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House of Representatives

The House was not in session today. Its next meeting will be held on Saturday, December 19, 2009, at 6 p.m.

Senate

The Senate met at 10 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

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

Let us pray.

O God, from whom all noble desires and all good counsels do proceed, crown the deliberations of our lawmakers with spacious thinking and with sympathy for all humanity. As they face perplexing questions, quicken in them every noble impulse, transforming their work into a throne of service. Lord, shower them with Your blessings, enabling them to see and experience evidences of Your love. May their consistent communication with You radiate in their faces, be expressed in their character, and be exuded in positive joy. Sanctify this day of labor with the benediction of Your approval.

We pray in Your great Name. Amen.

NOTICE

If the 111th Congress, 1st Session, adjourns sine die on or before December 23, 2009, a final issue of the *Congressional Record* for the 111th Congress, 1st Session, will be published on Thursday, December 31, 2009, to permit Members to insert statements.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–59 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Wednesday, December 30. The final issue will be dated Thursday, December 31, 2009, and will be delivered on Monday, January 4, 2010.

None of the material printed in the final issue of the *Congressional Record* may contain subject matter, or relate to any event, that occurred after the sine die date.

Senators' statements should also be formatted according to the instructions at http://webster/secretary/cong__record.pdf, and submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at "Record@Sec.Senate.gov".

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerk.house.gov/forms. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT–59.

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By order of the Joint Committee on Printing.

CHARLES E. SCHUMER, *Chairman.*

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

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PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND 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, December 17, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will resume consideration of the motion to concur with respect to H.R. 3326, the Defense Appropriations Act. The first hour will be equally divided and controlled between the two leaders or their designees. The Republicans will control the first 30 minutes and the majority will control the next 30 minutes. I filed cloture on the motion to concur. That vote will occur sometime in the next 10 or 12 hours.

PASSAGE OF CRITICAL LEGISLATION

Mr. REID. Madam President, we are going to finish this health care bill before we leave for the holidays.

For nearly an entire year, we have reached out to the other side, offered Republicans a seat at the table, tried to negotiate in good faith—nearly a whole year. Now we are closer than ever to fixing a badly broken system and doing more to make sure every American can afford to live a healthier life than this country has done in decades.

The Republicans have made their point. Through obstruction manuals, admissions that they believe stalling is good for electoral politics, and gambits like the one we saw yesterday; that is, forcing the full, hours-long reading of an amendment they did not like, and then complaining when that amendment they did not like was withdrawn, they have made their point to the American people. They have made it perfectly clear they have no interest in cooperating or legislating.

But the families and businesses who are suffering, hurting, and dying every single day have no time for these kinds of games. That is why we are going to finish health care whether the other side cooperates or not.

But health care is not the only critical issue this body faces. It is not the only critical issue to this country or before this body. Right now we have to complete a bill that supports the fighting men and women of this country, whether they are in Iraq, Afghanistan, Korea, Japan—all those many bases where tens of thousands of people are stationed. It is as simple as that.

Here are some of the good things in the bill that is now before the Senate, the message from the House. It funds more than $100 billion for operations, maintenance, and military personnel requirements for the wars in Iraq and Afghanistan. Part of that money will also support preparations to continue withdrawal from Iraq. There is more than $23 billion for the equipment used by our servicemembers in Iraq and Afghanistan to do their jobs and stay safe. There is more than $150 billion to train our troops and prepare them for battle. There is more than $30 billion for the health care of our servicemembers, their families, and their children. It also gives our brave and valiant troops a pay raise of 3.4 percent this year.

This is not a partisan issue. Yesterday, this bill passed the House 395 to 34. More than 90 percent of Democrats voted for this bill. More than 90 percent of Republicans in the House of Representatives voted for this bill. That is because they know to our fighting men and women—these brave Americans half a world away, a lot of them—who wage two wars on our behalf, it is immaterial whether the leaders who will give them all the resources they need to succeed are progressives or conservatives. Surely, our troops who are on deployment after deployment after deployment spend more time counting the days until they can see their loved ones again than they do counting the political points scored by either side. They do not care most of the time, Madam President. They just do their jobs.

The House proved as much yesterday. The Senate should do the same today. We received this bill yesterday at 2 p.m. Are we going to wait until tomorrow to pass it? This simply is not right. Let's give our troops what they need to succeed, and do it now. Then let's get back to giving all Americans what they need to stay healthy.

These two bills—these two pieces of legislation—are about life and death. Our responsibility is too great to waste time playing political games.

RECOGNITION OF THE MINORITY LEADER

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

HEALTH CARE REFORM

Mr. MCCONNELL. Madam President, Senators on both sides acknowledge that the health care bill we are considering is among the most significant pieces of legislation any of us will ever consider—I think, I would argue, the most significant piece of legislation certainly in my time here. So it stands to reason we would devote significant time and attention to it.

Indeed, some would argue we should spend more time and attention on this bill than most—if not every—previous bills we have considered.

The majority, obviously, disagrees. Why? Because this bill has become a political nightmare—a literal political nightmare to them—as evidenced by more and more public opinion polls, including the Wall Street Journal/NBC poll out this morning. They know Americans are overwhelmingly opposed to it, so they want to get it over with as quickly as possible.

Americans are already outraged at the fact that Democratic leaders took their eyes off the ball, rushing the process on a partisan line that makes the situation even worse.

Americans were told the purpose of reform was to reduce the cost of health care. Instead, Democratic leaders produced a $2.5 trillion, 2,074-page monstrosity that vastly expands government, raises taxes, raises premiums, and wrecks Medicare. And they want to rush this bill through by Christmas? They want to rush this bill through by Christmas that does all of these destructive things. One of the most significant, far-reaching pieces of legislation in U.S. history, and they want to rush it.

Here is the most outrageous part. At the end of this rush, they want us to vote on a bill that no one outside the majority leader's conference room has seen yet. No one has seen it. That is right. The final bill we vote on is not even the one we have had on the floor of the Senate. It is the deal Democratic leaders have been trying to work out in private. That is what they intend to bring to the Senate floor and force a vote on before Christmas.

So this entire process is essentially a charade. But let's just compare the process so far with previous legislation for a little perspective.

Here is a snapshot of what we have done and where we stand on this bill.

The majority leader intends to bring this debate to a close as early as this weekend—4 days from now—on this $2.5 trillion mistake. No American who has not been invited into the majority leader's conference room knows what will be in the bill.

The bill has been the pending business of the Senate since last November—less than 4 weeks ago—but we

have actually only started the amendment process 2 weeks ago—just 2 weeks ago on the amendment process.

We have had 21 amendments and motions—less than 2 a day.

So let's look at how the Senate has dealt with previous legislation, arguably of lesser consequence than this one.

No Child Left Behind in 2001: 21 session days over 7 weeks, 44 rollcall votes, 157 amendments offered.

The 9/11 Commission/Homeland Security Act in 2002: 19 session days over 7 weeks, 20 rollcall votes, 30 amendments offered.

The Energy bill in 2002: 21 session days over 8 weeks, 36 rollcall votes, 158 amendments offered.

Now, Madam President, this is not an energy bill. This is an attempt by the majority to take over one-sixth of the U.S. economy—to vastly expand the reach and role of government into the health care decisions of every single American—and they want it to be done after one substantive amendment—one large, substantive amendment. This is absolutely inexcusable.

I think Senator SNOWE put it best on Tuesday. This is what she had to say Tuesday of this week. ''Given the enormity and complexity,'' Senator SNOWE said, ''I don't see anything magical about the Christmas deadline if this bill is going to become law in 2014.''

And I think Senator SNOWE's comments on a lack of bipartisanship at the outset of this debate are also right on point. Here is what Senator SNOWE said in November of this year—late November:

> I am truly disappointed we are commencing our historic debate on one of the most significant and pressing domestic issues of our time with a process that has forestalled our ability to arrive at broader agreement on some of the most crucial elements of health care reform. The bottom line is, the most consequential health care legislation in the history of our country and the reordering of $33 trillion in health care spending over the coming decade shouldn't be determined by one vote-margin strategies—surely—

Surely—

> we can and must do better.

Well, Senator SNOWE is entirely correct.

The only conceivable justification for rushing this bill is the overwhelming—overwhelming—opposition of the American people. Democrats know the longer Americans see this bill, the less they like it.

Here is the latest from Pew; it came out just yesterday. A majority—58 percent—of those who have heard a lot about the bill oppose it, while only 32 percent favor it.

There is no justification for this blind rush, except a political one, and that is not good enough for the American people, and that is not justification for forcing the Senate to vote on a bill that none of us have seen.

Americans already oppose the bill. The process is just as bad. It is completely reckless and completely irresponsible.

Madam President, I yield the floor.

RESERVATION OF LEADER TIME

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

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the House message with respect to H.R. 3326, which the clerk will report.

The legislative clerk read as follows:

> House message to accompany H.R. 3326, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

> Reid motion to concur in the amendment of the House to the amendment of the Senate to the bill.
>
> Reid motion to concur in the amendment of the House to the amendment of the Senate with amendment No. 3248 (to the House amendment to the Senate amendment), to change the enactment date.
>
> Reid motion to refer the amendment of the House to the Committee on Appropriations, with instructions, Reid amendment No. 3249, to provide for a study.
>
> Reid amendment No. 3252 (to Reid amendment No. 3248), to change the enactment date.
>
> Reid amendment No. 3250 (to amendment No. 3249), of a perfecting nature.
>
> Reid amendment No. 3251 (to amendment No. 3250), of a perfecting nature.

The ACTING PRESIDENT pro tempore. Under the previous order, Senators are permitted to speak for up to 10 minutes each, with the first hour equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the second half.

The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I ask unanimous consent that the Senator from Tennessee lead a colloquy including the Senator from Oklahoma, the Senator from Wyoming, myself, and the Senator from Kentucky.

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

Mr. ALEXANDER. Madam President, I thank the Senator from Arizona.

I was thinking as I listened to the Republican leader, I wonder if the Senator noticed the comments of the Governor of California on Monday. Governor Schwarzenegger said on ''Good Morning America'' that he supports the idea of overhauling health care, but: ''the last thing we need,'' said Governor Schwarzenegger, ''is another $3 billion in spending when we already have a $20 million deficit.''

He was referring to one of the unintended consequences of this bill, which is big State costs for Medicaid being shifted to the States—unfunded mandates.

So here is Governor Schwarzenegger's advice, following up on the comments of the leader: ''So I would say be very careful to the Federal Government.''

This is from the Governor of California:

> Before you go to bed with all this, let's rethink it. There is no rush from one second to the next. Let's take another week or two. Let's come up with the right package.

I wonder if the Senator saw it.

Mr. MCCAIN. I thank the Senator from Tennessee who also understands this issue as well as or better than anyone, having been a Governor and recognizing the problems the Governors face.

If I could step back a second, Governor Schwarzenegger is a very astute observer of the political scene in California. May I point out to my colleagues, in this morning's Wall Street Journal: ''Democrats' Blues Grow Deeper in New Poll,'' and then: ''Support for Health Overhaul Wanes.''

There is some remarkable information concerning the mood and views of the American people, following on a Washington Post ABC News poll out yesterday that says 51 percent of Americans say they oppose the proposed changes to the system; 44 percent approve.

Thanks to the efforts of so many people, including our leadership, we have turned American public opinion because we have been informing them of the consequences of passage of this legislation.

Let me quote from the Wall Street Journal article:

> More Americans now believe it is better to keep the current health system than to pass President Barack Obama's plan, according to a new Wall Street Journal-NBC News poll. Findings mark a shift from the fall when the overhaul enjoyed the edge over the status quo. According to the poll, 44 percent of Americans said it is better to pass no plan at all compared with 41 percent who said it is better to pass the plan.

What they are saying is: Don't do this government takeover; don't increase taxes; don't increase spending; don't increase the costs. It is a remarkable shift, thanks to informing the American people.

Could I mention a couple of other points made in this poll in the Wall Street Journal. In September, 45 percent of Americans said they wanted the plan passed; 39 percent wanted to ''keep the current system.'' In December, in polling out today, only 41 percent of the American people want it passed, and 44 percent say keep the current system.

Then, of course, we have another interesting statistic:

> Trust that the government will do what is right: 21 percent say always or most of the time; 46 percent say only some of the time; and 32 percent of the American people say almost never.

Of course, the anger and disapproval of this health care plan right now is the centerpiece of Americans' dissatisfaction of the way we do business.

Let me say finally, because my colleagues wish to speak, we don't have a bill. We don't have a bill. Here we have been debating all this time and we do not have legislation. This was one of the bills we were presented with, but we know that significant changes are being made behind closed doors. We don't have a CBO estimate of the cost, do we? We understand they keep sending estimates over to CBO and it comes back and so they send them back, which probably is why last week the Senator from Illinois, the No. 2 ranking Democrat, said to me, I don't know what is in the bill either. I have the exact quote:

> I would say to the Senator from Arizona that I am in the dark almost as much as he is, and I am in the leadership.

That is an interesting commentary.

Of course, the issue of the protection of the rights of the unborn is still unclear. That is a big issue for a lot of Americans. It is a big issue with me, and I know it is a big issue with my colleagues.

So here we are back, off of the bill itself, and apparently we are going to have some kind of vote on Christmas Eve or something such as that.

What the American people are saying now is, when they say keep the status quo, they are saying: Stop. Go back to the beginning. Sit down on a bipartisan basis and let's get this done, but let's get it done right.

Americans know that Medicare is going broke. Americans know that costs are rising too quickly, but Americans want us to do this right and not in a partisan fashion and not with a bill that costs too much, taxes too much, and deprives people of their benefits.

Mr. ALEXANDER. Madam President, I thank the Senator from Arizona for his comments. We have two physicians in the Senate, Dr. COBURN from Oklahoma and Dr. BARRASSO from Wyoming. I wonder if they would bear with me for a minute or two to reflect on something the majority leader said—minority leader said—I hope he is the majority leader before too long—and the Senator from Arizona.

The minority leader, the Republican leader, talked about a historic mistake. There has been a lot of talk around here about making history on health care. The problem is there are many different kinds of history, as the Republican leader has pointed out. It seems our friends on the other side are absolutely determined to pursue a political kamikaze mission toward a historic mistake which will be disastrous for them in the elections of 2010, but much more important, for the country.

I did a little research on historic mistakes. We have made them before in the United States. Maybe we would be wise to take Governor Schwarzenegger's advice and slow down and stop and learn from our history rather than try to top our previous historic mistakes, such as the Smoot-Hawley tariff. That sounded pretty good at the time in 1930 when the idea was to buy American, but most historians agree it was a mistake and it contributed to the Depression.

There was the Alien and Sedition Act of 1798. It sounded good at the time. We were going to keep the foreigners in our midst—they were mostly French then—from saying bad things about the government, but it offended all of our traditions about free speech.

In 1969 Congress enacted the ''millionaires' tax,'' they called it, to try to catch 155 Americans who weren't paying any tax. That turned out to be a historic mistake, because last year it caught 28 million American taxpayers until we had to rush to change it.

Just a couple more. There was the Catastrophic Coverage Act of 1988. That was well named, but it turned out to be a catastrophe, a congressional catastrophe. The idea was to help seniors deal with illness-related financial losses, but seniors didn't like paying for it. They surrounded the chairman of the Ways and Means Committee in Chicago and now the leader of that group is a Member of Congress.

Then there was a luxury tax on boats over $100,000, another historic mistake, because it raised about half the taxes it was supposed to and it nearly sank the boating industry and it put 7,600 people out of jobs.

