma that made it into the conference report. I am sorry we were unable to get the other one in, but we did our best and we would be happy, as I say—at least I would be happy; I will not speak for the chairman—I would be happy to support this at some point in the future.

I yield the floor and whatever remainder of the time I may not have used I ask accrue to Senator DORGAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, we are at this point not because an amendment was not accepted. We are at this point because of the nature of the amendment that was not accepted. I recognize my colleagues for the good work they did on this bill. It is the lowest increase of any appropriations bill that has come to the Senate floor. But the problem is very straightforward and very simple: Why would the House not accept an amendment that said transparency for the American public is what we are after? We have to question that. And why would our conferees sign on to a conference report that did not have transparency? That is the question.

There was an amendment that said the reports asked for out of this appropriations bill, unless they contain information related to the security and defense of this country, should be made public to all 70 Senators who are not on the Appropriations Committee but, more important, to the people of this country. I cannot understand; nobody can offer an argument on why you would not want to do that. Yet somehow it is not in the bill. How do we explain that? Is it because it is a Coburn amendment that it is not in the bill? Is it because there is something in the reports we do not want the American people to see? If that is the case, what is the problem? Where is the problem?

The reason I did not give unanimous consent on this bill coming to the floor is that I believe we ought to have a discussion about transparency. One of the things my friend, President Obama, was good at when he was here, and has said he is for as our President, is transparency. We teamed up and passed, along with Senator CARPER and Senator MCCAIN, the Transparency and Accountability Act. By the spring or summer of this year we will be able to see where every penny of our tax dollar goes, all the way down to subcontracting. That is real transparency.

The question before us is why would this body accept this conference report cloaked in secrecy?

I know Senators wanted this amendment. I am not accusing them of not wanting it. What I do not understand is why they would ever agree to a conference that did not have it in any bill we did? Why would we not let the

American people see what we are doing? Why would we not want the people to see an annual report by the Department of Energy on their financial balances? That is one of the reports that is in here. Can somebody tell me why we would not want that? Who in the House would not want that? What is it we do not want the American people to see? A report by the Chief of Engineers on water resources? Why can't the American people see that? A report by the Nuclear Regulatory Commission identifying barriers to and its recommendations for streamlining for construction of new nuclear reactors? Why should not the American people see what the problems are and see what that report says? Why should that be cloaked, out of light, out of view, and away from the knowledge of the American people?

To me, there is either one of two explanations. One is they do not care about what the American people think about knowing what is going on in our government or there is something else going on inside one of these reports they do not want the American people to see. It is one of those two things. I don't know which it is. But what I believe is, it is unacceptable for us to pass a bill, a conference report, that has information in it that is not a risk for any of our national security issues to which the American people should not be privy.

I believe, if we vote for this conference report, what we are saying is we endorse it; we know it better. There are certain things that even though they don't relate to security, you are not smart enough, you don't have the insight, you don't have the wisdom, you don't have the knowledge to make a judgment.

I reject that, our Founders rejected that, and we as a body ought to reject it.

I reserve the remainder of my time.

Mr. DORGAN. Mr. President, the unanimous consent agreement provides I will have the final 5 minutes of debate. If the Senator from Oklahoma wishes to consume the remainder of his time, I will use the final 5 minutes and then we will proceed.

Mr. COBURN. Mr. President, parliamentary inquiry:

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. It is true the Senator does have the last time, but is the unanimous consent agreement that the last 5 minutes is his?

I understand. I yield back my time.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I think I speak for myself and Senator BENNETT, we very much appreciate the work the Senator from Oklahoma does. He does it diligently. He is on the floor a great deal pushing his views on these issues. On the specific issue that he just described, it is an issue in which he came to the floor and offered it. We included it in the bill during the Sen-

ate floor consideration because we believed in it. We agreed with him, as did others in the Senate, and that is what we took to conference.

The Senator from Oklahoma weaves a bit of a larger cloud than exists by suggesting there was some sort of deep secrets or conspiratorial approach to try to prevent the public from seeing something. That is far from the case. The Senator makes a point that we agreed with by accepting his amendment. That is, reports required of the Department of Energy to be sent to the Congress should be available not only to Congress but to the American people. We agreed with that point. That is why we put it in the Senate bill. We went to conference with the House. There was objection. The fact is, this is a very big piece of legislation. If we decided that if we can't resolve an objection or if we can't reach agreement on everything, then there won't be a conference report. If that were the case, there would be very few conference reports on the floor of the Senate.

As my colleagues from Oklahoma and Utah know, there is a lot of give and take in the conference process. This is a piece of legislation that has some \$30 billion-plus on a wide range of issues such as nuclear weapons. This bill also funds nuclear weapons programs, water programs for both the Army Corps of Engineers and the Bureau of Reclamation, energy programs, nuclear waste cleanup sites and many more complicated and important issues. In order to get a conference report, we had to give and take here and there, and there was an objection to the provision the Senator from Oklahoma had put in the Senate bill. I regret that, but that was the case. As my colleague from Utah described previously, I will continue to support the Senator from Oklahoma's efforts to make sure all of these reports are made available to the American people, providing that there is no national security issue or secret clearance to them.

I emphasize something my colleague from Oklahoma described about this. This conference report on energy and water is an important conference report. We need to get our bills done on time. Aside from the fact that it does not include his amendment, which we had previously supported and still do, we need to do our work. There is a lot of criticism about not passing appropriations bills. We will pass appropriations bills this year in great contrast to years previous when there have been big omnibus bills. That is a good thing, that we are making progress to pass individual appropriations bills. We brought this bill to the floor for debate. Amendments were offered, and the bill was passed. That is exactly the way the process should work.

Senator BENNETT and I brought a bill to the floor that is slightly less than 1 percent above last year's expenditures for water and energy and so on. The Senator from Oklahoma acknowledged at the beginning of his remarks that



this bill, with respect to the fiscal year 2010, is not a bill that unnecessarily throws a lot of money at programs and projects. We are less than 1 percent above last year's expenditures. That is important to note.

With respect to the many programs in the bill, there are many that are flat funded. Some are even slightly below fiscal year 2009. The exception is in three areas where there were increases. The first area of increase was for energy efficiency and renewable energy programs because we are trying to make sure we move down the road more aggressively to attain a lower carbon future and promote greater efficiency. Second, the DOE's Science program represents an investment that will provide significant dividends in the future. Our great science laboratories and other investments in science represent a profoundly important investment in our nation. Finally, naval reactors had an increase. We put some additional money there because of the importance of this program. The rest of the programs are very near their fiscal year 2009 levels with no increase at all.

This is a good conference report. I don't believe it is inappropriate for my colleague from Oklahoma to be upset that his amendment is not a part of the report. I understand his position. He has served in the House and Senate. He understands there are many things in conference that get dropped. Yet, for everything that is dropped, there was someone in the House or Senate who believed it was important enough to come to the floor, offer it, fight for it, and passionately believe in it. I understand that is true with everything. It is certainly true for our colleague from Oklahoma who spends a lot of time pushing for increased transparency. We appreciate that. That is why we agreed to the amendment during the Senate debate.

This Energy and Water Appropriations bill is an important piece of legislation. It does not contain the one amendment the Senator from Oklahoma got put in the Senate side. We wish it did, but it does not. But the conference report is nonetheless something that merits the support of the broad membership in the Senate.

I yield the floor.

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report to accompany H.R. 3183, the Energy and Water Appropriations Act for Fiscal Year 2010.

Harry Reid, Charles E. Schumer, Patrick J. Leahy, Dianne Feinstein, Evan Bayh, Mark L. Pryor, Jon Tester, Robert Menendez, Frank R. Lautenberg, Kent Conrad, Patty Murray, John F. Kerry, Daniel K. Inouye, Sheldon

Whitehouse, Carl Levin, Jack Reed, John D. Rockefeller, IV, Bill Nelson.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 3183, the Energy and Water Development and Related Agencies Appropriations Act, 2010, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH), the Senator from Massachusetts (Mr. KERRY), and the Senator from Missouri (Mrs. MCCASKILL) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Texas (Mrs. HUTCHISON).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 79, nays 17, as follows:

[Rollcall Vote No. 321 Leg.]

#### YEAS—79

Akaka	Feinstein	Nelson (NE)
Alexander	Franken	Nelson (FL)
Barrasso	Gillibrand	Pryor
Baucus	Gregg	Reed
Bayh	Hagan	Reid
Bennet	Harkin	Risch
Bennett	Hatch	Roberts
Bingaman	Inouye	Rockefeller
Bond	Johnson	Sanders
Boxer	Kaufman	Schumer
Brown	Kirk	Shaheen
Brownback	Klobuchar	Shelby
Burris	Kohl	Snowe
Byrd	Landrieu	Specter
Cantwell	Lautenberg	Stabenow
Cardin	LeMieux	Tester
Carper	Leahy	Thune
Casey	Levin	Udall (CO)
Cochran	Lieberman	Udall (NM)
Collins	Lincoln	Vitter
Conrad	Lugar	Voinovich
Crapo	McConnell	Warner
Dodd	Menendez	Webb
Dorgan	Merkley	Whitehouse
Durbin	Mikulski	Wyden
Enzi	Murkowski	
Feingold	Murray	

#### NAYS—17

Bunning	DeMint	Johanns
Burr	Ensign	Kyl
Chambliss	Graham	McCain
Coburn	Grassley	Sessions
Corker	Inhofe	Wicker
Cornyn	Isakson	

#### NOT VOTING—4

Begich	Kerry
Hutchison	McCaskill

The PRESIDING OFFICER. On this question, the yeas are 79, the nays are 17. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, let me thank my colleagues who voted for cloture for the Energy and Water Appropriations conference report. It is important that we do the appropriations bills and get them done individually. We are now past October 1, but in the last 2 years, we actually had to do omnibus appropriations bills. Thanks to

Senator REID and his determination and thanks to Senator INOUE, the chairman of the Appropriations Committee, we are doing the bills one by one by one, and we are going to get them finished. We just voted on the bill that funds all of the energy and water programs in the country, and it is a very important investment in this country.

I wanted to comment more generally about a few issues. The legislation we are moving, the conference report, just got cloture. We got it through the House and the Senate and now we are in a period of 30 hours post-cloture. Hopefully, we will then get it to the President for his signature for it to become law. The concerns I have about the issues here include not just the water infrastructure and nuclear weapons programs in our Energy and Water bill but also very much include energy.

I wish to speak for a moment about the energy challenges we face. This chart describes a very serious dilemma for our country. Two-thirds of the crude oil used in the United States today is imported. Two-thirds of the crude oil we use comes from other countries, some of whom don't like us very much. Our economy runs on energy. If, God forbid, tomorrow the supply of oil to this country were interrupted by terrorists or for some other reason, our economy would be in desperate trouble. Every single day the American people get up and use energy but take it for granted. We get out of bed, and we turn a switch on. We assume the lights will be on. We perhaps plug in an electric razor or toothbrush and expect there to be electricity to run that razor or toothbrush. We take a shower and expect the water heater to have been heated with electricity or natural gas to provide the hot water for a shower. Then we make coffee and breakfast, and there is electricity assumed to be available. Further, we put a key in the ignition of a vehicle and drive off to work, using energy once again.

Every part of our daily life is filled with the use of energy. The question is, How can we address this issue of our unbelievable reliance on foreign oil? It threatens our national security and our energy security to be so reliant on foreign oil. The reliance we have has to be reduced. So how do we do that? Even as we do that, we must also find a way to reduce the carbon footprint and reduce the amount of CO<sub>2</sub> that goes into the atmosphere to protect the planet. So two things are working at the same time.

I wish to talk for a bit more about the legislation we have finished in the Senate Energy Committee, rather than the Energy and Water Appropriations panel which I chair. Senator BINGAMAN chairs the Energy Committee, and I am the second ranking Democrat on that authorizing committee. I wish to talk about what we have written in the energy authorizing bill in the context with efforts that some have described

to merge that energy bill with a cap-and-trade climate change bill and bring both to the floor for a debate. I prefer we not do that approach. Not because I don't think we should address climate change; I believe we should have that debate too. I believe we are going to have to have a lower carbon future. What I believe we should do is a two-step process that focuses on energy legislation. From a policy standpoint, it would give us a real opportunity to reduce carbon in the atmosphere by changing our energy mix. First by using more renewable energy, and second by finding ways, through greater investments in research and technology, to reduce the carbon emitted when we burn fossil fuels to produce energy. So I have a couple of comments about this two-step approach.

The Energy bill we have enacted provides a lot of things. It provides a substantial increase in renewable energy, and it does that through wind turbines which create electricity from the wind. There is no carbon output with wind energy. The problem is that we have a lot of wind in remote areas, and we need to move it to the load centers that need the electricity. It's well known that there is wind from Texas to North Dakota. By the way, North Dakota ranks No. 1 in wind; we are the Saudi Arabia in wind. We also have a substantial opportunity to develop solar from Texas across the Southwest to California where the sun shines all the time, or virtually all the time. We can maximize the production of energy where it is available from wind, solar, biomass and so on, and then we can build the transmission capability to move it to the load centers that need it. By doing this, you will dramatically change our energy capability in this country.

The legislation we have done in the Energy Committee accomplishes that goal. We have a significant transmission piece in that legislation that allows us, at long last, to build the transmission capacity we need to support our renewable potential.

We built an Interstate Highway System around this country so you can get in a vehicle and drive almost anywhere, but we have not built an interstate highway of transmission to move energy from where it exists to where it is needed. We have a patchwork of transmission that was built up over a period of time when there was a local utility that produced energy for a certain market and then in that area distributed energy to its market. That is the kind of transmission system we have. We need to dramatically modernize the transmission so we can maximize the amount of renewable energy.

There are a lot of things happening that I think are exciting in energy that can change our future. Do you know right now there are a couple hundred people working on a process to find innovative ways to use coal. Dr. Craig Venter is involved. He is one of the

great scientists in our country and one of the two people who led the human genome project. They are working on finding ways to create synthetic microbes that would actually consume a coal in deep seams and turn the coal into methane. Think of that. It creates synthetic microbes that will essentially eat the coal—that is not a scientific term—they will consume the coal and leave in its wake methane, turning coal into methane.

We have others who are working on the development of algae and energy, and Dr. Venter is involved in this as well. By the way, after 15 years of it being discontinued, I restarted the algae research at the DOE energy laboratories through my Energy and Water Subcommittee. Dr. Venter is working on developing strains of algae that will excrete lipids that become a fuel. We know we can grow algae in water and sunlight and CO<sub>2</sub> and then get rid of CO<sub>2</sub> by growing algae and then destroy the algae by harvesting it and creating diesel fuel. Dr. Venter is looking at ways to produce algae that simply excrete the lipids and, with little transformation, becomes a fuel. We have so many things going on that are so interesting. I think 10 years from now we will look in the rearview mirror and see dramatic changes in how we produce energy and how we significantly reduce carbon.

I wish to show a map of my State in which we have some projects that are extraordinary. The western half of North Dakota has substantial oil development. The USGS determined that it was the largest discovery of technically recoverable oil that has yet been assessed in the lower 48 States. They estimated that there was as much as 4.3 billion barrels of oil in this region known as the Bakken formation. We also have a substantial amount of coal, lignite coal. We have one of the largest commercial working example of CO<sub>2</sub> sequestration by capturing the CO<sub>2</sub> from a synthetic gas plant, putting it in a pipeline, and sending it up to Saskatchewan where they inject it underground for enhanced oil recovery. By doing this, it improves the productivity of marginal oil wells in Saskatchewan. So we actually capture the CO<sub>2</sub> from the North Dakota plant that is gasifying coal and gas, ship it up to Canada, and then inject it underground in an enhanced oil recovery process. In my judgment, that is a very exciting thing.

Here are the fuels we use for the production of electricity. About forty-eight percent of our electricity comes from coal. Nuclear provides a smaller piece than that need. We have natural gas, hydroelectric, and other renewables too. So my point is we are not going to have a future without using coal for some period of time. The question is how do we use it in a different way. I believe a substantial investment in technology that will allow us to build near-zero emission coal-fired plants. I believe we can do that by cap-

turing carbon and protecting our environment. We must maximize the use of renewables from wind, solar, biomass, and other sources. We must also move toward an electric drive transportation system, and then continue to invest in a longer term hydrogen fuel cell system. We need to do all of these things are what we can and should do.

The Energy bill we passed out of the Energy Committee is a giant step forward to maximize renewables and increase energy efficiency as a way to reduce carbon. I think what we ought to do is bring that energy bill to the floor, have a debate, get it to the President for his signature. This would be a giant step in the direction of climate change. Following that, we should bring the climate change bill to the floor and then address the issue of targets and timetables and other mechanisms to find out what is achievable for protecting this country. Some have heard me speak about this and have said, Well, he doesn't support any sort of climate change legislation. What I have said is I don't support cap and "trade." At this point, I have said I don't support providing a \$1 trillion carbon securities market for Wall Street so that speculators and the investment banks can trade carbon securities tomorrow and tell us what our price of energy is going to be for us the next day. I have precious little faith in those same people who ran up the price of oil last year to \$147 a barrel in day trading when the market fundamentals showed that demand was down and supply was up. So, no, I don't support the trade side using that mechanism, but I do support creating climate change legislation that has appropriate targets and timetables that reduce our nation's carbon footprint. We can do that. We will do that. I think there is general consensus we should do that.

All I am saying is this: What we ought to do is bring to the floor energy legislation that will adopt the policies on maximizing renewables, building the transmission capability, creating the building efficiencies and much more that is and important step forward and the lowest hanging fruit in energy. Among these positive benefits, energy efficiency is the lowest hanging fruit by far that costs the least to retrofit America's buildings and homes. We should do all of that in the Energy bill that has now been waiting for some months. I have spoken to the majority leader who has been a terrific advocate for sound and thoughtful energy policies. I have also talked to the President directly about this. It is not that I don't want to do climate change because I know my colleagues are working hard on it. It is the fact that I want to make progress in energy policy first that can change our fuel mix and develop a lower carbon future. Because we have done that work in the Energy Committee, we have taken an important step. We can then bring a climate change bill to the floor after that which I know is controversial, but that

we can work on developing targets and timetables for that lower carbon future. I think this is something we should do and I think we can do. I think it would, in my judgment, be the best fit for this country's future energy policy and for the policy that is necessary to lower the future CO<sub>2</sub> emissions into the atmosphere and protect the environment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that any recess adjournment or morning business period count past cloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that I be allowed to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I say to my colleague from North Dakota that the one example he gave about algae—it is so exciting that we know now that you can take algae and put it in some kind of plastic cylinder, expose it to sunlight, and with the right ingredients in there, pump in CO<sub>2</sub>, and it consumes the carbon dioxide and in the process it makes ethanol. So as the Senator has hinted, if this process ends up working, and working efficiently, what about putting an algae ethanol-producing plant right next to a coal-fired electricity plant to take the CO<sub>2</sub> out of the coal, and instead of trying to inject it into the ground, put it right into the ethanol-producing algae plant? There are limitless possibilities, as the Senator from North Dakota pointed out. I find it quite exciting.

Mr. DORGAN. If the Senator will yield for a question, I held a hearing on the beneficial use of carbon. A scientist at Sandia National Laboratory said: Think of carbon not just as a problem but an opportunity.

In this case, when you talk of algae, it is single-cell pond scum, a green slime you find on top of wastewater, right? The fact is, you can feed CO<sub>2</sub> to algae and produce something from it that extends our fuel supply. It is exactly the kind of thing that makes sense.

There are other beneficial uses of carbon as well. If we change our way of thinking a bit, we all have the same goal, which is to protect our planet. We can find other ways of maximizing the use of renewables and to reduce carbon by using it for enhanced oil recovery and producing additional fuel by growing algae.

I thank the Senator.

Mr. NELSON of Florida. Mr. President, I wish to speak about the Energy and Water appropriations bill. It certainly is going to continue to help us provide for the Nation's energy needs and water infrastructure, but it also restores funding to our efforts at restoring America's Everglades.

For many years, the Everglades have simply languished. Over half a century ago, or three-quarters of a century ago, the idea was to get rid of the floodwaters, and mankind went in there and completely reversed what Mother Nature intended, diked and drained and sent freshwater out to tidewater and did it exactly the opposite.

In this massive project, we are trying to restore the natural ecosystem that once dominated the entire south half of the peninsula of Florida. The Water Resources Development Act of 2007 was a major step toward restoring parts of the Everglades. This effort was also helped by this year's omnibus and stimulus spending bills which put a significant amount of funding toward restoration—about \$360 million. Building on that momentum, the President's budget for fiscal year 2010 included \$214 million in funding for the Everglades from the Army Corps of Engineers.

Despite the best bipartisan efforts of the Florida delegation, the final bill contains \$180 million in funding for the Everglades instead of what we had hoped for, but we do have exciting things happening this year. In a few months, there will be two groundbreaking projects that are critical to restoring the Everglades—the construction of the Tamiami Trail bridge and the Picayune Strand.

While this particular appropriations bill falls short of the President's request, I have been assured by the administration that Site One, which is one of the projects that is funded minimally in this appropriations bill, and the Indian River Lagoon, also funded minimally, are going to have the funds needed to go forward from another source, perhaps the stimulus bill. I wish to express my appreciation to the administration. We have overcome great obstacles to get us this far. This bill settles the question of whether the Indian River Lagoon and Site One are new starts or not. In 2010 we will begin construction on those new projects.

It was Oliver Wendell Holmes who said that "the great thing in the world is not so much where we stand, as in what direction we are moving." When it comes to the Everglades restoration, we are going in the right direction. We have great science, we know what needs to be done, and we are doing it. In 12 months, we have allocated \$600 million for the Everglades. In the next year, we are going to break ground on four projects.

I wish to conclude by saying that restoration not only means doing these projects, which often are Army Corps of Engineers projects, but it also means protecting the 68 threatened and endangered species that call the Everglades home.

Just yesterday, a long-awaited Federal report was released that found that the Burmese python, a giant constrictor snake, and four other large constrictor snakes pose a high risk to these kinds of environments in the United States. We have been saying

this for the last 3 years, but we now have the official report issued by the Federal Government. The report says, in particular, that Florida, Texas, and Hawaii provide prime habitat for these giant predators. Remember, these predators have no natural enemies. It doesn't make any difference if the critter has scales, feathers, or fur—these giant constrictor snakes consume them all. We have 68 threatened and endangered species in the Everglades that call the Everglades home. According to the superintendent of the Everglades Park, there are estimates of up to 140,000 of these snakes because they proliferate so greatly. They got one female, and they found 56 eggs inside her ready to hatch. That is how much they proliferate. So the report finally backs up what the National Park Service staff, the scientists, and the citizens of south Florida have been concerned about for the past years—the enormous damage caused by importing invasive species like the Burmese python.

We are going to continue to work with the Florida delegation and the Department of the Interior, with Secretary Ken Salazar, who has taken a personal interest in this, with the Army Corps of Engineers, with the State of Florida, the local communities, and the citizens who are committed to the Everglades, toward restoring this national treasure.

I yield the floor.

Mr. CONRAD. Mr. President, I rise to offer for the record, the Budget Committee's official scoring for the conference report to accompany H.R. 3183, the Energy and Water Development and Related Agencies Appropriations Act for fiscal year 2010.

The conference report provides \$33.5 billion in discretionary budget authority for fiscal year 2010, which will result in new outlays of \$19.6 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the conference report will total \$43 billion.

The conference report matches its section 302(b) allocation for budget authority and for outlays.

The conference report includes several provisions that make changes in mandatory programs that result in an increase in direct spending in the 9 years following the 2010 budget year. Each of these provisions is subject to a point of order established by section 314 of S. Con. Res. 70, the 2009 budget resolution. The conference report is not subject to any other budget points of order.

I ask unanimous consent that the table displaying the Budget Committee scoring of the conference report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 3183, ENERGY AND WATER DEVELOPMENT AND  
RELATED AGENCIES APPROPRIATIONS ACT, 2010

(Spending comparisons—Conference Report (in millions of dollars))

	Defense	General Purpose	Total
Conference Report:			
Budget Authority .....	16,629	16,836	33,465
Outlays .....	18,391	24,563	42,954
Senate 302(b) Allocation:			
Budget Authority .....			33,465
Outlays .....			42,954
Senate-Passed Bill:			
Budget Authority .....	16,886	16,864	33,750
Outlays .....	18,571	24,630	43,201
House-Passed Bill:			
Budget Authority .....	16,367	16,931	33,298
Outlays .....	18,219	24,508	42,727
President's Request:			
Budget Authority .....	16,548	17,845	34,393
Outlays .....	18,345	24,269	42,614
Conference Report Compared To:			
Senate 302(b) allocation:			
Budget Authority .....			0
Outlays .....			0
Senate-Passed Bill:			
Budget Authority .....	-257	-28	-285
Outlays .....	-180	-67	-247
House-Passed Bill:			
Budget Authority .....	262	-95	167
Outlays .....	172	55	227
President's Request:			
Budget Authority .....	81	-1,009	-928
Outlays .....	46	294	340

Note: The table does not include 2010 outlays stemming from emergency budget authority provided in the 2009 Supplemental Appropriations Act (P.L. 111-32).

Mr. INOUE. Mr. President, I submit pursuant to Senate rules a report, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DISCLOSURE OF CONGRESSIONALLY DIRECTED  
SPENDING ITEMS

I certify that the information required by rule XLIV of the Standing Rules of the Senate related to congressionally directed spending items has been identified in the conference report which accompanies H.R. 3183 and that the required information has been available on a publicly accessible congressional website at least 48 hours before a vote on the pending bill.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

## VOTE EXPLANATION

• Mr. KERRY. Mr. President, I was necessarily absent for the vote to invoke cloture on the conference report to accompany the Energy and Water Development and Related Agencies Appropriations Act, 2010, H.R. 3183. If I were able to attend today's session, I would have supported cloture.●

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:40 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Acting President pro tempore.

ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES  
APPROPRIATIONS ACT, 2010—CON-  
FERENCE REPORT—Continued

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

## AFGHANISTAN RESET

Mr. BYRD. Mr. President, few subjects weigh more heavily upon a Presi-

dent of the United States than the decision to send America's sons and daughters into war. Such a commitment demands the clearest of clear thinking, including a thoroughly dispassionate assessment of goals—objectives, in other words—risks and strategies. This is difficult, very difficult terrain for any American President, especially when faced with conflicting views from advisers, from Congress, and from the American public.

I have become deeply concerned that in the 8 years since the September 11 attacks, the reason for the military mission of the United States in Afghanistan has become lost, consumed in some broader scheme of nation building, which has clouded our purpose and obscured our reasoning.

General McChrystal, our current military commander in Afghanistan, has requested 30,000 to 40,000 additional American troops to bolster the more than 65,000 American troops already there. I am not clear as to his reasons and I have many questions.

What does General McChrystal actually aim to achieve? So I am compelled to ask: Does it take 100,000 U.S. troops to find Osama bin Laden? If al-Qaida has moved to Pakistan, what will these troops in Afghanistan add to the effort to defeat al-Qaida? What is meant by the term "defeat" in the parlance of conventional military aims when facing a shadowy, global terrorist network? And what of this number 100,000? Does the number 100,000 troops include support personnel? Does it include government civilians? Does it include defense and security contractors? How many contractors are already there in Afghanistan? How much more will this cost? How much in terms of dollars? How much in terms of American blood? Will the international community step up to the plate and bear a greater share of the burden?

There are some in Congress who talk about limiting the number of additional troops until we surge—where have I heard that word before—until we "surge to train" more Afghan defense forces. That sounds a lot like fence straddling to me. I suggest we might better refocus our efforts on al-Qaida and reduce U.S. participation in nation building in Afghanistan.

Let me say that again. I suggest we might better refocus—in other words, take another look—our efforts on al-Qaida and reduce U.S. participation in nation building in Afghanistan. Given the lack of popularity and integrity of the current Afghan Government, what guarantee is there that additional Afghan troops and equipment will not produce an even larger and better armed hostile force?

Let me ask that question again. Given the lack of popularity and integrity of the current Afghan Government, what guarantee is there that additional Afghan troops and equipment will not produce an even larger and better armed hostile force? There is no guarantee. The lengthy presence of for-

eign troops in a sovereign country almost always creates resentment and resistance among the native population.

I am relieved to hear President Obama acknowledge that there has been mission creep in Afghanistan, and I am pleased to hear the President express skepticism about sending more troops into Afghanistan unless needed to achieve our primary goal of disrupting al-Qaida. I remain concerned that Congress may yet succumb to military and international agendas. General Petraeus and General McChrystal both seem to have bought into the nation-building mission. By supporting a nationwide counterinsurgency and nation-building strategy, I believe they have certainly lost sight of America's primary strategic objective; namely, to disrupt and defang—in other words, pull the teeth right out of the bone. I believe they certainly have lost sight of America's primary strategic objective to disrupt and defang al-Qaida and protect the American people—protect the American people—from future attack.

President Obama and the Congress must—I do not say "should," I say "must"—reassess and refocus on our original and most important objective; namely, emasculating—I mean tearing it out by the roots—emasculating a terrorist network that has proved its ability to inflict harm, where? On the United States.

If more troops are required to support the international mission in Afghanistan, then the international community should step up and provide the additional forces and funding. The United States is already supplying a disproportionate number of combat assets for that purpose.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. VITTER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## AMENDMENT NO. 2644

Mr. VITTER. Mr. President, I rise to talk about my pending amendment to the Commerce-Justice-State appropriations bill, amendment No. 2644. Apparently, this has created some interest and some opposition. It apparently is one of the major, if not the major, reason the majority leader felt the need to file cloture on the Commerce-Justice-State bill rather than simply come to an agreement regarding pending amendments and votes. It saddens me that—although that agreement was all worked out, basically—it was out the window, and he just decided to file cloture and bar votes on all of those amendments, including my amendment No. 2644. I think we should have a reasonable debate on my amendment and

then a straightforward vote on the amendment because it is an important topic, directly related to that bill.

What does the amendment do? My amendment is about the next census. It simply says no funds in that appropriations bill can be spent on the next census unless we ask about citizenship. I believe that is a basic requirement for the next census, to give us adequate tools to deal with a whole host of issues, including illegal immigration, including properly handling congressional reapportionment. Again, I find it very sad and, frankly, telling that the majority leader is going to such lengths to avoid having a vote on that simple concept, that simple idea.

Why should we ask a question about citizenship? A couple of reasons. First of all, the census is supposed to give us in Congress important information, detailed information, the tools we need regarding how to handle a host of Federal programs and Federal issues. Certainly a major issue we need to deal with in this country and in this Congress is immigration, including illegal immigration. It seems like basic information we would want to collect. How many folks covered in the census are citizens and how many are noncitizens? That is basic information that would help us in a whole host of ways with regard to Federal programs and with regard to dealing with the immigration issue.

There is another even more important reason, in my opinion, we should collect this information, and that is because one of the most important things any census is used for is reapportioning the U.S. House of Representatives; determining how many House seats each State in the Union gets in terms of representation. As it stands now, the plan is to do the census, to not distinguish in any way between citizens and noncitizens, and therefore to have noncitizens counted in congressional reapportionment. I think this is crazy and goes against the very idea of a representative democracy, people being elected by voters to represent citizens in the Congress. I don't think the Founding Fathers set up our democracy to have noncitizens represented in the Congress.

As it stands now, without asking that simple, basic, fundamental question, noncitizens will be counted in congressional reapportionment. That means States with a particularly large number of noncitizens, including illegal aliens, will be rewarded for that, will get more representation, more say, more clout in the House of Representatives. States that do not have that issue will be hurt. They will get less say, less clout, less Members of the House of Representatives. I think that is fundamentally wrong.

I also have a very specific interest in finding against that because Louisiana is one of nine States that would specifically be hurt. There are at least nine States that will have less representation in the House of Representatives if

we count all people in congressional reapportionment, including noncitizens, versus if we just count citizens. It is important to say what those nine States are, and I specifically reached out to the Senators representing those nine specific States to make it clear to them that their States lose out in terms of that equation.