I ask my friends from Oklahoma and Wyoming—it is going to be a lot harder for Congress, if they try to fix the health care system all at once, to come back and repeal it than it was to repeal a boat tax. Do my colleagues think we ought to take the time to avoid another historic mistake?

Mr. COBURN. Well, I would answer my colleague from Tennessee. As a practicing physician, what I see as the historic mistake is we are going to allow the Federal Government to decide what care you are going to get. We are going to compromise the loyalty of your physician so that no longer is he or she going to be a 100-percent advocate for you, he or she is going to be an advocate for the government and what the government says. Because in this bill—even the one that is going to come—there are three different programs that put government bureaucracy in charge of what you can and cannot have. It doesn't consider your personal health, your past history, or your family history; they are going to say here is what you can and cannot do. That is called rationing. That is in the bill. That is coming. That is a historic mistake because it ruins the best health care system in the world in the name of trying to fix a smaller problem in terms of access, and it ignores the real problem.

The real problem is health care in this country costs too much. We all know this bill doesn't drive down costs, it increases costs. So your premiums go up, your costs go up, your care is going to go down because the government is going to tell you what you have to have.

I think that is a historic mistake and we have not addressed that. I wonder what my colleague from Wyoming thinks.

Mr. BARRASSO. Madam President, I agree completely. As a practicing physician taking care of people in Wyoming for 25 years, I have great concerns about this bill, what we know for sure is in it, which is $500 billion of cuts in Medicare to our patients who depend on Medicare, and that is a system that we know is going broke. That is why there is a front-page story in one of the Wyoming papers: ''Doctors Shortage Will Worsen.'' It is going to be harder on rural communities and others around the country if this goes through, and we know that because the folks who have looked at the parts of the bill we have seen have said that one-fifth of the hospitals in this country will be—if they are able to keep their doors open—operating at a significant loss 10 years from now. That is not the best future for health care in our country.

I had a telephone townhall meeting. People from all around the State of Wyoming were calling in and asking me questions, and they asked: What is in the bill? What is coming to the Senate?

We don't know yet. We haven't seen it.

They said: Well, when you find out, come home and let's have some more townhall meetings so we can have some input.

That is what we ought to do as a Senate. We ought to know what is in the bill and then let us go home and share it with our friends so they know. Because right now what the American people have seen of this bill, the 2,000-page bill, they rightly believe this will increase the cost of their own personal care.

Mr. COBURN. Madam President, if my colleague would yield, yesterday I asked the chairman of the Finance Committee to agree to a unanimous consent request that, in fact, for at least 72 hours the American people would get to see this bill; the Members of the Senate would get to see this bill; that there be a complete CBO score so we can have an understanding. He denied that request.

That comes back to transparency. The American people expect us to know exactly what we are voting on. They expect us to have read what we are voting on. His explanation was: I can't guarantee that. It presumes a certain level of perception on my part, an understanding of delving into the minds of the Senators that they could actually understand. What does understand mean? That is the kind of gibberish the American people absolutely don't want. They want us to know what we are voting on when we get ready to vote on this bill.

Mr. MCCAIN. Madam President, isn't that a violation of the commitment that was made that for 72 hours any legislation would be online, not just for us to see but for all Americans to see?

Could I ask the Senator from Kentucky, the Republican leader: Is it not

the perception now that this bill is probably going to be pushed through? Through various parliamentary procedures, the majority will try to force a final vote on this legislation, no matter what, before we leave? Isn't that in contradiction to what the majority of the American people are saying, that they want us to do nothing? Is this a responsible way to govern, to have the Senate in round the clock, 24 hours, people on the floor, quorum calls and all this kind of stuff; and there would also be no amendments allowed at that time for us to at least address some of the issues of this bill that begins cutting Medicare by $500 billion, increases taxes by $500 billion on January 1, and in 4 years begins spending $2.5 trillion? Is this a process the American people are reacting to in a negative fashion, obviously, by polling data?

By the way, I ask unanimous consent that the Wall Street Journal article entitled ''Democrats' Blues Grow Deeper in New Poll'' and ''Support for Health Overhaul Wanes'' be printed in the RECORD.

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

[From the Wall Street Journal, Dec. 17, 2009]

DEMOCRATS' BLUES GROW DEEPER IN NEW POLL

(By Peter Wallsten)

WASHINGTON.—Less than a year after Inauguration Day, support for the Democratic Party continues to slump, amid a difficult economy and a wave of public discontent, according to a new Wall Street Journal/NBC News poll.

The findings underscored how dramatically the political landscape has changed during the Obama administration's first year. In January, despite the recession and financial crisis, voters expressed optimism about the future, the new president enjoyed soaring approval ratings, and congressional leaders promised to swiftly pass his ambitious agenda.

In December's survey, for the first time, less than half of Americans approved of the job President Barack Obama was doing, marking a steeper first-year fall for this president than his recent predecessors.

Also for the first time this year, the electorate was split when asked which party it wanted to see in charge after the 2010 elections. For months, a clear plurality favored Democratic control.

The survey suggests that public discontent with Mr. Obama and his party is being driven by an unusually grim view of the country's status and future prospects.

A majority of Americans believe the U.S. is in decline. And a plurality now say the U.S. will be surpassed by China in 20 years as the top power.

Democrats' problems seem in part linked to their ambitious health-care plan, billed as the signature achievement of Mr. Obama's first year. Now, for the first time, more people said they would prefer Congress did nothing on health care than who wanted to see the overhaul enacted.

''For Democrats, the red flags are flying at full mast,'' said Democratic pollster Peter Hart, who conducted the survey with Republican pollster Bill McInturff. ''What we don't know for certain is: Have we reached a bottoming-out point?''

The biggest worry for Democrats is that the findings could set the stage for gains by Republican candidates in next year's elections. Support from independents for the president and his party continues to dwindle. In addition, voters intending to back Republicans expressed far more interest in the 2010 races than those planning to vote for Democrats, illustrating how disappointment on the left over attempts by party leaders to compromise on health care and other issues is damping enthusiasm among core party voters.

But public displeasure with Democrats wasn't translating directly into warmth for Republicans. Twenty-eight percent of voters expressed positive feelings about the GOP—a number that has remained constant through the Democrats' decline over the summer and fall. Only 5% said their feelings toward the Republicans were ''very positive.''

And in one arena, Afghanistan, Mr. Obama appeared to have some success in winning support for his planned troop surge. Liberals remain largely opposed to the strategy, but in fewer numbers compared with before Mr. Obama made his case in a speech at West Point. Overall, by 44% to 41%, a plurality believe his strategy is the right approach.

Still, the survey paints a decidedly gloomy picture for Democrats, who appear to be bearing the brunt of public unease as unemployment has risen from 7.6% to 10% since Mr. Obama took office. Just 35% of voters said they felt positively about the Democratic Party, a 14-point slide since February. Ten percent felt ''very positive.''

''Overall, it's just a depressing time right now,'' said Mike Ashmore, 23 years old, of Lansdale, Pa., an independent who supported Mr. Obama last year but now complained about the president's lack of action on jobs.

Julie Edwards, 52, an aircraft technician for Boeing Co. in Mesa, Ariz., said she voted Democratic in the past two elections but wasn't sure how she would vote next time. She wondered why Wall Street firms were bailed out when average Americans needed help. ''We can bail out Wall Street, but everybody else has to suffer in spades for it,'' she said.

Democratic leaders, while bracing for losses next year, have argued that unlike the 1994 elections, in which Republicans gained 54 seats and took the House majority, Democrats would survive 2010 in part because they are taking steps to avoid that possibility. Republicans must gain 41 seats to take control.

House Speaker Nancy Pelosi said Wednesday that Democrats ''fully intend to be in the majority'' after November 2010, and she was now shifting to ''campaign mode'' to help candidates. Party officials are leaning on a number of longtime colleagues to fight for their seats rather than retire.

The Journal/NBC survey found Ms. Pelosi's presence on the campaign trail could do more harm than good. Fifty-two percent said they would be less likely to vote for a candidate who agreed with the speaker almost all the time, compared with 42% who felt that way about candidates siding with Republican leaders.

For Mr. Obama, who has relied on his personal popularity to retain the clout he needs to enact his legislative agenda, the survey pointed to troubling signs.

A majority for the first time disapproved of his handling of the economy. And the public's personal affection for the president, a consistent strong suit, has begun to fray. Fifty percent now feel positive about him, six points lower than in October and an 18-point drop since his early weeks in office.

Democrats' troubles can be attributed in part to changing feelings among some core supporters. A third of voters 34 and under, a group that turned out heavily for Democrats last year, feel negative toward the Democratic Party. And just 38% of Hispanics feel positive, down sharply from 60% in February.

The survey, which was conducted Dec. 11–14, has a margin of error of 3.1 percentage points.

[From the Wall Street Journal, Dec. 17, 2009]

SUPPORT FOR HEALTH OVERHAUL WANES

(By Janet Adamy)

The public is turning against an overhaul of the health-care system, complicating Democrats' effort to pass a sweeping bill in the Senate.

More Americans now believe it is better to keep the current health system than to pass President Barack Obama's plan, according to a new Wall Street Journal/NBC News poll. The findings mark a shift from the fall, when the overhaul enjoyed a slight edge over the status quo. They could make it more difficult to get wavering lawmakers on board as the Senate prepares to vote on the measure as soon as next week. Some Democrats expect support will rebound if they can pass a bill quickly and start selling it.

According to the poll, 44% of Americans said it is better to pass no plan at all, compared with 41% of Americans who said it's better to pass the plan. In early October, 45% of respondents preferred passing a bill, while 39% preferred passing no bill. Uninsured people were among those who have grown less supportive of the plan.

In seeking support for his top domestic priority, Mr. Obama has said the status quo wasn't acceptable because insurance premiums were rising sharply and government insurance programs were headed toward insolvency. Republicans have argued that many Americans could be worse off, particularly the elderly, because the legislation contained hundreds of billions of dollars in cuts to health-care providers through Medicare. The legislation would extend health-insurance coverage to at least 30 million more Americans by widening the Medicaid federal-state insurance program for the poor and providing subsidies to lower earners to help them buy coverage.

The idea of creating a government-run health-insurance option still enjoys considerable support. Democrats dropped the idea from the Senate version of the health bill. When asked what they thought of removing the public option, 45% of respondents said that wasn't acceptable, while 42% called it acceptable.

Respondents also favored letting people buy into Medicare starting at age 55, another idea Democrats abandoned to win the support of centrists needed to pass the bill in the Senate.

Democrats ''clearly have irritated their own base in a way that has dropped their enthusiasm for their own plan,'' said Bill McInturff, a Republican pollster who conducted the Wall Street Journal/NBC News poll with Democratic pollster Peter Hart.

In September, 81% of liberal Democrats thought the health plan was a good idea, and 6% thought it was a bad idea. In the most recent survey, 66% of liberal Democrats called it a good idea, while 13% called it a bad idea. House Speaker Nancy Pelosi suggested the decline in support for the health legislation was due to ''mischaracterization'' by opponents. She predicted views would turn around when the House and Senate coalesced around a single bill and the president began selling it to the public. ''It's very hard to merchandise health care until you have a bill,'' she said.

Mr. MCCONNELL. Madam President, I say to my friend from Arizona, with reference to the issue of the process, it

has been a bit of a charade—in fact, a whole charade. We have been out here for 2 weeks on the amendment process. We have had 21 votes, many of them have been side-by-sides, in order to cover the majority against the potential downside of voting to cut Medicare and voting to raise taxes.

But there is no serious effort to engage in any kind of genuine amendment process, such as the Senator from Arizona and I have been involved in here for quite a while. Then the bill, which we are actually only allowed to have about two votes a day on, is not the real bill. The real bill—we know the core of it, but there are a lot of things around the edges being slipped in and slipped out, and they want to jam the public before Christmas, as the Senator from Arizona indicated.

How arrogant is that? They think: We know better than you, we know better than the Republicans, and we know better than the public. Why don't all of you—the Republicans and the public—sit down and shut up and leave it to us and we will take care of it before Christmas.

Mr. ALEXANDER. I say to the Republican leader and the Senator from Kentucky, I believe there is another bit of history being made. This process is historic in its arrogance. This isn't very hard to understand. The proposal is to take 17 percent of our economy, affecting 300 million Americans, and nothing could be more personal, as the Republican leader has said, than our health care.

But now we don't have the bill. We do not have the bill. It is being written in secret in another room. If there is any part of this debate that went through to every single household in America, I believe it was when the Finance Committee voted down a motion—the Democrats voted down a motion that the bill should be on the Web for 72 hours so that the American people could see the text, know what it costs, and know how it affects them.

Eight Democratic Senators wrote the Democratic leader and said they want to insist that they know what the text is, and that they have the official score from the Congressional Budget Office, and that they have it for 72 hours before we move to vote.

We don't have the bill. We don't have the official score from the CBO. Seventy-two hours is three more days, and even though eight Democratic Senators and all the Republican Senators said we want to know what it costs, know what it is, and how it affects us, they want to run it through before Christmas.

Mr. MCCAIN. May I mention to my colleague that maybe the reason why they don't want it to be online for 72 hours is because when they examined what we have—on page 324 in this bill is an $8 billion tax on individuals who have nongovernment approved plans. On page 348 is a $28 billion tax on businesses that cannot afford to offer insurance to their employees. On page 1979: Raises an almost $150 billion tax on many middle-class workers using so-called Cadillac health insurance plans. Page 1997: Will cost families and individuals an additional $5 billion by prohibiting the use of savings set aside for health care expenses through health savings accounts. Page 2010: Will make the cost of lifesaving medicine more expensive by taxing pharmaceutical research firms an additional $22 billion. The list goes on and on, including on page 2040: Increasing Medicare payroll taxes by $53.8 billion.

That may be a reason why it is going to be difficult for them to win passage of this after 72 hours of examining this bill.

Mr. MCCONNELL. It makes this bill, in addition to all of the other problems, a job killer. With unemployment at 10 percent, there is a big tax increase on a variety of different Americans, as Senator MCCAIN pointed out, in addition to all of its other problems—substantive problems, process problems. It is a job killer in the middle of a very difficult recession.

Mr. COBURN. I say to my colleagues that one of the things President Obama said he wanted to have was transparency. There has been no transparency in the process. That is why at least if there is not going to be transparency in the process, we ought to at least have it transparent to the American people for 72 hours. This is a quote from the chairman of the Finance Committee:

> I think it is impossible to certify that any Senator will fully understand.

We are going to have a 2,000-plus page bill, and the chairman of the Finance Committee says he thinks it is going to be impossible to certify that any Senator will fully understand this bill. That is the best reason I know not to pass this bill, because if we don't understand it, you can bet the American people aren't going to understand it.

Mr. MCCAIN. When more Americans begin to understand it, they don't want it. That is thanks to the efforts made all over this country to educate the American people about what the impact of the bill will be.

Mr. BARRASSO. Following along what the Senators are saying, that is why the support of the American people for the bill is at an all-time low. It is at the lowest level of support ever. According to this NBC poll, fewer than one out of three Americans support this bill. They don't know all that is in it, but they don't like what they see so far, because they believe, in overwhelming numbers, that the cost of their own care will go up, that this will add to the deficit, it will hurt the economy, and their health care would actually be better if we pass nothing.

So why would the American people support a bill that is going to cost them more personally and when their health care will get worse? That is not the value the American people have ever wanted.

That is what I hear from patients at home, and it is what I hear on telephone town meetings. That is what we are hearing in all of our States. This is what the American people continue to say: Do not pass this bill.

As our leader said, we do need health care reform, and Dr. COBURN certainly knows that. But it is not this reform that we need.

Mr. ALEXANDER. We come to the floor every day and point out the problems with the bill. We don't have a bill now, we can't read it, and we don't know how much it costs or how much it affects the American people. It raises taxes and premiums. It will increase the debt, because it doesn't include things such as the physicians Medicare reimbursement. It cuts Medicare by $1 trillion over 10 years once it is fully implemented.

We point out what we think should be done. My colleagues have talked about it many times. Instead of wheeling in another 2,000-page bill, we should focus on the goal of reducing costs, and we should take several steps toward doing that. The Senator from Arizona talks about one of those things, which is reducing the number of junk lawsuits against doctors. I don't think that is in the bill, unless it is secretly being added in the back room today.

Mr. MCCAIN. Well, I don't think that is being added today. Again, I also point out that Americans are now against passage of this legislation. But in that polling data, it is very interesting, also, the majority of seniors, by much larger numbers—the actual beneficiaries of Medicare—are turning against it, and the intensity of Americans against it—which is harder to gauge in a poll—is incredible.

If the responses that our efforts are getting are anything close to indicative of the mood of the American people, and the intensity of it, it is probably as great as I have ever seen in the years that I have had the privilege of serving in the Congress of the United States.

This polling data says more Americans now believe it is better to keep the current health system than to pass President Obama's plan. That is a message being sent, and the intensity is higher than any I have ever observed in my years of service. I thank them for that.

There is a chance that we can stop this, and we start in January. We would be willing to come back and sit down and negotiate, with the C–SPAN cameras on—as the President said or committed he would do as a candidate. We would sit down together here, at the White House, or anywhere, and we can fix this system that we all know needs fixing.

As the Senator from Oklahoma said, it is the cost that has to be addressed, not the quality.

Mr. COBURN. I want to bring up an example. We are going to see this time and time again if the bill goes through. We had the U.S. Preventive Health Task Force put out a recommendation on breast cancer screening through

mammography on the basis of cost. They said it is not cost effective to screen women under 50 with mammograms, because you have to screen 1,900 before you find 1 breast cancer. On cost, they are right; but over 50, you have to screen 1,470.

So what we had was a decision made on cost, not on quality, not on patients, but based on cost. We fixed that as part of an amendment to this bill. We actually fixed that. There are three different agencies within this bill that are going to do the same thing. Every time they make a ruling based on cost, not on clinical outcomes and what is best for patients, are we going to fix it? No. We are transferring the care of the American patient to three bureaucracies within the Federal Government, and they are going to decide what you have to do. If you think about it, this week the wife of a Member of this body was diagnosed with breast cancer. She was diagnosed through a mammogram. Under that task force's recommendation, she would not have gotten that mammogram.

Mr. MCCAIN. I ask the Senator from Oklahoma, would that aspect of this bill come to light if it hadn't been for the recommendation that was made by another similarly acting policymaking body? In other words, that is what triggered the investigation of what was in this bill, which would have had exactly the same effect. So if we hadn't had that information of a recommendation by another government policymaking bureaucracy, we would not have known about this until the bill would have taken effect.

Mr. COBURN. So there is no transparency. What we do know is that we are going to have three organizations, the Medicare Advisory Commission, the Cost Comparative Effectiveness Panel, and the U.S. Preventive Health Task Force that will tell everybody in America what they are going to receive.

Mr. MCCAIN. This example wouldn't have been known if it hadn't been for the actions of the bureaucracy. Doesn't that bring into question what else is buried in this 2,000-page piece of legislation?

Mr. COBURN. What are the unintended consequences of this that they don't know? What we do know is there are 70 new Government programs that will require over 20,000 new Federal employees, and there are 1,690 different times when the Secretary of HHS will write rules and regulations about your health care in America—the Secretary, not your doctor; your doctor isn't going to write the regulations. The Secretary of HHS is going to write the rules.

Mr. MCCAIN. Let me point out again that we don't know what the CBO estimate is, because we know the majority leader keeps bouncing proposals back and forth to CBO. That is why we haven't had CBO information now for many days. But there is the Commission for Medicare and Medicaid, which clearly points out that this legislation would increase taxes dramatically, increase costs dramatically, decrease care, and it would have the effect of forcing people not only out of the system, but even if they are in the Medicare system, they would not have physicians to provide the care, because more and more physicians would fail to treat Medicare patients.

Mr. COBURN. So we go back to the 72 hours. We are going to get a new bill, but we will not have the opportunity to amend it. We are not going to be able to read it and study it, nor are the American people. What do you think the outcome of that will be?

Mr. MCCAIN. I think we know what the outcome will be. We will either be able to reflect the feelings and intense feelings of the majority of the American people about this legislation and say let's go back to square one and all commit to a bipartisan approach to this issue or we will see jammed through on Christmas Eve legislation that will have the most far-reaching effects and devastating effects, I think, not only on our ability to provide much-needed medical care to all of our citizens, but also an impact that would be devastating on the debt and deficit, upon which we have laid an unconscionable burden already.

We have two choices—to go back to the beginning and enact many reforms we can agree on—and there are many we could agree on immediately on a bipartisan basis; as the Senator from Tennessee pointed out, there has never been a fundamental reform made in modern history that was not bipartisan—or we are going to see jammed through, over the objections of a majority of Americans, legislation that they have never seen, read, or understand.

That is the choice we have. That is what it is boiling down to. I think that, frankly, the American people should be heard, not a majority over on the other side.

Mr. BARRASSO. The American people are saying: Don't cut my Medicare, don't raise my taxes, don't make things worse than they are right now, and this bill cuts Medicare, raises taxes, and for people depending on a health care system in this country this makes things worse.

Mr. MCCAIN. By the way, could I mention, if you live long enough, all things can happen. I now find myself in complete agreement with Dr. Howard Dean, who says we should stop this bill in its tracks; we should go back to the beginning and have an overall bipartisan agreement. Dr. Dean, I am with you.

The PRESIDING OFFICER (Mr. BENNET). The Senator's time has expired.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may speak up to 20 minutes.

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

Mr. SPECTER. Mr. President, I have sought recognition to comment about the Patient Protection and Affordable Care Act. It has been an extraordinary legislative process with a good bit of the calendar year 2009 taken up with very intensive work to try to pass health care reform. At the moment, there is still some doubt as to what will happen with the bill. The Congressional Budget Office has not yet submitted a report on the so-called managers' package.

There are still some concerns being expressed by some Senators. I can understand the frustration that some have had as we have moved away from a public option. I have been an advocate of a robust public option and think it ought to be part of the legislation.

The public option is what it says. It is an option. There have been efforts made to demagog the issue by saying it is a takeover by the Federal Government. It is not. The private insurance industry remains in the field, and this is one option.

As President Obama has put it, it is an option to try to keep the private insurance companies honest. We have seen, in the past several months, very large increases in premiums for small business. The reports have been that those increases in premiums have come from Wall Street pressure on the insurance companies to try to increase their profits before there is legislation. The public option would be a forceful factor dealing there.

When the objections were raised to the public option and in an effort to find 60 votes—it is difficult when you have no help at all from the Republican side of the aisle, illustrated by the performance just put on with their prepared colloquy—it is not easy to find everyone in agreement. Then there was an effort to move to expand Medicare. I think that is a fallback position that would have been very helpful.

There are some who are contending that people who are disappointed with the lack of a public option and disappointed from the retreat of expanding Medicare say we ought to start over and begin again. I can understand that frustration.

My own view, after thinking it through very carefully, is we ought to proceed and do as much as we can this year, realizing that some of the tough legislative achievements take a period of time to accomplish. But the Civil Rights Act of 1957 was necessary, although it did not go as far as people would have liked then, to get the Civil Rights Act of 1964. Again, it did not go as far as people would have liked, but we did find the Voting Rights Act of 1965. We have to find times when we have to build incrementally on these matters.

I have been in the Senate following the elections of 1980, and I have seen matters take a very substantial period of time. While it is not on the subject, we were trying to provide more than 100,000 jobs in Pennsylvania by deepening the channel. The authorization

came in 1983. It took until 1992 to get the Corps of Engineers to agree on funding. Now it has $77 million. We are still in court, but it is going to move forward. I do not expect health care legislation to take that kind of a long term, but it is a matter which does take some time.

It is my hope we will yet improve this bill. It is my hope that when the bill goes to conference, we will find a way, perhaps, even to bring back the public option in a refined sense. The public option is in the House bill.

One Republican Senator has stated opposition on the ground that there has not been time enough to review the bill. It is complicated. I think there has been time enough to review the bill. But I respect the view of the Senator on the other side of the aisle. When the bill goes to conference, that Senator will have an opportunity to review the bill further. That Senator has shown some inclination to support the bill, having voted it out of the Finance Committee.

Another Republican Senator has commented that the bill has been very greatly improved, not sufficiently for the taste of that Senator, but perhaps we will find a way to improve the bill. We still do have a bicameral legislature. We do have the House of Representatives which has the public option.

Comments were made about the fall of the expansion of Medicare on the ground it was considered in too brief a period of time, not enough time to digest it, not enough time to think through. We will have, in the month of January, some time to consider that further, and in conference we may well find we are able to improve the bill. We cannot get to conference unless we pass the bill out of the Senate.

I was asked yesterday how will I respond to my constituents if we have the bill which has had so much taken from it. I said: A more relevant question or an equally relevant question is how will I respond to my 12 million constituents in Pennsylvania if we go home with nothing. If we have 80 percent accomplished, then that is a starting achievement.

It may well be it will take the campaign in 2010. If this Congress will not pass a bill with a robust public option, it could well be a campaign issue.

I believe my colleagues on the other side of the aisle may well be misreading the American people. I believe the American people do want health reform. It does take time for the American people to understand the ramifications of it. But this may well be a campaign issue in 2010. The 112th Congress may have a different view as to how we ought to proceed.

During the month of August, when I was making the rounds of town meetings in Pennsylvania, in accordance with my habit to cover almost every county almost every year, when I got to the first town meeting, the second Tuesday in August, the first week we were in recess, I found instead of the customary 85 or 100 people, more than 1,000 people and 3 national television sound trucks—CNN, MSNBC, and FOX. There were a lot of vituperative statements. One man approached me apoplectic and said the Lord was going to stand before me. I think he got mixed up. I think he meant to say I was going to stand before the Lord. Senators are reputed to have power but not quite that much power. I think the public tenor is considerably more favorable to health care insurance today than it was then. After the 2010 election, it may be substantially more favorable.

We have to move ahead with building blocks, and we do have a chance to improve the bill in conference.

I point to the provisions of the bill as to what we have. We have very significant insurance reforms. We have eliminating discrimination based on preexisting conditions. We have new health insurance exchanges. We have an elimination of a cap. We cover many of the uninsured, expanding to some 33 million additional people. We have substantial more small business assistance, preventive care, increased health workforce. We have improvements in the health delivery system. We have fiscal responsibility that this bill will not add to the deficit but will, in fact, reduce the deficit in the first decade by some $120 billion and in the second decade by some $650 billion.

We have a provision I have pressed in earlier legislation, S. 914, to provide for transformational medicine.

During my tenure as chairman of the Appropriations Subcommittee on Health and Human Services, I took the lead, with the concurrence of Senator HARKIN, who was then in the minority, to increase NIH funding from $12 billion to $30 billion and then in the stimulus package to add $10 billion more. There has been a gap on what we call transformational medicine, going from the so-called bench in the laboratory to the bedside. While I have not seen the final version of the managers' packet, I am informed that provision will be a part of the bill.

We have very important measures for preventive care, for annual exams, which will cut off many chronic illnesses which are so debilitating and so expensive.

I have pressed an amendment, which is pending, to have mandatory jail sentences for at least 6 months for someone convicted of $100,000 or more of Medicare or Medicaid fraud. Jail sentences are a real deterrent. The experience I had as Philadelphia's DA showed me that when you have a fine, that is added onto the cost of doing business and is passed on to the consumers.

I ask unanimous consent to have printed in the RECORD a statement of the provisions which I briefly summarized which are very favorable in this bill and a statement of testimony at a Criminal Justice Subcommittee to show the value of deterrence.

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

PROVISIONS IN THE PATIENT PROTECTION AND AFFORDABLE CARE ACT

GENERAL INSURANCE REFORMS

Insurance companies will be barred from discriminating based on pre-existing conditions, health status, and gender.

New health insurance Exchanges will make coverage affordable and accessible for individuals and small businesses.

UNINSURED

With a reported 47 million people without health insurance the status quo is not acceptable. Additionally, there are millions more Americans who are underinsured, with health insurance that is inadequate to cover their needs.

In 2007, 1,206,115 Pennsylvanians under age 65 were uninsured for the entire year, which is 11.3 percent of the under 65 population.

The analysis found that the legislation would extend coverage to 33 million more Americans, bringing the percentage of Americans with health insurance to 93%.

The bill covers 10% more Americans with only a 0.7 percent increase in spending—a change of only 0.1% of GDP in 2019.

SMALL BUSINESS ASSISTANCE

In the current health insurance market small business are at a distinct disadvantage in providing health insurance to their employees. In a recent study it was found that 58 percent of small employers do not offer health insurance, with nearly 50 percent stating that they can't afford it.

The Patient Protection and Affordable Care Act address health insurance problems facing small businesses by providing more health plan choices, fairness in the marketplace and improving affordability with tax credits.

PREVENTATIVE CARE

The Patient Protection and Affordable Care Act will eliminate co-pays and deductibles for recommended preventive care, provide individuals with the information they need to make healthy decisions, improve education on disease prevention and public health, and invest in a national prevention and public health strategy.

INCREASE HEALTH WORKFORCE

Currently, 65 million Americans live in communities where they cannot easily access a primary care provider, and an additional 16,500 practitioners are required to meet their needs. The Patient Protection and Affordable Care Act will address shortages in primary care and other areas of practice by making necessary investments in our nation's health care workforce.

IMPROVEMENTS IN THE HEALTH DELIVERY SYSTEM

The legislation we are considering will establish an Independent Medicare Advisory Board to present Congress with proposals to reduce cost growth and improve quality for Medicare beneficiaries. In years when Medicare costs are projected to be unsustainable, Board proposals will take effect unless an alternative is adopted by Congress. This type of reform is necessary to ensure the financial future of Medicare.

Preventable hospital readmissions diminish quality and efficiency in the health care system. Nearly 20 percent of Medicare patients who are discharged from the hospital are readmitted with 30 days. The Medicare Payment Advisory Commission (MedPAC) estimates that Medicare spent $12 billion on potentially preventable hospital readmissions in 2005, which would be more than $15 billion today.

The bill also begins the payment system reform of bundling Medicare provider payments as a lump sum fee—instead of paying a fee for each service—encourages care coordination and streamlining. It removes the incentive to generate additional services for added reimbursement.

FISCAL RESPONSIBILITY

The legislation is fully paid for and reduces the deficit in the next ten years and beyond.

The revenue provisions in the bill focus on paying for reform within the health care system.

THE COST OF INACTION

In 2000, family health insurance purchased through an employer cost $6,438 and consumed 13 percent of median family income. In 2008, the same family health insurance cost $12,680, a 97 percent increase over the 2000 cost, consuming approximately 21 percent of median family income. In 2016, the same insurance is projected to cost $24,291, nearly double the 2008 cost, which will consume 45 percent of projected median family income.

Let's kind of go back to (inaudible). Can you—each one of you, starting with Mr. Perkins, talk about kind of what's the—the impact of criminal prosecutions and prison time versus civil actions and fines.