Those States are Indiana, Iowa, Michigan, Pennsylvania, Mississippi, North Carolina, South Carolina, Oregon, and Louisiana. Those nine States would have less representation, less say, less clout in the House of Representatives if all people, including noncitizens, are counted in congressional reapportionment versus if only citizens are counted. Once again: Indiana, Iowa, Michigan, Pennsylvania, Mississippi, North Carolina, South Carolina, Oregon, and Louisiana.

I particularly implore my colleagues, Democrats and Republicans, from those States to be aware of that, to support the Vitter amendment, and so we get to a vote on the Vitter amendment, No. 2644, to vote against cloture on the entire bill.

Unfortunately, there are several Senators from those States who voted for cloture yesterday. I hope they will reconsider. I hope they would see, if they vote for cloture again, that they would be preventing us getting to this issue. They would be preventing us getting to a reasonable and full debate and vote on this issue. I implore all Senators from Indiana, including Senator BAYH, who voted for cloture previously; from Iowa, including the Senators there who voted for cloture previously; the two Senators from Michigan; the two Senators from Pennsylvania; the Democratic Senator from North Carolina; the Democratic Senator from Louisiana—please don't vote for cloture again until we can get a reasonable vote on this amendment.

Let me specifically address some of the arguments that have been made against this amendment because I think they are completely erroneous. One argument is this will intimidate folks and discourage noncitizens from filling out the census form. I think it is important to note, No. 1, this citizenship question is asked on the long form. The long form gets millions of responses, and the census has never noted any difficulty in getting folks to fill out the long form.

This question is also asked in the American Community Survey which the Census Bureau does. Again, the same citizenship question is asked here, and we get plenty of responses. The Census Bureau has never noted a big problem in terms of getting those responses.

To make this perfectly clear, I am perfectly willing to revise my amendment so that we only focus on citizenship, not immigration status. I will be happy to revise my amendment so it only mentions and only focuses on citizenship versus immigration status.

The other argument, that the Census Bureau itself has apparently made, is

that this would be cumbersome and cost money at this stage in the census. Frankly, I find this pretty ironic coming from a bureaucracy which is spending \$13 billion on this new census, up from \$4.5 billion from the last census. Here is a bureaucracy where the cost of the new census versus the last census has tripled. The last score they are getting \$13 billion, but asking this one question, which they already ask in the long form, which they already ask in the American Community Survey, is a huge problem and will cost too much money. That simply is silly on its face. It is important to do this right. Certainly asking a basic question about citizenship is central to doing it right.

In summary, I urge all my colleagues to demand a vote on this important issue and to vote against cloture on the bill until we get that vote. Then, when we get that vote, I urge all my colleagues to support the Vitter amendment, No. 2644. It is very simple and straightforward. It will say: Ask the citizenship question. Let us know how many folks in the overall count are citizens and how many are noncitizens. That is absolutely essential, No. 1, so we can use the census information as a full tool in many of the programs and policies we debate and implement in Congress. No. 2, it is particularly important for congressional reapportionment.

I do not believe noncitizens should be counted in congressional reapportionment. I don't believe States which have particularly large noncitizen populations should have more say and more clout in Congress because of that than States that do not, and that States such as Louisiana should be penalized. I don't believe those nine States in particular—Louisiana, Indiana, Iowa, Michigan, Pennsylvania, Mississippi, North Carolina, South Carolina, Oregon—should be penalized by including noncitizens in congressional reapportionment. I certainly do not believe Senators representing those nine States should vote either for cloture, cutting off a vote on my amendment, or should vote against my amendment.

Again, I particularly urge all Senators from those nine States to stand up for their States, to vote for the interests of their States, to vote for their States getting full and proper representation, to vote against their States being penalized in terms of the census and in terms of congressional reapportionment.

It is a simple issue but a very basic, fundamental issue. The census is an important tool. It only happens once every 10 years. We need to get it right for a whole host of reasons, particularly with congressional reapportionment in mind.

I daresay if any Members of this body go back home to their States and have a discussion in a diner, have a townhall meeting, just ask a representative group of citizens: Did you know that noncitizens, including illegal aliens, are not only counted in the census—

but we do not discriminate—we do not know the numbers of noncitizens versus citizens? And, because of that, did you know all of those noncitizens are factored into determining how many House seats each State gets so that States with very large noncitizen populations, including large numbers of illegal aliens, are rewarded for that; they get more clout and say and vote in the House of Representatives, and other States, particularly the nine States I mentioned, are penalized because of that?

I daresay the average citizen would be stunned about that and would say, hardly with any exception: That is not right. We should know those numbers, and we should not count noncitizens in terms of House representation. I certainly think citizens and voters in Indiana, in Iowa, in Oregon, in Michigan, Pennsylvania, Mississippi, North Carolina, South Carolina, and Louisiana would certainly say: Wait a minute, we are being penalized because noncitizens are being counted or being worked into the formula for representation in Congress? That is crazy.

It is crazy. It doesn't meet the smell test, it doesn't meet the commonsense test of the American people, and we should act to make sure the next census is done right, starting by having a vote on the Vitter amendment, No. 2644, and by passing that amendment to the bill.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, my understanding is that we are now in what is called a 30-hour postcloture period. We had a cloture vote this morning on the energy and water conference report. I chair the committee that brought that to the floor, the subcommittee on appropriations which funds the water projects, the energy projects, the nuclear weapons, among other things. It is a very important piece of legislation. We could not just bring it to the floor from conference. We actually had to file cloture, wait for the cloture petition to ripen—2 days—then we have a vote. I think we had 79 votes in favor of it. And now we are in a period where we can't yet adopt it because some are insisting we have the 30 hours postcloture expire. My hope is that whoever feels that way might relent so that later this afternoon we can pass this piece of legislation.

But this legislation is very much like almost everything else we are trying to do in appropriations. We have tried very hard to do the appropriations bills as we are supposed to do them—one at a time, bring them to the floor, have votes, debate the amendments, and so on. In the last couple of years, in my judgment, the appropriations process has been a failure because we have had to do omnibus bills, which is not the right way to do it. We were forced to do that, in many respects. But now we are

trying to do one bill at a time, and we have done many of them. Credit goes to the majority leader, who has said we want to finish the individual appropriations bills. But the fact is, we are getting almost no cooperation—almost none.

I think we have had a relatively noncontroversial Legislative Branch appropriations bill, which is generally pretty uncontroversial. As I recall, I believe we had to file a cloture petition to shut off debate on the motion to proceed—not the bill, just the motion to proceed to the bill. That takes 2 days to ripen, then you have 30 hours postcloture.

Virtually every step of the way, we have had this problem, with no cooperation at all. It is like trying to ride a bicycle built for two uphill and the person on the backseat has their foot on the brakes. That is what is happening around here all the time. All we would like is just a little cooperation so we can get these bills completed.

When we bring a conference bill to the floor, it shouldn't take us 2 to 3 days. The bill I brought to the floor myself, the Energy and Water bill, took us a fair amount of time. We sat on the floor waiting for people to come and offer amendments. They didn't. That is why I sometimes refer to the Senate as 100 bad habits. It is not very easy to get people to come over, even when they have amendments to offer. And then from time to time somebody comes over and has an amendment that has nothing to do with the subject, which is fine—the rules allow that—but then they insist they have a vote on their specific two or three or four amendments or they will hold everything up forever.

So we are getting no cooperation, and it would be nice to get just some so we can get the appropriations bills done. It is the right way to do it—bring the bills to the floor, do them, debate them, and have votes on them. That is the way the Senate should work. Lord knows we have tried this year to do that, but we have had almost no cooperation. At every turn, we have had people stand up and say: Well, I have my four amendments, but, no, I am not going to come over and offer them. I am going to tell you I have four amendments to offer, and if you try to shut this down and shut off amendments, then we will filibuster and we won't give you the 60 votes you need to shut it off. So there you are, stuck in the middle, unable to get things done.

Again, the cloture vote yesterday failed on Commerce-State-Justice. Normally speaking, Senator MIKULSKI would bring a bill like that to the floor of the Senate and it would be on the floor maybe 1 day, maybe 2 days. Instead, I watched last week as she was out here waiting for people to offer amendments—sitting here waiting, and no one was coming to offer amendments, by and large. Then the majority leader sat here until I think 9:30 or 10 o'clock at night one evening trying to

reach an agreement, and no agreement was forthcoming.

My only point is that it would be nice if we could get some cooperation and some understanding. It is not Republican or Democrat or conservative or liberal to do the work on time and finish our appropriations bills with some amount of cooperation; it is just common sense. If we could just get a bit of that cooperation, we could get the work done around here.

I did want to mention as well, with respect to the agenda, that while we are trying to get these appropriations bills done, we will also begin the process of debating health care on the floor of the Senate—a health care bill that will be brought to the floor reasonably soon. I want to mention that certainly one of the efforts I will make when the health care bill comes to the floor—and I have mentioned this before—is to try to address the issue of the expanding cost of prescription drugs. That is not dealt with in the legislation which is coming to the floor, I assume, and if not, then there are 30 of us, Republicans and Democrats, who have legislation that will give the American people the freedom to import FDA-approved drugs sold at a fraction of the price elsewhere. That will be one of the amendments I and many others will come to the floor to offer.

Another amendment I intend to offer is a piece of legislation called the Indian Health Care Improvement Act. We passed that through the Senate last year. We have modified it just a bit this year, and I believe we will reintroduce it later this afternoon.

The Indian Health Care Improvement Act has not been reauthorized for a long time. I believe it has been 17 years since the Senate last dealt with Indian health care—an authorization bill—except for last year when we failed because one of our colleagues, who previously spoke, offered an abortion amendment that had the effect of stopping the bill when it got to the House of Representatives.

Having said all that, I intend to offer the Indian health care legislation as an amendment to the broader health care bill because I don't think we should go on to pass a health care reform bill if we don't address the health care obligations we have made to the first Americans, the American Indians. The fact is, American Indians were promised by treaty—were promised time and time again and in treaties the Federal Government signed—that we would provide for their health care, and we have not met those promises. We have both a trust responsibility and a treaty responsibility to fix the health care system for American Indians. It has not been fixed, and it would be a tragedy if we moved forward with health care and didn't include the important part that is required by us to reauthorize the Indian Health Care Improvement Act. So I intend to offer that as well.

I also want to say that when we get health care completed—and I spoke



earlier today about the need to bring up the Energy bill, but there is another bill that is very important that I have spent a lot of time on that has to be considered by the Senate and the entire Congress. That is the FAA reauthorization bill.

The Federal Aviation Administration reauthorization bill is critically important. It has a wide range of issues dealing with safety in the skies, and it has the important provisions dealing with modernizing our air transportation system—our air traffic control system, I should say—and that modernization can't wait. We have to move forward, and it requires a lot of things.

Senator ROCKEFELLER and I have brought a bill out of the Commerce Committee that is ready for floor action, but we need to get it to the floor of the Senate and get it passed so we can get it into conference with the House of Representatives. If I might, I want to describe for a moment why this is important.

We have the skies full of airplanes. I know the carriers have shrunk their size by 8 or 10 percent in terms of commercial carriers, but nonetheless we have the skies full of airplanes flying around transporting people and cargo, and the fact is, we are still flying to what is called ground-based radar. What happens is, we put an airplane in the air someplace with a couple hundred people on board, and it flies around being guided by ground-based radar. Of course, that is better than the old days, when in order to haul the mail at night, in the early days of airplanes, they first used bonfires every so many miles so that you could fly to a bonfire and see where you were headed. That was the only way you could fly at night. The second thing they did was to use flashing lights, and now, of course, ground-based radar for many decades. But ground-based radar is clearly obsolete, and it only tells someone where an airplane was just for a nanosecond.

The transponder on the airplane being shown on a tube someplace or by a monitor somewhere in the air traffic control center shows, when the arc goes around on the radar, where that jet airplane was. Then for the next 6 or 7 seconds, as it is going around again, that jet airplane is someplace else because it is traveling very fast. It only tells you about where the airplane is and only tells you exactly where it was for a nanosecond.

The fact is, we need to go to a GPS system so we can save money, use more direct routing, make it safer for passengers, and use less energy. You also don't have to space the planes as far apart because you know exactly where an airplane is, not where it was.

We need to move on this newer technology. Europe is moving to it, and many other countries. But it is complicated, and it requires us to pass legislation that includes the modernization of the air traffic control system. Again, we brought that out of the Commerce Committee, and it is awaiting action on the floor of the full Senate.

I hope that following health care and following a number of other issues—including, I hope, an energy bill at some point—the FAA reauthorization bill will have its day on the floor of the Senate. I also hope we will have substantial cooperation. I know Senator HUTCHISON from Texas worked with us, Senator DEMINT worked with us to bring that out of the Commerce Committee, and I look forward to having that as part of the agenda so that all of those who have worked for a long time on these issues dealing with safety in the skies and dealing with modernizing our air traffic control system will be able to feel as if we have made progress and have been able to get this bill to conference with the House.

Mr. President, I know the majority leader has a lot to try to plan for the agenda now as we near the end of the year, and these are big, difficult issues. I want to help him, as do most of my colleagues. We are going to need a little cooperation here and there. If we continue to have to vote on cloture petitions, on motions to proceed, it means every single thing we bring to the floor of the Senate takes a week just to get up. Cloture petitions take a couple of days to ripen, then there is 30 hours postcloture. All we need is a little cooperation. That ought not be too much to ask in order to get the business of the Senate done.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. UDALL of New Mexico. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANDERS). Without objection, it is so ordered.

Mr. UDALL of New Mexico. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### INDIAN HEALTH CARE

Mr. UDALL of New Mexico. Mr. President, I rise to speak about Indian health care legislation. This is legislation introduced by the chairman of the Indian Affairs Committee, Senator DORGAN.

I wish to talk a little bit about Native Americans and their health care situation. We have spent the last 6 months talking about health care. We have debated the quality of care, the cost of care, access to care. I am glad to say we are making progress in fixing what is broken in our health care system. But there is one group of Americans that has not engaged in this national conversation, Americans who suffer from an inadequate health care system and alarming health disparities. I am talking about the first Americans, the American Indians and Alaska Natives who are suffering because the Federal Government is not living up to its promise to them.

Right now Native Americans are being diagnosed with diabetes at almost three times the rate of any other ethnic group. Right now too many Native American families don't have access to preventive health care. Right now Native American teens are attempting and committing suicide at alarming rates. The bottom line is, too many Native Americans are struggling to receive quality health care. For too many years, America has stood aside and let it happen.

Today is a new day. It is time for America to make good on its promises to Native Americans. I believe Senator DORGAN's bill would help us do just that. This legislation will bring much needed reforms to the Indian health care system and will allow us to connect Indian health improvements to national reform efforts. By tying these initiatives together, we will increase the likelihood of success not only today but for years to come. This legislation would make reauthorization of the Indian Health Care Improvement Act permanent so Indian country can better predict and plan for its health care needs. It will also build on what works by expanding services for mental health and prevention. We encourage stronger collaboration with the Veterans' Administration. We provide resources so that more Native Americans can train to become health care providers. We promote new ideas and future progress through funding of demonstration projects.

Finally, we begin addressing a tragedy that is tearing apart too many Native American families, especially in my home State of New Mexico. That tragedy is the epidemic of teen suicide which I spoke of a moment ago. New Mexico's suicide rate is almost two times that of the national average, and far too many of these suicides are happening in Indian country. This summer, over the course of a little more than a month, four people from the Mescalero Apache Reservation committed suicide, all of them teenagers or young adults. The latest was a 14-year-old girl just last week. In this bill we will take the first steps in addressing this crisis. We will fund new grant programs and telehealth initiatives, and we will expand a program that has proven successful for the Zuni tribe in New Mexico. It is a program that connects schools and parents with the community, where students learn to be peer educators, and middle and high school students learn life skills to prevent suicide.

America has an obligation to provide quality, accessible health care for our country's first Americans. That begins with engaging American Indians and Alaska Natives in the national conversation about health reform.

I am honored to cosponsor this bill and look forward to its passage by the Senate.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANDERS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

#### EMERGENCY SENIOR CITIZENS RELIEF ACT

Mr. SANDERS. Madam President, for more than three decades, seniors have relied on a COLA in their Social Security benefits to keep up with their increased expenses. Tomorrow it is expected that the Social Security Administration will announce that for the first time in 35 years, seniors will not be receiving a COLA. Based on the formula that by law they are obliged to use, they came to the conclusion that there is no inflation for seniors and, in fact, the prices for seniors have declined.

In my view, the current formulation for determining Social Security COLAs is wrong in terms of the needs of seniors because it does not accurately take into account their purchasing needs. In other words, if you are 19 years of age and you buy a laptop computer or an iPod or a new cell phone, the likelihood is that prices may well have gone down over the last year. On the other hand, most seniors are not buying iPods. What they are buying is prescription drugs and health care needs, and those costs have gone up.

I have long argued and when I was a Member of the House I introduced legislation with a whole lot of support to develop a separate index for seniors. Be that as it may, where we are right now is that the Social Security Administration will announce tomorrow a zero COLA.

I have some very good news. I have introduced legislation, and I and a number of us have urged the President to be cognizant of the fact that in the midst of this terrible economic recession, we just cannot turn our back on seniors. Many seniors are not only paying increased costs for prescription drugs and for their health care needs, they have seen a decline in their pensions. They have seen a significant decline, in many cases, in the value of their homes. Some have lost their pensions. Basically, we cannot say to them right now that we are not going to reach out and try to help you in whatever way we can.

I am very happy to announce that just this afternoon, President Obama will be supporting support for senior citizens. He will be supporting a \$250 payment to disabled veterans and those people who are on Social Security, some 50 million Americans in all. I applaud the President for not turning his back on seniors.

In his announcement, the President says:

Even as we seek to bring about recovery, we must act on behalf of those hardest hit by this recession. That is why I am announcing my support for an additional \$250 in emergency recovery assistance to seniors, vet-

erans, and people with disabilities to help them make it through these difficult times. These payments will provide aid to more than 50 million people in the coming year, relief that will not only make a difference for them, but for our economy as a whole, complementing the tax cuts we've provided working families and small businesses through the Recovery Act.

That is the statement President Obama is about to release. I thank the President for his support.

Obviously, the ball now comes to our court, and we have to move it forward. I think that in these hard times, when so many seniors are worried about how they are going to pay for their medicine, how they are going to pay for their health care, how they are going to pay to heat their homes in the wintertime, how they are going to take care of other basic needs, it is absolutely imperative we not forget about them.

I applaud the President for his action, and I look forward to working with Members of Congress to pass this legislation as soon as possible.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KAUFMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KAUFMAN. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### IN PRAISE OF ZALMAI AZMI

Mr. KAUFMAN. Madam President, I rise once again to recognize the service of one of America's great Federal employees.

This Monday, Americans across the country marked Columbus Day. It is a day that holds different meanings for different communities. I had such a meaningful experience attending the Columbus Day Mass and breakfast at St. Anthony's of Padua in Wilmington. I know in the Italian-American community, Columbus Day is a vibrant cultural celebration. But Columbus Day, above all, reminds us all that America is a patchwork; that we are—in the words etched on the wall behind you, Madam President—one Nation from many. This has always been a source of great strength for our country.

This is as true for our Federal workforce as it is for America as a whole. So many of our outstanding civil servants were not born in the United States. Some came as students and found in America jobs and a new home. Others came as infants, carried onto airplanes in the arms of loving parents seeking a new beginning for their families. Some traveled halfway around the world driven by the dream of a better life. Others braved the short but perilous journey over turbulent waves fueled only by the hope of freedom on our

shores. The diversity of our Nation is reflected in the diversity of those who choose to serve it.

The Federal employee I am recognizing this week has had a distinguished career in the Department of Justice, both in the Executive Office for U.S. Attorneys and at the Federal Bureau of Investigation.

Zalmai Azmi was 14 years old when he fled with his family from Afghanistan. He arrived in the United States speaking very little English, and he became fluent while in high school. Zalmai, wishing to give back to the Nation which gave him refuge, eventually joined the Marine Corps. He served in the corps for 7 years as a communications and intelligence specialist, and he also trained in special operations. While in the Marines, Zalmai studied computer science, and he later obtained a bachelor's degree in the field from the American University and a master's from George Washington University.

In the 1990s, Zalmai continued his Federal career by moving from the military into the civil service. He was working as chief information officer for the Executive Office for U.S. Attorneys when the September 11 attacks occurred. Zalmai helped implement the Justice Department's continuity of operations emergency plan, and by September 12, he was at Ground Zero in New York setting up departmental field offices.

Just weeks after the attacks, he volunteered to be dropped into Afghanistan as part of a Marines special operations team. In the 2 years that followed, Zalmai, who is fluent in Dari, Farsi, and Pashto, served two tours of duty in Afghanistan. While at home, he was detailed to the CIA's Counterterrorism Center.

In 2004, FBI Director Robert Mueller appointed him as the Bureau's Chief Information Officer. In that role, Zalmai led the effort to revamp the FBI's virtual case file system and helped transform its IT infrastructure to meet the needs of a post-9/11 environment.

He was honored with the prestigious Arthur S. Fleming Award for Applied Science and Technology in 2002, which is presented annually to an outstanding public servant. Additionally, he won the Distinguished Presidential Rank Award.

Zalmai retired from the FBI late last year. His story, while unique, is reflective of the commitment to service and patriotism embodied by all of the immigrants who work in government and serve in our military. Just as America would not be as strong without our great Federal employees, that workforce would not be as vibrant or successful without those who, like Zalmai, came to this country from other lands.

I hope all my colleagues will join me in honoring his service, that of the men and women in the Department of Justice, and all immigrants who work in the Federal Government.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Madam President, I wish to speak about the conference report we are currently discussing, but I want to first take a second to commend the Senator from Delaware for his fine effort over these many months to continue to call to the attention of America wonderful people who have committed their life to make the lives of other Americans better. He has done a wonderful job, and this is just one more example of both the Senator's job of bringing the news to all of America but also the story of a wonderful individual who has committed his life to improving our great Nation.

Madam President, I would like to spend a moment thanking the Senators from North Dakota and from Utah for their hard work on this bill we are currently considering. It represents a truly bipartisan effort. The energy investments in this bill will foster technological innovations and will harness the creativity and hard work of the American people. I believe it will help us move forward on clean coal technology. It will also promote energy efficiency and accelerate research into renewable energy.

I want to highlight one issue in particular, if I could, and it deals with our domestic uranium production. The uranium industry provides good-paying jobs across the country, and certainly good-paying jobs in Wyoming. A strong uranium workforce is essential to expanding America's nuclear energy capacity. Uranium production means American jobs and American energy.

In August, the Department of Energy proposed transferring—transferring—a significant amount of uranium to the U.S. Enrichment Corporation. The uranium transfer was designed and intended to pay for an environmental cleanup at a facility in Portsmouth, OH.

This is a laudable goal. Unfortunately, the proposal of the Department of Energy would have serious unintended consequences. The proposed transfer would flood the uranium market, artificially forcing down spot prices for uranium, and create significant uncertainty in the marketplace. This action would have a devastating impact on domestic uranium mining. It would cost plenty of jobs in my home State of Wyoming but also jobs all across the United States. It would undercut an integral part of America's energy portfolio.

The Department's plan, in my opinion, is shortsighted and lacks common sense. Why create jobs in one State by killing jobs in another State? The environmental cleanup can be accomplished without hurting jobs in Wyoming and elsewhere.

The conferees recognized the problems with the proposal of the Department of Energy. The conference report directs the Government Accountability Office to evaluate the Department's management of its excess uranium sup-

plies. The bill increases funding for the Portsmouth facility and the cleanup. These steps provide the opportunity to address the necessary environmental cleanup issue without causing the collateral damage in other States.

So I thank the Senators from North Dakota and Utah for their work to address this problem. The Department of Energy should rethink its uranium transfer proposal. By working within the framework of the Excess Uranium Management Plan, the Department can get maximum value for its uranium and fund the cleanup of Portsmouth without hurting jobs—good jobs—in other States.

With that, Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Madam President, as we take up the conference report to accompany the fiscal year 2010 Energy and Water appropriations bill, it spends approximately \$33.9 billion. Let's not forget Congress has already appropriated over \$92 billion to energy and water-related projects between the emergency appropriations provided in the 2009 supplemental, the continuing resolution, and the stimulus bill.

Equally as important is what this bill doesn't fund. The bill provides only \$197 million for the Yucca Mountain nuclear waste repository, putting this project on life support.

The Department of Energy has spent billions of dollars and decades studying the suitability of Yucca Mountain as the Nation's repository for spent nuclear fuel and defense waste. Consistently, the science has borne out that Yucca Mountain is the best site to dispose of nuclear waste. The President has made a point of telling all who would listen that his administration would be guided by science and not politics. At the same time, the President and the Secretary of Energy are saying that Yucca Mountain is no longer an option, even though science has proven that Yucca is safe.

The fact that this administration has political problems with moving forward with the Yucca Mountain storage facility doesn't change the fact that the government has a legal obligation to take this spent waste and that the licensing process is already underway. Shelving the Yucca Mountain facility will slow the deployment of new nuclear generating facilities, constrain our most abundant clean energy source, and hinder efforts to combat climate change.

The conference report that accompanies this bill contains 1,116 congressionally directed spending items—a fancy term for earmarks, which is a fancy term for porkbarrel spending,

which is a fancy term for corruption—totalling over \$1.05 billion and almost doubling the number of earmarks that were included in the Senate-approved bill. Get that: 1,116 earmarks in this bill—over a \$1 billion.

I know that is not much when we consider we have already run up a \$9 trillion deficit over the next 9 years, but a lot of Americans would be surprised and think it is a fair amount of money.

None of these projects were requested by the administration. Many of them were not authorized or competitively bid in any way. No hearing was held to judge whether or not these were national priorities worthy of scarce taxpayer's dollars. They are in this bill for one reason and one reason only—because of the self serving prerogatives of a select few members of the Senate—almost all of whom serve on the Appropriations Committee. Sadly, these Members chose to serve their own interests over those of the American taxpayer.

During Senate consideration of this bill I filed 24 amendments to strike these earmarks. The American people are tired of this process, and they are tired of watching their hard-earned money go down the drain. Not surprisingly, my amendments were defeated at every turn by appropriators and Members on the other side of the aisle.

Here are some examples of the earmarks contained in this bill: \$2 million for the Algae Biofuels Research, WA; \$750,000 for the Algae to Ethanol Research and Evaluation, NJ; \$1.2 million for the Alternative Energy School of the Future, NV; \$6 million for the Hawaii Energy Sustainability Program, HI; \$6 million for the Hawaii Renewable Energy Development Venture, HI; \$2.25 million for the Montana Bio-Energy Center of Excellence, MT; \$10 million for the Sustainable Energy Research Center, MS; \$450,000 for the Vermont Energy Investment Corporation, VT; \$1.2 million for the Hydrogen Fuel Dispensing Station, WV; \$1.25 million for the Long Term Environmental and Economic Impacts of the Development of a Coal Liquefaction Sector in China, WV; \$1 million for the Alaska Climate Center, AK; \$5 million for the Computing Capability, ND—whatever that is; \$1 million for the Performance Assessment Institute, NV; \$1 million for the New School Green Building, NY.

This bill also includes a \$106 million increase in funding over the President's request for hydrogen fuel cell research. The Secretary of Energy had pushed for the elimination of this funding but has since changed his mind after bullying from Senate appropriators. Before his change of heart, Dr. Chu explained his reasoning for cutting the funding by stating, "We asked ourselves, 'Is it likely in the next 10 or 15, 20 years that we will convert to a hydrogen car economy?' The answer, we felt, was no." Unfortunately, Dr. Chu caved to demands and has decided to no

longer object to funding research investments that many call a “dead end.”

This bill dedicates \$5.3 billion to the Army Corps civil works program, which is \$180 million higher than the President's request. As my colleagues know, the Corps is burdened with a \$60 billion backlog as a result of years of abusing the energy and water appropriations bills and the Water Resources Development Acts as hot tickets for loading up new pet projects. As one would expect, this year's appropriations process was no different from previous years as the Senate Appropriations Committee received 256 requests to fund new projects. Imagine our surprise when we learned that the committee rejected every single one of these requests for funding new projects—a nod, albeit a modest one, to the tenets of fiscal responsibility.

While I applaud appropriators for attempting, in a way, to address our current backlog, we can't deny that our system for funding existing Corps projects is not working. Currently, there is no way to know which projects warrant taxpayer dollars because the Corps refuses to give Congress any kind of idea of what it views as national priorities. In fact, even when Congress specifically requests a list the Corps' top priorities, they are unable to provide them. That leaves it up to politicians on Capitol Hill to blindly throw money at flood control, hurricane protection, navigation and environmental restoration projects—in some cases matters of life or death—without knowing which projects may or may not benefit the larger good. We owe it to the American people to do better.

Our current economic situation and our vital national security concerns require that now, more than ever, we prioritize our Federal spending. But our appropriations bills do not always put our national priorities first. It is abundantly clear that the time has come for us to eliminate the corrupt, wasteful practice of earmarking. We have made some progress on the issue in the past couple of years, but we have not gone far enough. Legislation we passed in 2007 provided for greater disclosure of earmarks. While that was a good step forward, the bottom line is that we don't simply need more disclosure of earmarks—we need to eliminate them all together.

The time has come to get serious about how we are spending hard-working American's tax dollars and there is no better way to prove we're serious than by ending the wasteful practice of earmarking funds in the appropriations bills. The process is broken and it is long overdue to be fixed.”

Madam President, we are here in this postcloture motion period, consuming it because of the simple fact that the Senator from Oklahoma had an amendment which required greater transparency. The Senator from Oklahoma, while wanting a recorded vote, was assured by the managers of the bill that

a transparency provision would be added to the final conference report which would then be passed by both Houses of Congress and for the President's signature. Unaccountably, that provision, which was simple transparency so that all Members of the Senate would know what information the Senate appropriators received, would be shared by all, was dropped in conference. Understandably, the Senator from Oklahoma, Senator COBURN, whom I view in many ways as the conscience of this body, is upset and concerned that the American people—much less now their Representatives—are not able to obtain information which is obviously very important in the decisionmaking process that goes on here.

It is unfortunate and it shows, again, what has happened here in the process of legislation, that the Appropriations Committee now seems to override not only the wishes of the American people with projects such as those I outlined but also even the other Members of the Senate.

The good news, probably, for Members of the body and for the citizens of this country—but bad news for the appropriators—is that we will be back. We will be back again and again and again. The American people all over this country are having tea parties, they are having uprisings. They know the debt and deficit that we have laid on future generations of Americans and they are not going to stand for it. They are going to find out whether we need to spend \$450,000 for the Vermont energy investment corporation; whether we need \$1 million for a performance assessment institute in Nevada; and whether we need to spend \$1 million for the new school green building in New York, not to mention all those projects that abound that will send our tax dollars to the State of Hawaii as well as Mississippi.

I can warn my colleagues again, we will be back. We will be back. We will talk not only here on the floor of the Senate but across this country about this egregious practice of the waste of their taxpayers' dollars, of their hard-earned dollars, and the way this earmark and pork-barreling process is still completely out of control and a disgrace.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr BENNET. Madam President, I rise today to speak about a development folks in the southeastern corner of my State have been waiting on for the better part of 47 years. This week, maybe even today, thanks in large part to the advocacy of our partners at both the local and Federal levels, the vision of the Arkansas Valley Conduit—long a priority of rural communities in my State—moves one significant step closer to reality. Today, we will send a bill to the President that finally funds this important water project that represents the best of regional govern-

ment, with multiple communities cooperating for the greater good.

Our success today owes to the support of many who took it upon themselves at one time or another to move this project forward. In particular I would like to thank Congressman JOHN SALAZAR, a good friend and tremendous leader who has championed this project since his first days in office.

The effort to build the conduit has been a journey that has its origins in post-World War II America, a time when members of “the Greatest Generation” were coming home to raise a family, plan their lives and build a new America with the same energy that they used to save it on the battlefield.

In the Arkansas River Valley, enthusiasm for the future was also high, but their enthusiasm was soon tempered by one significant limitation: the water needed to build and sustain that future was in short supply.

Yet geographic limitations were no match for the resilience and determination of the valley's residents. They came together and crafted a plan to satisfy the water needs of the valley's ranchers, farmers and rural communities.

The project came to be known by proponents and detractors alike as the Fryingpan-Arkansas Project. After a long and sometimes bitter battle, the project was authorized and signed into law by President John F. Kennedy in August of 1962.

The Arkansas Valley Conduit was a key piece of the Fryingpan-Arkansas Project. The vision was simple: deliver clean drinking water to 40 ranching and farming communities of the lower Arkansas Valley.

As the years went by, that vision developed. Civic leaders and citizens came together to call for a water delivery system to bring the West's scarcest natural resource to over 40 communities, across a 140-mile stretch of southeastern Colorado.

Unfortunately, the resources necessary to put that plan into place did not advance with the larger plan. While other parts of the Fryingpan-Arkansas Project moved forward, the Arkansas Valley Conduit languished and doubts began to grow about whether the Federal Government would ever live up to its part of the bargain.

Earlier this year, my predecessor, Senator Salazar and Colorado's now senior Senator, MARK UDALL, gave the conduit the jumpstart it needed by introducing legislation authorizing a Federal cost-share for the project.

After visiting southeast Colorado upon my appointment to the Senate, I immediately lent my strong support to the project and cosponsor this important legislation. I believe you would be hard pressed to find many bills that have the support of three Senators from the same State during one session of Congress.

With that support, as well as the strong support and leadership of Representatives JOHN SALAZAR and BETSY

MARKEY, Congress authorized the Arkansas Valley Conduit in the Omnibus Public Land Management Act, which was signed by the President in March of this year.

Unfortunately, this authorization did not happen in time for funding to be included in the administration's budget request for fiscal year 2010.

Our team advocated as strongly as we knew how for the conduit. And I can tell you, that after communicating how important this project is to the people of my State on many, many occasions, the chairman of the subcommittee, Senator DORGAN of North Dakota, soon emerged as a committed partner in the effort.

Let me say that the people of Colorado have a good friend in the Senator of North Dakota, and that the people of his State have a tremendously capable person representing their needs.

I am pleased that Senator DORGAN and his partners on the subcommittee considered the conduit along with many, many worthy requests nationwide and determined that \$5 million of Federal resources was what could get this project off to a promising start.

This first round of funding will be used for environmental analysis, planning, and design. The final project will enable these communities—all of which have average incomes well below the national average—to comply with Federal drinking water standards.

I hope that it is just a matter of years—not decades—before the people of the lower Arkansas Valley have a conduit to call their own.

When President Kennedy traveled to Pueblo to sign the bill authorizing the Fryingpan-Arkansas Project, he proclaimed it "an investment in the future of this country, an investment that will repay large dividends."

"It is an investment in the growth of the West," he continued, "in the new cities and industries which this project helps make possible."

Today, for the first time in 47 years, we recommit to making that investment in earnest. Today, we begin the difficult, but long overdue task of building a brighter, stronger future for generations of Arkansas River Valley residents to come.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. BURRIS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURRIS. I ask unanimous consent to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE PUBLIC OPTION

Mr. BURRIS. Madam President, for almost 100 years, Washington has been wrestling with the complicated question of health care reform. On some

points, we have broad consensus. Costs are up. Health outcomes are down. Our system is broken. Americans deserve better.

We are faced with a crisis that breaks businesses, bankrupts families, and leaves millions of hard-working Americans out in the cold. This is why we must not fail in our efforts to make reform a reality. That is why we need to include a public option in our reform package—to foster competition, reduce costs, and extend quality care to tens of millions of Americans. I believe a public option is the only way we can accomplish these objectives. That is why I will not vote for any health care bill that does not include a public option. I believe the American people overwhelmingly support our efforts.

The American people overwhelmingly support our efforts, but not everyone agrees we need meaningful reform. There are some who seem satisfied with the status quo. For example, between 2000 and 2007, profits for America's top 10 insurance companies grew by an average rate of 428 percent. While the rest of us suffer the effects of a recession, these corporations hold American families and businesses in a vice grip, and they are squeezing them for extraordinary profits. Of course, they oppose any measure that would make them compete with a not-for-profit public plan. Of course, they want to maintain their virtual monopoly over the health insurance industry. In Illinois, two companies control 69 percent of the market. People don't have a real choice anymore. This is simply unacceptable. We need the competition and accountability a public option would provide.

Insurance giants have done everything they can to block such a plan. That is why I was surprised to see the study released this weekend by an insurance trade group called America's Health Insurance Plans. On the surface, it looks like the same twisting of facts, the same scare tactics and disinformation we have seen since the beginning of the debate. For instance, our opponents contend that the government wants to take over health care and create death panels. These claims have been debunked many times. In much the same way, this new industry study claims health care reform will drive costs up instead of down. They say the Senate Finance Committee bill would cost an average family an additional \$4,000 over the next 10 years.

But, as the committee has made clear, this analysis is fundamentally flawed. The study overlooked key parts of the bill in order to produce skewed numbers designed to deceive the American people. PricewaterhouseCoopers, the company that conducted the study for the insurance agents, freely admitted this data was deceptive and incomplete. I quote:

The reform packages under consideration have other provisions that we have not included in this analysis . . . [and] if other provisions in healthcare reform are successful

in lowering costs over the long term, those improvements would offset some of the impacts we have estimated.

According to the very people who performed the study, it is deeply flawed.

This is the same tired rhetoric we have seen time and again from those who stand to profit from our broken system. By itself, I would say this new round of disinformation is hardly surprising. But in the context of our current debate, I believe opponents of reform have actually hurt their cause.

So let's take another look at the study. It actually lays out a strong case in favor of a public option. By releasing the study, these insurance giants are saying the Finance Committee bill does not do enough to contain cost. They are warning us that unless we provide Americans with a public option that can compete with private companies, these companies will raise their rates by 111 percent. That is what this study really means. It was meant to be a hatchet job, but instead it has reinforced the need for real competition and cost containment in the insurance industry.

The need for a public option is as plain as day. Over the last century, Presidents from Roosevelt to Truman to Clinton to Obama have laid out a strong case for reform. Legislators on both sides of the aisle have spoken out on this issue.

This weekend, the insurance giants finally tipped their hand. In their rush to discredit health care reform, these corporations inadvertently laid out a strong case for the kinds of reforms I have been talking about for months. They tried to threaten the American people with higher premiums so they can maintain their out-of-control profits. But we will not fall for their tricks—not this time, not anymore. This study proves that the insurance industry will stop at nothing to block reform. The only way to keep them in check is by restoring real competition and choice in the insurance market. That is a strong argument in favor of a public option. It is an argument some of us have been trying to make for several months.

Last Friday, I was proud to join 29 other Senators to sign a letter in support of a public option. My colleagues and I know the American people deserve nothing less than meaningful reform that only a public option can provide. I never guessed the insurance industry would actually help us make the case.

After a century of inaction, the momentum is finally building. Real health care reform is almost within our reach, and we must not stop now. Yesterday, my colleagues on the Finance Committee voted out their version of a reform bill. I congratulate them on reaching this milestone. This is the farthest any such bill has ever gotten. But there is much work left to do. Before we take up this legislation on the Senate floor, we need to merge the Finance bill with the HELP Committee

version, and we need to make sure the combined bill includes a public option.

I look forward to working with my colleagues to shape the final legislation. It is time for us to come together on the side of the American people. It is time to deliver on the promise Teddy Roosevelt made almost 100 years ago. It is time for health care reform that includes a public option.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

#### HEALTH CARE REFORM

Mr. GRASSLEY. Before I speak, Madam President, from my text, this year, for the most part, I haven't spoken on the Senate floor much on health care reform because so much of this period of time I have either been in consultation with Chairman BAUCUS or with what has been called the Group of 6, three Republicans and three Democrats, trying to negotiate a bipartisan health care reform package. I didn't speak during that period on the floor because in intense negotiations, you can say things sometimes that might upset the negotiations. I didn't want to do anything to do that. I want people to know that those negotiations, obviously, were not fruitful in the end because the leadership and the White House thought they had gone on long enough and that we ought to move ahead. I am not sure that was to Chairman BAUCUS's liking because I think he was comfortable thinking we could get to a bipartisan negotiation. Everybody in the Group of 6 wanted to. But, of course, they came to an end. Then, of course, it took a partisan approach from that point on.

I want everybody to know, though, that during that period of talks we had in the Group of 6 and what Senator BAUCUS and I were doing individually, it ended in a way that was congenial in the sense that up to that point everything was moving along, and during the 2- or 3-month period of time we were negotiating, there was never a period that anybody walked away from the table. There was never a period that there was ever a harsh word. There was a sincere effort during all that time to reach a bipartisan agreement. I am sorry that didn't materialize, but I have no regrets that I participated in the process because you never know, you take it a day at a time around here. You never know, it could be very fruitful. And if it had been fruitful, it probably would have been better for this process in the Congress and better for the country as a whole.

For sure, this issue of health care reform is, in a sense, redirecting one-sixth of the economy because \$1 out of every \$6 spent in America involves health care. Of course, the issue of health care itself is a life-or-death situation with every American. That is what health care implies. Never before has Congress done stuff so encompassing and affecting such a large segment of the economy.

So in the process of 6 months of negotiation on health care reform, I feel much better informed about health care than I otherwise would have been, and I want to thank Senator BAUCUS for his patience in negotiating that and for every courtesy he gave to me and Senator ENZI and the Senator from Maine, Ms. SNOWE.

(Mr. BURRIS assumed the Chair.)

Mr. GRASSLEY. Mr. President, the bill is now out of the Senate Finance Committee. I commend the chairman for bringing the markup to where it was yesterday. It seems a long time since we started that markup on September 22. We have been able to air our differences, and we have been able to have votes. I think Senator BAUCUS tallied up 61 different rollcall votes we had during that 7- or 8-day period of time.

I would have to say to my colleagues in the Senate, I wish I felt better about the substance of the bill and would not have had to vote no. The chairman's mark underwent many changes during the process since the bipartisan talks ended, and I think the changes that happened since then are not for the good. I want to highlight a few of the changes I find most disturbing. As I highlight these issues, it will be clear that this bill is already sliding rapidly down the slippery slope to more and more government control of health care.

It has been the biggest expansion of Medicaid since it was created in 1965, and I think that is going to add up to 11 million more people being on Medicare.

It imposes an unprecedented Federal mandate for coverage backed by the enforcement authority of the Internal Revenue Service. I could put that another way as well: In the 225-year history of our country, never once, to my knowledge—and I would be glad to be informed if I am wrong on this, but the Federal Government has never said any citizen in this country, anytime in that 225-year history of our country, has ever had to buy anything. They do not tell you what you have to buy or not buy. You make a consumer choice.

So for the first time in the history of our country, enforced by the power of the Internal Revenue Service, people are going to have to buy health insurance. And if they do not buy health insurance, a family is going to be fined \$1,500.

Additionally, it increases the size of government by at least \$1.8 trillion when it is fully implemented. I want to emphasize "fully implemented" because right now we would read the papers as saying it is \$820-some billion and fully paid for, et cetera, et cetera. But this program really does not start until 2013. Oh, the taxes and the increase in premiums will start more immediately, but the program does not take off until 2013. If we figure 2013 to 2023 as the 10-year window, at that particular time—being fully implemented—\$1.8 trillion.

Additionally, it gives the Secretary of Health and Human Services the power to define benefits for every private plan in America and to redefine those benefits annually. That is a lot of power over people's health insurance and over people's lives.

Further, it will cause health care premiums for millions to go up, not down. It tightens further the new Federal rating bands for insurance rates. That means millions who are expecting lower costs as a result of health reform will end up paying more in the form of higher premiums. The new rating reforms alone will raise premiums by as much as 50 percent on millions, particularly in those States where there is not a lot of regulation of insurance and requirements on insurance.

I would say in regard to premiums going up, I will bet most of the 85 percent of the people out there who have private health insurance—we are talking about health insurance reform—that one of the things they would expect is that we would not have these big increases in premiums, as has happened over the last 10 years—terrible increases in premiums. Right now, we have the Congressional Budget Office and CBO saying that premiums are going to go up.

Part of this is because it is going to impose new fees, but it also has increases in taxes. These new fees and taxes will total about a half trillion dollars over the next few years. On the front end, these fees and taxes will cause premium increases as early as 2010, even before most of the reforms take place.

So let me say that a second time but yet another way: By saying that, a lot of the increases in revenue coming into the Federal Treasury or the money that is going to be saved in certain programs that is going to help pay for some of those start next year, but the benefits from the program and the policy does not kick in until the year 2013. So one of the reasons we can say it is revenue neutral is from the standpoint that there are 10 years of revenue or savings but only 6 years of policy costs that are there.

Then, of course, after making health premiums go up, this bill makes it mandatory to buy that insurance. That is what I previously referred to as the first time in American history—the first time in American history—the Federal Government has said we had to buy anything.

On several occasions, Republicans tried to take the chairman's mark in a different direction. We tried to ensure that the President's pledge to not tax middle-income families or tax seniors or veterans or change seniors' and veterans' programs was carried out. We were rebuffed every step of the way.

Republican efforts to provide consumers with lower cost benefit options were consistently defeated. This means that despite these promises, a lot of people are not actually going to be able to "keep what they have." We heard



the President say that during the campaign, and we heard the President say that in September when he gave an address to a joint session of Congress.

It imposes higher premiums for prescription drug coverage on seniors and the disabled, it creates a new Medicare Commission with broad authority to make further cuts in Medicare, and it makes that Commission permanent.

In our Group of 6 negotiations—which I said broke up when the White House decided it was taking too long to do things right because they wanted to do it right now—during our Group of 6 negotiations, I resisted making the Commission permanent. I certainly was not going to agree to target prescription drug premiums. But this bill now requires the Medicare Commission to continue making cuts to Medicare forever. The damage this group of unelected people could do to Medicare is very unknown. In fact, we will not know for quite a few years because it does not even start operation until the year 2014, as I recall.

What is more alarming is so many providers got exempted from the cuts this Commission would make that it forces the cuts to fall on those who are covered, to fall directly, more so, on seniors and the disabled.

The Congressional Budget Office has confirmed that the Commission structure requires it to focus its budget axe on the premiums seniors pay for Medicare Part D prescription drug coverage and for Medicare Advantage. Sooner or later, it has to be acknowledged that by making the Commission permanent, those savings are coming from more and more cuts to Medicare.

Finally, I cannot help but note the incredible cynicism in an amendment that took benefits away from children. That amendment was offered and passed because the chairman's mark had the audacity to let children get covered through private insurance where, of course, there is a great deal of choice. In 41 States, children would have received access to a program that is called the EPSDT benefit—basically diagnostic services. These benefits cover vitally needed services for children such as rehabilitation services, physical, occupational, and speech therapy, particularly for children with developmental diseases.

But those benefits were deleted by Rockefeller amendment No. C21. Now children in 41 States will not have access to health care, and they will be left in a grossly underfunded public program. They lost these important benefits.

What this mark has shown is that there is a clear and significant philosophical difference between the two sides. Throughout this markup, we have focused on trying to reduce the overall cost of the bill. We were told, flatout, no.

We focused on trying to reduce the pervasive role of government in the chairman's mark. We were told, flatout, no.

We tried to make it harder for illegal immigrants to get benefits. We were told, flatout, no.

We tried to guarantee that Federal funding for abortions would not be allowed under this bill. We were told, flatout, no.

We tried to allow alternatives to the individual mandate and also to the harsh penalties associated with that part of the bill that requires everybody, for the first time in the 225-year history of this country, to buy something that maybe they do not want to buy. We were told, flatout, no.

We tried to reward States with extra Medicaid dollars if they passed medical malpractice reform. We were told not just no, but, shockingly, we were told Medicaid is not even in the committee's jurisdiction.

We have watched while the other side has expanded public coverage. We saw Democratic amendments move millions from private coverage to public coverage. We saw Democratic amendments create new government programs that cover families making close to, would you believe it, \$90,000 a year.

At the end of the day, after raising billions in new taxes and cutting hundreds of billions from Medicare and imposing stiff new penalties for people who do not buy insurance and increasing costs to those who do, we still have 25 million people who are going to be uninsured.

I do not think this is what the American people had in mind when we promised to fix the health care system. As I said when this process started, the chairman's mark that was released 27 days ago was an incomplete but comprehensive, good-faith attempt to reach a bipartisan agreement. But then the modifications pulled that attempt at bipartisan compromise very far toward a partisan approach on several key issues.

With this markup being completed yesterday, we can now see clearly that the bill continues its march leftward. The broad bipartisan character of the reform proposals have very dramatically changed. This partisan change is precisely what Republicans feared would have occurred at the later stages in the legislative process. Today, as we saw yesterday, we see that those fears that were expressed when the bipartisan process ended were legitimate, and we now see they were justified. The product proves that justification.

Nevertheless, I want people to know I still hope that at some point the doorway to bipartisanship will be opened once again. That might happen because I have read in the newspapers, and I guess I have talked to one of the Senators who is involved in promoting a great deal of transparency in this process—making sure things are on the Internet for 72 hours before we take up the bill; making sure it is paid for or at least we have a CBO score—maybe there is a chance there are enough Democrats out there who have some questions about the movement of this

bill leftward that we would be able to have that doorway to bipartisanship opened again.

I also hope that at some point the White House and leadership will want to correct the mistake they made by ending our collaborative bipartisan work. I hope, at some point, they will want to let that bipartisan work begin again. Then they need to go back to that effort and give it the time needed to get it right instead of getting it done right now. I am open to that. I hope to speak to people on the other side of the aisle about that process moving forward because, here again, I get back to something I heard Senator BAUCUS probably say first, but I totally agree with him. It was said many months ago, and I think Senator BAUCUS still believes it. We may not be in a process that gets him to where he said he wanted to go, but something as serious as health care reform and something as serious as redirecting one-sixth of our economy ought to be done on a fairly consensus basis. During the process of bipartisan talks of the six of us, and even before that when Senator BAUCUS and I were talking one on one, we were talking in terms of getting a bill that 75 to 80 people would support in this body because of the significance of the issue we are dealing with: Redirecting one-sixth of the economy. At the same time, the words "health care" imply life or death. It affects the lives of all 306 million Americans who are here. It is clear that yesterday was not the day when that was going to happen, but you take a day at a time around here.

I think, eventually in this city, right wins out. Maybe not always. Maybe some people would think CHUCK GRASSLEY by saying that is very naive about the process, but there is something about "I believe," and I believe in the process of democracy. I think we saw that at work in the last several months. I am not referring to the raucous things we saw on television that went on in town meetings. I only saw the ones that went on in Pennsylvania, Maryland, and Missouri; maybe they went on elsewhere. The town meetings we had in my State of Iowa were not raucous. Everybody was able to speak their piece. In every instance, I was asked a question, I was given the opportunity to answer it. I saw some of my colleagues not even being able to control their respective town meetings. It wasn't that way in my State. But I say this process, whether it is raucous or whether it is more civilized, is a process of representative government. I think the people of this country now have about a month to weigh in on this issue, both from those who want a single payer yet, those who want public option yet, and for those who think things ought to be done in an incremental way; and people who think we should not have a bill go through here that doesn't take into consideration what to do about the practice of defensive medicine and correcting that

through medical malpractice reform in other words, getting rid of the frivolous lawsuits that get doctors to give patients every test under the Sun because they think that patient may someday sue them.

That is just one of many items that people back at the grassroots of Iowa, and I think the grassroots of America, think we ought to be dealing with. Well, there will be a month now to weigh in on these things. There is at least a week or two where we have to have a merging of the Senate HELP Committee bill with the Senate Finance Committee bill. There is still time, as Speaker PELOSI puts together a bill out of three committees in the House. There is an opportunity for democracy to work as it has during all the massive amounts of mail we are getting that we have never gotten before on a single subject and the turnouts at our town meetings and the telephone calls that come in. I think people made an impact, and I am suggesting they can make the same impact on health care reform as they made on the stimulus bill. It didn't get quite the results constituents wanted, but I can tell my colleagues that during a 10-day period of time, 5,000 Iowans called my office on the stimulus bill, and during that period of time about 83 percent were opposed to the stimulus bill. Those calls were coming in from all over the country into everybody's office.

As my colleagues remember, the Thursday before the Presidents Day break in February, everybody was being told that constituents would have 72 hours to read the stimulus bill, but an agreement was hastily reached that Thursday before that break and the constituents didn't have 72 hours to read that product, because I think the leadership of this body and the White House were reading the grassroots objections to a \$787 billion stimulus bill, and if they waited around for the 72 hours for constituents to read it and it laid around over the week-long break, that it would never have been passed a week later, after the Monday of the Presidents Day holiday.

So people are listened to. This is an opportunity for the grassroots of America to speak up. If they speak up in the same way they did on TARP legislation, on stimulus, and they do it on this health care bill, it may make an impact. It may surprise people that Washington does respond to the grassroots of America. It may prove to the American people that representative government does work. What is representative government all about? It is about those of us who were elected being one-half of the process of representative government, and it is our constituents who are the other one-half of representative government. If there is no dialogue between constituents and those of us who are elected, we don't have representative government.

This is an opportunity, over the next month, for representative government

to work for the people of this country, both for this legislation or people who think this legislation ought to be revised because I don't think we are going to have anybody calling in saying everything in America on health care is OK, but we are going to have a lot of people calling in and saying how they think it ought to be done. There will probably be a great deal of disagreement with a bill that constitutes the most massive involvement of health care in the United States since Medicare and Medicaid, with all its taxes and with all its premiums going up and all the cuts in Medicare that are going to scare the devil out of our senior citizens, et cetera.

I hope people will take notice now that all these bills are out of committee and they are coming to the floor because this is serious business. I hope the American population takes it seriously.

I yield the floor. I don't see other colleagues ready to speak, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent to speak as in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I wish to speak briefly. I know we are going to get a lot of debate on this issue as we go down the road relative to the health care package which was reported out of the Finance Committee and the health care package which was reported out of the HELP Committee, of which I am a member, and how they are being pulled together and what the implications are for health care and for Americans, generally, who are all affected by these bills. This is 16 percent of our national economy. There isn't an American who isn't impacted by health care. So when the Congress decides to fundamentally change—and that is what is being proposed—fundamentally change the way health care is delivered in this country, it will have an impact on everyone and a very significant impact on everyone who has to interface with the health care system in the immediate future.

The bill that came out of the committee known as the Kennedy-Dodd Committee at the time, which is now the Harkin committee, which I am a member of, was a bill which basically subscribed to the view of a large majority, I think, of the House Democratic membership and a fairly significant group of Members on the Democratic side in the Senate, which essentially said the government should start to take very significant control over the

health care delivery system in this country.

In fact, they would propose a public plan, a plan that would basically put the government allegedly in competition with the private sector. But we all know the government isn't a fair competitor, because the government doesn't have to play by the same rules as the private sector, and that would put us on a slippery slope toward a single-payer system or a nationalized system, much like you have in Canada and England. They have some very severe problems in those countries. There isn't a lot of innovation in those nations in the area of health care. Health care isn't of the quality that we have here, and they have significant delays and, in many instances, actual rationing where certain people cannot get certain treatments because of their age or they don't qualify under the rules that are set up. It is not the type of system we want in this country.

The purpose of health care reform should be to make health care insurance affordable to everyone, while in the outyears reducing the rate of growth of health care costs, and to allow people who have an insurance policy today to keep it. Those are the goals we set off when we stepped into the arena of trying to change the health care delivery system. Neither the Harkin bill—although it wasn't offered by him, but was offered by Senators DODD and Kennedy—nor the Baucus bill accomplishes any of those three goals. In each of those situations—take, for example, that everybody should have access to affordable health care. The Harkin bill, as scored by CBO, says that of the 47 million people who don't have health insurance, approximately 34 million would still not have it after that bill is fully phased in. The bill coming out of the Finance Committee varies and looks as if it is in the vicinity of about half of the people who don't have health care today will still not have it after that bill is phased in. As to the outyear costs, neither the Harkin bill nor the Kennedy bill controls outyear costs. In fact, the costs go up rather dramatically in the area of health care.

As to letting people keep their insurance if they like it—no, that doesn't happen either. In fact, large numbers—in the millions, according to CBO—would migrate out of their private system into a public plan because basically the employer would drop their plan. That is also true, I believe, of the Baucus plan, although we haven't gotten a final score on that. When you set penalties for an employer at a level that says to them it is fiscally prudent for them to pay the penalty rather than insure people, many will give up the insurance and push people into the subsidized program, called the exchange. Thus, a lot of people will lose the insurance they have today.

None of the three goals is met by these proposals. What do these bills do—especially the Baucus bill, which is

the center of attention? First, they create a massive expansion of the size of the government. We are a government today that is running a deficit of \$1.4 trillion this year. That is three times more than we have ever had in the history of this country—\$1.4 trillion, which is about 12 percent of our economy. Historically, deficits have been about 3 percent of the economy. Today, it is \$1.4 trillion or 12 percent of our economy. That deficit doesn't come down dramatically. We continue to run deficits under the President's plan, prior to this health care bill being passed, of approximately \$1 trillion a year for the next 10 years. Average deficits over that 10-year period are between 5 and 6 percent of GDP, and we take the public debt from 40 percent of the GDP up to 80 percent. What do all these numbers mean? They are not just numbers thrown up in the air. They are obligations—debt we are running up on our children, because we have a government that is so large today that we cannot afford to pay the bills for it.

Almost every economist of any note or credibility says that when you run deficits that exceed 3 percent of GDP for an extended period of time or when you take your public debt from 40 percent to 80 percent of GDP, you are basically creating an unsustainable situation—a situation where you cannot pay the debt, and where your children and our children's children, who will be subject to these deficits and debts, will end up with a government they cannot afford and which will lead inevitably to devaluing the dollar. We are already seeing a reaction to that in the international marketplace, and probably a massive increase in the tax burden, which reduces productivity and reduces, therefore, job creation.

Those are not good scenarios for our kids. It means a lower standard of living, less opportunity to buy a home, to send their children to college, and less opportunity to do what our generation has been able to do, because they are having to bear such a burden of the Federal Government—on top of this government that is, today, already projected to run deficits as far as the eye can see of \$1 trillion a year, to a public debt that will go from 40 percent to 80 percent of GDP. The proposal is that we are going to spend another—when it is fully phased in—\$1.8 trillion over 10 years on this brandnew entitlement program. And then the almost laughable—were it not being presented in such a way that is claimed to be sincere—proposal is: but we are going to reduce the cost of government.

A brandnew entitlement will be created, which costs us approximately \$1.8 trillion over a 10-year period. It scores at \$823 billion in the first 10 years because it is phased in. In the first 4 years, they take revenues in from the bill, but they don't start the program. The numbers are all skewed in the first 10 years. If you look at it in the 10-year tranche, where the program is fully implemented, it is \$1.8 trillion. We are

going to create this massive expansion of the size of government with these brandnew entitlements being put into place and, in the process, grow the government at a rate that it hasn't grown in recent history, taking government from about 20 percent of GDP up to about 23, 24 percent—unsustainable levels—and we claim we are going to do it while reducing the cost of government, which is absurd on its face.

Some would argue that we need to do that in order to take care of health care, and that this is revenue neutral because, as a practical matter, we have put a cut in Medicare of \$400 billion and tax increases of \$500 billion, and those will pay for this over that 10-year period.

What they fail to tell you, of course, is when it is fully implemented, neither the cut in Medicare is large enough, nor are the tax increases, to make those numbers. To give them the benefit of the doubt, let's say that this Congress is going to cut Medicare by \$400 billion and create a new entitlement for uninsured people—take it from seniors and give it to the uninsured people. And this Congress is ready to raise taxes by \$500 billion. Let's give the benefit of the doubt to the Congress, which I know isn't going to happen because, just 5 years ago, I was chairman of the Budget Committee and I suggested we reduce the rate of growth of Medicare by about \$15 billion, and we could not get any votes on the other side of the aisle for that, and now they are suggesting they are going to cut it by \$400 billion. That is what is called "bait and switch." It doesn't happen. This proposal won't occur.

As a practical matter, giving them the benefit of the doubt and saying they are able to raise close to \$1 trillion in new taxes, or spending cuts in Medicare, over the next 10 years, recognizing in the following 10 years it is not nearly enough, why is that incorrect to have a program if it is paid for? I will tell you why. This government is running so much debt to the extent that if we are going to use resources like that, we ought to reduce the debt of the country, not use them to create a new program on top of a government that is too large as it is. We know for a fact—an absolute fact—that Medicare has a \$34 trillion unfunded mandate. Try to think of that. That means we know that we have expenditures in Medicare that will exceed income in Medicare by \$34 trillion.

So why on Earth would we cut Medicare spending by \$500 billion, or \$400 billion, and use that money to create a new program? We should use that money, if we are going to take that action—and some of that action is responsible—and use it to make Medicare more solvent. If we are going to raise taxes by \$500 billion—tax the rich, as the House claims, and they always end up taxing middle-class America, or are we going to add special fees against special industries, such as the pharmaceutical, hospital, medical device, and

other industries? If we are going to do that and assess a penalty on people who don't buy insurance, and we are going to assess small businesses that don't buy insurance a penalty, should we not use that money to reduce the burden of the debt of this country as it is being driven by the present health care system, not by adding a brandnew entitlement that absorbs all those resources?

There are a lot of ways we can do health care reform here that are much more responsible than what is being proposed. The recent claim by the White House and Members of the other side is that this bill isn't going to affect people's premiums at all. The premiums will go up, but no more than usual. That is so unbelievable on its face. Think about this. This bill suggests that insurance companies are going to have to pick up a massive increase in the cost of insuring people because—for a lot of technical reasons, but basically it sets up a system where not enough people will be coming into the insurance pool; a lot will be opting out to cover the additional costs, which is going to have to occur as a result of the very rich benefits package under this bill and the fact that there is no longer any exclusion. Everybody gets covered by insurance. So on the face of it, insurance companies aren't going to be able to absorb those costs. They are going to pass them off to the people who pay the premiums.

Then the bill suggests they are going to put another 14 million people under Medicaid—take Medicaid coverage from 100 percent up to 133 percent of poverty. We already know Medicaid only pays 60 percent of the cost of health care. We already know that for the people under Medicaid, 40 percent of the cost is being borne by people with private insurance, who are paying for not only the cost of their health care but for the 40 percent of health care costs that are not reimbursed under Medicaid. So when you add another 14 million people, that goes onto the premiums of the people in the private sector. Thus, the premiums have to go up because they cannot absorb all the costs.

Then we know that a large number of people will come into the system but not enough to cover the fact that everybody is going to be required to be covered. There is going to be something called "adverse selection," where some folks basically buy coverage at the last minute because they are suddenly finding they are sick and haven't been paying into the pool very long. They will be able to do that under this system and, thus, drive up the cost of insurance for everybody else.

We know the insurance prices will go up there. We know the premiums are going to go up significantly. That is just common sense. Whether you accept the study by the insurance companies or look at what—it is like 1 and 1 makes 2. It is an obvious fact. Then we ought to know something else. The

hospitals, under this proposal, have agreed to chip in—in order to basically be at the table—for something like \$20 billion or \$40 billion. The drug companies have agreed to chip in \$80 billion. When you add that all up—all of which is passed back to consumers—none of them will absorb all of the costs, and you end up raising the cost of health care.

In the end, people's premiums will go up—people who have private insurance. You might say: Why would somebody do that? Why would somebody drive up premiums on people? I will tell you why. Because the goal here is to basically eliminate private insurance. The goal here is to create a structure where essentially people who get private health care through private insurance or their employer will be forced out of that health care insurance and into an exchange, where there will be a public plan, when this is all over. The government will essentially absorb all insurance. This is not a good idea. Why isn't it a good idea? Because the government basically, in order to control costs, can only do two things: it can limit access or it can control prices.