KEVIN PERKINS, Assistant Director, FBI: Yes, Senator. The—it's really a combination of both. We, obviously, are very successful in the health care fraud side, where we have civil remedies that we utilize each day in our investigations there. But again, I'm a—I'm a very strong proponent of criminal prosecutions that involve serious jail sentences for white-collar criminals. That is a huge deterrent.

I've seen it over the years, and I—I know—I know that, from my own personal experience, going and interviewing individuals who are—who—white-collar criminals who have been—or are doing jail time, going and talking to them on various occasions—it's—it's a huge deterrent. It's—it's something that we have to have, going forward, to make this work.

KAUFMAN: Mr. Khuzami.

ROBERT KHUZAMI, Director, Securities and Exchange Commissions Division of Enforcement: (Inaudible), yes, but there's—there's no deterrent that's a substitute for jail time. I miss the cooperation tools, and I—I miss the sentencing guidelines even more. But there is a very significant role for the civil regulators as well, simply because: Because of the standard of proof of beyond a reasonable doubt and the necessity of convincing 12 jurors of the—of the guilt of someone, the criminal authorities, by definition, cannot and should not capture the whole field of wrongdoing.

And so what you'll often see is criminal authorities focused on the core wrongdoers, and we may cast a wider net—because we have a lower standard of proof—cast a wider net amongst those involved in the wrongdoing as well. And in particular, there's lots of wrongdoing that goes on that doesn't rise to the level of criminal intent, all sorts of activity across regulated broker-dealers and investment advisors and others where, if you can at least make it unprofitable—so that they have to give back the money they wrongfully got, pay a penalty, perhaps suffer time out or lose their license—that, too, has a significant impact.

KAUFMAN: Mr. Breuer.

LANNY BREUER, Assistant Attorney General: Senator, obviously, as Rob (ph) says: A comprehensive approach is essential. Civil remedies are essential. But I've had many years in the private practice, and I've had many years when I represented individuals, and I can tell you, Senator: In a white-collar case—I've been in the conference room with my clients—there is nothing—there is nothing like an individual—who feels as if he or she has been sort of the center of their community, is well-respected and has had a comfortable life—realizing that they're facing jail time. The terror in their eyes is like nothing else, and there's simply no deterrent like it.

KAUFMAN: You know, I think I know the answer to this, but I think it'd be good to be on the record, and starting with you, Mr. Breuer. Why don't—why haven't we seen more, you know, board room prosecutions?

Mr. SPECTER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. SPECTER. I thank the Chair.

Mr. President, there is another very important aspect, in my opinion, of the Senate enacting legislation on this bill; that is, we were sent to Washington to govern. What we have seen in the recent past has been staggering partisan politics. Partisan politics became a blood sport in Washington, DC. It is a blood sport on the floor of the Senate. It pervades the entire town.

The point from the Republican side of the aisle has been very clear; that is, to make this President Obama's Waterloo, to make this ''break President Obama.''

I saw the ramifications when we took up the stimulus package earlier this year. There were only three Republicans—Senator SNOWE, Senator COLLINS, and myself—who would even talk to the Democrats. There was a determination to look ahead to the 2012 elections on the Presidency even before the ink was dry on the oath of office taken by President Obama on January 20. This was the second week of February, the week of February 6, as I recall, just a couple weeks, and already the plans were for the next election.

As I reviewed the matter, it seemed to me we were on the brink of going into a 1929 Depression. The 1929 Depression was very hard on the Specter family, living in Wichita, KS, at the time. Both of my parents were immigrants. In the mid-1930s, the family moved from Wichita to Philadelphia to live with my father's sister. That is what happened in the Depression—you moved in with relatives because there were no jobs.

I sided with supporting the stimulus package and played a key role in having that enacted. And the political consequences on a personal level are not something to be discussed on this floor at this time, but the conduct of partisanship on the stimulus package is directly relevant to what we are doing here today, and that is that we are being stonewalled.

I think it is harder for a Republican to stand up on health care reform and join the Democrats today than it was in January and in February when three of us did so. And if I were on the other side of the aisle today, I would be supporting health care reform. I would be supporting, and perhaps, if I were on the other side of the aisle today, I could bring somebody with me. I don't know. That is entirely speculative.

Without revealing any more of the confidence which went on inside of the Republican caucus, when I talk about a Republican Senator's statement that this should be the Waterloo of President Obama and this should break him, those are matters in the public record. But the pressure over there in the Republican caucus is absolutely intense, and we were sent here to govern.

In the Democratic caucus—and the Presiding Officer, the distinguished Senator from Colorado, was there on Monday evening—when my turn came to speak, I said: I have two sentences. And may the record show a smile on the face of the Presiding Officer. I said: I have two sentences. One sentence is, the bill is a great deal better than the current system, and the second sentence is, we should not let obstructionism prevent us from governing. And that is why I crossed the aisle to make the 60th vote. I was very surprised to see in the public record—been in the newspapers—that everybody stood up and applauded, and I read in one of the Hill newspapers today that you could hear the applause down the corridor. So they knew what was going on. Well, that is the role, it seems to me, of a Senator. We are facing a situation where, if defeated, it will have a significant impact on the tenure of President Obama.

We had a meeting on Tuesday—2 days ago—in the Executive Office Building, and it was a rather remarkable setting. There was a large rectangular table, and in the center on each side—one side was President Obama, the other side was Vice President BIDEN, and almost all of the 60 Senators were present. I think Senator BYRD couldn't be there because of his ailment, but I believe everybody else was present. During the course of that session, the President expressed himself—and this has also been publicized—that if action was not taken now, it would discourage anyone from the foreseeable future—any President—from undertaking health care reform if now, with both Houses and 60 Members of the Democratic Party, you can't get it through the Senate and get it conferenced and get it enacted.

Some of those who were most vocal in favor of the public option urged those in the caucus who disagreed to reconsider their position, and I would renew that request that they reconsider their position. The people who would classify themselves as most progressive in the Democratic caucus have swallowed hard and have announced publicly that they would support this bill even though it doesn't have a robust public option, doesn't have the Medicare expansion. And that may shift yet.

It is fair and accurate to say there are more pressing problems confronting the United States today than at any time in our history, and we have

to finish health care next year to move ahead to jobs. We have the issues of global warming and climate control, and we have the problems with the Mideast peace process and the difficulties in Iran and North Korea and Afghanistan. We need a strong President, and we need a Congress which has the courage to act and the tenacity and willingness to confront tough problems. We need to show the American people that it is not all gridlock here, that it is not all desperate, desolate partisan politics.

So my vote will be in favor of the bill. Although I am, frankly, disappointed and I share the frustration expressed by many people who say go back and start again, this is a significant step forward. We have a great chance to improve it in conference, and beyond that there will be another Congress. And with the analogy of civil rights legislation, we can get the public option and get greater public involvement for the benefit of the American people.

I thank the Chair, and I yield the floor.

Mr. President, in the absence of any other Senator seeking recognition, I ask unanimous consent to speak up to 3 minutes on another subject.

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

AMERICANS HELD BY IRAN

Mr. SPECTER. Mr. President, there has been wide publicity given to three young Americans who were taken into custody by Iran and the recent reports that they are going to be tried in an Iranian court. Senator CASEY and I, in the Senate, introduced a resolution urging the Iranians to release those three young Americans—Congresswoman ALLYSON SCHWARTZ, on the House side, did so in the past—and it is my hope Iran will change its view.

I was talking to the Syrian Ambassador yesterday, who advised me that when the five British citizens were taken into custody by Iran, the Government of Great Britain made a request of the Syrian Government to use their good offices to secure the release of the five British citizens. That request was made via Syria, and they were released.

I have written to and contacted the State Department since that meeting yesterday afternoon to find out what is the status of U.S. activity because if we have not asked the Syrians for help, my view is that we should. It would be my hope that with the very difficult problems facing the United States in Iran, that Iran would relinquish the custody of those three young Americans and release them to their family and friends, especially at this time of the year.

I have been an advocate of dialog with Iran for years. I have tried to go to Iran since 1989, when the Iran-Iraq war ended. Senator SHELBY and I got to Iraq and met Saddam Hussein, but as yet we have not had an interparliamentary exchange, which I have sought for a long time with the Iranians.

It would be my hope that Iran, for humanitarian reasons, would release these people and that we would exercise our best efforts—the U.S. Government working through Syria or whatever other channel we can find—to secure their release.

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

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

Mr. DURBIN. Mr. President, before the Senate now is an issue of funding our military, the Department of Defense appropriations bill. This is a bill that is critically important because it provides the funding our men and women in uniform now risking their lives while we meet in the safety of our businesses and offices and homes in America, it funds their needs to make sure they will be safe to perform their missions effectively and come home. Without fail, every year this bill comes before the Senate and is a consensus bipartisan bill.

Regardless of our debates over foreign policy, we all want the men and women in uniform to know we stand behind them. As a consequence, this bill usually passes with an overwhelming number. I asked how this bill fared in the House of Representatives when it was considered yesterday. The vote was 395 to 34. There were 164 Republicans who voted yes on this bill. It was clearly an overwhelmingly positive bipartisan vote. There is no reason it would not be the same in the Senate.

But there is a problem. The problem is this: Tomorrow the funding for our troops runs out. It is the end of our continuing resolution in funding. We are not going to leave them high and dry, but we are going to leave them uncertain if we don't act decisively and quickly. Why would we do this to them?

Military families across America, as we go into the holiday season, I am sure, are saddened by the absence of their loved ones who may be in Iraq or Afghanistan, saddened by a separation from children and other loved ones they would like to avoid in their lifetime but they have offered it up for this great country. With this kind of uncertainty and sadness and emotion, why would we be uncertain when it comes to funding our troops?

Here is where we are: We offered this yesterday. We said: Let's vote for it. Let's vote for our troops and get this behind us so the Department of Defense appropriations bill was clear.

The other side of the aisle said: No. We want you to go through all of the hurdles that you have to go through under the procedures of the Senate for the most controversial bills. We want you to file a cloture motion which would put an end to a filibuster. We want you to fill the tree with amendments so that this bill isn't assaulted.

Believe me, the terminology would lose most people, including many Senators, but the bottom line is this: Instead of just doing what we know needs to be done and what should be done, Republicans have insisted we delay this process for at least 2 days.

Why? Why would we want to delay funding our troops in the middle of a war? Why would we want to say to our troops that the military pay raise they were counting on so their families can get by back home, and for those stationed in the United States, make sure that they have what they need, why would we say to them that we are going to raise a question as to whether we are going to put $29.2 billion into the defense health program, the health program for our military members and their families?

Why would the Republicans insist on delaying a vote for $472 million for family advocacy programs for military families who are separated, many of whom are going through extraordinary stress because of the separation? Why would they want to delay a pay raise for the military? Why would they want to delay $154 billion for equipment and training for our military?

I don't understand it. It would seem to me that we ought to come together by noon today and say: Let's do this. Let's not waste another minute in terms of helping our troops and showing them we stand behind them. But, no, the decision has been made on the other side of the aisle that we are going to delay this matter until tomorrow.

They say in politics, for every decision there is a real reason and a good reason. There may be some good reason they are giving on the other side of the aisle for delaying funding our troops, but the real reason is their hope that they can stop health care reform in the Senate. That is what is behind this. The lengths to which those on the other side of the aisle will go was demonstrated yesterday.

We had a defining moment when the leadership on the Senate Republican side insisted, through Senator COBURN of Oklahoma, that an 800-page amendment be read by the clerk. It is the right of a Senator to ask for that. It is an archaic right because people don't sit here hanging on every word to understand an amendment. That never happens. It didn't happen yesterday. But the clerk started reading.

Almost 2 hours into it, it was pretty clear that it would take 10 hours to finish this 800-page amendment, despite the best efforts of the clerk's office. Why did the Senate Republican leadership want to take 10 hours out of a day for something that was meaningless—the reading, word by word, line by line, page by page, of an 800-page amendment? To stop debate on health care reform.

During that period, no one could debate it. No one could amend it. The Republicans have conceded that they are finished with the debate and amendment phase of health care reform. They have decided now that the only thing they could possibly do is to delay everything the Senate can consider in the hopes that maybe we get tangled up with our desire personally to be home with our families during the holidays and would not do our duty here.

They are wrong. We are determined to do this. We are determined because health care reform for this country is so absolutely essential. The Presiding Officer has an awesome assignment, succeeding the late Senator Ted Kennedy whom he counted as a close friend and served as a member of his staff.

In our cloakroom is a cover of Time magazine where Senator Kennedy is looking out with that smile on his face saying: We are almost there. It was an article he wrote before he died about health care reform. He, more than any person in the Senate, had the authority to speak to it. Senator KIRK told us in a meeting of our caucus the other day that it was 40 years ago when Senator Kennedy took to the floor as a young man and talked about the priority of health care reform. Forty years, when you think about it, 40 years of waiting for this moment to vote on health care reform. If he were here today—and I wish to God he were—he would be back there at that desk—that was Kennedy's spot—thundering in this Senate Chamber about this historic opportunity and how if it costs us Christmas Eve or costs us Christmas Day or even more, we cannot let down the people of this country.

I see the polls. This complicated issue of health care reform has a lot of people confused and even worried. They have heard some of the wild charges on the other side. At one point they were arguing about death panels; that ultimately the government was going to decide whether people would live or die. That was one of the cruelest distortions in this debate.

The actual issue was raised by Senator JOHNNY ISAKSON, who is a Republican of Georgia, whom I thought raised a serious and important consideration and one that all of us, though we might not want to, should reflect on. He said every person under Medicare ought to have a compensated, paid-for visit to a doctor if they want, voluntarily, to talk about end-of-life treatment. There is hardly a family in America who doesn't contemplate that possibility, doesn't have a husband say to a wife: Honey, I don't want any of that extraordinary stuff. Don't keep me on life support.

What Senator ISAKSON wanted to do was to give Medicare patients an opportunity to sit down with a doctor and say: What instruction should I leave? If this is what I believe, whom should I tell? That was a humane, thoughtful amendment. But the critics of health care reform twisted and distorted it into a death panel that was going to tell Grannie: We are going to pull the plug.

Sad. It was sad, when Senator ISAKSON offered such a good-faith amendment, to have it distorted. It is no wonder if the critics of health care reform would go to those extremes to try to defeat this bill, why other extreme things have been said about it. If you listened on the floor of the Senate over the last several weeks while we have debated health care reform and listened to the speeches from the other side of the aisle, you would believe that this bill is going to destroy Medicare. Many Republican Senators who historically did not support Medicare and wanted to privatize Medicare are now its most fervent champions. You might question their sincerity. We don't do that in the Senate because we don't question motives of people. But I will question their accuracy.

This bill, which is over 2,000 pages, knows the future of Medicare is important to all of us. If we do nothing today, Medicare will go broke in 8 years. We would not be bringing in enough money from payroll taxes to pay the Medicare services we promised in 8 years. That is a fact. But this bill is going to change it. This bill will add 10 years of solvency to Medicare. I wish it were more, but it is a step in the right direction to say to those receiving Medicare and those about to go into Medicare: This important program will be there when you need it; 10 years of added solvency in Medicare; Medicare on sound financial footing for 10 more years because of this bill.

There is something else it does. At the end of our conference between the House and Senate on health care reform, we are going to take care of a problem in Medicare. It is a serious problem. When we passed the Medicare prescription drug program, there wasn't enough money to fund it. They created this strange situation where if you were seriously ill under Medicare and receiving medication, this Medicare Part D plan would pay for prescription drugs up to a certain limit and then stop.