I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. It can limit access or control prices. Either way, it significantly undermines the quality of health care.

There are about 180 million people in this country—or more, I guess—who already have health care and are fairly comfortable with the health care they are getting under the private system. There are about 190 million, actually. But they are going to be at deep risk.

There is something else here that is very serious that we have to think about. As you start to put these types of pressures on the system and you start to regulate prices and you start to regulate access and you start to regulate reimbursement and you have the government doing all of this, you start to stifle innovation. A lot of the drugs that come on the market today come on after a massive period of time of research—I think it averages 15 years—and a huge amount of investment. I think it is \$800 million to bring a new drug to the market. That \$800 million does not appear from out of the sky. People who are investing money say: I am willing to invest in that drug because I think it will work and it will do social good, but I also think I am going to get a reasonable return on my investment. But if you set up a system where you have price controls and where the return on investment is artificially low, you basically don't allow people to recover their costs or their costs plus a reasonable return on their investment. Then the money will not go into those research activities, the money will go somewhere else. It will go into new software. It will go into new machinery. It will go into real estate ventures where the return is bet-

ter. You inevitably chill the investment in the innovation, especially in the area of pharmaceuticals, which is where most of the great research is being done today that is making better health care outcomes more available.

Mr. CHAMBLISS. Mr. President, will the Senator respond to a question?

Mr. GREGG. I am honored to respond.

Mr. CHAMBLISS. Mr. President, the Senator mentioned a little bit earlier about the previous attempt to slow the growth of Medicare. I remember during my House days—it has probably been a decade or more ago—when the Senator from New Hampshire was on the Budget Committee on the Senate side. We were looking at a rapid growth of Medicare, somewhere in the 7 to 8, 9 percent rate. What the Senator from New Hampshire is talking about is that in order to try to achieve a balanced budget and to make reforms in Medicare, instead of it growing at that rate, we were going to reduce the rate of growth, not reduce the amount of money, just reduce the rate of growth to about 5 percent per year to help achieve a balanced budget and at the same time continue to provide the services under Medicare that we did then.

I ask the Senator what he thinks is going to happen if we are not reducing the rate of growth, but in this plan coming out of the Finance Committee that will be on the floor and the one that came out of the HELP Committee that will be melded with that bill, there is going to be a reduction in Medicare spending by about \$500 billion over 10 years. Will we be able to provide the same services under Medicare that we do now if we reduce the amount of money spent on Medicare?

Mr. GREGG. The Senator from Georgia asks a very appropriate question because the practical effect of the reductions which are being proposed is that people who are on Medicare Advantage, which is a program many seniors like, will be eliminated. They will no longer have the opportunity to use Medicare Advantage or it will be contracted so much that it will be a shell of its former self. This is being done not in order to make Medicare solvent—and there are very serious issues about Medicare solvency—it is being done in order to move that money over and start a new entitlement for a new group of people who are not seniors and who have not paid into the health insurance trust fund and who have no relationship at all to Medicare.

Mr. CHAMBLISS. The Senator from New Hampshire has been here a lot longer than I have, both in the House and his service in the Senate. Mr. President, has the Senator from New Hampshire ever seen a mandatory spending program that has been created by the Federal Government reduce its spending?

Mr. GREGG. The Senator asks another good question. "No" is the simple answer. We all know that once you

start a mandatory program, it always grows and grows significantly. That, of course, is why we are in such trouble as a nation, because we have a number of mandatory programs to which so much has been added that we simply cannot afford them any longer under our present structure of a government.

Now we are going to take that problem and compound it by \$1.8 trillion, which is pretty irresponsible of us and fiscally irresponsible, but it is also irresponsible in the sense of stewards of our children's future because our children are going to inherit a government that cannot be afforded and they are going to get bills or get a devalued dollar.

Mr. CHAMBLISS. If the Chair will allow me, I wish to ask another question about Medicaid.

The proposal coming out of the Finance Committee to the floor of the Senate has a huge effect on my State, and I am sure it has a similar effect on Senator GREGG's State, and that is this: The eligibility for Medicaid will move from 100 percent of poverty level to 133 percent of poverty level, which will add a significant number of additional individuals all across America to the Medicaid rolls.

In my State, where the Federal Government will pick up the tab for the first 3 years, there is going to be an additional cost of \$1.2 billion for those additional Medicaid-eligible individuals in Georgia. Beginning in the fourth year, the State of Georgia is going to have to pick up that \$1.2 billion.

The Senator from New Hampshire is a former Governor, and I assume New Hampshire probably has a balanced budget requirement, as we do. We are furloughing teachers today. We are furloughing State employees. Schools are operating 4 days a week instead of 5 days a week. We are doing everything we can to decrease spending at the State level and even below that to try to make sure we achieve that balanced budget. If we as Georgians are asked to come up with another \$1.2 billion to fund a health care program, we simply do not have the money to do it.

I ask the Senator if he has a similar situation in New Hampshire.

Mr. GREGG. The Senator from Georgia is expressing a problem which I think most State Governors are extraordinarily worried about, whether they are Republicans or Democrats, which is that this bill, as it starts up, covers the additional people who will be pushed into Medicaid, which is about 14 million nationally, but that coverage drops off in the outyears, and it will put many States in dire straits.

The Senator from Georgia talked about the numbers in Georgia. New Hampshire will have the exact same problem, only we do not have a balanced budget amendment. We are not that foresighted. I wish we were. So we already have a problem. We are already running major deficits in the State of New Hampshire, and if you throw these new Medicaid costs on, you are going

to make it very difficult to do things such as spend on school systems and, especially in New Hampshire, on our college systems and our mental health care systems which are key to our quality of life in New Hampshire.

This will be a massive unfunded mandate. I saw the number \$33 billion as being what the States will end up picking up over the 10-year period. That is a big number for States to pick up. It will put massive strains on State budgets. It is another example of the Federal Government saying: Here, look at the wonderful things we have done for everybody, and then sending the bill to the States, which is totally inappropriate.

Mr. CHAMBLISS. Lastly, if I may ask one more question through the Chair, as we reform health care—and 100 percent of the Members of this Senate agree that we need to reform health care. We have the best delivery system in the world, but it can get better. We can have a better delivery system. We have the best insurance system in the world, but it needs reforming. It can be made better.

Does the Senator from New Hampshire, who I know is familiar with the details of the plan that came out of the Finance Committee, know of any provision in that bill that is designed to reduce the costs of health care delivery in this country, which will help make that system better, which will help make the insurance system better by making premiums for insurance more affordable for folks who cannot afford it today?

Mr. GREGG. The Senator from Georgia leads in the way I want to close this discussion. There are ways to do what the Senator from Georgia is suggesting. There are ways to reduce the cost of health care in this country and to make it better.

Let's take, for example, malpractice reform, abusive lawsuit reform. None of that is in the Finance Committee bill. We should have something there. The President says he is for it. We should do something in that area. CBO scores this as a \$54 billion savings. That is not chicken feed—not in Georgia, not in New Hampshire. That is a big number. So we should have malpractice reform.

We should have proposals which basically incentivize employers to have their employees with healthier lifestyles. It is called HIPAA reform. That is not in the Finance Committee. It is very easy to do. You give people the incentive and employers the ability to say to someone: If you stop smoking, if you live a healthier lifestyle by reducing your weight, if you take the tests you need to take in the area of better health care, such as colonoscopies, we actually will give you a cash reward. We cannot do it under the Finance Committee bill and, to a lesser degree, under the Kennedy-Dodd bill or the Harkin bill but not as much as we would like.

There are specific diseases we should target, such as obesity and Alz-

heimer's. There are a whole series of healthy lifestyles. There are things we can do in a step-by-step manner which will get us much farther down the road toward quality health care for all Americans rather than this massive expansion of health care through a massive expansion of an entitlement which will lead inevitably to, in my opinion, a huge debt being passed on to our children.

Three groups are going to pay for this \$1.8 trillion: One is seniors citizens who are going to pay for the cuts through Medicare; two is small businesses that are going to have to pay through massive increases in premiums for their insurance, and they will probably have to give up a lot of coverage of their people; and three is our children, who are going to have to pay the debt.

I appreciate the thoughts and questions of the Senator from Georgia. They are right on point. I thank him for getting involved in this discussion. In fact, I yield the floor to him right now.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I appreciate the comments of the Senator from New Hampshire, who has certainly been in the forefront trying to make sure, No. 1, that the budget of this country is in a very positive situation as we move forward and that we do not leave our children and grandchildren burdened with a debt they simply cannot pay. As he has said, they are the ones who, at the end of the day, along with senior citizens and the small business community, are going to wind up paying for this bill if it comes out crafted the way it is presented in the Finance Committee and the way it appears it is going to come out of the Finance Committee to the floor of the Senate.

Mr. President, I ask unanimous consent to speak for 5 minutes on another subject.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I have been waiting to come here for a bit. I have no problem with 5 minutes. I am patient. I want to alert the Senate what is going to be happening the rest of the day. I will wait for my friend from Georgia.

Mr. CHAMBLISS. If the majority leader wants to go—

Mr. REID. No, that is fine. I am happy to do this. I want everyone to know what is happening here tonight. I will do that when the Senator from Georgia finishes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNIZING VERNIE HUBERT

Mr. CHAMBLISS. Mr. President, it is with great pride and yet much regret that I stand here today to recognize a dear friend and longtime servant of American agriculture who is retiring from public service.

Through nearly 25 years of serving in various capacities on the House and

Senate Agriculture Committees, Vernie Hubert has exemplified tremendous character, an infectious personality, and an astute knowledge of the law, for which I admirably respect and thank him. I would like to issue a special thanks to his wife Kathleen and daughter Mary Phillips for allowing us to have him in Washington for the past 3 years while they have lived in Texas. I am eternally grateful for his dedication to agriculture. His encyclopedic knowledge and valuable input will certainly be missed.

What began as an internship in the House Agriculture Committee for Vernie in 1982 has since blossomed into a distinguished agricultural law career. Before entering law school, he earned a bachelor's degree in biomedical science at Texas A&M University and even served as a first lieutenant in the U.S. Army Reserve Medical Service Corps after graduation.

Upon graduation from St. Mary's University School of Law in 1985, Vernie returned to his beloved South Texas for a brief stint as an assistant prosecutor in Brazos County. Though his heart has always remained in Texas, Vernie returned to the House Agriculture Committee to work with then-chairman Kika de la Garza and ranking member Charlie Stenholm, where he served for almost 20 years in various roles—as associate counsel, staff director, and legislative director.

In 2004, I was fortunate in luring Vernie to the Senate, where he has served as chief counsel on the Senate Agriculture Committee for me since then. We were successful in passing a farm bill last year, and a big reason for that success is due to the tireless, diligent efforts of Vernie Hubert.

Seeing that the 2008 farm bill was the fifth farm bill that saw passage during Vernie's tenure, it goes without saying that his experience in negotiating agriculture policy is not going to be easily replaced.

In fact, it is impossible to replace a person like Vernie Hubert, not only for his wealth of knowledge but also for the richness of his character.

In the years I have known and worked with him, he has remained a loyal confidant and has always kept American agriculture's best interests at heart. Vernie, you will sincerely be missed by everyone who has had the pleasure of working with you, and I wish you nothing but the best in all your future endeavors.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I appreciate the usual courteousness of my friend from Georgia.

There will be no more votes today, but I want to say a word about a statement made by my friend, the senior Senator from New Hampshire. He talked about the CBO saying there would be \$54 billion saved each year if we put caps on medical malpractice and put some restrictions—tort reform.

Fifty-four billion. Sounds like a lot of money, doesn't it? The answer is yes. But remember, we are talking about \$2 trillion—\$4 billion compared to \$2 trillion. You can do the math. We can all do the math. It is a very small percentage.

I have said in meetings before that people who practice medicine are negligent. What does that mean? The Presiding Officer is a lawyer, my friend from Illinois who is next to me is a lawyer, my friend in the aisle from Maryland is a lawyer, and we learned early on in law school what the definition of negligence is. If someone runs through a stop light or a stop sign and hurts somebody, they have been negligent. And our system of justice, carried over from the common law in England, allows people to seek redress for the injuries they received as a result of someone's negligence. Doctors are negligent. They are human beings and they make mistakes and they hurt people.

I have said before—and I will be very quick with a little story. My friend, Senator COBURN, is on the floor. He is a medical doctor. I used to spend hours and hours on the floor, and one day I felt in my left foot that my sock was kind of gobbed up on the bottom of my foot. I thought: What is wrong? I don't know what that is. So I went into my office and took my shoe off and the sock was fine. To make a long story short, I had a problem with my foot. As some know, I have run thousands of miles on my feet and one of them reacted. It was tired of running those thousands of miles, I guess. I was diagnosed with having a Morton's neuroma on my foot, which required surgery. They tried all the other things and they didn't work.

So I go into the hospital to have this surgery. Remember, it is my left foot. I am on the gurney—the hospital bed, whatever it is—and they are getting ready to do the surgery. I look down and I have a big mark from a Magic Marker on my right foot. I say: Why is that big mark on my foot? And the doctor and the personnel say: That is where we are going to operate—on that foot. That is why we put that check. I said: The wrong foot.

If I hadn't said something, they would have operated on my good foot and left my bad one for a surgery later on. That is negligence. I said something about that. But as I have said before, my wife was born shy and she will die shy. She is a very shy person. She would have been on that surgical table ready to have that surgery and she wouldn't have said a word about that big mark on her foot. I know her. We have been together these many decades, and I know she wouldn't have said a word. That is medical malpractice. We need to protect people from doctors who commit negligence.

In talking about the great report Senator GREGG cited, he failed to mention one thing I think is kind of important—important to me. If this went

into effect, 4,853 Americans would be killed every year by medical malpractice. Over a 10-year period, I repeat, 48,000 Americans would die because of medical malpractice. So I would suggest people not wave that around because I don't think the American people want to be part of the 48,000-plus people being killed because of medical malpractice—malpractice by doctors, not other personnel.

We haven't done a thing today. Why? Because the Republicans will not let us. We had cloture invoked on an important piece of legislation and they are using the 30 hours postcloture. For what? For nothing. For nothing. No one is coming here from the other side saying how important it is they have the extra time to talk about this legislation. It is wasted time.

The Republicans have made the political calculation they would rather have no progress made. No suffering American gets help. They would rather do that than work with us to move forward on the most pressing issues in this country. It is not just limited to the health care debate we have heard about for months on end. Because they refuse to move forward, to hold up the legislative process for no substantive reason, we are wasting America's precious time and money.

We could be working on extending unemployment benefits at a time when unemployment is high in virtually every State—some States higher than others. Unemployment is running out in some States. We could be supporting the Department of Defense conference report—the authorization bill. It is the bill we do every year for our fighting men and women around the country and around the world. We are not doing that. Why? Because we are wasting time here. We could have a couple of hours of debate on it at the very most. But, no, we are wasting our time.

I came to the floor last night and said: Why are you doing this? They said: Well, if we could work a little longer, we could come up with a list of amendments. I repeat what I said last night. I was here until I don't know how late on Thursday. Everybody had vacated this building. I could have yelled down the hall and no one but a police officer would have heard me. Why? Because we were waiting for them to come up with some amendments so we could fill the bill. But they were just killing time. There was no intention of completing that bill. They were stalling for time. So I had to file cloture on that bill.

Department of Homeland Security. We have a conference report we would like to complete on appropriations. Are we doing that? No. Are we completing our appropriations bills? We got a letter from the Republican leadership saying: Let's do the appropriations bills. We are trying. But, again, they are stalling and will not let us. In the Department of Defense and Department of Homeland Security, we have two critical agencies that need all the support

they can get at a time when our Nation is fighting two wars—two wars plus homeland security trying to protect our borders and protect the homeland.

We could be passing appropriations bills to keep our country running, including Commerce-State-Justice that they held up last night. Instead, we are doing the Republican shuffle. If it sounds familiar, it should. Last year, Republicans broke the blindly partisan record of pointless filibusters—nearly 100. Not nearly; 100 is how many it was—more than any other session of Congress in the history of our Nation. What does this accomplish? Zero. Nothing.

The American people didn't demand paralysis, they demanded change, and we are trying our best. It is long past time for the Republicans to listen to what the American people want. Their strategy of stubbornness is shortsighted. I am confident that, in the end, these Republican tactics will once again prove to be self-defeating, just as they were last November. I am so concerned that we have the same Republican shuffle time after time and we spend hours and days on this floor doing nothing.

Mr. LEVIN. Mr. President, I wonder if the leader would yield for a question.

Mr. REID. I am happy to yield to my friend.

Mr. LEVIN. The leader mentioned the Defense authorization bill is awaiting action by this Senate. We have a conference report. We have spent months and months and months on this bill. There are critical provisions that everyone knows about. Some of those, it can be argued, well, doesn't that require an appropriation? The answer is: Yes, technically, some of these provisions do.

For instance, the pay increase requires an appropriation. But by holding up this bill—the conference report—we are holding up legislative provisions as well that are critically important that do not rely on appropriations. So I want to—

Mr. REID. I would say to my friend, the majority of your bill is legislative language that has nothing to do with appropriations.

Mr. LEVIN. And I want to ask the leader, if he can bear with me for a moment. I wish to spend a couple moments talking about a few of the legislative provisions. One, to remedy the military commissions law. It has been basically thrown out by the Supreme Court. We cannot hold people in front of military commissions and try them before military commissions under the current law. We have to modify this law. We have spent months doing it. The modifications are in the Defense authorization bill. Until these modifications are signed into law by the President of the United States, we cannot have detainees tried before military commissions.

We want to get equipment to Afghanistan. Many of us are focusing on strengthening the Afghan Army as a



way that we can succeed in Afghanistan, to get their numbers up, to get their equipment up. But in order to get nonaccess property from Iraq to Afghanistan, we have to authorize it. That is in the bill that is now being held up because, apparently, there is an unwillingness on the part of some of the Republicans to agree to a unanimous consent agreement with a time agreement for debate. No one is trying to preempt anybody from talking.

There is one other example. Unless we act, soldiers who are getting care at TRICARE facilities are going to have to pay \$100 a day extra. We have to stop that from happening—to continue the provision in law to extend the limitation on charges for patients who are getting TRICARE. On and on and on.

We have critically important legislative provisions, and my question to the leader is this: Am I correct in my understanding that we have offered a unanimous consent agreement, given a willingness to enter into a time agreement on how many hours of debate—and I know there are people who oppose the hate crimes provisions, for instance, in our bill. We are not trying to preempt debate. It is the opposite. We are trying to get on with the debate. So my question is: Is it true we have offered a unanimous consent agreement on the Defense authorization bill and that it has so far been rejected?

Mr. REID. Yes, yes, yes. I say to my friend, you have only mentioned a few of the most important things that satisfy and take care of the military and our fighting men and women in our country.

I say to my friend, I went to the first ever Reid family reunion in Searchlight. It was interesting. You should have seen the invitation—"sobriety requested." That was fine. Not everybody followed that, but it was pretty interesting. A child of one of my cousins was there and she said: I want to tell you that my husband is 30 years old and just joined the Army.

Because of the downturn in the economy, we have had huge numbers of people joining the military, and we need to take care of those people, such as my relative I learned about in Searchlight.

So I thank the chairman very much.

Mr. LEVIN. I thank the leader, and I hope our Republican friends will reconsider their objections to letting us proceed to the Defense authorization bill, which is critically important to the country.

The PRESIDING OFFICER (Ms. CANTWELL). The assistant majority leader is recognized.

Mr. DURBIN. Madam President, I will be very brief. I want to back up the comments recently made by Senator LEVIN of Michigan, the chairman of the Armed Services Committee, and our majority leader.

How can we, in the midst of two wars, stop the Department of Defense authorization bill on the floor when our sons and daughters, husbands and wives, Americans across this country

are risking their lives? We have this stall tactic on the floor, where they will not even allow us to bring this up for a vote for the Department of Defense authorization. A lot of people around here go back home for parades and wave the red, white, and blue and salute our troops and tell us how much they love them and then come to the floor and engage in stall tactics and filibusters to stop this.

I would say to the other side of the aisle: Don't go home and wave the flag of patriotism if you will not at least give us a chance to vote on the bill our men and women in uniform are counting on. Too many of them are doing just that. I might also tell you that when it comes to unemployment benefits, we know what is going on in America. Hundreds of thousands of people have lost their jobs. As of September of this year, the end of September, 400,000 Americans lost their unemployment benefits, another 200,000 will occur within this month and then 1.3 million total by the end of the year. We have asked the Republicans: Will you let us extend unemployment benefits for people who have no way to sustain their families? No. They want to filibuster this. They want to offer amendments that have nothing to do with this whatsoever. They want to drag it out. They have no sensitivity to these people who have lost their jobs and are struggling to keep their families together under the most difficult circumstances. The Homeland Security conference report is another one. That is going to pass soon, and we are having difficulty from the Republican side getting any kind of agreement getting this measure enacted. This is a measure about the safety and security of our country.

The Commerce-Justice bill, this is one Senator MIKULSKI brought to the floor. It includes the Federal Bureau of Investigation and law enforcement. We could not get a single Republican yesterday to agree with us to bring this bill to a vote after it sat on the floor for an entire week, waiting for amendments that were promised and never delivered.

Now we have the Energy and Water conference which could pass, an important bill to put people to work in America. We had a vote earlier today, it was 79 to 17—people thought it was a great bill. Now it is being stalled. It is being stopped.

The bottom line is we came here to do some work, not to dream up ways to stall and not do the people's work. Too many people are being disadvantaged by this tactic. It is the tactic of the minority. It is one they will pay for because the American people understand they have no proposal when it comes to health care reform—nothing. Now they have no agenda when it comes to these important items for our men and women in uniform, for the people who are unemployed across America to keep us safe through homeland security and basic bills for law enforcement

and for Energy and Water appropriations. They want to stop them all, stall them all.

That may be a good tactic that some of their political consultants have given them but don't think the American people are going to accept it.

#### ORDER OF PROCEDURE

I ask unanimous consent that when Senator UDALL is recognized, Senator UDALL of New Mexico is recognized this evening, he control up to 1 hour of that time as in morning business and it be in order for him to engage in colloquies during this time; at the conclusion of that hour, Senator COBURN be recognized to speak for up to 1 hour; at the end of that hour, it be in order for Senator UDALL to be recognized for another hour under the same conditions as identified above; and at the conclusion of that hour, Senator COBURN again be recognized for 1 hour as identified above.

The PRESIDING OFFICER. Is there objection? The Senator from Oklahoma.

Mr. COBURN. I ask the unanimous consent be modified that I be given 3 minutes to speak prior to the start of that unanimous consent.

Mr. DURBIN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. I wanted to answer a few of the points of the distinguished majority whip. The reason the Energy and Water bill is being held up is because the conference took out transparency that the people of this country need to see. It could easily be fixed by the majority agreeing that we will send that back, we will send a resolution back and ask the House to put the transparency back in. That is the purpose for it. It is not a delaying tactic. The fact is, we didn't defend what we actually voted for. That is the answer to the first question.

The unemployment benefit, we all want to extend it. We just want to pay for it. We don't want to charge it to our children. We want to get rid of some of the waste. We want to either take some money from the stimulus account and pay for it, but we do not want to charge the unemployment extension to our grandkids. We think you ought to make those hard choices.

Finally, on the cloture vote yesterday, as far as I could count, there are 60 of you and all you had to do was bring 60 votes to the floor, which you chose not to do. There were only three amendments that have been voted on on the Commerce, Justice, and State. I have three amendments pending. I agreed to have votes on them yesterday. Instead of having votes, we decided to do cloture, which was not achieved.

The final point that the Senator from Illinois makes, the very claim that we have no health care proposal—the first health care proposal that was filed and

published was my health care proposal that is a comprehensive health care proposal that saves the government money, covers more people than any of the bills we have today, saves \$70 billion, saves the States \$1 trillion, and solves most of the problems as far as access and cost, it covers people with any preexisting illness.

It is not we do not have a plan, it is that we couldn't get our plan agreed to or listened to.

I understand the frustration of my friend from Illinois; there is no question. We do want—we almost had an agreement yesterday to finish Commerce-Justice. There is no question. Everybody knew that. Then we decided to vote cloture.

I am happy to finish. We can finish it tomorrow if we can come to agreement on the amendments. We vote on the amendments and finish that bill tomorrow and finish this tomorrow. They can both be finished tomorrow easily, so it is not about structure; it is about growing the Federal Government, expanding the size and scope of the Federal Government and charging the cost of that to the next two generations. That is the objection. It is not about slowing the process.

I understand it is frustrating being in the majority when, in fact, there are minority rights, but when the amendments aren't agreed to, aren't allowed to have majority votes, then you can understand our predicament.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. UDALL of Colorado. Madam President, it is great to be here with you this evening. I see Senator DURBIN is still on the floor, and I know he may want to speak to the issue that was just raised. We are here discussing the public option. I hope Senator DURBIN has a minute or two to talk about that.

Mr. DURBIN. I thank the Senator, and under the hour he has been given, I thank him for yielding a few minutes. Let me say, what happened to you in the conference committee has happened to all of us. You had an amendment adopted in the Senate. As I understand it, we all supported it. It died in conference. It is frustrating, something you believe in, something we all voted for, and you didn't get your way. But does that mean we are going to stop consideration of this conference report; we are not going to pass an Energy and Water appropriations bill because your amendment didn't survive in conference? If all 100 Members in the Senate took that position, we would never pass anything.

Mr. COBURN. Will the Senator yield?

Mr. DURBIN. When I finish. The fact is, each of us has to accept the reality here. We don't always get what we want. I have been denied opportunities in conferences for things I cared for.

One of them, for example, was to say the Federal Government was going to make up the difference in pay from activated Federal workers who served in our Guard and Reserve. Year after year

it would be adopted on the Senate floor and killed in conference by the chairman from Alaska. Did I stop the money for the Department of Defense because of that? Of course not. I said: Tomorrow is another day and I will fight for it another day. But to stop the bill and say we are going to hold on for 30 hours or more because I didn't get my amendment in conference?

When it comes to the unemployment benefit, we are paying for these the same way every President has paid for them, through the FUTA tax. It is paid for. Frankly, it should be. These are people who paid into unemployment compensation for the day when they would need it and now the money is coming back out to pay them. But some people here have a different theory how they want to pay for it. So hundreds of thousands of unemployed Americans are waiting for the latest Republican theory on how to finance unemployment benefits. It is cold comfort to them to know we are having this great academic debate when a question about food on the table and taking care of their family is No. 1 in their minds. That is the problem with what has happened here.

You can always dream up a reason to vote no. You can always dream up a better idea. But at some point the business of government has to get on. People count on us—in this case, hundreds of thousands of unemployed people.

Let me say a word about public option, and then I will yield the floor back to the Senator from New Mexico. If we didn't get the message loudly and clearly Monday night about the public option when the health insurance industry threatened us and said: If you pass health care reform, we are going to raise your premiums, if the message didn't come through loudly and clearly that they not only have the power to do that, we empowered them to do it in ways no other company can because they are exempt from antitrust laws, the only way to keep them honest is to make sure health care reform does not disadvantage workers and businesses and families is to have a not-for-profit option, a public option that people can choose for health insurance. I fully support that public option. Those who say I am not sure if I would go that far have to accept the reality. Health insurance, private health insurance companies will impose premiums, they will fix prices because they can—they are exempt under McCarran-Ferguson—and they can allocate marketplaces so they can own markets. They are in a dominant position. The only thing that can stop them is competition and the only competition that can work is a public option, one that comes in and is not profit driven but tries to provide quality care for people at affordable cost. I fully support the public option. I thank the Senator from New Mexico for yielding.

Mr. UDALL of New Mexico. I thank the Senator from Illinois. I think he makes some very strong points.

We are being joined here in the majority. Senator WHITEHOUSE is here, Senator CARDIN is here, Senator BROWN from Ohio is going to be here. We are going to be carrying on a colloquy about the public option for the next hour, so any of our friends in the majority who want to come down to the Senate floor and join us, I urge them to do that.

Senator CARDIN, I know, has a couple things to say about the public option. Please.

Mr. CARDIN. If the Senator will yield, I thank him very much. I thank the Senator from New Mexico for bringing us together. He has been not only a real champion on the public insurance option within the health care debate but a real leader in that we need to do something.

I listened to my Republican friends. They take the position the status quo is acceptable. The status quo is not acceptable. Health insurance reform is vitally important for the American public. I thank the Senator for bringing us all together to talk about it.

There is some general consensus among the Democrats. The first is we need to reform our health insurance marketplace. It is important for the Federal Government to take action to deal with preexisting conditions so people can get health insurance without discrimination, they get the ability to renew their policies, there is no cap on the annual amounts that preventive care covers without copayment or without deductibles. These are all important changes that are included in the health insurance reform that is making its way through the Senate.

Let me tell you, the main reason for all this is cost. I will be honest with my colleagues. We cannot sustain the current health cost escalation in this country. Let me give you a few numbers: 6, 12, 23. Ten years ago in Maryland, a family health insurance policy cost about \$6,000. Today it is about \$12,000. If we don't do anything, in 2016 it is going to be \$23,000. That is not sustainable.

We are currently spending, in America, about \$7,400 per person for health insurance, \$2.4 trillion. We have to do better.

Let me tell you something. Every family in Maryland who has health insurance is paying an extra \$1,100 a year for those who do not have health insurance. So the status quo is unacceptable to the people in Maryland. It is unacceptable to the people of this Nation.

Our objective is simple. Our objective is to reduce the cost of health care to make sure every American has access to affordable, quality care, and we are going to do it in a fiscally responsible way that will not add to the Federal deficit. We want to build on the current system. Those who have insurance, we want to make sure they can continue to keep that insurance; that it remains affordable; that they have the right to choose their doctor. We want to make sure Medicare is

strengthened. One of the best ways to strengthen Medicare is to bring down the escalating cost of health care.

We understand that. Democrats want to make sure the Medicare system remains strong and that is one of the reasons why we think health insurance reform today is so critically important and we want to help small businesses have more choice.

That brings me to the public insurance option. Why do we think the public insurance option is so important?

First, I have heard some of my colleagues come down to the floor and say we want to protect you against the Democrats' bill that is a government takeover. This is not a government takeover. Was Medicare a government takeover? Of course, that is what our Republican friends said when we were considering Medicare in 1965, and if they had had their way we would never have passed Medicare.

But Medicare allows you to choose private doctors, private hospitals. It is all about providing an affordable way that our seniors and disabled population can get access to affordable care. It maintains the private network. We want to make sure we continue that.

Let me tell you the problem in Maryland today. That is that 71 percent of the people in Maryland who have private insurance are in one or two plans. That is not competitive. That is not competitive. One out of every three Marylanders has no choice on the private insurance plan that their employer offers. They must take that. That is not choice.

So the reason I am such a strong proponent of the public option is to bring down costs, to add more competition, to make sure we have an affordable product there to save taxpayers' dollars. That is why I want to see us make sure that we maintain a public insurance option, to be able to maintain your ability to choose your own doctor.

I will give you one more comparison; that is, take a look at what has happened in Medicare. We have Medicare Advantage. You can go to a private insurance option within Medicare itself. It would be one thing if they competed on a level playing field. They do not. Today we are paying 12 to 17 percent more for every senior who chooses private insurance. Let me repeat that. For every senior who goes into private insurance, the taxpayers of this Nation have to spend more money.

The Congressional Budget Office has indicated to us that that amounts to about \$150 billion over 10 years. We cannot afford that. I am for private insurance, but I want to make sure it is affordable and that we are not oversubsidizing as we are today. Let them compete on a level playing field.

The reason we want the public option is to keep costs down, to keep basically the private insurance marketplace straight and honest in a way they make their profit, to make sure that in every part of Maryland, indeed every

part of this Nation, there is an affordable insurance plan available.

Marylanders know what happened with what was called Medicare-Plus Choice when we had private insurance plans in Medicare and they left overnight. They had no insurance available. Fortunately they still had the public insurance option called Medicare. We want to make sure there is affordable coverage for all Americans, to keep the cost down.

I applaud my colleague from New Mexico for allowing us an opportunity to talk about this. I really do applaud the work that is being done by all of our committees, by the HELP Committee, by the Senate Finance Committee. Their options give us hope that we are going to move forward with health insurance reform and health care reform this year, to bring down the cost of health care, to make sure that every American has access to quality, affordable care and do it in a way that will be fiscally responsible. Democrats are giving us hope that we are going to be able to achieve that in 2009.

Mr. UDALL of New Mexico. I thank the Senator from Maryland. I think the Senator from Maryland has made such a strong case of why we need a public option. You know many of the folks who are out there wondering: Well, what is a public option? I think we need to go through a little bit of what we are talking about, because this is something that the American public understands. They know it in their heart. But let's go through a few of the details.

First, this is not going to be subsidized by the government. It is going to be fully funded by premiums. So we are going to be out there in the private sector. Premiums will be flowing in to this nonprofit entity, and it will be able to function and compete with other businesses. It is not going to make a profit for its shareholders because it is a nonprofit.

It would have low administrative costs since it operates as a nonprofit. That would allow it in the marketplace to serve as a competitor with these big insurance companies that are out there. It would offer savings to its subscribers through lower premiums, greater benefits, or lower out-of-pocket expenses. It will have the same insurance requirements as private plans. So we are talking about something that will offer low cost and high value.

Let's take a look here at why it costs so much. You can see by this chart right here that in New Mexico, we have a situation where we have two companies controlling 65 percent of the market. All of us know the way the market system works. It works best when you have a lot of competitors. When you take a market and drive it down and only have two competitors, what you end up getting is those two competitors that are able to push up the cost. So that is something a public option would inject into the market, a com-

petitiveness that we have not seen in a long time.

One of the things it would do is it would start lowering those premium costs we are seeing in New Mexico. I know Senator WHITEHOUSE is here from Rhode Island. One of the things I want to say about the Senator from Rhode Island is he has participated in this process already. Everybody knows he was on the HELP Committee. He had the opportunity to help write this bill. He has got a great deal of knowledge about what the public option is.

I believe it is only about 19 pages of the bill that passed out of the HELP Committee. People can read it. It is out there on the Internet. That 19 pages sets up the public option. So all we need to do is make sure that is in the bill that comes to the Senate floor, or that we amend it on the Senate floor if it is not in the base bill, or that we have the President of the United States say he wants a public option. He can weigh in to the conference and say those 19 pages, the public option, we want them in there.

I want to ask the Senator from Rhode Island to talk a little bit about the way he sees things from his perspective. What is happening up in Rhode Island on the public option?

Mr. WHITEHOUSE. I thank the Senator from New Mexico. I am committed to that. I am also delighted to follow the Senator from Maryland. Senator CARDIN and Senator UDALL have been, for many years before they even came to the Senate, when they were serving with such distinction in the House of Representatives, strong advocates for the elderly, strong advocates for the disabled, and strong advocates for consumers.

That is what a public option is all about. It is helping out people as consumers and providing better health care, the kind that the elderly and disabled get when they are on Medicare. They do not have so many worries that regular families have of whether they are going to get coverage.

The public option makes so much sense that it is very hard to argue against it as it is. So a great number of my friends on the other side of the aisle are arguing against things that actually are not being proposed, such as socialized medicine, or the government taking over health care.

None of that is suggested by our bill, anyway. The first words of the HELP bill are "voluntary plan." It is a voluntary option. As the President said when he was running for election: If you like the plan you have, you get to keep it. But if you do not like the plan you have, you have a public option, an alternative, a choice.

Why does that matter? Well, it matters to people such as Stephanie, a 28-year-old from Warwick, who recently learned that her insurance plan is refusing to cover the most costly and important medication that she has to take for a chronic rheumatic condition. She thought she had insurance. But

when this condition appeared, and she realized the kind of treatment she needed, and her doctor said: This is what you need, Stephanie, the insurance company said: Oh, no, I am sorry. We are not going to cover that.

Our friends like to talk about how this will put the government between you and your doctor. Folks, the private insurance industry is, all over this country, getting between Stephanie and her doctor and millions of others just like them and telling them what kind of care she can and cannot have.

The public option will actually help free that up by providing alternatives where they can provide better service and broader coverage, at lower cost. Why might they be able to do that? Our friends on the other side of the aisle say: Well, it is because they will compete unfairly. Because they will necessarily take over any insurance market that they get into.

That is, frankly, a bunch of baloney. In my home State of Rhode Island, just two insurance companies dominate the market now. In fact, one of our health insurers reported \$37 million of profits, excess profits, that it wanted to take out of Rhode Island and repatriate to its home State outside of Rhode Island; \$37 million. Rhode Island has only 1 million people in it. We are a small State. This was a company with 16 percent market share in Rhode Island. So out of 16 percent of the Rhode Island market, in 1 year, they were going to pull \$37 million and send it out of State.

You do not have to do that if you are a not-for-profit company. That is \$37 million that can serve those 16 percent of folks with better coverage, with better quality service. The profit and huge executive compensation is money that could go instead into health care.

I also heard from Charles from Pawtucket. For 20 years he and his wife have worked. They are freelance musicians. They have not had anybody providing them coverage through the business. But they have scrupulously and faithfully paid for health insurance and coverage. Recently his wife was in an accident. They are both in their late 50s. The insurance company took a look at them and said: You are out. They tossed them out; threw them off the insurance plan.

That is not the kind of choice people need. They need a public plan they can go to that will be reliable, and that will be there for them once they get sick. It is said about our private health insurance industry that they give you all the coverage you need until you need it. Suddenly it is loophole city. There is a better alternative and a better way.

Another way the public plan can help to fund that and to make up that difference is with less administrative cost. We have heard that on the private insurance side, 15 to 30 percent of the health care insurance dollar gets burned in administrative costs; Medicare, maybe 3 to 5 percent. So they are

running probably five times as expensive as Medicare in their administration.

And what do you get for that? Well, you get told that you cannot have the care you need when you actually get sick. You get your doctors hassled so badly by the private insurance industry that they have staff to fight with the insurance companies. As I travel around Rhode Island, doctors tell me that very often 50 percent of their personnel is devoted to fighting with the insurance industry, fighting about prior approvals, fighting about getting paid.

So the 15 to 30-percent costs that the private insurance companies have for administration creates what I call a "cost shadow" in the health insurance provider community, because they have got to pay all of those people to fight back. You add the two together and it is big dollars. A public plan will work more effectively, will try to figure out the better way to provide care that does not invest its dollars in trying to fight with providers and figuring out how to deny you care. There is a huge amount of money that can go back into better quality care.

Another story is Tim from Warwick. He is a husband and he is a father. Right now his family health insurance has a \$3,500 deductible. Tim and his wife are not high-earning people. The \$3,500 deductible is a real risk. Because of it, they actually avoid care, miss appointments and do not take as good care of their health as they should, because they simply cannot afford the out of pocket. They save it for the big catastrophe.

They have tried. They looked around to try to find other things. They cannot find anything better because the costs are so high. So right now Tim sees his family as tethered to that job, tethered to that insurance plan. If there were a public option and he did not have to get it through his job, then they could look and they could find an alternative and they would not feel as tied down.

How many people in America feel trapped in their jobs because they do not have an alternative for health care? And to protect their family's health care, they continue to slug away at a job, they defer the innovation and entrepreneurship they could do. They do not open their own business. They feel they have no choice.

The public option could give them a choice. Another way that could help save money is by providing a new model of service.

Over and over again, we find in health care that if you improve the quality of care, you can actually lower the cost. The waste in the health care system is phenomenal. The Lewin Group says there is \$1 trillion in excess health care costs—\$1 trillion in excess health care costs—every year in America; \$1 trillion every year.

The New England Health Care Institute has looked at this, and they say

there is \$850 billion in excess health care costs in America every year.

President Obama's Council of Economic Advisers looked at how much excess costs there are in health care. They looked at it by comparing our share of gross domestic product to other countries' shares of gross domestic product that gets burned by their health care systems. We are the highest in the world. We are far ahead of everybody else. We are a complete outlier. We are at 18 percent of GDP. The next worse country is Switzerland at 11 percent, and the EU average is half of ours, and they get better health care results. We spend a fortune on health care. They looked at that comparison.

They also looked at the comparison of regional outcomes and how in some States you can get very high-quality health care with great outcomes and results, and it is a lot cheaper than in other States where you get very expensive health care and lousy results. They crunched all those numbers, and they looked from both sides, and they came up with the number of \$700 billion a year in excess health care costs. It is there.

We have a terrible model of service in this country. Anybody who has ever had a sick family member, who has had a chronic condition, who has been sick themselves—you have seen it. You know the inefficiencies in this system: the electronic health record that is not there, so your tests cannot be located and you have to carry your own file around; the insurance companies being just brutal to your doctors and arguing with them about your care, and you cannot get the care while that fight goes on, while they sort it out; the doctors who cannot talk to each other. You have five specialists, and you are the one in the middle, and you are the one who is sick, and nobody is sorting it out for you, and nobody knows what the other person is doing. One person prescribes a prescription and another person prescribes a prescription, and those two interact in a way that makes you sick, and nobody saw that coming because it is disorganized.

All that stuff does not need to be there. It is excess cost. When you get rid of it, you improve the quality of care. A public option can go after that, and it will because it is not bound to try to make a profit every minute, it is bound to try to do the right thing. So there are innumerable reasons why a public option makes sense.

But, finally, I think the strongest one is that by not having to extract all this profit out of the system—by not having to pay CEOs tens of millions of dollars a year, by not having to maintain that huge administrative war with doctors and hospitals and war with their customers as soon as they get sick, trying to deny their coverage—by actually trying to find that newer, better model of care that provides better health care cheaper, they can actually drive down costs—and a lot.

I do not know if the right target number is \$700 billion a year or \$850 billion a year or \$1 trillion a year, but there is a big target number to find, and what a difference that would make for Lisa in Providence, who turned 55 this year. Her birthday present from her insurance company was a 30-percent premium increase—a 30-percent premium increase. She was at the point where she was just able to afford what she had. Madam President, 30 percent more is more than she could afford, so Lisa has now become yet another uninsured American. A public option will help because it will make health care affordable for people who want to have insurance, can be insured, but are not always insured. Lisa is a good example.

Our friends on other side often talk about the people who are uninsured as if they are some like alien species; that it is actually less than we think and we do not really need to worry about it; it is only just a few million here and there. The fact is, in the last year and the year before, 87 million Americans like Lisa had a period in which they were uninsured. They went without health insurance. You know how scary that is. Somebody is not just uninsured; they are a mom, they are a worker, they are part of a family, and something goes wrong and suddenly they cannot afford their insurance, and for a while they are uninsured, and then maybe they try to come back again. They get lucky; somebody in the family gets a job who gets coverage; they find a way to afford it. But there were 87 million Americans who, in those 2 years, went without health insurance.

Do you want to know what 87 million Americans is? That is why this chart I have in the Chamber is colored yellow and red. If you go west of the Mississippi River and take the population of every single State, including the State of New Mexico, which is Senator UDALL's home State—and you just take out California—if you take every single one of those States and add them all up, that is 87 million people. That is the population of every single one of those red-marked States, from Minnesota, Iowa, Missouri, Arkansas, and Louisiana, and go all the way west—except for California—all of those States, if you add them all up, the population of every single one of those States, that is the number of people who in those 2 years at some point were without insurance. So it is important that we take that burden off these nearly 90 million American families.

Even for those who have insurance, this is a big deal because folks who have insurance find they go bankrupt very often. Right now in America, 62 percent of all bankruptcies are health care related. That is why American families go to bankruptcy more than any other reason—because of health care. I tell you, you can make fun of systems like Canada's or England's or France's; you do not see families going into bankruptcy because of health care in those countries.

This is a national tragedy that is happening to those families, which is totally unnecessary. Of that 62 percent of bankruptcies—where the family was doing fine, and a health care emergency put them over the edge and forced them to go into bankruptcy, where they lose their home, they lose their credit—78 percent of those bankruptcies—four out of every five of those bankruptcies happened to families who had health insurance.

So if you are listening to this and you are wondering why it is important we get this reform, because you think: I am insured, I am all set, I am not part of the problem, well, you are very lucky you have not yet had the experience of finding all those holes in your insurance coverage, because I will tell you what, for these families—four out of every five of the health care bankruptcies in this country—they thought they were covered too. It was a rude and sad awakening when their insurance companies started calling them up and saying: Sorry, we are not actually going to be able to cover you. We found an exception. We are rescinding the policy. We are throwing you off. We do not cover that. And they had to pay and pay and pay until everything they set aside, everything they worked for, everything they tried to build up for a secure future for themselves and their families was down the spout, lost in a bankruptcy because their health insurance was not there when they needed it. That is another reason we need a solid public option, so there is an alternative to that kind of behavior, because it does not just keep people out of the insurance market, it clobbers people who think they are safely insured.

Madam President, I yield to Senator UDALL.

Mr. UDALL of New Mexico. Madam President, I say to Senator WHITEHOUSE, I want to ask you a question and see what evidence there was in the HELP Committee because what I understand in New Mexico is, if you look at the uninsured—I showed a chart in the Chamber a little bit earlier—one in four New Mexicans is uninsured. The big question is, Who are the uninsured? Who are the folks out there who are uninsured? As shown on this chart, adults under the age of 65, 31 percent; working New Mexicans, 31.4 percent; Hispanic Americans, 49 percent. So the uninsured are people we fight for every day, people we know, people we run into.

I know in the HELP Committee one of the things really focused on was the fact that we are talking about working people, working families who do not have insurance. They are out there in these smaller businesses. I know when you worked on the bill in the committee, you heard that kind of evidence. And you know your Rhode Island situation. Could you talk a little bit about that because I think people somehow think, like you said—I think you said earlier that being uninsured is

from a foreign planet or something. These are people who are in our midst all the time. They are working hard, but they cannot afford insurance, and these small businesses cannot afford insurance to cover them. I was wondering if you could talk about that a little bit.

I see Senator BURRIS from Illinois has also joined us.

Mr. WHITEHOUSE. Madam President, I will speak briefly so the distinguished Senator from Illinois can follow up. I thank the Senator from New Mexico for the question.

In 2007, 2008—2 recent years—nearly 90 million Americans went without health insurance at one point or another. That is close to one in every three Americans, which means as you go around your neighborhood, the fellow with the truck delivering oil to heat your home; the lady in the corner at the bookstore; the guy who owns the gas station down the road—innumerable people whom you know in your real, regular life are in those nearly one in three Americans who are going through a period being without health insurance coverage. Some of them are going to be young people who choose not to do it. Some are between jobs, and they rely on an employer to provide coverage because good luck buying coverage on your own in this country if you do not have an employer to argue the price down for you.

But I think it is really important that we press back against the notion that some of our colleagues are pushing forward: that there is this little group of uninsured who just kind of are not regular people and are different and are a problem, that they are not part of the American fabric. It is one in nearly three Americans who goes in and out of health insurance coverage.

As a parent, I have to tell you, if I had to go home at night and tuck my kids in and then go to bed myself and talk to my wife and be thinking about what might happen the next day if they got sick because we did not have health insurance for them—what an agony for a family to go through that period, when everything is at risk, when you are one illness away from losing everything you have. We put 90 million people through that in the last 2 years. It is real people, working people, real families, and they feel a lot of pain. That is one of the reasons we have to act. We have to get the reform bill done. It is for them, not for the special interests.

Mr. UDALL of New Mexico. Madam President, I say to Senator WHITEHOUSE, thank you very much.

One of the things I have just realized now, one of the things the three of us have in common is we were all attorneys general. I am proud of that fact. I am very proud of my service as attorney general. I know you both are. We were out there as attorneys general fighting for these working Americans we are talking about, whether it was consumer protection or doing law enforcement.

Madam President, I say to Senator BURRIS, I know those working families the Senator worked for back in the 1990s are the same working families he is fighting for on the public option. Could you jump in here? I know you have a situation in Illinois where you have traveled throughout the State. You have taken a measure of what is happening in Illinois with regard to health insurance. What would you say?

Mr. BURRIS. Well, Madam President, I say to the distinguished Senator from New Mexico and the distinguished Senator from Rhode Island, it is certainly an honor for me to be able to participate in this discussion.

I just left my 50th college reunion down in southern Illinois, where I had attended Southern Illinois University. I was introduced at the football game, by the way, which SIU won 46 to 23 or something like that. We beat Illinois State University. They announced me in about the third quarter.

Well, after the game was over, I say to the Senators, there was a line of people lined up to talk to me. What were they saying in that line? Most of them were saying: Senator, whatever you do, we want you to keep a public option in that insurance bill.

I said: Well, there are three bills in the House, and they have a public option in them. The bill that came out of the HELP Committee here in the Senate has a public option. And we have not gotten the Finance Committee bill—as of last Saturday. But we just passed that bill the other day. Now, it does not carry a public option. What I am saying is, I do not see how we can address all of these issues dealing with health care rather than sick care, which is what has been taking place in America, without dealing with something that is going to create competition, create a reduction in costs, and, of course, cover millions of Americans. Senator WHITEHOUSE just talked about that 90 million—well, 47 million who are underinsured, and another 25 million to 30 million who are uninsured. So those are the problems we are having, and that is what it is going to take in order for us to get reform in America.

It is unconscionable to think we could do insurance reform and think that the insurance companies are going to not continue to make their profits. As a matter of fact, I spoke about this on the floor a few moments ago. Would you believe that what they have done is criticize the bill that came out of the Finance Committee? They have played into our hands. They have criticized that bill, talking about how much money it is going to cost, which gives us the best reason we would need a public option: because the premiums are going to go up if they don't have any competition.

When we look at their profits over the years, we see a 428-percent increase in their profits from 2000 to 2007. That is unacceptable. It is just unacceptable.

Mr. WHITEHOUSE. Mr. President, would the Senator yield for a question?

Mr. BURRIS. Yes.

Mr. WHITEHOUSE. As a former attorney general who had antitrust and consumer responsibilities, how many industries can the Senator think of that would get to announce to the world, if this bill passes: We are going to raise our prices! If you are in a competitive marketplace and you are not colluding with each other, how on Earth do you know as an industry that you are going to get to raise your prices, you are going to be able to decide to raise your prices? Isn't the market supposed to do that?

Mr. BURRIS. It is market driven, that is correct. If they do, they have collusion going on in terms of everybody raising their prices so they would be competitive, and they couldn't then go to choice and thereby keep the rates up and their profits up. So we are talking to the current AGs. If they would do this, we might have an antitrust action, but that certainly is a circumstance we must be concerned with in terms of how they are seeking to increase their prices, and they might even be involved in a little price fixing.

Mr. UDALL of New Mexico. Senator WHITEHOUSE and Senator BURRIS, if you would just give me a second, I want to make sure he talks about the situation of workmen's compensation in the State of Rhode Island. I believe several States—and you have had experience with this—have experimented with a public option in the workmen's compensation context. It tells us a lot about what public option would mean if we put this in our health care bill.

Could the Senator speak to that a little bit?

Mr. WHITEHOUSE. We have heard a lot about how, if we let a public option go forward, it will give terrible customer service, horrible customer service. Senators have said it will be the worst combination of the IRS and the local Department of Motor Vehicles. But we can go to a State such as Wyoming, which is the home State, for instance, of the very distinguished ranking member on the HELP Committee who is also on the Finance Committee and, indeed, was one of the negotiators with Senator BAUCUS. When he goes home, he goes home to a workers' compensation system that is a single-payer, government-run system. The Wyoming business community doesn't seem to complain about it. So obviously, the customer service can't be that terrible because they would be thrown out if they were that terrible.

The other thing we hear about the public option is that if we let it in the door, it will take over the system because a public insurance plan can't compete fairly with private plans. There are predators who will be let loose in the system, we have heard people say. Well, half the States in the country have public plans that sell insurance in the workers' compensation market which provides—about half of it is health insurance. Some of it is paid back wages that were lost, but the

rest of it is health insurance. It is little things such as carpal tunnel, it is terrible wrecks that occur, chronic conditions. All the different aspects of health care that get provided by health insurance also get provided by workmen's compensation insurance.

If we go to Arizona, for instance, which is the home State of the very distinguished Senator MCCAIN who ran for President on the Republican ticket, and Senator KYL who is the assistant Republican leader of the Republican Party—they go home to a State where there is an Arizona public workers' compensation plan that has been competing with the private sector in that market, I believe, since 1925. I don't have my notes in front of me, but my recollection is that it was from 1925. So for 80 years, they have been running in competition with the private sector.

That doesn't sound to me as though once we let the government in, competition is doomed.

The distinguished minority leader, Senator MCCONNELL, goes home to Kentucky. In the Kentucky workers' compensation system there is a private plan. The Kentucky workers' compensation plan, run by the State, is a public plan. It goes out and competes day to day with the private plans. It adds to the healthy marketplace. It adds to the choices that Kentucky business owners have. I have never heard Leader MCCONNELL or Senator MCCAIN come to the floor to criticize the workers' compensation public plans that operate at home.

So I think there are at least some examples that disprove some of the worst arguments that have been made about the public option: that it will give us terrible public service—well, the single-payer, all-government plan in Wyoming seems to disprove that—and that half of the States in which there is a competitive plan, including Arizona and Kentucky, would seem to disprove the notion that as soon as we let a public plan in to compete, it will take over. It just hasn't, it just doesn't, and the actual facts—what the military calls the facts on the ground—are different than the rhetoric in the air.

Mr. UDALL of New Mexico. Senator WHITEHOUSE, if I can interject at this point, I think you have given great examples of why we need a public option. As part of health care reform we are going to be doing in the next couple of weeks in the Senate—we have a Senate Finance Committee bill out of the Finance Committee now and we have the HELP Committee bill and our leadership is putting those two bills together—we have to have a public option be a part of the bill.

Senator BURRIS was visiting a little bill earlier about Illinois and the Illinois citizens and their comments on the public option. The Senator from Illinois may want to join in with what Senator WHITEHOUSE said about that competitive factor with workmen's compensation.

Mr. BURRIS. Mr. President, I think we must also give what is a very simple



definition because I think the term has gotten misconstrued in terms of what the public option is. I hope our colleagues will understand it is nothing but choice. It will give the person who is uninsured, if they cannot get insurance—let's say the person has a pre-existing condition and they lose their job and that person goes to get insurance and they will not insure that person. Hopefully, our bill would take away the preexisting condition problem.

Let's just say the premiums are too high. Well, if there is a public plan, that person can go in and then acquire his or her insurance based on his or her income and ability to pay. That is what we are talking about. That is the option an uninsured person would have. That option will entitle that person to get health insurance. It also, under this legislation, would entitle that person to get preventive care, which would prevent that person from getting a chronic disease or getting to the point where a disease gets chronic and they end up going to the emergency room in order to get service.

So we are talking about saving funds. We are talking about cutting down on the cost. We are talking about eliminating premiums.

So I say to the distinguished Senator from New Mexico, it is crucial the words "public option" don't turn people off because it has gotten to the point where it is creating problems in itself, the definition. But the purpose is to make sure those persons who don't have insurance will get insurance.

The President has said this. President Obama said: If you have your insurance and you like your doctor, we are not going to touch you. The reform would not interfere with you. Therefore, we are going to have it so that all of those almost 90 million Americans can get insurance, which will mean it will cut down on the costs we are all paying because of those persons who have to go to emergency rooms and who are not insured.

So I hope our colleagues will understand how important this piece in the whole reform bill is, where there will be choice for Americans, choice so they can select a company and not be paying premiums through their nose because premiums are going to go up. If we don't get reform, if we don't have reform for competition, if we don't do public option—this document says if we compete with private companies, these companies will raise their rates during this critical time by 111 percent. If we look at the profits they are making now and over the years, we will find those profits have been exorbitant. Therefore, I will say to my colleagues, it is key, even to my State of Illinois where we have only two insurance companies doing 69 percent of the insurance—that is almost a monopoly on who gets insurance—but two companies in Illinois, and we are a State of 13 million people. When two companies cover 69 percent of those who are in-

sured, that, to me, is just not enough competition for rates to be reasonable so it is affordable.

Mr. WHITEHOUSE. Would the distinguished Senator from Illinois yield because he has made such an important point.

Mr. BURRIS. Yes.

Mr. WHITEHOUSE. He made the point about the lack of competition out there right now. I know that in Illinois, the lead company has nearly 50 percent market share, and the second company, a 22-percent market share, for a grand total of 70 percent market share, just in those two companies.

Mr. BURRIS. Yes.

Mr. WHITEHOUSE. But it is not just a problem in Illinois. There are 39 States—39 States—in which the top two insurers—just the top two insurers—have the majority of the market; more than 50 percent of the market, just between two companies. In nine States, one insurance company—one insurance company—has more than 70 percent market share, one company.

So the notion that there is a lot of competition going on out there isn't supported by the facts. If you are in one of those nine States where there is one insurer that has more than 70 percent of the market, you don't have a lot of choice. That insurer has extraordinary market power, particularly since they are immune to the antitrust laws.

Mr. BURRIS. Yes.

Mr. WHITEHOUSE. Extraordinary market power, and in the 39 States where more than 50 percent of the market is captured by only two insurance companies, they have extraordinary room to raise prices and fix prices and work with each other to make sure they maximize profits instead of taking care of regular folks, the folks I talked about earlier, real people who suffer real consequences. The result of it is that our health care expenditures are going through the roof.

I was born in 1955. In 1955, we spent \$12 billion a year on health care. In 1979, I just got out of college. It grew nearly 20 times, to \$219 billion that we spent on health care as a country. In 1987, I was just about to have my first child, my daughter, half a trillion dollars, \$500 billion. In 1992, we spent \$850 billion. Here we are in 2009, \$2.5 trillion. Look at the direction on the chart—the direction of that spending curve. We have to turn that around. Everybody in America, the insured, uninsured, doctors, nurses, hospitals, everybody has an interest in us getting this right and getting this bill passed so we can turn it around. I don't want to make a joke out of this, but do you remember the last time we had tried for health insurance reform, the insurance industry, which has turned on us now, turned on us then with Harry and Louise, who were that nice couple who raised all these worries and fears. They always worked with fear. I said the other day that Harry and Louise are not the problems; now it looks like

Thelma and Louise. With those health care costs climbing, we are headed for the cliff, and we are all in the car together. It will be Democrats who have to work together to solve that problem before we go off that cliff.

Mr. BURRIS. That is key. I am looking at 29 of our colleagues in this body calling for a public option. That is a tremendous number.

Mr. WHITEHOUSE. I wouldn't be surprised if it were more.

Mr. BURRIS. Maybe there are 30 of us who signed the letter at this point. Just what the Senator said—it is crucial that we now think about 30 more. We have to work on that.

Mr. UDALL of New Mexico. We have now been joined by Senator BROWN from Ohio. As the Senators who are on the floor know, he led an effort like this last week to put the public option forward. He has been amazing in terms of being dogged and being here on the floor fighting for the public option. I know he talks frequently about how people in Ohio have a real passion for this.

Mr. BROWN. I thank the Senators. Back in our States, Rhode Island, New Mexico, Illinois, Ohio, and Washington, we all hear from constituents all the time who are unsure of what their future is with health care. Too often they are denied coverage with preexisting conditions. Too often they have annual caps or lifetime caps on coverage. They thought they had good insurance. In fact, what I found in the mail I got from Springfield, Cleveland, Dayton, Oxford, and other communities is people thought they had pretty good insurance, and they find out, once they get circumstances when they needed insurance, it is not so great. They get sick and they have huge hospital bills and they have huge doctor costs or other expenses and they get a note from the insurance company that they are not going to cover that.

Some of the letters that break my heart are from people who clearly are under so much stress because of breast cancer or because their child is sick and they are spending hours a week fighting with insurance companies. It is those people who thought they had good insurance who find out it is not so great after all and they really support the public option. They understand we are going to change the rules in this legislation. No more disallowing care for preexisting conditions, no more caps or discrimination based on gender, race, or disability. They also know insurance companies are good at gaming the system. Without a public option, so many people think insurance companies will continue to game the system, even though we have written better rules in this bill. They understand insurance companies such as Medicare doesn't—excuse me, the public option, like Medicare, won't disallow somebody for a preexisting condition and throw them off insurance. They will keep the costs down. We know what the insurance companies said a couple

days ago when they talked about costs going way up as if they have not doubled that anyway in the last 8 or 9 years. That was one more call and is actually is the best endorsement yet of why we need the public option.

Mr. WHITEHOUSE. If the Senator will yield for a question.

Mr. BROWN. Yes.

Mr. WHITEHOUSE. Not to belabor the obvious, but could he comment on why it is that a for-profit private insurance company might pursue things such as rescission, which is when they throw you off a policy when you get sick because they found an error in your form, and you have been counting on the policy for years, but suddenly you are sick and they throw you out the door? What might the difference be between a for-profit insurance company and a public option when they are looking at that circumstance?

Mr. BROWN. Right. I will answer it in a fairly unusual way. I have a friend who is a lawyer for a company that produces soap. She said to me: I am glad we have a strong EPA because we are doing what I want to do anyway, and now our competitors have to.

If you are an insurance executive—if the four of us were insurance executives and I disallow people and I put caps on coverage because of preexisting conditions, and I do rescission, you are all going to have to do that. A lot of people may think this group of Senators up here hates insurance companies. I think insurance companies operate in their own short-term financial self-interests. That is why we need different rules, so they cannot deny care this way, and that is why we need a public option, which sets a gold standard. Public option will not use rescission. Public option will not deny care or put a cap on coverage or discriminate. Public option will not use preexisting conditions to keep people off. The public option will set the standard. So if these other private companies want to compete—and Senator WHITEHOUSE and I and our staffs in the HELP Committee wrote most of the language for the public option in a way that there would be a level playing field, and they will compete with Cigna and Aetna and United and WellPoint and these other companies in a fair way. We may not see the Aetna or Cigna CEOs making \$22 million next year because you can make that kind of money because you are cutting people off, you are using rescission. Once these insurance companies have to go under a set of rules, enforced in part by the public option, these salaries and profits may not be so gargantuan as the insurance companies have enjoyed all these years.

Mr. WHITEHOUSE. I mentioned earlier that in Rhode Island a for-profit insurer with only 16 percent market share, in a State of only a million people—you are all from bigger States; Rhode Island is a million people. It had 16 percent market share. It extracted in 1 year \$37 million in profit to repa-

triate to its headquarters out of State—\$37 million. Imagine how much care you could provide to 16 percent of a market of a million people with \$37 million, if you put that back into health care instead of taking it out in profit.

Mr. BROWN. As the public option mostly will do.

Mr. WHITEHOUSE. Yes, as the public option would do.

Mr. UDALL of New Mexico. We are near the end of our time.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. UDALL of New Mexico. I ask unanimous consent to have 3 additional minutes.

Mr. COBURN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. UDALL of New Mexico. I thank the Senator. I point out tonight that we have had a number of Senators come down here, and we have also been presided over by the gracious Senator from the State of Washington, Senator CANTWELL. I know she is a strong proponent of a public option. We have had Senator CARDIN from Maryland, Senator BROWN from Ohio, Senator WHITEHOUSE from Rhode Island; we had our distinguished majority whip, Senator DURBIN, here talking about public option. We have also had Senator ROLAND BURRIS from Illinois. So we have had a key group here.

We are going to continue to do this because, as Senators BROWN and WHITEHOUSE and BURRIS know, we have to get this done. Our constituents want it. The American people want it. There was a poll done, and 72 percent of the American people want to see a public option here.

I don't know if any other Senators want to sum up.

Mr. BURRIS. Well, 72 percent of the doctors also are supportive of the public option.