In the midst of a new calendar year, some could find several months into that year that Medicare Part D was not paying for any more prescription drugs. You would be responsible personally to pay for them. After you had paid a certain amount of money, the Part D coverage would kick in again. It was known euphemistically as the doughnut hole, that gap in coverage in Medicare Part D. When this is over, this health care reform is going to fill that gap, close that doughnut hole, give to 45 million Americans under Medicare the peace of mind of knowing that their prescription drugs will be paid for and they will not find themselves exhausting savings or going without it when it comes to basic medication.

That is why this bill is important. That is why some of the things that have been said in the debate are so misleading.

There is something else this bill does which we ought to take pride in as Senators. Most civilized and developed countries in the world have a health care system that protects their people. We are the only developed country on Earth where a person can die because they don't have health insurance. We are the only one.

You might say: Senator DURBIN, aren't you getting a little carried away? Well, 45,000 people a year do. Let me give you an illustration: What if you had a $5,000 copay on your health insurance and you didn't have $5,000 and the doctor says: I am a little bit worried about some of the things you tell me, Senator. I think you need a colonoscopy.

That is something I can understand because my mother had colon cancer. I am very careful about this. I have a history in my family.

But if you had a policy that said the first $5,000 you have to pay for and went out and asked how much a colonoscopy cost, you would find in many places it is $3,000. There have been cases—a man from Illinois wrote me. He said: I didn't have the $3,000 so I skipped the colonoscopy.

Without health insurance, without coverage, without enough money to pay for that basic test, this individual is running the risk of developing a serious cancer that could claim his life or at least cost a fortune to take care of. That is what inadequate health insurance does to you. That is what no health insurance does to you.

At the end of the day, this bill will say, for the first time in the history of this great Nation, 94 percent of the people will have health insurance. Thirty million people today who have no health insurance will have it when it is over. Fifteen million will go into Medicaid because they are in low-income categories.

I met one of those people when I was back in my home State of Illinois. Her name is Judie. She works at a motel in Marion, IL. She is a hostess in the morning for their free continental breakfast—a sweet lady with a big smile on her face, in her early sixties.

She came up to me and said: Senator, I am not sure this health care reform is good for me.

I said: Judie, do you have health insurance?

She said: No, I've never had health insurance, and I'm a few years away from Medicare.

I said: If you don't mind telling me, how much money do you make?

She said: Well, they've cut our hours here at the motel because of the economy. I work about 30 hours a week now, and I make about $8 an hour. And she said: There isn't a person here you're looking at, working on this motel staff, who has health insurance.

I said: So does that mean your income each year is about $12,000?

She said: Well, I guess. It's the only job I have. I get by on it.

I cannot imagine how.

She said: I get by on it.

I checked into it, and I saw her the next morning before I checked out, and I said: Judie, under this bill we have, because you make less than $14,000 a year as an individual, you will qualify for Medicaid. For the first time in your life, you will have health insurance under an Illinois State Medicaid Program that you won't have to pay for because you are in a low-income category.

Well, she said: That's great because I have diabetes.

Think about that: age 60, no health insurance, low income, no doctor regularly available to her.

And she said: And I've had a few lumps I would like to get checked out too.

I thought: This poor lady. She is a classic illustration of what we are talking about in this bill. She is not lazy. She is a hard-working person. She gets up every day at the crack of dawn to be there to make sure people feel right at home at that motel, and she has no health insurance.

Ninety-four percent of the people in this country will have health insurance—people like Judie, who, for the first time in her life, will have health insurance. Is that worth something? Is it worth something in America for us to take pride in the fact that we are expanding the peace of mind which some of us take for granted of having health insurance coverage?

I think it is worth a lot. I think it is important for us and the critics to step up and acknowledge they have never come forward with a single proposal to deal with that issue—not one. We have never heard from the Republican side of the aisle how they would cover 94 percent of the people in America. They have never put together a comprehensive health insurance plan. They have never talked about submitting it to the Congressional Budget Office to make sure it does as promised, as we have.

They come to the floor with criticisms of what we are trying to do. It is their right as Senators to do that. But it is also our right to ask them the basic question: Does the fact that you do not have a Republican health care reform bill mean that you like the current system, that you do not want to change it? That is one conclusion.

The other conclusion is: This is hard work. Writing a bill that does this takes a lot of time and effort, and they have not put in that hard work. So they come emptyhanded to the floor with good speeches and good graphs and good press releases, but without good amendments to take care of the basic problems.

There is one other element in this health care reform bill too. How many times have you met somebody in your family or at work or through a friend who told you about a battle they had with a health insurance company when somebody got sick in their family? I have run into it a lot. A few years back, when I was a Congressman, in Springfield, they had a unique program where the Sangamon County State Medical Society would invite Members of Congress to accompany doctors on their rounds in a hospital.

The first time I was invited to do that, I called back and said: You've got to be wrong. You don't want me walking into a patient's room where you are talking about their private health situation.

They said: No, no, we ask permission. And it is interesting, people are bored in the hospital, and they are amused by politicians. So would you please come?

So I accompanied a doctor on his rounds. He was examining a nice lady in my hometown of Springfield, IL, who was suffering from vertigo, who had come to the hospital, and as a result of an x-ray, they discovered she had a tumor—a brain tumor—that needed to be removed. She lived by herself. She was falling down at home. He wanted to operate on her on Monday. This was a Friday. He wanted to keep her in the hospital because he was afraid if she went home she might fall, hurt herself, and he wanted her ready for surgery on Monday.

But before he could say to her: Be prepared to stay over the weekend, he had to call her health insurance company. I stood next to this doctor at the nurses station in St. John's Hospital in Springfield, IL, as this doctor was arguing with a clerk at a health insurance company somewhere in a distant location about why this woman needed to stay in the hospital, and the clerk was saying: No, we are not going to pay for it. Send her home. Bring her back on Monday for the surgery.

He said: I'm not going to do that.

The clerk said: Well, we're not paying for it.

He hung up the phone and turned to me and said: She's staying in the hospital. We'll fight this out later on.

Fight it out—those battles, those fights take place every day across America.

I have told the story on the floor here about a friend of mine—a great friend of mine—whom I have known since he was a young man. He is a baseball coach at Southern Illinois University. His name is Danny Callahan. Danny has been battling cancer for years. Danny is a young guy. He has a young family and a good wife, and he is a terrific guy from a great family. He has been battling cancer—chemo, radiation, even surgery, removing part of his jaw and trying to stop this advance of cancer.

His oncologist came up with a drug that is working. It is called Avastin. This drug is experimental. It works on some cancers. It is certified to work on them. But they found it works on others in an off-label application. The oncologist wrote to the health insurance company and said: This is working. We have stopped the spread of his cancer. We want to keep using this drug. And they said: No. It costs $12,000 a month, and we won't pay for it.

What is he going to do? You do not make a fortune as a baseball coach at Southern Illinois University. His family pitched in, borrowed some money to cover a month of treatment. He is going to have a trial in St. Louis at Barnes Hospital, connected with Washington University there. He is trying his best to keep this going, but he is battling this insurance company that said no.

This bill gives people whom I have described a fighting chance. It gives them a chance to fight against the discriminatory, wrong decisions of health insurance companies. Is that worth anything? Is it worth it? I have yet to see an amendment from the other side of the aisle that does this.

We used to call this a Patients' Bill of Rights, and it used to be a bipartisan issue. Senator JOHN MCCAIN joined with Senator Kennedy and the two of them worked on this, saying that patients in America should have the right to fight insurance companies that turn them down because of preexisting conditions, that turn them down because the cost of care is so high, that turn them down because they have lost their job or turn them down because their child reaches the age of 24. This bill provides protections for those people.

So when people say: I heard Governor Dean—I like him; Howard is a friend of mine; former Governor of Vermont; former head of the Democratic National Committee—wrote a big article in the Washington Post this morning and said: Vote against this bill. It is not everything I want it to be.

Well, Governor Dean, it is not everything I want it to be either. But how could we in good conscience explain to 30 million Americans who would have health insurance for the first time in their life—such as Judie down in Marion, IL—''Judie, I am sorry, we won't be able to get you health insurance this time around. We couldn't get everything we wanted.'' That is not a very compelling argument, from my point of view.

How do we say to people who want to have a fighting chance against insurance companies that say no—and will have the legal right to do that—''I am sorry, you are just going to have to continue to do your best fighting these clerks at health insurance companies who say no because this bill does not have everything in it that we want.''

You learn in this business of life and politics that concessions and compromise are critical parts of achieving a goal. Within the Democratic Caucus there are conservative and liberal or progressive members, and we have to find that sweet spot, that middle ground, where they come together. I think we have, and I am sorry we do not have any Republican support for this.

It is a fact, though, we have spent an entire year debating health care reform on Capitol Hill, and the sum total of Republican support for health care reform by vote comes down to two. One

Republican Congressman from the State of Louisiana voted for the House bill, and one Republican Senator, Ms. SNOWE of Maine, voted for a version of health care reform in the Senate Finance Committee. Not a single vote beyond those two in support of health care reform.

In fact, some take great pride in the fact that they are never going to vote for health care reform until it comes down exactly as they want it. We have invited them into conversation. In fact, my friend, the Senator from Iowa, who is on the floor here today, was part of a conversation with Senator BAUCUS and four other Members of the Senate that went on, I am told, for weeks, if not months, in an effort to find bipartisan, common ground, and they could not. I am sorry they did not. It would have been a better day if we had a real bipartisan effort before us. But I thank the Senator from Iowa for his genuine heartfelt efforts in trying.

But we come here today without a Republican alternative to health care reform. We come here today facing the reality that if we fail this time, we will not address health care reform, I am afraid, in my political lifetime or in the lifetime of many people following this debate. It took 16 years since President Clinton last offered an effort to try. If we wait another 16 or 20 years, I cannot imagine what is going to happen.

We know what is going to happen to health insurance premiums. Ten years ago, for a family of four, the average cost of their family health insurance premium was $6,000 a year—$500 a month. Pretty steep, right? The average cost today, for a family of four, for their family health insurance premium: $12,000 a year. It has doubled in a 10-year period of time, and it is going up so fast that it will double in the next 7 or 8 years to $24,000 a year.

Imagine working and earning $2,000 a month just to pay for your health insurance premium. That is it. Imagine how meager that coverage is going be because each year you know what happens. The cost goes up and coverage goes down. What will it be 10 years from now? If you talk to people who are negotiating for contracts, such as labor unions, all they talk about is health insurance. They do not talk about wage increases. They talk about health insurance. Those are the issues that break down the negotiations and end up in work stoppages and strikes, it has become that contentious and that difficult.

Are we going to accept that? Is that the best we can do in America? I do not think so. Are we going to accept a strategy which says: We are going to slow down the business of the Senate to a crawl, or stop it, as they tried yesterday, in an effort to defeat even having a vote on health care reform?

Don't we owe the people of this country, at the end of this debate, a vote on health care reform? Shouldn't it be in a timely fashion?

Shouldn't we first pass this bill that funds our troops that is sitting on the floor here that passed the House 395 to 34? Why would we delay that funding of our troops in the midst of a war? Why don't we do that today before we break for lunch and say to our troops: ''We took care of you.''

I might add, in here there is a provision that extends unemployment benefits. Is there any doubt on the other side of the aisle that they will vote to extend unemployment benefits in the midst of a recession? The last vote we had was 97 to 0 on the floor of the Senate to extend unemployment benefits, and that was a few weeks back. I assume Republican Senators feel as Democratic Senators do, that in the midst of a recession, in the midst of the holiday season, we owe it to these families to try to help them out.

How could we in good conscience go home and celebrate Christmas or Hanukkah or whatever our holiday might be and say we want to be in the comfort and love of our families, to sit and have a glorious Christmas morning before the tree, and enjoy the blessings of this great Nation and the blessings of life, and then turn down the unemployed when it comes to their benefits? We could not do that in good conscience.

Why don't we do that today? Why do we wait until tomorrow? Why don't we say: Regardless of what your strategy is on health care reform, let's not shortchange the troops. Let's not leave them with any uncertainty. Let's not leave those unemployed with uncertainty as to whether they are going to get benefits they come to expect and deserve. I hope we can.

Mr. President, I ask unanimous consent to have printed in the RECORD a recent article published in the New York Times relating to the trauma of joblessness in the United States.

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

[From the New York Times, Dec. 14, 2009]

POLL REVEALS TRAUMA OF JOBLESSNESS IN U.S.

(By Michael Luo and Megan Thee-Brenan)

More than half of the nation's unemployed workers have borrowed money from friends or relatives since losing their jobs. An equal number have cut back on doctor visits or medical treatments because they are out of work.

Almost half have suffered from depression or anxiety. About 4 in 10 parents have noticed behavioral changes in their children that they attribute to their difficulties in finding work.

Joblessness has wreaked financial and emotional havoc on the lives of many of those out of work, according to a New York Times/CBS News poll of unemployed adults, causing major life changes, mental health issues and trouble maintaining even basic necessities.

The results of the poll, which surveyed 708 unemployed adults from Dec. 5 to Dec. 10 and has a margin of sampling error of plus or minus four percentage points, help to lay bare the depth of the trauma experienced by millions across the country who are out of work as the jobless rate hovers at 10 percent and, in particular, as the ranks of the long-term unemployed soar.

Roughly half of the respondents described the recession as a hardship that had caused fundamental changes in their lives. Generally, those who have been out of work longer reported experiencing more acute financial and emotional effects.

''I lost my job in March, and from there on, everything went downhill,'' said Vicky Newton, 38, of Mount Pleasant, Mich., a single mother who had been a customer-service representative in an insurance agency.

''After struggling and struggling and not being able to pay my house payments or my other bills, I finally sucked up my pride,'' she said in an interview after the poll was conducted. ''I got food stamps just to help feed my daughter.''

Over the summer, she abandoned her home in Flint, Mich., after she started receiving foreclosure notices. She now lives 90 minutes away, in a rental house owned by her father.

With unemployment driving foreclosures nationwide, a quarter of those polled said they had either lost their home or been threatened with foreclosure or eviction for not paying their mortgage or rent. About a quarter, like Ms. Newton, have received food stamps. More than half said they had cut back on both luxuries and necessities in their spending. Seven in 10 rated their family's financial situation as fairly bad or very bad.

But the impact on their lives was not limited to the difficulty in paying bills. Almost half said unemployment had led to more conflicts or arguments with family members and friends; 55 percent have suffered from insomnia.

''Everything gets touched,'' said Colleen Klemm, 51, of North Lake, Wis., who lost her job as a manager at a landscaping company last November. ''All your relationships are touched by it. You're never your normal happy-go-lucky person. Your countenance, your self-esteem goes. You think, 'I'm not employable.' ''

A quarter of those who experienced anxiety or depression said they had gone to see a mental health professional. Women were significantly more likely than men to acknowledge emotional issues.

Tammy Linville, 29, of Louisville, Ky., said she lost her job as a clerical worker for the Census Bureau a year and a half ago. She began seeing a therapist for depression every week through Medicaid but recently has not been able to go because her car broke down and she cannot afford to fix it.

Her partner works at the Ford plant in the area, but his schedule has been sporadic. They have two small children and at this point, she said, they are ''saving quarters for diapers.''

''Every time I think about money, I shut down because there is none,'' Ms. Linville said. ''I get major panic attacks. I just don't know what we're going to do.''

Nearly half of the adults surveyed admitted to feeling embarrassed or ashamed most of the time or sometimes as a result of being out of work. Perhaps unsurprisingly, given the traditional image of men as breadwinners, men were significantly more likely than women to report feeling ashamed most of the time.

There was a pervasive sense from the poll that the American dream had been upended for many. Nearly half of those polled said they felt in danger of falling out of their social class, with those out of work six months or more feeling especially vulnerable. Working-class respondents felt at risk in the greatest numbers.

Nearly half of respondents said they did not have health insurance, with the vast majority citing job loss as a reason, a notable

finding given the tug of war in Congress over a health care overhaul. The poll offered a glimpse of the potential ripple effect of having no coverage. More than half characterized the cost of basic medical care as a hardship.

Many in the ranks of the unemployed appear to be rethinking their career and life choices. Just over 4o percent said they had moved or considered moving to another part of the state or country where there were more jobs. More than two-thirds of respondents had considered changing their career or field, and 44 percent of those surveyed had pursued job retraining or other educational opportunities.

Joe Whitlow, 31, of Nashville, worked as a mechanic until a repair shop he was running with a friend finally petered out in August. He had contemplated going back to school before, but the potential loss in income always deterred him. Now he is enrolled at a local community college, planning to study accounting.

''When everything went bad, not that I didn't have a choice, but it made the choice easier,'' Mr. Whitlow said.

The poll also shed light on the formal and informal safety nets that the jobless have relied upon. More than half said they were receiving or had received unemployment benefits. But 61 percent of those receiving benefits said the amount was not enough to cover basic necessities.

Meanwhile, a fifth said they had received food from a nonprofit organization or religious institution. Among those with a working spouse, half said their spouse had taken on additional hours or another job to help make ends meet.

Even those who have stayed employed have not escaped the recession's bite. According to a New York Times/CBS News nationwide poll conducted at the same time as the poll of unemployed adults, about 3 in 10 people said that in the past year, as a result of bad economic conditions, their pay had been cut.

In terms of casting blame for the high unemployment rate, 26 percent of unemployed adults cited former President George W. Bush; 12 percent pointed the finger at banks; 8 percent highlighted jobs going overseas and the same number blamed politicians. Only 3 percent blamed President Obama.

Those out of work were split, however, on the president's handling of job creation, with 47 percent expressing approval and 44 percent disapproval.

Unemployed Americans are divided over what the future holds for the job market: 39 percent anticipate improvement, 36 percent expect it will stay the same, and 22 percent say it will get worse.

Mr. DURBIN. Mr. President, I am going to close by saying that for those who wonder if it makes any difference whether we move forward on the issue of helping the unemployed, they should read this article I have put in the RECORD. People across this country are not only worried about getting a job and taking care of their families, it has reached a point where it is dramatic. Some of them are making critical life decisions, spending their savings, with no health insurance to cover themselves or their kids.

I will ask the Republicans, who will follow me: Please, regardless of how long you want to talk today, agree with us that we should move quickly to fund our troops, send the money for those members of the military and their families to give them peace of mind we stand behind them. Do not make them part of any political delay and strategy that leaves uncertainty. Let's do it today. Let's not wait until the money runs out tomorrow.

Let's fund our unemployment benefits too. Let's give these families, who through no fault of their own are out of work, the peace of mind of knowing that as we go home for Christmas, they will at least have a Christmas which has, even if it is small, an unemployment check.

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes.

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

BIODIESEL TAX CREDIT

Mr. GRASSLEY. Mr. President, I rise on the issue of jobs and 10 percent unemployment and to tell my fellow Senators what we can do to preserve maybe 25,000 jobs in an industry that, by the end of the month, will be otherwise shut down because Congress is not taking action. The main point of my remarks is, if we don't extend the biodiesel tax credit by the end of the month, these jobs will be lost.

My point is 23,000 jobs will be lost. In fact, right now, on December 17, companies are making plans to shut down these operations by the end of the year.

Everybody knows our unemployment rate is 10 percent. Everybody knows the President has spent a great deal of time, over the last 2 or 3 weeks, talking about creating jobs and getting us out of the recession. But we have to remember that for those without work, this is not just a recession, it is a depression.

We all agree we should take whatever action is necessary to jump-start our economy and get people back to work. President Obama and Vice President BIDEN have been talking for months about the need to create green jobs. Well, green jobs, purple jobs, whatever kind of jobs, jobs are jobs. I don't object to the creation of green jobs. In fact, what I am talking about is some of these green jobs.

President Obama has held three public events in recent days to highlight his concern about the economy and the need to create jobs. Yesterday, the administration apparently announced billions more in tax credits for renewable energy and energy conservation efforts. I will bet when I look at that list I am going to support most of those because I believe a national energy policy involves capturing whatever we can of petroleum and fossil fuels we have available for a short period of time because we are never going to get rid of them in the short term. We need conservation, and we need renewable and alternative energy. Those three things make a comprehensive energy program. Obviously, if I am for that comprehensive energy program, I am for renewable energy and alternative energy.

It seems as if nearly everyone, in fact, in the administration is touting the benefits of green jobs and a clean energy economy and I am doing that right now myself. It is astonishing, though, with all this talk about green jobs and clean energy that this Congress right now seems to be heading for the holidays while thousands of green energy workers will receive pink slips and furloughs.

On December 31 of this year, the current biodiesel tax credit will expire. The biodiesel tax credit provides a $1-per-gallon credit for biodiesel made from soybean oil and yellow grease and animal fats. The tax credit is essential in maintaining the competitiveness of this clean-burning, domestically produced green fuel and the jobs that are connected with it.

The tax credit exists for a commonsense reason and something we have been using for a long period of time: to offset the higher cost of producing biodiesel—or I could just as well insert the word ''ethanol''—compared to petroleum diesel. Without the tax credit, petroleum marketers will be unwilling to purchase the more expensive biodiesel and demand will vanish. From this standpoint of the tax credit, I hope everybody remembers that whether it is wind, ethanol, solar, biodiesel, biomass, or geothermal, it takes tax credits to get these programs off the ground. Right now, wind energy is a big industry in my State, not only from the production standpoint but from the standpoint of manufacturing of components because, in 1992, I got a wind energy tax credit passed; otherwise, we would not have wind energy and everybody touts wind energy today. It is a little bit like the very infant biodiesel industry we have. One might not think biofuels are an infant industry because ethanol has been around for 30 years, but biodiesel is about where ethanol was 30 years ago. So we want to help move this industry along so eventually it can stand on its own legs. That is the motive behind all these tax credits, to get an infant industry started and then they stand on their own.

In 2008, getting back to the jobs in this industry, biodiesel supported 51,000 green jobs. Because of the downturn in the economy and the credit crisis, the biodiesel industry has already shed 29,000 green jobs. So now what about the rest of those jobs? That is what my remarks are all about, and that is what getting the tax credit renewed before the end of the year is all about. Because the industry is currently operating at just around 15 percent of capacity. Without an extension of the tax credit, all U.S. biodiesel production will grind to a halt. Plants will be shuttered and workers will be let go.

No one should be surprised by the upcoming expiration of this tax credit. It was extended most recently in October 2008. So we have known for 14 months; hence, nobody should be surprised that it would need to be extended by the end of this year.

The Senate has been in session nearly continuously for months. Earlier this year, Senator CANTWELL and I introduced a bill to extend the tax credit for 5 years and change it to a production tax credit. There is no excuse for inaction on this credit. The Democratic leadership is content to leave without doing the necessary work on extenders, believing they can extend the tax provisions retroactively sometime early next year. Retroactivity does work a lot of times on tax extenders that are not extended at the end of the year and extended to be made retroactive. But retroactivity in the case of the biodiesel market doesn't help bring it from grinding to a halt on January 1, 2010, because without the incentive, the biodiesel will cost much more than petroleum diesel.

While the House and Senate dither, thousands will lose their jobs, but demand for dirty, imported petroleum diesel, however, will continue. Investments in the domestic renewable fuels industry will lose value and possibly disappear—quite to the contrary of what I said in my remarks of yesterday, the President announcing various tax credits. So this one has been on the books. All it has to be is reauthorized.

It is too bad that among all the talk of green jobs and the clean energy economy, Congress is unable to pass a simple extension of an existing tax credit. Once again, the actions of the majority do not match their words. For all the talk, they will have failed all those in the biodiesel industry working today to reduce our dependence upon foreign oil if we leave without extending this critical tax credit before the end of the year.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, we have conferred with the other side of the aisle, and I think we have reached an agreement. I ask unanimous consent to be allowed to speak for up to 10 minutes, and then I believe two Senators from the other side of the aisle would like to speak for up to 10 minutes each.

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

Mr. CORNYN. Mr. President, it just shows we can do some things in a bipartisan way around here still, albeit small things.

We are talking about the Defense appropriations bill. I think it is important to point out that the majority leader has waited until the very last minute to bring up this very important bill, which I am sure will pass by a large majority, but it was 2 months ago that the fiscal year ended. The majority leader has now left us here 8 days before Christmas with a lot on our plate, a lot yet to do, and, of course, threatening to keep Congress here through Christmas—certainly up to Christmas. I would not say we are happy to be here, but this is a great responsibility. These are important issues, and none of us is going to shy away from dealing with these issues, albeit 8 days before Christmas.

It is also appropriate to talk about Christmas because this bill not only funds our troops, it is a Christmas tree on which Members of Congress have hung nice shiny little ornaments, provisions that have nothing to do with funding our troops and the Defense appropriations bill. As a matter of fact, this bill would actually create new entitlement spending programs—that is what some of these little shiny ornaments are—rather than fix the ones we have. It is significant. We are talking about our troops. At the same time, we are talking more generally about health care, because under Federal law TRICARE, which handles the reimbursement rates for health care for our troops and their families, is required under Federal law to follow Medicare reimbursement rates.

We know that under the underlying health care bill we will be considering up until Christmas, it looks like there are actually going to be $500 billion in cuts to Medicare. The concern is, if access to care is jeopardized for Medicare beneficiaries, which we know it will be for at least some—particularly Medicare Advantage beneficiaries—then cuts to TRICARE reimbursement rates could follow.

We also know this bill includes a 2-month bandaid for the Medicare reimbursement rate for doctors, the so-called doc fix. This is the sustainable growth rate formula which has never worked since Congress passed it in 1997. It shows Congress makes assumptions—this one back in 1997—that we are going to cut Medicare, and in this particular instance Medicare reimbursement rates for doctors and that somehow that will not have a negative impact on people's ability to find a doctor who will see them.

I know in Travis County in Austin, TX, at last report, only 17 percent of doctors will see a new Medicare patient, and it is even worse for Medicaid, which pays less than Medicare. So we know the cuts the underlying health care bill will make to Medicare are going to have a negative impact on access to care for many of our seniors, and because TRICARE rates are linked to Medicare rates under Federal law, they could well jeopardize our troops' and their dependents' access to care as well.

This experience we have had since 1997 under the Balanced Budget Act with the sustainable growth rate which, unless Congress acts, will actually cut reimbursement rates for doctors by 23 percent—and this bill provides a 2-month—a 2-month—fix—these assumptions have never worked. Yet this health care bill, at least the 2,074-page version—we have yet to see the Reid substitute, which will appear, I am sure, miraculously sometime around Saturday as the majority leader tries to cram this bill through before Christmas—we know it contains or will contain many other assumptions, such as this SGR formula that will prove unenforceable and will never work. Yet those will be used by the Congressional Budget Office to provide a cost estimate or score which may meet the demands of politics today but which will bear no relationship whatsoever to the ultimate costs. And the American people understand that. They understand the budget gimmicks of having a 10-year program and not implementing it until year 4 but starting the taxes to pay for it on day one. They understand that, and that is why they don't trust the Congress to be honest and transparent when it comes to spending their money—because of their unfortunate experience.

I also want to focus on other promises the President has made about health care reform which bear on the process by which health care reform and these bills are being considered—unfortunately, ways in which the Reid bill breaks those promises. This is one we have talked about before, but I think it bears repeating because the American people want us to read the bills before we vote on them. They want to be able to read the bills and to have them posted on the Internet so they can understand how this legislation will impact them and their families.

Here is what the President said:

> I'm going to have all the negotiations [the health care negotiations] around a big table. We'll have negotiations televised on C–SPAN, so that people can see who is making arguments on behalf of their constituents and who is making arguments on behalf of the drug companies or the insurance companies.

I see one of our colleagues on the floor, who is a chief proponent of an amendment that had to do with drug pricing. We all know it is the worst-kept secret in Washington, DC, that the drug companies have cut a special deal behind closed doors—not around a big round table on C–SPAN but behind closed doors—and many of us don't know the exact terms of this deal. We do know that while the big drug companies may be protected, the American people are not at the table while special interests are cutting deals that have not yet fully come to the light of day. I think this is a tragedy. There is no reason the President's promise cannot be kept, other than to try to run something by Congress and the American people before they have had a full opportunity to read it and understand what is in it.

This is exactly the kind of cynical act that breeds public skepticism about Congress and their elected representatives. We are elected by the people in our States to use our best judgment on their behalf, listen to them, and ask: What do you think about this? Tell me, as your elected representative, how do you think I should vote on these important issues? If we hide the substance of these cooked-up deals behind closed doors from the American people, no wonder the congressional approval

rating is so low. Unfortunately, promises such as this which are broken by the Reid bill do nothing but breed skepticism or cynicism on behalf of the American people.

The Washington Post reported last October that the first Reid bill was written in secret and ''behind closed doors.'' That is the 2,074-page bill we have seen stacked up on our tables. That bill, with sleight of hand, will be swept off the table and a new one will miraculously appear sometime on Saturday. That is the bill we are going to be asked to pass by Christmas—again, without anybody knowing what exactly is in it.

Of course, there is speculation among the press corps and the political class in Washington as to whether the majority leader will be able to get 60 votes on a bill. People are saying: Yes, I think he will get 60 votes. Others say: No, he is missing a few votes; he is not quite there yet. And we are talking about a bill most of us haven't even seen. How in the world can anybody tell their constituents they are for the bill or against the bill before they have had a chance to read it? It is mind-boggling. Yet we know these closed-door meetings are still going on—8 days before Christmas—to work on perhaps a new 2,000-page Reid bill.

I know some of our colleagues were irritated with our colleague from Oklahoma, who asked that the Sanders amendment be read before we actually considered it. Only in Washington, DC, would people be mad about knowing what is in a bill or an amendment before we are asked to vote on it. The American people want to know. They are being excluded, as are many of the rest of us who don't get to know what is being cooked up behind closed doors.

We know these private meetings continue. The President has had meetings with our Democratic colleagues from which Republicans have been excluded. We don't know what kinds of agreements or discussions were occurring behind those closed doors. Certainly, no C-SPAN cameras were allowed.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CORNYN. I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CORNYN. Mr. President, we need to have every single Senator look at what is in these bills before we are asked to vote on them.

Let me close on one last issue. The President has also said:

> First, I will not sign a plan that adds one dime to our deficits—either now or in the future. Period.

Unfortunately, because of this cynical attitude of Washington and of the political class in Washington toward the public generally, 74 percent of voters said they don't believe that. Seventy-four percent of voters, including 82 percent of Independents, are saying: We don't believe the President of the United States when he says the bill will not add one dime to the deficit.

One reason they might think that is because of what this Reid bill—at least the 2,000-page variety—says. The Chief Actuary for CMS says that pledge is ''unrealistic and doubtful.'' David Broder, one of the deans of the Washington press corps, said:

> These bills, as they stand now, are budget-busters.