Mr. BROWN. I know one doctor who may not be for it on the other side of the Chamber.

The Robert Johnson Foundation found that more than 70 percent of the physicians supported the public option.

Mr. UDALL of New Mexico. I thank Senator COBURN for not objecting. I thank all Senators who appeared here today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Madam President, I listened off the floor to the debate of my colleagues. Many of the things that they identify as problems, I certainly agree with. Where we part company—having been in the health care field for over 25 years, and having practiced medicine during that period of time—is on the solutions they propose. Oftentimes, that will destroy the best of medicine that we have in America today and will render a larger government with less freedom in our country.

I want to address a couple of the issues. From the start, the assumption

of those for the public option is that the government has done a good job with the health care programs they run today. I wanted to give a little history and put forth a little history.

There is no question that Medicare has benefited millions of Americans, and will continue to do so if we can figure out a way to pay for it, which is one of the sad things about the payers in this bill—that we are going to borrow \$500 billion and take another \$500 billion out of Medicare and create another program, when Medicare is not funded. If you go through health care today in the country, 61 percent of all health care expenditures in this country go through the government. If 61 percent is already going through the government and we are having health care inflation at 7 or 8 percent, why is it that if we are so good in 61 percent of it, we still have these kinds of problems as a whole? And actually health care inflation inside government programs is higher than outside government programs, which proves the point that we should not eliminate health insurance companies, but we should make them more efficient and streamlined.

The assumption behind the public option is this: They look at Medicare and at the administrative costs of Medicare and say that is all it costs to run Medicare. Then they look at the 10(k)s, the profit and loss statements of the insurance industry, and say look how high that is. If you take all of the health care insurance industry as a percentage of the dollars spent in health care and look at their expenses and their profit and their costs for running their business, in terms of cost of capital, and compare it to the true cost of running Medicare, what you find is Medicare costs about 3 or 4 percent more to run than private health care.

Nobody could be more disturbed as a practicing physician than I am about wanting to rein in the abuses in the insurance industry. Their answer is to create competition with a government plan. I believe you create competition by creating real competition. A government plan, government option isn't competition. It is the elimination of any other market in health care. How do we know that? We know that the way people are going to sign up for a government plan is because it is going to be cheaper. If you take the same factors—for example, the 15-percent fraud rate in Medicare and Medicaid—and add that to the cost of the plan, what you are going to see is we are going to end up subsidizing the government plan to a greater extent than even CBO would put forward. I will have a report in the next couple weeks that will outline CBO's accuracy on health care costs since they have been scoring them since 1965. I can tell you right now that the record is atrocious. Sometimes they missed it by 15,000 percent. They underestimate what the costs are.

I want to share a story about two of my patients over the last 6 or 7 years.

I also want to share another story about somebody I talked to this week, whose son dropped out of medical school and chose to not go to medical school. He was accepted, but he chose not to go because of this very debate and the likelihood that the government will become more involved in health care.

The story I want to tell goes to the very real need that my colleagues were addressing, which is true changes in health insurance. Everybody in this body wants to address the cost issue because that issue is what is driving the problems with health care. If somebody doesn't have access, it is not because it is not available out there, it is because they don't have the money to buy the access. So cost becomes the first stumbling block. Whatever we do, the No. 1 thing we ought to do is try to decrease the costs associated with health care. How do we do that? Do we do that by modeling Medicare, Medicaid, SCHIP, Indian health care, VA? Is that how we do it? Or can we do it in a way that will truly drive down the costs? There is no estimate out there about the actual cost reductions in the bills that are coming forward, either the Finance Committee bill or the HELP Committee bill. The HELP Committee bill actually raises the cost of health care. Should we be about figuring out how to lower costs? Let me give some examples.

Safeway has had no increase in health care costs for the last 4¼ years. How did they do it? They created incentives for their employees to stay healthy. When I say incentives, they were paying their employees cash money to change their behavior. They are limited on how much they can do that by a law called HIPAA, and, in fact, if they could do more, then they actually could have had a marked decline in their health care costs.

Then there is a company called MedEnciente where they run the insurance program for communities' municipal employees. Everywhere they have been they have lowered the cost of health care. How do they do it? They incentivize doctors by paying them more and incentivize patients by agreeing to do what the doctor says by cutting off their deductible or lowering the cost of their prescriptions if, in fact, they will follow good practices, best practices in terms of their care.

There are other examples such as Asheville, NC, where they have had a marked decrease. On average, what we have seen is a 20 to 30-percent decrease in health care. There is not a government involved in any of that.

I want to go back. Why is it that we view a government option as the answer? Because we perceive that the government can do it more efficiently and we perceive that is the only way you force competition in the health insurance industry. I agree, there is no significant competition in the health insurance industry. But having the government compete in it versus forc-

ing competition is where we divide and go away.

The second reason they want a government option is the following: If you are my age, in your early sixties, what is going to happen to you in Medicare is you are not going to have the same care that the people in the last 10 years have had because the reason they want a government option and the reason we want what is called a comparative effectiveness board is because the real reason for having a public option and a comparative effectiveness board is to mandate what can and cannot happen to you.

As a physician who has delivered thousands of babies and cared for every complication in gynecology and obstetrics one can imagine, as a physician who has cared for thousands of children from birth to high school, as a physician who has taken care of grandmas and grandpas in their elder years with complications from heart failure to cancer to chronic obstructive pulmonary disease to pneumonia to anything else, what is going to happen is the options are going to be limited.

The ultimate undercurrent of why we need and want a public option is that we will eventually create a system where most of America, about 82 million people, who have private insurance today will be in that public option and they will decide what you can and cannot have, which is counterintuitive to how we allocate scarce resources everywhere else in the country. We do allow the forces of competition to allocate it, but it requires individual personal responsibility. It requires a transparent market, which I agree we do not have. It requires real competition, which I agree we do not have. But the answer is not another government program.

Now back to the two examples in my practice. I give these examples because I want people to see what is going to happen as the government becomes more and more involved in health care.

These are two patients I have cared for over 20 years each presented at different periods of time with no true signs or symptoms of significant disease other than the fact that having known these people for years, I sensed something was different. I ordered a test. It was denied by the insurance company. I managed to get my friends, who happen to have an MRI who also practice medicine on a not-for-profit basis, do an MRI on this one gentleman. It just so happens the gentleman had the same disease that Senator Kennedy recently succumbed to. No signs, no physical diagnosis.

The only thing that allowed me to query that was the art of medicine. Not the book training, not the gray hair, not the experience, but the gut of knowing and having seen and been experienced with a patient over a long period of time to say something has changed. In fact, the insurance company came back and paid for the MRI.

An identical thing happened about 4 months later with another individual.

One of those individuals, by the way, is still alive. The other, unfortunately, succumbed.

So we do need real competition in the insurance industry. We need to make sure we create that. The debate between what my colleagues on the other side of the aisle offered tonight is how do you best do that. Do you do that by setting up a government program that is infinitely funded and will actually charge rates that will be under the true costs and will be just like another Medicare Program where we have an unfunded, long-term liability that our kids are going to have to pay for, close to \$75 trillion? That is the worry. That is what the real debate is.

I thought I would spend a minute talking about can we fix health care without tremendously growing the size and scope of the Federal Government. You cannot even talk about health care until you are willing to talk about what we are doing today. What we are doing today and what we are going to be doing tomorrow, and, if this bill passes, what we are going to be doing for the next 20 years is borrowing a large percentage of the money we will spend from our grandkids. That is an unsustainable course. It is not one that we can achieve.

As we do that, we end up with youngsters such as this. If you cannot read this, it says: "I'm already \$38,375 in debt and I only own a dollhouse." That is a pretty stark statement. Here is a cute little girl on whom her parents have put a placard. Her parents obviously recognize that we are spending money we don't have on things we don't need.

I am not saying there isn't anybody in this body who doesn't want health care reform. Nobody probably wants it more than I do. It is the type and how we get there that is important and do we make her situation worse. Do we raise the amount of money we are borrowing to be able to fix a problem that is going to be a government-centered problem rather than a patient-centered focus?

Then we have this quote from Thomas Jefferson:

I predict future happiness for Americans if they can prevent the government from wasting the labors of the people under the pretense of taking care of them.

That is a pretty interesting statement and pretty insightful and foretelling because that is exactly where our Nation finds itself today—"wasting the labors of the people under the pretense" that the government will take care of them.

In about 10 years, government spending is going to be about 35 percent to 40 percent of our economy, and that is if we make it in the next 10 years given the present financial difficulties we have. But if we think and ponder a little bit about what Jefferson had to say and we look at the Constitution, what we find is that through the last 20, 30, 40 years in this country, back to 1965, we started stepping outside the bounds

of the enumerated powers that our forefathers brought forth. We have ignored them. Consequently, now we have government program after government program and agency after agency and we cannot afford it. We are borrowing the money. Under the guise of taking care of U.S. citizens, we can rationalize it.

America's health care is the best in the world. It just happens to be the most expensive. There are lots of ways to drive that cost down that are not at all considered in the bills in front of the Congress. Incentivizing people to do the right thing, the best thing, incentivizing the elimination—do you realize that 80 percent of the cost of health care today is defensive medicine; that if you attacked it slightly, not by eliminating lawsuits but by eliminating frivolous lawsuits—let me give the details. Ninety percent of all the suits that are filed never go to court and never get settled and never get answered. In other words, they are extortion claims. There is not a real medical claim. There is not a real issue, and it is not carried forward. Of the 10 percent that are either settled or carried forward, 89 percent of those are decided in favor of the medical community. So that is 11 percent of 10 percent, which is 1 percent of the cases.

If, in fact, we did not have the 90 percent of the cases that are frivolous, that are extortion attempts, what we know is that we could save about—CBO says under their score with limited liability changes, \$54 billion over the next 10 years. Other sources say it is closer to \$74 billion, \$75 billion. Madam President, \$74 billion to \$75 billion a year does a lot to help individuals in terms of free care, in terms of lowering the cost of care because, in fact, every insurance company in the country is paying for that care.

Finally, I will make one other point, and it is this. What most Americans do not recognize is that in this new bill that is coming out of the Finance Committee, there is a significant number of taxes. Actually, you are going to recognize the fourth tax on health care in this country. Right now you pay income taxes and a large portion of that income tax is now paying for Medicare and Medicaid—57 percent of it and 43 percent we are borrowing.

The second tax you pay is a Medicare tax of 1.45 percent and your employer pays 1.45 percent of every dollar you earn no matter how much you earn.

The third tax you pay is your private health insurance, whether you buy it through your employer or you buy it yourself, costs \$1,700 more per year because of the underpayment for the cost of health care for Medicare and Medicaid. So the cost of actually purchasing your health care goes up by about \$150 a month per family because we underpay the true cost of care under Medicare and Medicaid, and they are both broke.

Now we have a fourth tax of which 50 percent is going to be levied on people

from \$40,000 to \$140,000 a year, billions and billions of dollars of new taxes.

Then we have taxes on the insurance industry. I don't have any problem with that—taxes on medical devices, taxes on PhRMA. But who is going to pay those taxes? Those taxes are going to get filtered down to the increased cost of health care. When we pay a tax when we go to a store to buy something, we pay that tax on top of the price.

So the groceries or the TV or whatever it did cost—what we thought it cost—it would cost that plus tax. That tax, in terms of the insurance industry, in terms of the Medicare, in terms of the drug industry, in terms of the medical device industry, in terms of PhRMA, is going to get passed on, causing an increase in cost. That does not include the tax you will incur if you choose not to buy health insurance because you think you are healthy or you want to self-insure yourself. You are going to pay a tax for that. Oh, by the way, if you happen to have a great health care plan or maybe a moderate health care plan, the way the bill is written, you are eventually going to pay a tax because it is going to be too good a plan. So we are all going to have four taxes on health care.

I wish to make one other comment. We all traveled during the month of August and we met with our constituents. This is the HELP bill that came out of the committee after 3 weeks of hard work. This is not the complete bill that the Senate will be considering. This is just part of the bill, and it is 840-some pages long. The standard protocol in committees, if you vote a bill out of committee and you have changes to it, what you do is put a modified bill on the floor—a substitute bill when the bill comes to the floor. Well, there are 85 changes to this bill that have not been approved by the committee. Yet this is the committee bill.

So not only do we have a debate that is erroneous in terms of the direction it is taking—in creating a larger government, taking away individual freedom, individual choice, limiting one's availability of insurance, increasing premiums, increasing taxes, and taking away an individual's ability to choose—we also have a bill that has been modified, outside the rules of the Senate, 85 times versus the bill I voted on in committee. That shouldn't surprise us, however, because of the way we are handling health care.

So I will sum up with just a couple other points. I don't believe there is an American out there who doesn't think we need to do something about making health care more affordable, more available, and fairer in its treatment. I don't think there is an American who doesn't agree that we have a lot of waste in the health care system that can be eliminated. I don't think there is a physician out there who doesn't think we need to make some changes in terms of competitiveness in insur-

ance and how that interferes with the decisionmaking by physicians and other caregivers. But I also don't think it is truly appreciated that in this country, if you are sick, you are going to get the best treatment anywhere in the world. It is just that it costs too much.

So how do we address that? Do we address that by growing the Federal Government and creating in this bill 88 new government programs with the bureaucracies that come with it or do we enable people to have the freedom to choose, to make their own choice about what they want and they need? With the finance bill, we are going to tell you what you have, we are going to tell you what the minimum is, we are going to limit your choices, and we are going to see a run toward either a regional co-op plan or a public plan.

But there is no question that what we are going to see is government-centered involvement in what we do and how we do it. That may be the direction we ultimately go. But the loss that comes with that is the loss of freedom, a loss of choice, and a diminished demand for personal responsibility and accountability, which is the very thing this young lady is counting on us doing the opposite of.

We are going to double our debt in the next 5 years. We are going to triple it in the next 10 years. It is going to be worse than that because we are spending money like drunken sailors. What do we owe the generations who follow us? What is it that we owe them? Do we owe them the heritage that was given to us? Are we going to transfer that heritage on, or are we going to ignore it?

In terms of health care, what is the best thing for our country in the long term? Can we take on another \$1.3 trillion of government at a conservative estimate, especially when you count what is going to happen with what is called SGR—the physician payment reform? Can we take on \$1.3 trillion? Will it only be \$1.3 trillion? Will we move another 10 percent of our GDP to the government? Because that is what we are doing. At what point in time does the American experiment quit working?

I look forward to the debate on health care. The plans before us will raise premiums, decrease care, limit choice, and bankrupt our grandkids. By saying no to that plan, it doesn't mean you don't want to fix health care. There are some great plans out there to fix health care that don't cost money; that, according to CBO and others, will give the same results but will not create the massive new Federal bureaucracies and take away personal freedom to make decisions about you and your children and your family based on what your needs are, what your perception is, and what your ability is.

Madam President, I thank you for the time tonight, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered.

Mr. BROWN. I ask unanimous consent to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

### HEALTH CARE REFORM

Mr. BROWN. Mr. President, earlier this evening, only an hour or so ago, Senator UDALL from New Mexico led a discussion with Senator BURRIS and Senator WHITEHOUSE and others. I was there part of that time, with Senator CANTWELL involved from the Chair. It was extolling the importance of the public option, that it makes such a difference in terms of keeping the insurance industry honest, keeping costs down, and providing extra choice, so if people want to choose private insurance, they can; if they want to choose the public option, they can.

The insurance industry, in its wild claims only 2 days ago in a manufactured report that an accounting firm did that was clearly incomplete and hastily done, claimed huge insurance company increases based on our legislation. The fact is, they have already doubled insurance rates in less than a decade, in only 7 or 8 years. That is as good an argument for the public option as we can find.

In 5 minutes or so, I would like to speak to the Senate. I have come to this floor, night after night, reading letters from constituents I have, from Trumbull County near Youngstown, near Summit County, the Akron area, from Cuyahoga County. These all happen to be, in this case, from northeast Ohio, from near Dayton or Cincinnati or Wilmington or Chillicothe.

What I found in letters I am getting from my constituents, as is the Presiding Officer, I think, when he gets letters from Richmond or the Washington suburbs or from western Virginia, is that most of this mail I get comes from people who had good insurance policies, they thought, until they got really sick, and then their insurance policies would be canceled or they would spend so much of their time fighting insurance companies just to get payment, to get payment for something they thought they were covered for. I would like to share a couple of these letters.

Beverly and Dennis from Trumbull County write:

My husband is 62 . . . and worked for the same factory for 42 years . . . last year the factory shut down and his severance package was \$8,500 before taxes and 3 months paid insurance.

Forty-two years, \$8,500 severance, 3 months paid insurance.

After the insurance ran out, we picked up COBRA, which will be up this December right before Christmas. We've talked to different private insurance companies, but without anything really wrong with my health, they say my minor medical condition diagnosed 30 years ago was a preexisting condition. The best plan offered, just for me, was \$1,000 a month with a \$10,000 deductible.

A preexisting condition from 30 years before.

We have always been proud of our accomplishments over the 43 years of our marriage. I don't want to lose everything we have worked so hard for if something happens to us medically.

I wish those opposed to reform—

I wish my colleagues would listen to this.

I wish those opposed to reform would have to worry about the next meal, the next bill, the next doctor's appointment, or what would happen to them if they got sick.

We thought things would be smooth sailing after we got to our age, but we're afraid our boat is sinking and we are drowning.

Forty-two years in the same plant, married for 43 years, played by the rules, seemed to do everything right. This is what is happening to these people in their early sixties.

As many of these letters indicate, a lot of these letters come from people who are 59 or 63 or 61 or 64, just holding on until they can get Medicare because they know Medicare, like the public option, will never drop them for preexisting conditions, will not discriminate against them because of geography or age or disability, will not cut them out of their plan, whether it is the public option or whether it is Medicare, for all kinds of reasons the way private insurance does.

Angela from Cuyahoga County, Cleveland area:

As a registered nurse I have seen too many cases where the lack of insurance prohibits needed care. I have experienced first-hand what it means to have insurance but be afraid to use it. My husband has worked for the same employer for more than 10 years, but both he and I are afraid to use his insurance for fear that too many medical bills will increase the cost of our plan. In the past 2 years, he has received memos stating that to keep medical bills down we should seek medical visits only when necessary.

As a strong believer in preventive care, I feel discouraged to go for my yearly physical and my husband has not had a physical in 5 years.

This is from a nurse.

Thank goodness we are reasonably healthy. I encourage you to keep pushing for a public option—I'd be one of the first to sign up.

Think about that, her husband got a note from his employer saying: Please don't go to the doctor unless you absolutely have to. She is a nurse. She hasn't had a physical for a year. She hasn't had her yearly physical. Her husband hasn't had a physical in 5 years. They know they should get a physical. They are afraid of what it would cost both them and the employer to do that. Again, they are the victims of the health care system that too often skimps on preventive care, too often denies people coverage for rea-

sons it should not, too often simply is a burden to so many of the people who have insurance.

I will close with a letter that is about health care but also about something this Senate needs to vote on quickly; that is, unemployment insurance. This is Mark from Franklin County, central Ohio. He writes:

I need my health insurance badly since I have had cancer twice. The only way I could previously afford insurance was through my employer. But my company was recently bought out and I was laid off.

Because of my preexisting condition, I can't afford the price of private insurance. In addition to my health and job issues, I have only one more extension on unemployment.

I really don't know what to do if I can't afford insurance. If I could find a way to receive insurance or get a job with insurance, I could be here for my little girls who I care for and who looks up to me for the world.

One person on the other side of the aisle, one Republican, stood up and objected. We were trying to pass the same unemployment insurance extension as they did in the House of Representatives. I know every Democrat is for extending unemployment, and I know most Republicans are probably for extending unemployment, but one Republican stood up and stopped us from doing that. That is so important because every day we fail to extend unemployment insurance, people are dropping off the unemployment insurance rolls and have to fend for themselves in ways that they don't know what to do.

It is not as if people don't want to work. The situation clearly is that people want to work, they are trying to find a job. In this economy, in my State as in many States around this country, people simply cannot find work, as hard as they are trying. We have an obligation to extend unemployment benefits. Not next month, not next year, but tomorrow when we come back here, I am hopeful my Republican friends across the aisle will not object to that extension of unemployment.

The last letter I will read is from Renee from Van Wert County, western Ohio, near the Indiana border. She writes:

I, along with 300 other workers, were locked out of our company last year after it closed down and moved to Mexico. We will be losing our benefits this month and it is urgent you get unemployment extension passed as soon as possible. It would help so much if we could get our benefits extended, at least through the cold winter months.

I'm looking everywhere for a job and hope there is something opens up by the spring and the economy will pick up.

Thank you for reading my story and making me feel like there is hope.

Renee, again, we will go to the floor tomorrow to try to extend unemployment benefits.

Renee points out, particularly with the winter months coming, people will have to choose, if they don't have unemployment extension, between food and heating their home and taking care of their kids and all the responsibilities people have.

Somebody like Renee, from Van Wert County—I know Van Wert County. I spent a lot of time there. I know about the shutdown of this plant that went to Mexico. There are 300 people who lost their jobs. It is not as if they don't want to work. They were working hard, showing up for work every day. They were productive workers. They did what was asked of them. They were taxpayers, were involved in Little League, involved in their community. Those 300 workers can't find work. It is not a question that there is a job out there for them; they were looking for work. That is why it is so important, as they look for work, for them to get some help from their government. This is not welfare, extending unemployment insurance. It is called insurance, unemployment insurance, because they pay into it. They ought to get some help from that unemployment fund.

It is clear from this mail that people want this legislation to pass. They know our health care bill will allow people who are happy with their insurance to stay in the insurance they have but will build consumer protections around those policies—no more pre-existing conditions, for instance, to deny care.

Second, this bill helps small business provide insurance as most small businesspeople do. They want to provide insurance for their employees.

Third, this bill will help those who do not have insurance. They can go into this insurance exchange and get insurance.

Fourth, this bill provides for a public option, so if they don't want to go to CIGNA or Wellpoint or United or one of the big health care companies, they can decide to sign up for the public option which will never throw them off, just as Medicare would never disqualify their coverage.

It is clear what we have to do in the next month. In my State alone, from Akron, to Ravenna, to Cleveland, to Garfield Heights, to Sylvania, to Cincinnati, 390 people in my State every day lose their insurance—390 people every single day lose their insurance. It is important that we move as quickly as we can in the next month or so.

#### MORNING BUSINESS

Mr. BROWN. I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

#### REMEMBERING SENATOR EDWARD M. KENNEDY

• Mrs. McCASKILL. Mr. President, I rise today to recognize a great leader, inspiring public servant and American icon, Senator Edward Moore Kennedy.

I do not need to stand here and talk about what the Kennedy legacy has meant and continues to mean to this country. It is, at this point, simply a part of the fabric of our country.

I do not need to recite the résumé of Edward Kennedy or extol his many accomplishments. His life's work speaks for itself. It will stand the test of time and, no doubt, become even more remarkable when viewed in hindsight.

I do not need to reiterate each of the noble causes Senator Kennedy fought for with passion and vigor. We know that his pursuit of dignity, opportunity and respect for every man and woman will benefit generations to come, and inspire so many more to carry on in the cause.

Yes, there is no doubt that Senator Edward Kennedy will be remembered far into the future and that history will treat him well, but I want to take some time today to talk about the people here and now that he leaves behind that may be the most telling about Ted Kennedy. In those moments and for those people, we got a chance to see something very special.

For some people it was very personal moments shared between family and friends—the opportunity to know him in a way others could only hope to glimpse.

And some were his arch enemies at the podium while also his dearest, most respected partners on causes behind closed doors.

Some became believers based on passion-filled political speeches delivered from his earliest of days in the spotlight to some of his last, spectacular moments right here on the Senate floor.

While others had their lives changed because he was brave enough to stand up for them when the cameras were not rolling and the majority was not on his side.

Ted Kennedy, the lion of the Senate, would roar about the need for better health care, improved public schools, and providing help to working families. He knew how to channel the emotion, the urgency and the helplessness he saw in the eyes and heard in the voices of those he was fighting for. And he didn't just beam it from the mountain tops—he worked on the solutions to these needs day in and day out with astute skill.

There is a Ted Kennedy that will be remembered in the history books and he will be great and strong and smart and good, but there is also a unique part of Ted Kennedy that will stay with many of us in our own special ways.

A politician. A public servant. A patriot. A prince of Camelot. A fighter. A negotiator. A liberal. A brother, husband, father, and friend.

The Lion sleeps. . . •

Mr. CORNYN. Mr. President, I join my colleagues in appreciation and admiration of Senator Ted Kennedy.

By the time I took my seat in the Senate, Ted had already held his for

nearly four decades. He had already established himself as one of the most influential members in this body's history. He had already introduced hundreds of bills that became laws and shaped thousands of others. He had already grown from youngest son to elder statesman and become an icon for millions of Americans.

Before I was ever elected, I respected Ted Kennedy. And after becoming his colleague, my respect grew. I was privileged to serve with him on the Judiciary Committee and to be ranking member when he chaired our Subcommittee on Immigration, Refugees, and Border Security. We worked together closely, and that experience has made me a more effective Senator.

Ted Kennedy and I often held different principles, but we shared key convictions too. We agreed that our immigration laws needed reform. We recognized that judicial philosophy mattered. We believed that providing advice and consent on appointments to the Federal bench was not merely a right of Senators but one of our most solemn responsibilities.

Ted Kennedy understood the power of language. On the Senate floor, he used words of passion, calling his colleagues to embrace grand visions with great urgency. In bill negotiations, he used words with precision, understanding better than anyone how legislative language governs, and how to codify his convictions into the law of the land.

Senator Kennedy and I shared an interest in the history of this body, and a special pride in those who held our seats before us. In my case, I have long admired Sam Houston, who liberated the people of Texas, served as one of our first Senators, and raised his voice against secession. In Ted's case, he looked to the great Daniel Webster, who also stood for union, and for liberty.

Ted was drawn in particular to this quote by Webster:

Let us develop the resources of our land, call forth its powers, build up its institutions, promote all its great interests, and see whether we also in our day and generation may not perform something worthy to be remembered.

All Americans can agree that Ted Kennedy's service in the U.S. Senate is something worthy to be remembered. Sandy and I continue to keep his wife Vickie in our prayers. And we offer our condolences to all who miss him most.

#### COMMENDING SENATOR MEL MARTINEZ

Mr. ENSIGN. Mel Martinez came to the United States from Cuba at the age of 15 as part of a humanitarian effort called Operation Peter Pan. We are all familiar with the character of Peter Pan he is careless and does not want to grow up. He is sometimes selfish and often conceited. It is ironic because Mel is the opposite of all of those attributes.

Mel Martinez arrived on our shores with no family and only the hope for a



better life. He had to grow up incredibly fast, and he did so with great determination. He worked hard to learn English, graduate from college and law school, and build a legal career and solid reputation.

And then he decided to selflessly give back to the community and country that had given him so much. He rose to the highest levels of our government as the 12th Secretary of Housing and Urban Development under President George W. Bush. He served from 2001 to 2003, an especially trying time in our Nation's history. But his agency's focus on rebuilding Lower Manhattan provided necessary healing for a city and its citizens.

In 2005, Mel was sworn in as the first Cuban American U.S. Senator. It was a privilege to serve with him and to join together on many legislative efforts. Most significant was our work on expanding freedom and democracy for the people of Cuba. Cubans have been stifled for too long by a brutal communist dictator. They deserve a voice and an opportunity for a better life. Nobody knows that better than Mel Martinez, and I look forward to continuing our fight to support pro-democracy efforts.

Most recently, I was pleased to work with Mel on legislation to promote U.S. tourist destinations abroad. Florida and Nevada miss out on vital international tourism dollars because the United States has no entity to promote our amazing tourism opportunities to other countries. I am confident that the Travel Promotion Act, cosponsored by Senator Martinez, will pass the Senate shortly and will represent another accomplishment by my former colleague to improve the lives of his constituents and fuel success for all Americans.

I thank Mel Martinez for his decades of public service in Florida and here in our Nation's Capital. He proved to us all that the hope for a better life combined with determination and the limitless opportunities here in America can make any dream come true.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

#### ENHANCED PARTNERSHIP WITH PAKISTAN ACT OF 2009

• Mr. KERRY. Mr. President, I ask that my statement and accompanying documents submitted this afternoon be printed in the RECORD.

The documents follow.

Mr. KERRY. Mr. President, today I wish to discuss S. 1707, the "Enhanced Partnership with Pakistan Act of 2009," which President Obama has committed to signing into law this week. The legislation is a result of negotiations between the Senate and House of Representatives reconciling our respective bills that passed earlier this summer. The final version passed unanimously in both the Senate and the House of Representatives, sending a very strong message of the desire of

the U.S. Congress to strengthen our relationship with the people of Pakistan through a long-term pledge of economic and development assistance.

I hope that over time it will fundamentally change America's relationship with the people of Pakistan. I especially want to thank my colleagues Senator LUGAR and Representative BERMAN for their partnership in crafting this bill and their ongoing leadership on this issue.

It is hard to overstate the importance to our national security of getting our relationship with Pakistan right. The status quo has not brought success, the stakes could not be higher, and we have little choice but to think big. That is why the Obama Administration and many of us in Congress saw the need for a bold, new strategy for Pakistan.

The "Enhanced Partnership with Pakistan Act" is a centerpiece of this new approach, which is why President Obama asked Congress to pass the measure. This Act establishes a legislative foundation for a strengthened partnership between the United States and Pakistan, based on a shared commitment to improving the living conditions of the people of Pakistan through sustainable economic development, strengthening democracy and the rule of law, and combating terrorism and extremism. It is the intent of Congress to strengthen the long-term people-to-people relationship between the United States and Pakistan by investing directly in the needs of the Pakistani people.

The overall level of economic assistance authorized annually by this legislation is tripled over FY 2008 levels, with the bulk of aid intended for projects such as schools, roads, medical clinics, and infrastructure development. The legislation authorizes \$1.5 billion annually for fiscal years 2010 to 2014 and recommends an additional five years of funding to demonstrate a long-term commitment to the people of Pakistan.

This legislation is an important first step in turning the page in our relationship with Pakistan and building mutual trust. It is a prime example of "smart power" because it uses both economic and security aid to achieve an overall effect that is greater than the sum of its parts.

But this bill is not a silver bullet. It provides powerful tools—but these tools are only as effective as the policy-makers who wield them. We must approach this endeavor with a large dose of humility. Our leverage is limited. This bill aims to increase that leverage significantly. But we should be realistic about what we can accomplish—Americans can influence events in Pakistan, but we cannot and should not decide them. Ultimately, the true decision-makers are the people and leaders of Pakistan.

There have been serious concerns in Pakistan in recent days over the perceived intent of this bill. We have spo-

ken with Pakistani government officials, including Foreign Minister Qureshi and Ambassador Haqqani, to make sure we understand the nature of these concerns and to clear up any misunderstandings.

To clear up any lingering confusion and to reiterate Congress' intent with respect to this legislation, Chairman BERMAN and I are submitting a "Joint Explanatory Statement" for the CONGRESSIONAL RECORD. The purpose of the Joint Explanatory Statement is to facilitate accurate interpretation of the text and to ensure faithful implementation of its provisions in accordance with the intentions of the legislation.

As the Joint Explanatory Statement makes clear, the legislation does not seek in any way to compromise Pakistan's sovereignty, impinge on Pakistan's national security interests, or micromanage any aspect of Pakistani military or civilian operations. There are no conditions on Pakistan attached to the authorization of \$7.5 billion in non-military aid. The only requirements on this funding are financial accountability measures that Congress is imposing on the U.S. executive branch, to ensure that this assistance supports programs that most benefit the Pakistani people.

The certifications in the Act regarding certain limited forms of security assistance track very closely with previous Congressional legislation. The conditions set forth in the bill are reasonable and should be easy for any nation receiving American aid to meet. They align with and reinforce the publicly-articulated positions of the democratically-elected Pakistani government and Pakistani military leaders. The United States values its friendship with the Pakistani people and honors the sacrifices made by Pakistani security forces in the fight against extremism.