I don't know what it is going to take before Congress wakes up and listens to our constituents and the American people. I guess it is going to take another election in 2010 or in 2012 where the American people get to hold us accountable because in the end the American people will get the kind of Congress they want and the kind of Congress they deserve. I hope it will be the kind of Congress that embraces the transparency pledges the President has made and, in reality, lets the American people know what we are doing here and asks whether they approve.

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

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

Mr. DORGAN. Mr. President, it is interesting to listen to the discussion on the floor of the Senate. We hear a lot about what is wrong these days. For a moment, let me say that there is a lot right in this country as well.

We are in a deep economic recession. I understand that. This is the deepest recession we have seen since the Great Depression. It is a difficult circumstance. But this country has been in tough circumstances before. The American people are a resilient bunch; they pull themselves up and move forward.

I understand the angst and the concern across this country. I understand the debate in the Chamber about what is wrong. I would be the first to say I don't think either political party is a great bargain sometimes. Both of them have their faults.

I think of that Ogden Nash poem that goes like this:

> He drinks because she [scolds],
> He thinks she [scolds] because he drinks,
> She thinks while neither will admit what's [really] true that he's a [drunk] and she's a shrew.

Both political parties, it seems to me, have faults, but both political parties have also contributed to the well-being of this country.

When I hear people say nothing works in America—I answered phones at the front desk yesterday for a while to hear from callers calling in about various things. I heard it on many occasions because a lot of people on the radio and on TV are saying nothing works in America and there is nothing the Federal Government has ever done that works.

The Internet—what a wonderful invention in the life of our planet. Yes, that was created by the Federal Government. Going way back, we brought electricity to America's farms and unleashed a barrage of productivity in American agriculture. When you drive around with a locator on the dashboard of your car, that is a GPS satellite—that is the government as well. The Interstate Highway System that connects America—when you drive down big roads that are connecting all of America, that is the Interstate Highway System, suggested by President Dwight D. Eisenhower. What a remarkable thing.

I also think of the story I read a while back about those two little creatures that are crawling around the planet Mars, one called Spirit and one called Opportunity. Five years ago, our country sent both of them to land on the surface of Mars. They landed 1 week apart. They are dune buggy-sized mechanical creatures on the surface of Mars. We sent them up by a rocket. They landed encased in a shroud, and they bounced and the shroud opened up and these dune buggy-sized vehicles began driving on the surface of Mars. They were expected to last 90 days. Five years later, Spirit and Opportunity have been driving on the surface of Mars collecting samples. One of them—I believe Spirit—had an arm that looked as if it was arthritic, so it was hanging at an angle, almost like a salute. The wheel broke, and so they were dragging the wheel and creating a trench. The arm reached back, and the scientist—it takes 9 minutes to send up a signal—the scientist had the arm reach back and dig into the trench so they could get better samples on the surface of Mars. These dune buggies were running on the surface of Mars. Yes, that is the Federal Government and all the contractors.

When somebody said to me that the Federal Government has never done anything right, I said: If you ever get to the Moon, just check the boot prints. They are not Chinese or Russian; they are made by an American astronaut—the one who planted the American flag there.

There is plenty wrong in this country, to be sure, but there is a lot right about this country.

About 9 years ago, at the start of this decade, our country had a budget surplus. Poor Alan Greenspan, the Chairman of the Federal Reserve Board, wasn't able to sleep. He was worried that we were going to pay down the debt too quickly. I assured him he ought to go to sleep peacefully because that is not a problem.

President Bush came to town and said: We are going to do very big tax cuts because it is estimated that we are going to have very big surpluses. I was one on the floor who said maybe we ought not do that. Let's be a little conservative. These surpluses don't exist for the next 10 years yet. They existed that year for the first time in a long time in the year 2000—a budget surplus. President Bush said: No, we are going to begin very large tax cuts right now in anticipation of these surpluses in the future. Some of us said:

Be careful. The wealthiest Americans got very large tax cuts, especially.

Almost immediately, this country went into a recession, and 6 months after that, this country was hit with 9/11, an unbelievable terrorist attack. Almost immediately, we went into the country of Afghanistan to go after Osama bin Laden. Then, very quickly, we invaded Iraq. We were at war for the rest of the decade without paying for one penny of it. Not a penny was paid for those wars or the increased funding to deal with terrorist attacks.

Some of us went to the floor of the Senate and said: Let's begin to try to pay for some of this. Why should we send our men and women to war and decide we won't ask anybody to pay for it? They thought we will just have the kids and grandkids pay the cost. The President said: If you add this to the bill to pay for it, I will veto the bill. So here we are.

Then we see, at exactly the same time, regulators coming to town boasting that they were willing to be willfully blind and they would not look or see and they would not care. We had a bunch of big high fliers create unbelievably exotic financial industries, such as credit default swaps and liars loans for mortgages, and they steered this country right into a ditch while the people at the top were making a lot of money, causing economic havoc the likes of which we have not seen since the 1930s. Our revenue at the Federal Government dropped $400 billion because of the deep recession. Expenditures for unemployment, food stamps, and so on, which are caused to go up during recessions, increased substantially, and we have very serious economic problems. There is no question about that. I can recite the problems as well as anybody. But let's also, from time to time, recite the strength of this country. It requires leadership from all of us to put this country back on track. I am convinced we can. I am convinced we will do that. We need a little cooperation here and there. There is not much these days. But I am convinced all of us want the same thing for this great country, and perhaps we can come together even if we have different views of how to get to that common destination. I am convinced one of these days we will make some progress and put America first.

I wished to come today to talk about something that is happening half away around the world in Copenhagen. That is the issue of climate change and energy. Even as leaders around the world gather in Copenhagen to talk about climate change, I wish to talk about the energy legislation that addresses the issue of climate change. The energy legislation that was passed by the Senate Energy and Natural Resources Committee earlier this year is a real energy policy that also protects the planet by reducing greenhouse gas emissions.

We are not going to reduce greenhouse gas emissions because somebody signs a paper. We have a lot of environmental laws. Mexico is a good example. They have a lot of environmental laws on the books. They are just not enforced. Signing a paper is not going to mean much unless you have an agreement that makes sense for the planet and an agreement that is enforced and an agreement that is agreed to by virtually all the countries that are emitting a great deal of carbon.

I will tell you what will make a big difference; that is, for the Congress to pass the Senate Energy legislation, which truly does move us in the direction of addressing climate change.

That energy policy, by the way, is not some secretive policy. This past June we passed an energy bill out of the Senate Energy and Natural Resources Committee that does all the things I think we need to—or virtually all the things—address the issue of climate change and a lower carbon future. But it was not brought to the floor of the Senate or the House of Representatives because we are told energy legislation must be married or merged with climate change. I do not agree with that. We are going to have wasted a year, in my judgment, in which we could have debated the energy legislation on the floor of the Senate, and passed it into law by the signature of the President. This energy legislation maximizes the use of renewable energy, such as the building of the interstate transmission capability that would allow us to maximize renewable energy. The energy legislation would also establish a renewable electricity standard, the first one in the history of this country. The energy legislation would also retrofit buildings to make them more energy efficient, which would increase energy savings. I also offered an amendment to this legislation, that would also give us the ability to reduce our dependence on foreign oil by opening oil and gas production in the eastern Gulf of Mexico.

All these issues are in an energy bill that passed the Senate Energy and Natural Resources Committee on a bipartisan vote. Yet the benefits to this country from those energy policies that make a lot of sense, will not be available during this year, because those who are pushing for climate change legislation here say you have to do energy and climate change together.

I say this: I hope when we turn the corner and start a new year, that an energy bill that is bipartisan—Mr. President, I had indicated I wished to take 20 minutes today. I ask consent for the 10 additional minutes.

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

Mr. DORGAN. Mr. President, the legislation that exists and is ready, in my judgment, could be signed by the President and already moving this country down the road. The deliverable for the President to go to Copenhagen could have been: Look what we have done in energy policy; we have taken the significant step in the right direction. Yet we are told that energy legislation has to move with climate change legislation.

I am not opposed to a lower carbon future. I am not opposed to trying to do something on climate change legislation. I have indicated I am not supportive of the trade piece of cap and trade. I have no interest in consigning to Wall Street the opportunity to have a $1 trillion carbon securities market that they could trade on Monday and Tuesday, and then they can tell us on Wednesday and Thursday how much we are going to pay for our energy. I have no interest in creating a carbon securities market.

There are a lot of things we can do, especially an energy policy at the front end—and I hope early next year—we will advance this country's energy security, No. 1, and advance this country's movement toward a lower carbon future.

I wish to put up a couple charts as I describe this. We must reduce our dependence on foreign energy, especially foreign oil. Seventy percent of the oil we use comes from off our shores. We sink straws in the planet and suck oil out. We suck out 85 million barrels a day, and one-fourth has to come to this country because of our appetite for oil.

You know what, when 70 percent of it comes from other countries—many that do not like us very much—that means we have an energy security problem. This Energy bill I have described, that has been out of the Energy Committee since June, and was passed on a bipartisan vote, reduces our dependence on foreign oil, increases domestic production, establishes a renewable electricity standard, and creates a transmission superhighway. By the way, in the last 9 years, we have laid 11,000 miles of natural gas pipeline in this country—11,000 miles. Do you know how many miles we have laid of high-voltage transmission lines interstate? Mr. President, 668. On this bill, I worked on the transmission piece with Senator JEFF BINGAMAN and others and we solved the issue of transmission.

We can get about the business of building an interstate highway of transmission lines so you can produce electricity where the Sun shines and the wind blows, put it on a wire and move it to where it is needed in the load centers.

This is not rocket science. This is rather simple. We already passed a bipartisan bill out of committee to do this. Electrification and diversification of our vehicle fleet is in the bill. The legislation also enhances energy efficiency in a wide range of areas, it expands clean energy technology, and the training of an energy workforce for tomorrow.

Every one of us gets up in the morning and the first thing we do is flick a switch and all of a sudden there is light. Then many decide to plug in a coffee maker or turn on the stove, turn on the radio, turn on the television set,

get in the car, put in a key, the engine turns on—all of this is because of energy, and that is before you get to work. No one even thinks about the role energy plays in our life. That is why it is important for us to understand we have a very serious energy security issue in this country. No. 2, we have a serious issue of the need to construct new kinds of energy and also to use the existing energy differently or produce energy differently and reduce carbon emissions.

I chair the committee that funds most of our energy projects. I chair the Senate Energy and Water Appropriations Subcommittee. It funds the energy and water issues, obviously. There is a lot going on, for example, that I think is so exciting that can unlock our opportunity to continue to use coal. Some say you cannot use coal. Of course, you can. Our science and our technology can clearly decarbonize the use of coal, which is our most abundant resource. Why would we not want to use coal in the future?

There are unbelievable things going on Dr. Craig Venter, a scientist not far from here, is working on this issue: developing synthetic microbes that underground would turn coal into methane. These microbes would consume the coal and turn it into methane. Pretty interesting to me.

There is a guy in California who has an idea, a patented idea I don't know if it works, but they insist it is the silver bullet. He takes the entire flue gas from a coal plant and he mineralizes it through some patented process he has. It does not separate CO_2. It mineralizes all of it and turns it into a product that is harder than concrete and more valuable than concrete and produces, as a result, the cost of carbon at almost near zero. Maybe that is the silver bullet. I don't know. There are dozens of examples like it that are very exciting and very interesting.

I started algae research after it had been discontinued for 15 years—single-cell pond scum, that green scum on the pond out on the farm—algae. You take the CO_2 that is released from a coal plant, feed it to an algae farm and grow algae. It increases its bulk in hours. Then you can harvest the algae and produce diesel fuel. Get rid of the CO_2 and produce a fuel. That is called value added. That is called beneficial use of carbon.

There are others now—Dr. Craig Venter is involved in this, along with Exxon—who have projects in which they create algae that excretes lipids directly. Instead of harvesting algae and destroying it for the purpose of acquiring a diesel fuel, it excretes lipids directly which, with very little manipulation, is a fuel.

One of the scientists with the Sandia National Laboratory talked about the development of a solar heat engine in which you put CO_2 on one side and water on the other and you fracture the molecules and thermochemically recombine them and you have methanol—water, CO_2, develop a fuel.

All these ideas are opportunities for us to continue to use coal and at the same time reduce our greenhouse gas emissions.

My point is, I think we ought to be doing a lot of everything with respect to producing a better energy future for this country and with respect to reducing the carbon in our future. I am not somebody who is a naysayer about climate change at all. I expect to be a part of discussions about how to reduce carbon in our future. But I do believe it will be a profound mistake if we do not advance the very policies we have the opportunity to advance in the Congress, in the Senate, the very policies that move us in the direction of reducing carbon and making us more energy secure.

To date, what we have had is all this breathlessness about you have to do a climate change bill right now and you cannot take up energy legislation until you take up climate change legislation. You know what, I do not agree.

I hope that high on the list of the agenda next year for this Congress is to say: We have a serious energy security problem and we have a serious issue with respect to carbon. Let's deal with both. If anybody believes this country can continue to have a 70-percent addiction for oil from foreign countries, they are dreaming. That is not something that will be sustainable in the long term. It undermines this country's economy to have that kind of addiction to foreign oil.

So how do we address this issue and fix it? We address it with thoughtful policies inside this country—to increase efficiency, increase conservation, increase production, and increase production in the right way that protects our planet. All these things are possible.

I guess I have spoken six or eight times on the Senate floor about these issues, not that anybody is listening so much I guess. But it is all health care all the time right now. Health care is not unimportant. I happen to think among the first things on the agenda is, A, financial reform which restores confidence. That was important because a bunch of high fliers steered this country into the ditch. We have to make sure people think that will not happen again; then, second, restarting the economic engine and putting people to work—jobs; third, dealing with energy which has to do with the very security of virtually everything we do to create jobs in this country. All these are important issues.

My hope is, when the calendar turns and January comes, we will have the opportunity to grab and seize the progress that was made in the Senate Energy and Natural Resources Committee, now nearly 6 months ago, to do the right thing for this country and to do the right thing to address climate change at the same time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I come to the floor on behalf of over 10,000 constituents from my home State of Washington who have sent me letters and e-mails over the past 6 months to tell me their stories and their struggles with our health care system.

I come to the floor on behalf of the thousands who do not have the time or who do not have the resources to write to me and ask for help but who are struggling as well.

I come to the floor on behalf of small business owners, parents, senior citizens, and people with preexisting conditions, people with insurance whose premiums are skyrocketing, and people without insurance who spend their nights praying they do not have an accident or fall ill.

These people are all worried about keeping their jobs or making a mortgage payment and for whom the cost of getting sick today or being dropped from their health care plan or opening their mail to see another premium increase is too much to bear. Those are the people who deserve a real debate and a real plan, not distortions or silly distractions, such as conversations about how many pages are in this health care bill. What is more important than the number of pages in this health care bill is the help within those pages for businesses and families across this country.

I have watched, day after day, as our colleagues on the other side of the aisle have come down to this floor. They have made outrageous claims. They have handed out reams of paper and stacked copies of the Senate bill on top of copies of the House bill to try and turn a serious debate into a sideshow. But if my colleagues on the other side want to focus on pages, fine, let's focus on pages.

Beside me is a photo of a woman named Doreen Kelsey. In front of Doreen is a stack of papers. Those are hundreds upon hundreds of pages of forms and rejection letters and appeals and denials from her insurance company. These are pages that have taken hours and hours to fill out and that have stood between Doreen's husband and the care he desperately needed.