Mr. President, I ask to have printed in the RECORD this Joint Explanatory Statement along with letters of support for S. 1707, passed and printed in the RECORD of Thursday, September 24, 2009, from Secretary of State Clinton, Secretary of Defense Gates, and Chairman of the Joint Chiefs of Staff Admiral Mullen.

The material follows.

#### JOINT EXPLANATORY STATEMENT—ENHANCED PARTNERSHIP WITH PAKISTAN ACT OF 2009

Sen. John F. Kerry and Congressman Howard Berman

The following is an explanation of S. 1707, the Enhanced Partnership with Pakistan Act of 2009. The final text of the legislation reflects an agreement reached by the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs. The purpose of this Explanatory Statement is to facilitate accurate interpretation of the text and to ensure faithful implementation of its provisions in accordance with the intentions of the legislation.

The core intent of the Enhanced Partnership with Pakistan Act is to demonstrate the American people's long-term commitment to the people of Pakistan. The United States values its friendship with the Pakistani people and honors the great sacrifices made by

Pakistani security forces in the fight against extremism, and the legislation reflects the goals shared by our two governments.

The legislation does not seek in any way to compromise Pakistan's sovereignty, impinge on Pakistan's national security interests, or micromanage any aspect of Pakistani military or civilian operations. There are no conditions on Pakistan attached to the authorization of \$7.5 billion in non-military aid. The only requirements on this funding are financial accountability measures that Congress is imposing on the U.S. executive branch, to ensure that this assistance supports programs that most benefit the Pakistani people.

#### SUMMARY OF CONGRESSIONAL INTENT

The Enhanced Partnership with Pakistan Act of 2009 (the "Act") establishes a legislative foundation for a strengthened partnership between the United States and Pakistan, based on a shared commitment to improving the living conditions of the people of Pakistan through strengthening democracy and the rule of law, sustainable economic development, and combating terrorism and extremism. It is the intent of Congress to strengthen the long-term people-to-people relationship between the United States and Pakistan by investing directly in the needs of the Pakistani people. This legislation is intended to fortify a lasting partnership with Pakistan based on mutual trust.

The overall level of economic assistance authorized annually by this legislation is tripled over FY 2008 U.S. funding levels, with the bulk of aid intended for projects such as schools, roads, medical clinics, and infrastructure development. The funds directly authorized by this Act—\$1.5 billion in economic and development assistance annually for five years, with a similar amount envisioned for a subsequent five years—place no conditions on the Government of Pakistan. The only requirements are accountability measures placed on the United States executive branch to ensure that the aid directly benefits the Pakistani people.

This Act fully recognizes and respects the independence of Pakistan as a sovereign nation. The purpose of this Act is to forge a closer collaborative relationship between Pakistan and the United States, not to dictate the national policy or impinge on the sovereignty of Pakistan in any way. Any interpretation of this Act which suggests that the United States does not fully recognize and respect the sovereignty of Pakistan would be directly contrary to Congressional intent.

The certifications in the Act regarding certain limited forms of security assistance are consistent with previous Congressional legislation regarding security assistance to Pakistan and other nations. In all cases, they align with the aims of, and serve to reinforce the publicly-articulated positions of, the democratically-elected Government of Pakistan, and Pakistani military leaders, to combat extremists and militants.

#### *Sections 1-4: Strengthening a Relationship Founded on Mutual Respect*

Sections 1-4 establish the framework and context for the legislative provisions that follow. The Findings and the Statement of Principles demonstrate an unequivocal appreciation for the friendship of the Pakistani people, and for the sacrifices made by the Pakistani security forces and people in fighting extremism. The Findings in Section 3 include:

Section 3(1): "Congress finds the following: The people of the Islamic Republic of Pakistan and the United States share a long history of friendship and comity, and the interests of both nations are well-served by strengthening and deepening this friendship."

Section 3(4): "Pakistan is a major non-NATO ally of the United States and has been a valuable partner in the battle against al Qaeda and the Taliban, but much more remains to be accomplished by both nations. The struggle against al Qaeda, the Taliban, and affiliated terrorist groups has led to the deaths of several thousand Pakistani civilians and members of the security forces of Pakistan over the past seven years."

The Statement of Principles in Section 4 include:

Section 4(1): "Pakistan is a critical friend and ally to the United States, both in times of strife and in times of peace, and the two countries share many common goals, including combating terrorism and violent radicalism, solidifying democracy and rule of law in Pakistan, and promoting the social and economic development of Pakistan."

Section 4(4): "The United States supports Pakistan's struggle against extremist elements and recognizes the profound sacrifice made by Pakistan in the fight against terrorism, including the loss of more than 1,900 soldiers and police since 2001 in combat with al Qaeda, the Taliban, and other extremist and terrorist groups."

#### Title I: Democratic, Economic and Development Assistance for Pakistan

This Title contains the core intention of this legislation: To make a long-term commitment to the people of Pakistan by tripling non-military assistance, free of any conditions on the Pakistani government. The purposes set forth for the \$7.5 billion that is authorized here are all intended to reflect the expressed priorities of the Pakistani people. Specifically, Section 101(a) provides that:

"The President is authorized to provide assistance to Pakistan to support the consolidation of democratic institutions; to support the expansion of rule of law, build the capacity of government institutions, and promote respect for internationally-recognized human rights; to promote economic freedoms and sustainable economic development; to support investment in people, including those displaced in on-going counterinsurgency operations; and to strengthen public diplomacy."

The funds authorized under Title I are intended to be used to work with and benefit Pakistani organizations. Specifically, Section 101(c)(3) provides that:

"The President is encouraged, as appropriate, to utilize Pakistani firms and community and local nongovernmental organizations in Pakistan, including through host country contracts, and to work with local leaders to provide assistance under this section."

Section 102(a) makes clear that there are no conditions placed on the Pakistani government for delivery of the \$7.5 billion in assistance. The only accounting requirements are of the U.S. executive branch.

Section 102(d) makes clear that a long term commitment to increased civilian assistance for the people of Pakistan is envisioned by stating that it is the desire of Congress that the amounts authorized for fiscal years 2010-2014 shall continue from fiscal years 2015-2019.

Section 103(b) authorizes establishment of field offices for Inspectors General to audit and oversee expenditure of this assistance. It is the intent of Congress that such offices would be established in consultation with appropriate Pakistani authorities for the purpose of ensuring optimal management of resources.

#### Title II: Security Assistance for Pakistan

The intention of this section is to strengthen cooperative efforts to confront

extremism. The purposes of security assistance are intended to be completely cooperative, and reflect the intention that such assistance be used to support Pakistan in achieving its stated objectives in winning the ongoing counterinsurgency, defeating terrorist organizations that threaten Pakistan, and strengthening democratic institutions. Specifically, Section 201(1) "Purposes of Assistance" states that:

"The purposes of assistance under this title are—

(1) to support Pakistan's paramount national security need to fight and win the ongoing counterinsurgency within its borders in accordance with its national security interests;

(2) to work with the Government of Pakistan to improve Pakistan's border security and control and help prevent any Pakistani territory from being used as a base or conduit for terrorist attacks in Pakistan, or elsewhere;

(3) to work in close cooperation with the Government of Pakistan to coordinate action against extremist and terrorist targets; and

(4) to help strengthen the institutions of democratic governance. . . ."

The provisions applied to certain limited portions of U.S. security assistance in Section 203 are intended to be fully in line with the existing policy of the Government of Pakistan. Specifically, Section 203(c)(1) reflects our understanding that cooperative efforts currently being undertaken by the Governments of Pakistan and the United States to combat proliferation will continue.

Section 203(c)(2) reflects the intent that U.S. security assistance is used in furtherance of the purposes set forth in Section 201 above, e.g., ensuring Pakistan's security, winning the counterinsurgency within Pakistan, preventing territory from being used for terrorist attacks in Pakistan and elsewhere, and coordinating action against extremist and terrorist targets. This section requires a certification by the U.S. executive branch to Congress regarding the efforts and progress made in achieving these purposes, and includes a series of factors to be considered collectively by the Secretary of State in making this assessment.

Section 203(c)(3) includes a provision intended to express support for democratic institutions in Pakistan.

Section 203(e) contains a waiver making clear that this certification could be waived if the determination is made by the Secretary of State in the interests of national security that this was necessary to continue such assistance.

#### Title III: Strategy, Accountability, Monitoring, and Other Provisions

The intention of this section is to ensure that there is transparency and accountability in the way authorized assistance is spent. This Title requires the U.S. executive branch to provide various reports to Congress designed to demonstrate that funds are being used for the purposes set forth in Title I and Title II; there are no requirements on the Government of Pakistan.

Section 301 "Strategy Reports" requires three reports from the U.S. executive branch that detail a plan for how U.S. assistance to Pakistan will be spent and evaluated and a regional security plan for how the United States can best work with its partners for "effective counterinsurgency and counterterrorism efforts."

Section 302 "Monitoring Reports" reflects the need for ongoing consultation between the U.S. executive branch and Congress on monitoring U.S. assistance to Pakistan, including a "Semi-Annual Monitoring Report" where:

"The Secretary of State, in consultation with the Secretary of Defense, shall submit to the appropriate congressional committees a report that describes the assistance provided under this Act during the preceding 180-day period."

The many requirements of this report are intended as a way for Congress to assess how effectively U.S. funds are being spent, shortfalls in U.S. resources that hinder the use of such funds, and steps the Government of Pakistan has taken to advance our mutual interests in countering extremism and nuclear proliferation and strengthening democratic institutions.

There is no intent to, and nothing in this Act in any way suggests that there should be, any U.S. role in micromanaging internal Pakistani affairs, including the promotion of Pakistani military officers or the internal operations of the Pakistani military.

The reports envisioned in this Section are not binding on Pakistan, and require only the provision of information by the executive branch to the U.S. Congress, in furtherance of the Act's stated purpose of strengthening civilian institutions and the democratically-elected Government of Pakistan.

THE SECRETARY OF STATE,  
Washington, DC, September 29, 2009.

Hon. NANCY PELOSI, H-232 Capitol Building,  
Washington, DC.

Speaker of the House of Representatives,

Hon. JOHN A. BOEHNER,

House of Representatives, H-204 Capitol Building,  
Washington, DC.

DEAR MADAM SPEAKER AND MR. REPUBLICAN LEADER: I write to express the State Department's strong support of S. 1707, the Enhanced Partnership with Pakistan Act of 2009.

The bipartisan Enhanced Partnership with Pakistan Act of 2009 will be an essential tool in support of our national security interests and underscores a multifaceted, multi-year commitment between the peoples of the United States and Pakistan.

I appreciate the hard work by many in both the House and the Senate in reaching this reconciled text, and urge its passage as soon as possible.

Sincerely yours,

HILLARY RODHAM CLINTON.

THE SECRETARY OF DEFENSE,  
Washington, DC, September 25, 2009.

Hon. NANCY PELOSI,

Speaker of the House of Representatives, House  
of Representatives, Washington, DC.

Hon. HARRY REID,

Senate Majority Leader,  
U.S. Senate, Washington, DC.

DEAR MADAM SPEAKER AND MR. MAJORITY LEADER: As the United States Government continues to implement its strategy to disrupt, dismantle and defeat al Qaeda in Afghanistan and Pakistan, it is important that we strongly signal to the Pakistani people our long-term commitment to partnering with them to combat terrorism and extremism.

We appreciate that the House and Senate have worked hard to finalize the Enhanced Partnership with Pakistan Act of 2009, a bipartisan bill that would underscore a long-term, multi-year commitment to increase civilian assistance to Pakistan.

The bill as revised addresses the key concerns we previously raised in an April 28, 2009, letter. We appreciated the opportunity to work with your committees on these concerns.

This bill would support U.S. national security interests in Afghanistan and Pakistan. The Department of Defense strongly supports moving this bill to final passage by the

House and Senate as expeditiously as possible.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this letter.

Sincerely,

ROBERT M. GATES,  
Secretary of Defense.  
M.G. MULLEN,  
Admiral, U.S. Navy. •

#### 40TH ANNIVERSARY OF THE VERMONT STUDENT ASSISTANCE CORPORATION

MR. LEAHY. Mr. President, I wish to take this opportunity to congratulate the Vermont Student Assistance Corporation, VSAC, for three important milestones it has reached this year. This year marks the 40th anniversary of the VSAC Talent Search Program, the 10th anniversary of the VSAC Gear UP Program, and the 10th anniversary of the Vermont Higher Education Investment Program.

Although small in size, Vermont has a long history of establishing national models for making higher education accessible to disadvantaged students. The University of Vermont provided Senator Justin Morrill the inspiration for the first and second Morrill Act. The student loan programs which have made college possible for millions of students each year bear the name of my former colleague and dear friend, Senator Bob Stafford.

The Vermont Student Assistance Corporation has continued this tradition through innovative programs to encourage first-generation and low-income students to pursue their career and education goals. Each year more than 47,000 students and parents participate in one or more of their career, education and financial aid programs. In addition, VSAC has been at the forefront of efforts to reach young people with programs that link career ambitions with educational requirements and opportunities. This past year, VSAC's Start Where You Are program won a prestigious WebAward for Education Standard of Excellence from the Web Marketing Association. In a more traditional vein, VSAC staff was recognized this year with the David Swedlow Memorial College Access Staff Award of Excellence from the National College Access Network.

Several States have established not-for-profit State agencies to administer financial aid and to provide their residents and students attending their schools with quality counseling services and low-cost loans. Vermont pioneered this movement by creating the Vermont Student Assistance Corporation more than 40 years ago. VSAC has worked hard to establish and maintain strong and longstanding working relationships with Vermont's higher education institutions as well as K-12 schools to provide outreach programs critical to the economic vitality of Vermont.

The U.S. Department of Education has proposed that all future student

loans be made through direct lending from the Federal Government to students. The Direct Loan program is projected to save students millions of dollars in fees and interest payments. Additional savings would be distributed to States for school construction and grants for K-12 education. Unfortunately this proposal does not include a role for not-for-profit State agencies such as VSAC. I believe that is a significant oversight. Vermonters have come to rely on the high quality, comprehensive programs that VSAC offers. A one-size-fits-all Federal direct loan program does not acknowledge all of the hard work and experience of nonprofits such as VSAC and their tremendous staff. As this proposal makes its way through Congress, Senator SANDERS, Congressman WELCH, and I will be working for changes to ensure a role for nonprofit State financial aid agencies such as VSAC.

I congratulate VSAC on their landmark 40th anniversary, and I hope there will be many more to come.

#### ADDITIONAL STATEMENTS

##### RECOGNIZING AMERICAN GOLD STAR MOTHER'S DAY

• MR. SCHUMER. Mr. President, today I wish to recognize that September 27, 2009, is designated as "Gold Star Mother's Day."

It is fitting that we recognize the American Gold Star Mothers, whose sons and daughters have died in defense of the ideals of individual liberty. They should be honored and offered respect and gratitude for their personal sacrifice.

Gold Star Mother's Day is intended to honor women who deserve special recognition and gratitude for their tremendous personal loss on behalf of our country.

During the early days of World War I, a Blue Star was used to represent each soldier in military service of the United States, and as the war progressed and soldiers were killed or wounded in combat or died from wounds or disease, a Gold Star superimposed over the Blue Star designated the loss of these individuals. This tradition recognized soldiers for their ultimate sacrifice to our country, and the Gold Star offered families an outward symbol by which to honor the loss of a loved one. In 1928, the Gold Star tradition was formalized in Washington, DC, by a group of mothers who had lost sons and daughters in service to their country and met to form the American Gold Star Mothers organization. This organization is a non-denominational, non-profitable, and nonpolitical organization that is dedicated in supporting veterans, military families, and servicemembers returning from our present-day battlefields.

In 1936, President Franklin Roosevelt issued a proclamation which recognized Gold Star Mothers for their strength and inspiration to this country. The

services rendered to the United States by the mothers of America have strengthened and inspired our Nation throughout history, and we honor the Gold Star Mothers of America for their courage and their strength.●

#### RECOGNIZING AUBURN MANUFACTURING, INCORPORATED

● Ms. SNOWE. Mr. President, today I celebrate the vital work that a small business in my home State of Maine is doing to provide extreme temperature textiles to dozens of industries worldwide. Auburn Manufacturing, Incorporated—or AMI—of Mechanic Falls is a veritable leader in its field, and has been designing and manufacturing advanced industrial textiles since its inception in 1979.

Auburn Manufacturing's name is synonymous with quality and dependability because of its longstanding dedication to providing customers with products made using the most cutting-edge technologies. AMI develops and manufactures top-of-the-line products for welding protection, gasketing and sealing, and pipe and hose covering, as well as safety apparel like gloves and clothing. And the company's 48 employees make all of its products at the company's central Maine facility.

One of AMI's major new products is the Ever Green Cut 'n Wrap insulated cover. Designed for companies seeking to reduce greenhouse gas emissions and heat loss while saving on energy costs, the custom-fit insulation blankets fit flexibly over valves and piping and reduce room temperatures for workers in extreme conditions. In fact, the Ever Green Cut 'n Wrap kits can reduce heat loss by over 85 percent, and they have a payback of less than 1 year. Last month, AMI received a seed grant from the Maine Technology Institute to help the company commercialize this forward-thinking, environmentally friendly product.

Additionally, earlier this year Auburn Manufacturing announced that it had received dual contracts to provide the U.S. Navy with the company's remarkable AMI-SIL fabrics that are used for hot work protection during the repair of naval ships. The Navy has certainly demonstrated its approval of this impressive product, having awarded AMI five contracts over the past 15 years to supply it with more than 1.25 million yards of fabric.

Another quality that makes AMI special is its status as a Women's Business Enterprise, a certification made by the highly regarded Women's Business Enterprise National Council. Additionally, AMI owner Kathie Leonard was recently named one of Mainebiz's 2009 Women to Watch. In my estimation, Kathie Leonard has been a woman to watch throughout her entire career. She founded AMI in 1979—at the age of 27—when she realized the vast potential of new heat-resistant fabrics which were developed to replace asbestos. Over the company's 30-year history,

Ms. Leonard has been a part of several major professional organizations both national and local, including the National Insulation Association and the Lewiston-Auburn Economic Growth Council, which she previously chaired. She readily admits that these connections have helped her company grow into the giant it is today.

The quality of AMI's numerous products afford its clients a sense of confidence that has solidified the company's status as a premier developer and manufacturer of extreme textiles nationwide. I congratulate Kathie Leonard and everyone at Auburn Manufacturing for the incredible work they do, and I wish them much success in the future.●

#### MESSAGES FROM THE HOUSE

At 11:25 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1593. An act to amend the Wild and Scenic Rivers Act to designate a segment of Illabot Creek in Skagit County, Washington, as a component of the National Wild and Scenic River System.

H.R. 2877. An act to designate the facility of the United States Postal Service located at 76 Brookside Avenue in Chester, New York, as the "1st Lieutenant Louis Allen Post Office".

H.R. 3433. An act to amend the North American Wetlands Conservation Act to establish requirements regarding payment of the non-Federal share of the costs of wetlands conservation projects in Canada that are funded under that Act, and for other purposes.

H.R. 3476. An act to reauthorize the Delaware Water Gap National Recreation Area Citizen Advisory Commission.

H.R. 3537. An act to amend and reauthorize the Junior Duck Stamp Conservation and Design Program Act of 1994.

H.R. 3606. An act to amend the Truth in Lending Act to make a technical correction to an amendment made by the Credit CARD Act of 2009.

H.R. 3689. An act to provide for an extension of the legislative authority of the Vietnam Veterans Memorial Fund, Inc. to establish a Vietnam Veterans Memorial visitor center, and for other purposes.

The message also announced that pursuant to section 214(a) of the Help America Vote Act of 2002 (42 U.S.C. 15344), the Speaker appoints from private life Ms. Lillie Coney of Washington, DC, as a member of the Election Assistance Commission of Advisors on the part of the House.

At 3:02 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 621. A bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

#### ENROLLED BILLS SIGNED

At 6:08 p.m., a message from the House of Representatives, delivered by

Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1717. An act to authorize major medical facility leases for the Department of Veterans Affairs for fiscal year 2010, and for other purposes.

H.R. 1016. An act to amend title 38, United States Code, to provide advance appropriations authority for certain accounts of the Department of Veterans Affairs, and for other purposes.

H.R. 2997. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2010, and for other purposes.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 965. An act to amend the Chesapeake Bay Initiative Act of 1998 to provide for the continuing authorization of the Chesapeake Bay Gateways and Watertrails Network; to the Committee on Environment and Public Works.

H.R. 1593. An act to amend the Wild and Scenic Rivers Act to designate a segment of Illabot Creek in Skagit County, Washington, as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

H.R. 2877. An act to designate the facility of the United States Postal Service located at 76 Brookside Avenue in Chester, New York, as the "1st Lieutenant Louis Allen Post Office"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3433. An act to amend the North American Wetlands Conservation Act to establish requirements regarding payment of the non-Federal share of the costs of wetlands conservation projects in Canada that are funded under that Act, and for other purposes; to the Committee on Environment and Public Works.

H.R. 3476. An act to reauthorize the Delaware Water Gap National Recreation Area Citizen Advisory Commission; to the Committee on Energy and Natural Resources.

H.R. 3537. An act to amend and reauthorize the Junior Duck Stamp Conservation and Design Program Act of 1994; to the Committee on Environment and Public Works.

H.R. 3689. An act to provide for an extension of the legislative authority of the Vietnam Veterans Memorial Fund, Inc. to establish a Vietnam Veterans Memorial visitor center, and for other purposes; to the Committee on Energy and Natural Resources.

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1776. A bill to amend title XVIII of the Social Security Act to provide for the update under the Medicare physician fee schedule for years beginning with 2010 and to sunset the application of the sustainable growth rate formula, and for other purposes.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-3335. A communication from the Commission on Wartime Contracting in Iraq and Afghanistan, transmitting, pursuant to law, a report entitled "Lowest-Priced Security Not Good Enough for War-Zone Embassies"; to the Committee on Armed Services.

EC-3336. A communication from the Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Reference to Ratings of Nationally Recognized Statistical Rating Organizations" (RIN3235-AK17; RIN3235-AK19) received in the Office of the President of the Senate on October 6, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-3337. A communication from the Acting Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Encryption Simplification Rule" (RIN0694-AE18) received in the Office of the President of the Senate on October 9, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-3338. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to the situation in or in relation to the Democratic Republic of the Congo that was declared in Executive Order 13413 of October 27, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC-3339. A communication from the Deputy Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency declared in Executive Order 12978 with respect to significant narcotics traffickers centered in Colombia; to the Committee on Banking, Housing, and Urban Affairs.

EC-3340. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, a report relative to the Office of Management and Budget's request for the Board's views on H.R. 3619, the "Coast Guard Authorization Act of 2010"; to the Committee on Commerce, Science, and Transportation.

EC-3341. A joint communication from the Acting Deputy Administrator of the National Highway Traffic Safety Administration and the Assistant Secretary for Communications and Information of the National Telecommunications and Information Administration, transmitting, pursuant to law, a report entitled "A National Plan for Migrating to IP-Enabled 9-1-1 Systems"; to the Committee on Commerce, Science, and Transportation.

EC-3342. A communication from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Interim Final Rules Prohibiting Discrimination Based on Genetic Information in Health Insurance Coverage and Group Health Plans" (RIN0938-AP37) received in the Office of the President of the Senate on October 7, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC-3343. A communication from the Acting Assistant Secretary, Office of Workers' Compensation Programs, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Claims for Compensation; Death Gratuity Under the Federal Employees' Compensation Act" received in the Office of the President of the Senate on October 7, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC-3344. A communication from the Secretary of the Department of Health and Human Services, transmitting, pursuant to law, the annual performance evaluation report relative to mammography accredita-

tion; to the Committee on Health, Education, Labor, and Pensions.

EC-3345. A joint communication from the Secretary of the Department of Agriculture and the Secretary of the Department of Health and Human Services, transmitting, pursuant to law, a report relative to Thefts, Losses, or Releases of Select Agents or Toxins for calendar year 2008; to the Committee on Health, Education, Labor, and Pensions.

EC-3346. A communication from the Secretary to the Railroad Retirement Board, transmitting, pursuant to law, a report relative to the Board's Strategic Plan for 2009-2014; to the Committee on Health, Education, Labor, and Pensions.

EC-3347. A communication from the Chief of the Border Security Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Technical Correction to Remove Obsolete Compliance Date Provisions from Electronic Cargo Information Regulations" (CPB Dec. 09-39) received in the Office of the President of the Senate on October 6, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-3348. A communication from the Acting Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, a report relative to the Administration's Fiscal Year 2009 Commercial Activities Inventory and Inherently Governmental Inventory; to the Committee on Homeland Security and Governmental Affairs.

EC-3349. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Auditor's Certification Review of the Accuracy of Initiatives and Key Performance Indicators Set Forth in the Department of Consumer and Regulatory Affairs' Fiscal Year 2008 Performance Accountability Report"; to the Committee on Homeland Security and Governmental Affairs.

EC-3350. A communication from the Federal Register Liaison Officer, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Establishment of the Happy Canyon of Santa Barbara Viticultural Area (2007R-311P)" (RIN1513-AB52) received in the Office of the President of the Senate on October 9, 2009; to the Committee on the Judiciary.

EC-3351. A communication from the Acting Under Secretary and Acting Director, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Changes to Practice for Continued Examination Filings, Patent Applications Containing Patentably Indistinct Claims, and Examination of Claims in Patent Applications" (RIN0651-AC36) received in the Office of the President of the Senate on October 13, 2009; to the Committee on the Judiciary.

EC-3352. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Azoxytobrin; Pesticide Tolerances" (FRL No. 8794-4) received in the Office of the President of the Senate on October 13, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3353. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Highlights of the Diesel Emissions Reduction Program"; to the Committee on Energy and Natural Resources.

EC-3354. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation,

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Air Quality Designations for the 2006 24-Hour Fine Particle (PM<sub>2.5</sub>) National Ambient Air Quality Standards" (FRL No. 8969-2) received in the Office of the President of the Senate on October 13, 2009; to the Committee on Environment and Public Works.

EC-3355. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Arizona State Implementation Plan, Maricopa County Air Quality Department" (FRL No. 8947-2) received in the Office of the President of the Senate on October 14, 2009; to the Committee on Environment and Public Works.

EC-3356. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Inert Ingredients; Extension of Effective Date of Revocation of Certain Tolerance Exemptions with Insufficient Data for Reassessment" (FRL No. 8794-1) received in the Office of the President of the Senate on October 14, 2009; to the Committee on Environment and Public Works.

EC-3357. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Ohio Administrative Code Rule 3745-21-17 Portable Fuel Containers" (FRL No. 8958-1) received in the Office of the President of the Senate on October 14, 2009; to the Committee on Environment and Public Works.

EC-3358. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Indiana; Carbon Monoxide Maintenance Plan Updates; Limited Maintenance Plan" (FRL No. 8968-1) received in the Office of the President of the Senate on October 14, 2009; to the Committee on Environment and Public Works.

EC-3359. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Primary Drinking Water Regulations: Drinking Water Regulations for Aircraft Public Water Systems" (FRL No. 8967-9) received in the Office of the President of the Senate on October 14, 2009; to the Committee on Environment and Public Works.

EC-3360. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, a Uniform Resource Locator (URL) for a document entitled "Interim Policy on Managing the Duration of Remedial Design/Remedial Action Negotiations" received in the Office of the President of the Senate on October 14, 2009; to the Committee on Environment and Public Works.

EC-3361. A communication from the Director of the Office of Congressional Affairs, Office of Nuclear Reactor Regulations, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Criminal Penalties; Unauthorized Introduction of Weapons" (RIN3150-A131) received in the Office of the President of the Senate on October 13, 2009; to the Committee on Environment and Public Works.

EC-3362. A communication from the Assistant Secretary, Bureau of Legislative Affairs,

Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad in the amount of \$85,000,000 to Japan; to the Committee on Foreign Relations.

EC-3363. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, including, technical data, and defense services relative to the Proton launch of the QuetzSat-1 Commercial Communication Satellite in the amount of \$50,000,000 or more to Belgium, Germany, Kazakhstan, Luxembourg, Mexico, The Netherlands, Russia, Spain, United Kingdom and Sweden; to the Committee on Foreign Relations.

EC-3364. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, including, technical data, and defense services relative to the manufacture of X200-Series transmissions in the amount of \$100,000,000 or more to the Republic of Korea; to the Committee on Foreign Relations.

EC-3365. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad in the amount of \$100,000,000 or more to Turkey and Australia; to the Committee on Foreign Relations.

EC-3366. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement to include the export of technical data, defense services and defense articles in the amount of \$50,000,000 or more to Canada, Russia, and Kazakhstan; to the Committee on Foreign Relations.

EC-3367. A communication from the Chief Counsel, Economic Development Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Trade Adjustment Assistance for Firms Program Regulations and Implementation Regulations for the Community Trade Adjustment Assistance Program" (RIN0610-AA65) received in the Office of the President of the Senate on October 13, 2008; to the Committee on Finance.

EC-3368. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Tier 1 Issue—Industry Director Directive on Section 936 Exit Strategies #4" (LMSB-4-1009-039) received in the Office of the President of the Senate on October 13, 2009; to the Committee on Finance.

EC-3369. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Credit for Carbon Dioxide Sequestration under Section 45Q" (Notice No. 2009-83) received in the Office of the President of the Senate on October 13, 2009; to the Committee on Finance.

EC-3370. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Measurement of Assets and Liabilities and Benefit Restrictions for Underfunded Pension Plans" (TD

9467) received in the Office of the President of the Senate on October 13, 2009; to the Committee on Finance.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with amendments:

S. 507. A bill to provide for retirement equity for Federal employees in nonforeign areas outside the 48 contiguous States and the District of Columbia, and for other purposes (Rept. No. 111-88).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. BINGAMAN for the Committee on Energy and Natural Resources.

\*Marcia K. McNutt, of California, to be Director of the United States Geological Survey.

\*Arun Majumdar, of California, to be Director of the Advanced Research Projects Agency-Energy, Department of Energy.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. SHAHEEN (for herself and Mr. VITTER):

S. 1778. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to generic drugs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BAYH (for himself, Mr. DORGAN, Mr. LUGAR, Mr. BYRD, Mr. SPENCER, Mr. ROCKEFELLER, Mr. MERKLEY, and Mr. WYDEN):

S. 1779. A bill to amend title 38, United States Code, to provide health care to veterans exposed in the line of duty to occupational and environmental health chemical hazards, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. LINCOLN (for herself, Mrs. HUTCHISON, and Ms. SNOWE):

S. 1780. A bill to amend title 38, United States Code, to deem certain service in the reserve components as active service for purposes of laws administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mrs. SHAHEEN (for herself, Mr. BROWN, and Mr. MENENDEZ):

S. 1781. A bill to provide for a demonstration program to reduce frequent use of health services by Medicaid beneficiaries with chronic illnesses by providing coordinated care management and community support services; to the Committee on Finance.

By Mr. WHITEHOUSE (for himself, Mr. LEAHY, and Mr. SESSIONS):

S. 1782. A bill to provide improvements for the operations of the Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. FRANKEN (for himself, Mr. FEINGOLD, and Mr. BROWN):

S. 1783. A bill to amend the Agricultural Marketing Act of 1946 to provide for country of origin labeling for dairy products; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ENSIGN:

S. 1784. A bill to amend title 38, United States Code, to ensure that State approving agencies provide timely responses to applications for approval of courses of education and provide justifications for disapproval of courses, to provide for the review of the disapproval of courses by State approving agencies, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ENSIGN:

S. 1785. A bill to amend title 38, United States Code, to require State approving agencies to approve courses of education that have been accredited and approved by a nationally recognized accrediting agency or association, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LEAHY:

S. 1786. A bill to extend the temporary suspension of duty on certain ski boots, cross country ski footwear, and snowboard boots; to the Committee on Finance.

By Mr. BINGAMAN:

S. 1787. A bill to reauthorize the Federal Land Transaction Facilitation Act, and for other purposes; to the Committee on Energy and Natural Resources.

## ADDITIONAL COSPONSORS

S. 211

At the request of Mr. JOHANNES, his name was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services and volunteer services, and for other purposes.

S. 229

At the request of Mrs. BOXER, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 229, a bill to empower women in Afghanistan, and for other purposes.

S. 292

At the request of Mr. BROWNBACK, his name was added as a cosponsor of S. 292, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

S. 451

At the request of Ms. COLLINS, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Massachusetts (Mr. KERRY) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 451, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

S. 455

At the request of Mr. ROBERTS, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 455, a bill to require the Secretary of the Treasury to mint coins in recognition of 5 United States Army Five-Star Generals, George Marshall, Douglas MacArthur, Dwight Eisenhower, Henry "Hap" Arnold, and



Omar Bradley, alumni of the United States Army Command and General Staff College, Fort Leavenworth, Kansas, to coincide with the celebration of the 132nd Anniversary of the founding of the United States Army Command and General Staff College.

S. 461

At the request of Mrs. LINCOLN, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 461, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 510

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

S. 624

At the request of Mr. DURBIN, the name of the Senator from Massachusetts (Mr. KIRK) was added as a cosponsor of S. 624, a bill to provide 100,000,000 people with first-time access to safe drinking water and sanitation on a sustainable basis by 2015 by improving the capacity of the United States Government to fully implement the Senator Paul Simon Water for the Poor Act of 2005.

S. 663

At the request of Mr. NELSON of Nebraska, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 663, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish the Merchant Mariner Equity Compensation Fund to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 678

At the request of Mr. LEAHY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 678, a bill to reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

S. 729

At the request of Mr. DURBIN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 729, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

S. 883

At the request of Mr. KERRY, the names of the Senator from Nevada (Mr.

REID), the Senator from Kentucky (Mr. MCCONNELL), the Senator from North Dakota (Mr. DORGAN), the Senator from Nebraska (Mr. NELSON) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 883, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the Medal of Honor in 1861, America's highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States, to honor the American military men and women who have been recipients of the Medal of Honor, and to promote awareness of what the Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history.

S. 987

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1065

At the request of Mr. CASEY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1065, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of \$20,000,000 or more in Iran's energy sector, and for other purposes.

S. 1073

At the request of Mr. REED, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1073, a bill to provide for credit rating reforms, and for other purposes.

S. 1076

At the request of Mr. MENENDEZ, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1076, a bill to improve the accuracy of fur product labeling, and for other purposes.

S. 1204

At the request of Mrs. MURRAY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1204, a bill to amend the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 to require the provision of chiropractic care and services to veterans at all Department of Veterans Affairs medical centers, and for other purposes.

S. 1340

At the request of Mr. LEAHY, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 1340, a bill to establish a minimum funding level for programs under the Victims of Crime Act of 1984 for fiscal years 2010 to 2014 that ensures a reasonable growth in victim programs without jeopardizing the long-term sustainability of the Crime Victims Fund.

S. 1366

At the request of Mrs. BOXER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1366, a bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate a portion of their income tax payment to provide assistance to homeless veterans, and for other purposes.

S. 1376

At the request of Ms. KLOBUCHAR, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 1376, a bill to restore immunization and sibling age exemptions for children adopted by United States citizens under the Hague Convention on Intercountry Adoption to allow their admission to the United States.

S. 1382

At the request of Mr. DODD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1382, a bill to improve and expand the Peace Corps for the 21st century, and for other purposes.

S. 1408

At the request of Mr. MENENDEZ, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1408, a bill to amend the Internal Revenue Code of 1986 to encourage alternative energy investments and job creation.

S. 1524

At the request of Mr. KERRY, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from North Carolina (Mrs. HAGAN) were added as cosponsors of S. 1524, a bill to strengthen the capacity, transparency, and accountability of United States foreign assistance programs to effectively adapt and respond to new challenges of the 21st century, and for other purposes.

S. 1547

At the request of Mr. REED, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1547, a bill to amend title 38, United States Code, and the United States Housing Act of 1937 to enhance and expand the assistance provided by the Department of Veterans Affairs and the Department of Housing and Urban Development to homeless veterans and veterans at risk of homelessness, and for other purposes.

S. 1600

At the request of Mrs. MCCASKILL, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1600, a bill to reinstitute and update the Pay-As-You-Go requirement of budget neutrality on new tax and mandatory spending legislation, enforced by the threat of annual, automatic sequestration.

S. 1630

At the request of Mr. ROCKEFELLER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1630, a bill to amend title XVIII of

the Social Security Act to improve prescription drug coverage under Medicare part D and to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to improve prescription drug coverage under private health insurance, and for other purposes.

S. 1668

At the request of Mr. BENNET, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1668, a bill to amend title 38, United States Code, to provide for the inclusion of certain active duty service in the reserve components as qualifying service for purposes of the Post-9/11 Educational Assistance Program, and for other purposes.

S. 1672

At the request of Mr. REED, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1672, a bill to reauthorize the National Oilheat Research Alliance Act of 2000.

S. 1681

At the request of Mr. LEAHY, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. 1681, a bill to ensure that health insurance issuers and medical malpractice insurance issuers cannot engage in price fixing, bid rigging, or market allocations to the detriment of competition and consumers.

S. 1709

At the request of Ms. STABENOW, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1709, a bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to establish a grant program to promote efforts to develop, implement, and sustain veterinary services, and for other purposes.

S. 1723

At the request of Mr. CORKER, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1723, a bill to authorize the Secretary of the Treasury to delegate management authority over troubled assets purchased under the Troubled Asset Relief Program, to require the establishment of a trust to manage assets of certain designated TARP recipients, and for other purposes.

S. 1739

At the request of Mr. DODD, the names of the Senator from Delaware (Mr. KAUFMAN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1739, a bill to promote freedom of the press around the world.

S. 1765

At the request of Mr. CARDIN, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 1765, a bill to amend the Hate Crime Statistics Act to include crimes against the homeless.

S. 1775

At the request of Mr. BAYH, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1775, a bill to amend the Higher Education Act of 1965 to provide that interest shall not accrue on Federal Direct Loans for members of the Armed Forces on active duty regardless of the date of disbursement.

S. RES. 296

At the request of Mrs. LINCOLN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Res. 296, a resolution designating October 2009 as "National Work and Family Month".

S. RES. 312

At the request of Mr. DODD, the names of the Senator from Illinois (Mr. BURRIS), the Senator from Washington (Mrs. MURRAY) and the Senator from Massachusetts (Mr. KIRK) were added as cosponsors of S. Res. 312, a resolution expressing the sense of the Senate on empowering and strengthening the United States Agency for International Development (USAID).

At the request of Mr. DURBIN, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. Res. 312, *supra*.

AMENDMENT NO. 2668

At the request of Mr. REID, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 2668 intended to be proposed to H.R. 3548, a bill to amend the Supplemental Appropriations Act, 2008 to provide for the temporary availability of certain additional emergency unemployment compensation, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. SHAHEEN (for herself and Mr. VITTER):

S. 1778. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to generic drugs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. SHAHEEN. Mr. President, I rise today to introduce two health care bills that will help control health care costs and provide patients with better care. I believe these bills are easy to understand and reflect commonsense approaches to controlling health care costs.

The first bill, the Reducing Emergency Department Utilization through Coordination and Empowerment, or REDUCE Act, S. 1281, would reduce costly and excessive emergency room visits by providing patients with more consistent and coordinated care.

Emergency room overutilization is a source of wasteful spending in our health care system. Estimates show that \$14 billion are wasted each year in unnecessary emergency room visits. It drives up the cost of health care and

leads to overcrowding of our emergency rooms.

Frequent users of emergency room services make up a small, but very costly portion of the population. These individuals tend to have multiple chronic illnesses and severe mental illness. They often live in poverty or are homeless. Many times they use the emergency room because they have nowhere else to go.

In the most extreme cases, these individuals can cost the system millions of dollars. You heard right, one person can put a multi-million dollar strain on our health care system. For example in Camden, NJ, one person cost taxpayers \$3.5 million over 5 years in Medicaid and Medicare payments.

We need to fix this problem, and I believe we can. The REDUCE Act is modeled after successful pilot programs across the country. It provides beneficiaries with a care management team consisting of a medical provider, a social worker and a community health worker that can provide medical care and support in any setting. The care management team also helps to ensure that these individuals are going to their primary care doctors and mental health providers on a regular basis.

Research shows it works. In fact, after two years of enrollment in one pilot program, on average, individual emergency room visits were reduced by 61 percent and emergency room charges were reduced by 59 percent for those that participated.

There is a lot we need to do to reform our health care system, but as we work on reform broadly, we also need to focus attention on individuals, especially these high cost patients. Doing so will improve care for this vulnerable population and reduce costs.

The second bill, the Access to Affordable Medicines Act, S. 1778, will increase access to lower cost generic drugs by closing a loophole some brand name drug companies exploit that needlessly and unfairly delays the entry of safe, lower-cost generic drugs to the consumer market.

As the law currently stands, when brand name manufacturers make labeling changes, generic drug labeling must reflect this change prior to the drug being approved and introduced in the market.

Too often, big pharmaceutical companies make last minute changes to the label. Many times the labeling changes are insignificant and do not deal with safety or warnings. In fact, these last minute changes are often used by brand name pharmaceutical companies to purposefully delay the introduction of cost-saving generic drugs by weeks or months. This can cost consumers and the federal government millions of dollars.

My bill would stop these costly practices by providing a 60-day grace period for the generic drug company to submit the new labeling for approval and marketplace distribution, while preserving safeguards if the new labeling truly presents a safety issue.

As we work to pass comprehensive health care reform in Congress, we do it with families and small businesses who struggle everyday with the high cost of health care in mind. These bills are the types of sensible reforms that we need to make so that the health care system is more affordable and more efficient. I look forward to working with my Senate colleagues on this legislation.

By Mr. WHITEHOUSE (for himself, Mr. LEAHY, and Mr. SESSIONS):

S. 1782. A bill to provide improvements for the operations of the Federal courts, and for other purposes; to the Committee on the Judiciary.

Mr. WHITEHOUSE. Mr. President, I rise today to introduce the Federal Judiciary Administrative Improvements Act of 2009 on behalf of myself and the Chairman and Ranking Member of the Judiciary Committee, Senators LEAHY and SESSIONS. I thank them for their support. It has been a pleasure to work with them on this important bipartisan effort.

The Federal Courts decide crucial issues of criminal and civil law every day, providing justice and protecting our constitutional rights. It is our responsibility in Congress to ensure that our governing technical issues of judicial administration will help them in this effort.

The Federal Judiciary Administrative Improvements Act of 2009 takes up that responsibility by making nine technical fixes necessary for the better administration of the Federal courts. The bill will clarify the role of Senior Judges in the selection of Magistrate Judges, enable better workload distribution among the judges of the District of North Dakota, align the benefits received by territorial judges in Guam, the U.S. Virgin Islands and the Northern Mariana Islands with those of other term judges, equalize leave limits and pay scales for judicial executives with those for senior executive branch officials, protect individual privacy in connection with judges' role in the sentencing process, clarify the authority of pretrial service officers over juvenile offenders, amend requirements for the reporting of wiretap information to the Administrative Office of the Courts, and add an inflation adjustment for the case expenses that must be reviewed by the chief judge of a district court. The Administrative Office of the Courts supports each provision.

I urge my colleagues to act promptly on this bipartisan legislation. I again thank Chairman LEAHY and Ranking Member SESSIONS for their support.

Mr. LEAHY. Mr. President, today, I am pleased to join Senators WHITEHOUSE and SESSIONS to introduce the Federal Judiciary Administrative Improvements Act of 2009, a bipartisan bill that would improve the administration and efficiency of our Federal court system. This legislation would also provide the third branch of gov-

ernment with important assistance to the women and men who comprise the Federal judiciary.

I thank Senator WHITEHOUSE and Senator SESSIONS for their hard work on this critical issue. I previously introduced a court improvement bill in the 108th Congress. I hope the bill we introduce today will pass the full Senate with unanimous support, and will not be subjected to the objections of Senate Republicans as it was 5 years ago. I have also supported past legislative proposals from the Judicial Conference to improve the administration of justice in the Federal courts, including a similar measure last year, which was enacted into law.

In recent years, the job of a Federal judge has changed considerably. Today, Federal judges at both the trial and appellate level are hearing more cases with fewer available judicial resources. We have a responsibility to pass legislation that helps them keep up with changing times and circumstances. Just as it is the judiciary's duty to deliver justice in a neutral and unbiased manner, it is the duty of the legislative branch to provide the requisite tools for the women and men who honorably serve on the judiciary to ably fulfill their critical responsibilities. I believe our independent judiciary is the envy of the world, and we must take care to protect it.

The legislation we introduce today contains proposals that the Federal judiciary believes will improve its operations and allow it to continue to serve as a bulwark protecting our individual rights and liberties. It also contains additional technical and substantive proposals carried over from previous Congresses.

The Judiciary Administrative Improvements Act of 2009 would facilitate judicial operations and improve judicial resource management. The bill would clarify existing law to ensure that senior judges with a minimum workload can participate in the selection of magistrate judges. The bill would also revise the statutory description of the District of North Dakota to eliminate unnecessary references to divisions and counties, while maintaining the present requirement that North Dakota constitutes one judicial district. I believe this technical change would improve the judicial workload distribution in that district and reduce travel time for litigants.

Our legislation also contains critical provisions that would improve personnel and benefits for certain judges and their hardworking judiciary staff. The bill would authorize a cost-of-living adjustment for Federal territorial judges entitled to receive an annuity. It would also authorize territorial judges who are 65 years of age or older to collect, for the remainder of their lives, an annuity equal to the salary received when they left office. These changes would reduce existing inequities between Federal territorial judges and other term judges such as Federal

magistrate and bankruptcy judges. The bill would extend to senior executives in the Federal courts, the Federal Judicial Center, and the Sentencing Commission the same ability to carry over annual leave hours as that enjoyed by senior employees in the Executive Branch and the Administrative Office of the United States Courts, AO. It would also allow the Federal Judicial Center to provide a modest increase in pay for certain division directors.

The Judiciary Administrative Improvements Act of 2009 would also improve the administration of criminal justice. The bill would better protect confidential information about a defendant during sentencing by allowing the "statement of reasons" form that judges are required to issue upon sentencing to be filed separately with the court. This change would allow confidential information contained within the "statement of reasons" to be more easily controlled and protected. In addition, the bill would clarify the scope of authority of Federal pretrial services officers to supervise and assist juveniles awaiting delinquency disposition in Federal court. Current laws regarding the duties of pretrial service officers focus solely on adults and thus it is unclear what duties those officers have to provide services to juveniles. This bill would fill that gap and ensure that pretrial services officers are fully authorized to arrange drug treatment and other critical services for juvenile offenders. The bill would also improve the statistical reporting schedule for criminal wiretap orders. It would eliminate burdensome monthly deadlines for state and Federal judges to report their wiretap data and unrealistic interagency deadlines for reporting that data to the AO. This change will allow for more comprehensive reporting of wiretap data.

In addition, the legislation we introduce today would also conserve judicial resources over certain court requests from indigent defendants. Under current law, a certain statutory threshold exists at which the costs of hiring expert witnesses and conducting investigations for indigent defendants must be approved by the court. These thresholds do not account for inflation, however, which results in a waste of precious judicial resources. This bill would apply an inflationary index to the threshold amount to make them more cost-effective. As a result, this change will allow judges to spend more time on less of these requests each year, which would better improve the overall administration of justice.

I am glad that this important legislation has the support of the Administrative Office of the Courts, on behalf of the Judicial Conference, and Senators on both sides of the aisle. The Federal judiciary needs these improvements to increase its efficiency and administrative operations. I urge all Senators to support prompt passage of this non-controversial legislation this year.

By Mr. FRANKEN (for himself,

Mr. FEINGOLD, and Mr. BROWN):

S. 1783. A bill to amend the Agricultural Marketing Act of 1946 to provide for country of origin labeling for dairy products; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FRANKEN. Mr. President, all across the country, family dairy farms are in dire straits. In Minnesota alone, 200 dairy farms have closed this year. There is no single cause for this crisis. Family dairy farmers are confronting an unprecedented global recession, consolidation in the market, high feed prices, and unpredictable price swings—all at the same time.

Since arriving in Washington, I have been proud to work with my dairy State colleagues in order to give our family farmers the tools they need to weather this storm. In July, Senators from the midwest, the northeast, and the southwest worked together with Secretary Vilsack to raise price supports. Just last week we provided the Department of Agriculture with another \$350 million for price supports in the annual agriculture spending bill. Unfortunately, raising price supports alone won't calm the economic storm.

Just as there is no single cause for this, there is no single solution. Our family farmers need multiple tools in their shed. Today, I am introducing a bill with Senator FEINGOLD and Senator BROWN to give our family farmers another tool.

The Dairy Country Of Origin Labeling Act, or Dairy COOL, is really pretty simple—it would extend mandatory country of origin labeling to dairy products. The current country of origin labeling law, which went into effect last year, applies to meats, produce, and nuts, but it doesn't include dairy products. Our bill would simply add dairy products—such as milk, ice cream and cheese—to the list.

Minnesota, Wisconsin, and Ohio dairy farmers, as well as family farmers across the Nation, have the right to distinguish their products from imported products. As families do their weekly grocery shopping, they should have the option of putting milk, cheese, and ice cream from our own family farms into their cart. It is more than “from farm to table”—it's really “from one family to another.”

Families are what this is about. Hardly a week goes by where you don't hear another story of contaminated food and toys coming in from foreign shores. Labeling our dairy products lets parents make smarter choices at the grocery store.

This bill isn't a silver bullet, but it does give family farms another tool that will help them weather the current storm, grow a little stronger, and keep our families a little safer.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1783

*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 “Dairy COOL Act of 2009”.

#### SEC. 2. COUNTRY OF ORIGIN LABELING FOR DAIRY PRODUCTS.

(a) DEFINITIONS.—Section 281 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) in clause (x), by striking “and” at the end;

(ii) in clause (xi), by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(xii) dairy products.”; and

(B) in subparagraph (B), by inserting “(other than clause (xii) of that subparagraph)” after “subparagraph (A)”;

(2) by redesignating paragraphs (3) through (9) as paragraphs (4) through (10), respectively; and

(3) by inserting after paragraph (2) the following:

“(3) DAIRY PRODUCT.—The term ‘dairy product’ means—

“(A) fluid milk;

“(B) cheese, including cottage cheese and cream cheese;

“(C) yogurt;

“(D) ice cream;

“(E) butter; and

“(F) any other dairy product.”.

(b) NOTICE OF COUNTRY OF ORIGIN.—Section 282(a) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638a(a)) is amended by adding at the end the following:

“(5) DESIGNATION OF COUNTRY OF ORIGIN FOR DAIRY PRODUCTS.—

“(A) IN GENERAL.—A retailer of a covered commodity that is a dairy product shall designate the origin of the covered commodity as—

“(i) each country in which or from the 1 or more dairy ingredients or dairy components of the covered commodity were produced, originated, or sourced; and

“(ii) each country in which the covered commodity was processed.

“(B) STATE, REGION, LOCALITY OF THE UNITED STATES.—With respect to a covered commodity that is a dairy product produced exclusively in the United States, designation by a retailer of the State, region, or locality of the United States where the covered commodity was produced shall be sufficient to identify the United States as the country of origin.”.

#### AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on October 14, 2009, at 2:30 p.m., to conduct a hearing entitled “Examining the State of the Banking Industry.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during

the session of the Senate, on October 14, at 10 a.m. in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on October 14, 2009, at 11:30 a.m. in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on October 14, 2009, at 10 a.m. in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled “Prohibiting Price Fixing and Other Anticompetitive Conduct in the Health Insurance Industry.”

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING AND THE SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Special Committee on Aging and the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on October 14, 2009, from 2:30 p.m.–5 p.m. in room 342 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Shauna Agan and Amber Oldham of my staff be granted floor privileges for the duration of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Madam President, I ask unanimous consent for Preston Rutledge, Carolyn Coda, Chantal Matin, and Stephen Theulen be granted the privileges of the floor for the duration of the 111th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. BROWN. I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 472 and 473; that the nominations be confirmed en bloc, the motions to reconsider be laid on the table en bloc; that no further motions be in order; and that any statements relating to

the nominations be printed in the RECORD as if read; provided further that the President be immediately notified of the Senate's action and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

#### DEPARTMENT OF JUSTICE

David Lyle Cargill, Jr., of New Hampshire, to be United States Marshal for the District of New Hampshire for the term of four years.

Timothy J. Heaphy, of Virginia, to be United States Attorney for the Western District of Virginia for the term of four years.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate resumes legislative session.

#### FDR DOCUMENTS ACT

Mr. BROWN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 172, S. 692.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 692) to provide that claims of the United States to certain documents relating to Franklin Delano Roosevelt shall be treated as waived and relinquished in certain circumstances.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWN. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 692) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 692

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

#### SECTION 1. TREATMENT OF OWNERSHIP OF CERTAIN DOCUMENTS RELATING TO FRANKLIN DELANO ROOSEVELT.

(a) IN GENERAL.—If any person or entity makes a gift of any property described in subsection (b) to the National Archives and Records Administration, then any claim of the United States to such property shall be treated as having been waived and relinquished on the day before the date of such gift.

(b) PROPERTY DESCRIBED.—Property is described in this subsection if such property—

(1) is a part of the collection of documents, papers, and memorabilia relating to Franklin Delano Roosevelt or any member of his family or staff; and

(2) was in the possession of Grace Tully and retained by her at the time of her death.

(c) DATE OF GIFT.—The date of a gift referred to in subsection (a) is any date specified by the donor so long as such date is subsequent to the physical delivery of the property described in subsection (b) to the National Archives and Records Administration.

#### ALLOWING FUNDING FOR THE INTEROPERABLE EMERGENCY COMMUNICATIONS GRANT PROGRAM

Mr. BROWN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 1694, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 1694) to allow the funding for the interoperable emergency communications grant program established under the Digital Television Transition and Public Safety Act of 2005 to remain available until expended through fiscal year 2012, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWN. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1694) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1694

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

#### SECTION 1. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS GRANTS.

(a) Notwithstanding section 3006(a)(2) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note), sums made available to administer the Public Safety Interoperable Communications Grant Program under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) shall remain available until expended, but not beyond September 30, 2012.

(b) The period for performance of any investment approved under the Program as of the date of enactment of this Act shall be extended by one year, but not later than September 30, 2011, except that the Assistant Secretary of Commerce for Communications and Information may extend, on a case-by-case basis, the period of performance for any investment approved under the Program as of that date for a period of not more than 2 years, but not later than September 30, 2012. In making a determination as to whether an extension beyond September 30, 2011, is warranted, the Assistant Secretary should consider the circumstances that gave rise to the need for the extension, the likelihood of completion of performance within the deadline for completion, and such other factors as the Assistant Secretary deems necessary to make the determination.

#### NATIONAL LEARN AND SERVE CHALLENGE

Mr. BROWN. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of S. Con. Res. 46 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 46) recognizing the benefits of service-learning and expressing support for the goals of the National Learn and Serve Challenge.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BROWN. I ask unanimous consent the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate; and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 46) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 46

Whereas service-learning is a teaching method that enhances academic learning by integrating classroom content with relevant activities aimed at addressing identified needs in a community or school;

Whereas service-learning has been used both in school and community-based settings as a teaching strategy to enhance learning by building on youth experiences, granting youth a voice in learning, and making instructional goals and objectives more relevant to youth;

Whereas service-learning addresses the dropout epidemic in the United States by making education more “hands-on” and relevant, and has been especially effective in addressing the dropout epidemic with respect to disadvantaged youth;

Whereas service-learning is proven to provide the greatest benefits to disadvantaged and at-risk youth by building self-confidence, which often translates into overall academic and personal success;

Whereas service-learning provides not only meaningful experiences, but improves the quantity and quality of interactions between youth and potential mentors in the community;

Whereas service-learning empowers youth as actively engaged learners, citizens, and contributors to the community;

Whereas youth engaged in service-learning provide critical service to the community by addressing a variety of needs in towns, cities, and States, including needs such as tutoring young children, care of the elderly, community nutrition, disaster relief, environmental stewardship, financial education, and public safety;

Whereas far-reaching and diverse research shows that service-learning enhances the academic, career, cognitive, and civic development of students in kindergarten through 12th grade, and students at institutions of higher education;

Whereas service-learning strengthens and increases the number of partnerships among institutions of higher education, local schools, and communities, which strengthens communities and improves academic learning;

Whereas service-learning programs allow a multitude of skilled and enthusiastic college students to serve in the communities surrounding their colleges;

Whereas service-learning programs engage students in actively addressing and solving pressing community issues and strengthen the ability of nonprofit organizations to meet community needs;



Whereas Learn and Serve America, a program established under subtitle B of title I of the National and Community Service Act of 1990 (42 U.S.C. 12521 et seq.), is the only federally funded program dedicated to service-learning and engages more than 1,100,000 youth in service-learning each year;

Whereas Learn and Serve America is a highly cost-effective program, with an average cost of approximately \$25 per participant and leverage of \$1 for every Federal dollar invested;

Whereas the National Learn and Serve Challenge is an annual event that, in 2009, will take place October 5 through October 11; and

Whereas the National Learn and Serve Challenge spotlights the value of service-learning to young people, schools, college campuses, and communities, encourages others to launch service-learning activities, and increases recognition of Learn and Serve America: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

(1) recognizes the benefits of service-learning, which include—

(A) enriching and enhancing academic outcomes for youth;

(B) engaging youth in positive experiences in the community; and

(C) encouraging youth to make more constructive choices with regards to their lives;

(2) encourages schools, school districts, college campuses, community-based organizations, nonprofit organizations, and faith-based organizations to provide youth with more service-learning opportunities; and

(3) expresses support for the goals of the National Learn and Serve Challenge.

#### NATIONAL WORK AND FAMILY MONTH

Mr. BROWN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 296 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 296) designating October 2009 as “National Work and Family Month.”

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 296) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 296

Whereas, according to a report by WorldatWork, a nonprofit professional association with expertise in attracting, motivating, and retaining employees, the quality of workers' jobs and the supportiveness of their workplaces are key predictors of workers' job productivity, job satisfaction, and commitment to employers and of employers' ability to retain workers;

Whereas, according to the 2008 National Study of Employers by the Families and Work Institute, employees in more flexible and supportive workplaces are more effective employees, are more highly engaged and less likely to look for a new job in the next year, and enjoy better overall health, better mental health, and lower levels of stress than employees in workplaces that provide less flexibility and support;

Whereas, according to a 2004 report of the Families and Work Institute entitled “Overwork in America”, employees who are able to effectively balance family and work responsibilities are less likely to report making mistakes or feel resentment toward employers and coworkers;

Whereas, according to the “Best Places to Work in the Federal Government” rankings released by the Partnership for Public Service and American University's Institute for the Study of Public Policy Implementation, work-life balance and a family-friendly culture are among the key drivers of engagement and satisfaction for employees in the Federal workforce;

Whereas, according to a 2009 survey of college students by the Partnership for Public Service and Universum USA entitled “Great Expectations! What Students Want in an Employer and How Federal Agencies Can Deliver It”, attaining a healthy work-life balance was an important career goal of 66 percent of the students surveyed;

Whereas a 2008 study by the Partnership for Public Service entitled “A Golden Opportunity: Recruiting Baby Boomers into Government” revealed that workers between the ages of 50 and 65 are a strong source of experienced talent for the Federal workforce and that nearly 50 percent of workers in that age group find flexible work schedules “extremely appealing”;

Whereas finding a good work-life balance is important to workers in multiple generations;

Whereas employees who are able to effectively balance family and work responsibilities tend to feel healthier and more successful in their relationships with their spouses, children, and friends;

Whereas 85 percent of wage and salaried workers in the United States have immediate, day-to-day family responsibilities outside of their jobs;

Whereas, in 2000, research by the Radcliffe Public Policy Center revealed that men in their 20s and 30s and women in their 20s, 30s, and 40s identified a work schedule that allows them to spend time with their families as the most important job characteristic for them;

Whereas, according to the 2006 American Community Survey by the United States Census Bureau, 47 percent of wage and salaried workers in the United States are parents with children under the age of 18 who live with them at least half-time;

Whereas job flexibility often allows parents to be more involved in their children's lives and research demonstrates that parental involvement is associated with children's higher achievement in language and mathematics, improved behavior, greater academic persistence, and lower dropout rates;

Whereas the 2000 Urban Working Families study demonstrated that a lack of job flexibility for working parents negatively affects children's health in ways that range from children being unable to make needed doctors' appointments to children receiving inadequate early care, leading to more severe and prolonged illness;

Whereas, from 2001 to the beginning of 2008, 1,700,000 active duty troops served in Iraq and 600,000 members of the National Guard and Reserve (133,000 on more than one tour) were called up to serve in Iraq;

Whereas, because so many of those troops and National Guard and Reserve members have families, there needs to be a focus on policies and programs that can help military families adjust to the realities that come with having a family member in the military;

Whereas research by the Sloan Center for Aging and Work reveals that the majority of workers aged 53 and older attribute their success as an employee by a great or moderate extent to having access to flexibility in their jobs and that the majority of those workers also report that, to a great extent, flexibility options contribute to an overall higher quality of life;

Whereas studies show that 1/3 of children and adolescents in the United States are obese or overweight, and healthy lifestyle habits, including healthy eating and physical activity, can lower the risk of becoming obese and developing related diseases;

Whereas studies report that family rituals, such as sitting down to dinner together and sharing activities on weekends and holidays, positively influence children's health and development and that children who eat dinner with their families every day consume nearly a full serving more of fruits and vegetables per day than those who never eat dinner with their families or do so only occasionally;

Whereas unpaid family caregivers will likely continue to be the largest source of long-term care services in the United States for the elderly;

Whereas the Department of Health and Human Services anticipates that by 2050 the number of such caregivers will reach 37,000,000, an increase of 85 percent from 2000, as baby boomers reach retirement age in record numbers; and

Whereas the month of October is an appropriate month to designate as “National Work and Family Month”: Now, therefore, be it

*Resolved, That the Senate—*

(1) designates October 2009 as “National Work and Family Month”;

(2) recognizes the importance of work schedules that allow employees to spend time with their families to job productivity and to healthy families;

(3) urges public officials, employers, employees, and the general public to work together to achieve more balance between work and family; and

(4) calls upon the people of the United States to observe National Work and Family Month with appropriate ceremonies and activities.

#### ORDERS FOR THURSDAY, OCTOBER 15, 2009

Mr. BROWN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, October 15; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business for 2 hours, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first hour and the majority controlling the final hour; further, that following morning business, the Senate resume consideration of the conference



report to accompany H.R. 3183, energy and water appropriations; finally, I ask that time during any adjournment, recess or period of morning business count postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

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PROGRAM

Mr. BROWN. Mr. President, in addition to completing action on the energy and water conference report tomorrow, the majority leader would like to reach agreements to consider the

conference reports to accompany the Homeland Security appropriations bill and the Department of Defense authorization bill.

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ADJOURNMENT UNTIL 9:30 A.M.  
TOMORROW

Mr. BROWN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 8:17 p.m., adjourned until Thursday, October 15, 2009, at 9:30 a.m.

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CONFIRMATIONS

Executive nominations confirmed by the Senate, Wednesday, October 14, 2009:

DEPARTMENT OF JUSTICE

DAVID LYLE CARGILL, JR., OF NEW HAMPSHIRE, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF NEW HAMPSHIRE FOR THE TERM OF FOUR YEARS.

TIMOTHY J. HEAPHY, OF VIRGINIA, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF VIRGINIA FOR THE TERM OF FOUR YEARS.