I met Doreen at a roundtable I hosted in August in Spokane, WA, in my State. Doreen told me she is self-employed and isn't able to purchase her own health insurance because she has a preexisting condition. Now, luckily, she and her family have health insurance coverage through her husband Tony's employer. She told me she and Tony thought their family had good insurance coverage. But when he asked for a colonoscopy, they soon discovered the lengths to which insurance companies will go to deny, to delay, and to dispute the care families such as the Kelseys assumed were included in their coverage.

Their insurance carrier told them before they would pay for this preventive care, it would have to be approved by a primary care physician. After being delayed for more than a month because of

that requirement—and this whole stack of papers here—the colonoscopy ultimately confirmed their fears, and he was diagnosed with stage 4 colon cancer. With that diagnosis in hand, the Kelseys were determined to beat this terrible disease together, but rather than focusing on fighting cancer they were forced to fight their insurance company.

Doreen told me although they had faithfully paid their premiums throughout their entire working lives, now that Tony desperately needed life-saving treatment, he was in a constant struggle of paperwork with his insurance company to pay for even routine care. They weren't asking for anything new, they weren't asking for anything experimental, they were just asking for the care that a lifetime of paid premiums should have entitled them to.

The Kelseys assumed what most Americans do when they are paying for good health insurance. They assumed that while their insurance was expensive, it would be there for them when they needed it. Well, Doreen and her family, like many other American families and businesses, have come to find out that in our current health care insurance system, stability is sometimes nothing more than an illusion.

With each procedure and each battle, the Kelseys faced a new fight—more paperwork stacked on more paperwork, another appeal and another appeal. At one point, Doreen told me she had to appeal all the way to the State insurance regulator just to get a corrected explanation of benefits form—paperwork—from her insurance company. She told me they had to borrow thousands of dollars to pay doctors while their claims were tied up in what seemed like an endless appeal process—paperwork.

The Kelseys' insurance now costs more than their mortgage, and they are constantly worried that Tony's employer will drop that coverage. But, thankfully, she told me Tony is working hard and successfully battling his cancer. In the meantime, Doreen has successfully been battling her insurance company. But this isn't how our system should work. When we pass the Senate's health care reform bill we are debating, it will not be.

Let me tell everyone—and the Kelseys—how our bill will help them. First of all, our bill ends insurance company discrimination for pre-existing conditions, so Doreen will be able to purchase insurance on her own and not have to rely on her husband's employer. Doreen would also have access to a number of different plans through an exchange that we are setting up where insurance companies, for the first time, would have to compete for her business. Our plan would inject competition into the insurance market, and we know that will lower costs and give families such as Doreen's more choices.

Our plan also makes it illegal for insurance companies to drop people when they get sick, so Doreen and Tony wouldn't have to worry about losing their coverage at the moment they need it the most. Since we know that preventive care is critical to saving lives and saving money on health care costs in the long term, our bill ensures free preventive services under all insurance plans.

Our plan invests in prevention and in public health to encourage innovations in health care that prevent illness and disease before they require more costly treatment. It would have allowed Tony to get a colonoscopy when he first needed it so he could get his treatment started sooner.

Mr. President, we also know families deserve the security and stability of knowing that if they or their loved one do get sick, they will not be forced into bankruptcy to pay for the cost. Our bill restricts the arbitrary limits that insurance companies currently place on the amount of coverage families receive. It caps the total amount that insurance companies can make people pay out of pocket on copays and deductibles. And it eliminates the lifetime limits insurance companies can impose on coverage.

In addition to putting in place those important consumer protections that would help people such as Doreen and Tony, it will give families the stability and security they deserve and lower the cost of care so Americans such as Tony and Doreen would not have coverage that costs as much or more than their mortgage. We do that by putting in place premium rate reviews to track increases and crack down on excessive insurance company overhead costs.

When our bill passes—and I am confident it will, despite the delay and the delay and the delay that we are seeing on the other side of the aisle—insurance companies will no longer be able to hike up Doreen's premiums to pay for a bureaucracy they will then put to work battling her claims.

We also provide sliding scale premium tax credits—tax credits—for families who still can't afford coverage, which would help 450,000 people in my home State of Washington get the coverage they need.

Mr. President, the bill before us today—which some of my colleagues have sitting on their desks and they bring out here on a daily basis to show us the pages—will help families such as the Kelseys. That is what is within the pages of the bill they keep throwing at us. So I think, rather than talking about the number of pages in the bill, our colleagues on the other side of the aisle might actually want to talk about what is in the bill because right now, instead of debating the merits of bringing down costs or protecting families from losing the coverage when they get sick, our colleagues are actually spending time complaining this bill has too many pages.

I ask the Presiding Officer and my colleagues on the other side of the aisle to take a look at this photo of Doreen sitting next to hundreds and hundreds of pages of correspondence and appeals and fights with her insurance company. These are the pages we ought to be talking about. These are the pages that impact people's lives, and the Kelseys are the people we ought to be talking about.

So when my colleagues come down here and complain about the number of pages in our health reform bill—those pages that will help our families and businesses lower costs—I want them to think about the number of pages right here in front of Doreen. These are pages that have caused the Kelseys unimaginable heartache, and these are the pages that have come between them and the health care they paid for.

These are the numbers we ought to be focusing on—the 14,000 people who are losing coverage every day. These are the numbers we ought to be focusing on—the 51 million people who have no insurance. Those are the numbers we ought to be focusing on, not the number of pages in the bill.

Mr. President, we have to end the politics, end the delay and the partisanship. We need to end this obstruction because that is what the Kelseys faced every day, delay and obstruction. They are facing it again on the floor of the Senate. It is time for us to come together on this important bill and bring our businesses and our families the insurance reform they have been asking for. I hope that is what Americans will remember at the end of the day, that the pages in this bill are going to change their lives so they don't have to fight their insurance companies again.

Mr. President, we are here today in the Senate—nobody on the floor, just me talking about what we ought to be doing, and you in the Chair, waiting. Why? Because we have a Defense appropriations bill in front of the Senate. It is a Defense appropriations bill that needs to be passed by the end of this year. It needs to be passed so we can get back on the floor and pass our health care reform bill.

Some people on the other side of the aisle have decided that delaying this Defense bill will somehow help them delay this from ever being passed—the health care bill that would help Doreen and her family. Well, Mr. President, it isn't just about making a political point. What we are doing is having our soldiers—who are serving on the ground in Iraq, in Afghanistan, around the globe and here in our country—wonder what they are going to get for Christmas—a delay from the Senate?

The bill in front of us provides a 3.4-percent military pay increase. This is an All-Volunteer Force we have out there working for us. Many of them are away from their families this Christmas. They do not want to hear that the Senate is delaying passing this important bill that will give them the security they need because of political obstruction in order to delay a health care bill.

This Defense bill is critically important. It has very important support for our military and their families. It has passed through this Senate before, and we are ready now to make the final trip to the White House, which needs to be done, by the way, by tomorrow. So I hope our colleagues will not continue to delay. I hope they will allow us to move to final passage on this bill so our men and women who are serving us in the military and around the globe know there is a Senate who is working for them.

I have heard some of them on the other side complain that some things were added to the Senate Defense bill—that also need to be done by the end of the year, besides the Defense bill—such as making sure our families, whose benefits are running out for unemployment, or COBRA for health care insurance, get a 2-month extension. So should our Christmas present to them be: Sorry, you aren't going to get your small little help as we end this year. We want to keep that going for another 3 months during one of the worst economic times we have seen. So, of course, we put it in this bill.

Because of the obstruction on the other side, we can't get it through in a timely fashion. It has to be done by the end of this year. We are doing the right thing for our families. We are doing the right thing for our military by putting it in this bill and getting it done and to the President so we can finish our work.

Mr. President, these are all critical issues. We are all tired. We have been here day after day after day. It is time to get this done. Let me tell you why. Because Doreen and her husband are facing piles and piles of paperwork to care for her husband. They are fighting their insurance company. And all we have to do is put these bills in front of us, get them done, and provide some relief for America. I hope that is what we focus on, Mr. President. I hope we stop the deny and delay and obstruction that the Kelseys have had to fight with their insurance company. Let's move these bills and go home to our families for Christmas.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Illinois is recognized.

Mr. BURRIS. Mr. President, I also would like to make a few comments on the issue that is pending before this body and which has been debated and debated and debated, discussed and discussed and discussed. It is time to bring it to a meaningful and final conclusion.

As I address this Chamber today, we stand on the cusp of history. For many years, we have known that the American health care system is badly broken. Now, after nearly a century of debate, after 100 years of delay and false starts, this body is on the verge of laying the issue of health reform to a rest.

This bill represents the culmination of decades of hard work. Its course has been shaped by 11 Presidents and countless Members of the House and Senate. It has taken a long and winding path to reach this point. This legislation is a product of compromise and consensus, of give and take on both sides. It is not perfect; by no means is it perfect. But here we stand.

We have come further than any Congress in history on this issue. We have worked hard to craft a measure that can accomplish the goals of reform without alienating those whose support we need to pass this bill. Without a commitment to certain ideals, this bill would be empty and ineffective. But without a willingness to work together and achieve compromise, this bill can never become a political reality.

As responsible legislators, this is the fine line we must always walk. It is never easy. I applaud my colleagues for the fine work they have done at every step along the way. Still, not everyone is satisfied, so the work goes on. It is the genius of our Founding Fathers and the rules of this body that allow one Senator to keep debate alive so we can work, debate, write, rewrite legislation together. One Senator can do that under the rules of this body.

Some have suggested that we kill this legislation and start over. They suggest that we stop and come up with something new. They say without perfection we should give up on reform altogether.

I have spoken on the Senate floor, Mr. President. You know what my position has been. But giving up on this issue is not an option. So as my colleagues and I continue to move forward from here, I would like to make one thing very clear. After 100 years of debate, we have come too far and worked too hard to turn back now. Too many Americans are counting on us to make a decision on their behalf. They need it now. They don't need it tomorrow or next week or next month or next year or never—they need it now. Killing the bill would ignore those who look to us for help in their time of crisis. We cannot abandon them at this time. Leaving tens of millions of people without any health coverage at all is also unacceptable.

To all those who believe we should kill this bill I would say this: I understand their frustration, the impulse to say enough is enough. But our vote in this body on this bill is not the end of a path for this sweeping legislation, only a door to the next step of conference.

I have not yet seen the details of the legislation. I have not yet seen the CBO score. I have not yet seen the provisions that will earn my vote; namely, cost containment, competition, and accountability. It is only through keeping this legislation alive that we can continue our work to make this a more perfect document. I say we must continue to work on this document we have before us. We cannot kill this legislation and start over. We must keep working through this legislation, keeping it alive so we can continue—continue—to make this document what we want it to be. That is what we must do.

I yield the floor.

Mr. President, 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. KAUFMAN. 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. KAUFMAN. Mr. President, I speak today about the need for urgent action on the Defense appropriations bill. I shouldn't have to speak about urgent action on the Defense appropriations bill because this is the one area that is so important to the country and on which we should always operate as quickly as we can. I urge my colleagues on the other side of the aisle to stop their attempts to derail the health care bill and allow the Defense appropriations bill to move forward.

As always, I respect that my colleagues have different views. We have different views on all kinds of issues. We have all kinds of substantive differences. I am one of the people in this body who believe there are basic differences, and a lot of them are not political, they are about basic differences that separate us from being Democrats and Republicans. We can disagree on tactics and on principles, but I know my colleagues on the other side of the aisle support our troops, and the support of our troops should never be a partisan issue.

This bill funds more than $100 billion for operations, maintenance requirements, and military personnel requirements for our armed action in Afghanistan and Iraq. It provides more than $23 billion for equipment critical for protecting the brave men and women in uniform—and they are brave men and women and they deserve this. I know the other side of the aisle agrees with that. That is why we should move ahead on this bill. It funds more than $150 billion for the training of our troops, critical to our success. It is incumbent upon the Congress to ensure that our troops in Afghanistan, Iraq, and throughout the world have the resources they need to be safe, secure, and effective in the war zone.

This bill has been operated and worked on by both parties. It puts our troops first, with the necessary equipment and improved benefits for the military and their families. This isn't just about our troops; this is about the brave men and women who remain at home, the families who need the benefits—again, issues I know my colleagues on the other side of the aisle agree with. They deserve our support and they deserve it now.

In addition to providing a 3.4-percent pay increase for our troops, it also improves military health care and research, including for the very important psychological health, which is especially important, given the startling

rates of post-traumatic stress disorder. Everybody knows we must train and equip our troops, our men and women going into battle, but it is equally important—and everyone agrees with this, too—it is equally important to care for the troops and their families after they return home. That is what this bill does.

This bill is necessary, as it demonstrates solidarity with the troops and gratitude for the sacrifices they make on our behalf. It is an investment in our military, in our security, and in our future. That is why our House colleagues overwhelmingly agreed to it yesterday by a vote of 395 to 34 and why we must end these partisan delays to move this bill forward.

It is critical we pass the bill, and there is no good reason why our troops and military families should have to wait—especially in this holiday season—while the other side of the aisle is playing politics.

I support conducting a real debate on Afghanistan with a host of other military issues, but the current debate is not about substance, it is about politics. Our troops should come first and they deserve better. We should pass this bill without delay to give the military and their families the funding they need to do their jobs and to protect our Nation.

Thank you. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WEBB). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KAUFMAN. 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. KAUFMAN. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes.

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

HEALTH CARE FRAUD

Mr. KAUFMAN. Mr. President, I rise to discuss health care fraud. Earlier this month, I introduced, along with Senators LEAHY, SPECTER, KOHL, SCHUMER, and KLOBUCHAR, an amendment that will protect our increased national investment in the health of Americans by improving fraud enforcement. Everyone believes in fraud enforcement, and this amendment does that.

It is no secret fraud represents one of the fastest growing and most costly forms of crime in America today. In no small part, our current economic crisis can be linked to financial fraud, starting with unchecked mortgage fraud generated by loan originators, through securities fraud that hastened the eventual market crash and maximized its impact on Main Street and average American investors.

In response, this body passed the Fraud Enforcement Recovery Act, FERA, which directed critical resources and tools to antifinancial fraud efforts.

FERA was passed in response to an unprecedented financial crisis, but Americans should expect Congress to do more than simply react to crises after their most destructive impacts have already been felt. We owe it to our constituents to identify and address problems when they arise so we can prevent disaster rather than just trying to figure out how to clean up after it happens.

In undertaking comprehensive health care reform, we must be proactive in combating health care fraud and abuse.

It is hard to believe, but each year criminals drain between $72 billion and $220 billion—that is billion dollars—between $72 billion and $220 billion from private and public health care plans through fraud, increasing the costs of medical care and health insurance and undermining public trust in our health care system. We not only lose the money, we lose the trust people have for the system that the system works.

We pay these costs as taxpayers and through higher health insurance premiums. This amendment will provide needed tools to reduce those costs through effective investigation, prosecution, and punishment of health care fraud.

It is pretty clear that as we take steps to increase the number of Americans who are covered by health insurance and to improve the health care system for everyone, we must also ensure that law enforcement has the tools it needs to stop health care fraud.

The Finance and HELP Committees, as well as leadership, have worked long and hard to find ways to fight fraud and bend the cost curve down. They have done a great job. However, there is more work to be done, and this amendment is an important additional step.

This amendment makes straightforward but critical improvements to the Federal Sentencing Guidelines, to health care fraud statutes, and to forfeiture, money laundering, and obstruction statutes, all of which would strengthen prosecutors' ability to combat health care fraud.

First, this amendment directs a significant increase in the Federal Sentencing Guidelines for large-scale health care fraud offenses.

It is really kind of strange, but despite the enormous losses in many health care fraud cases, analysis from the U.S. Sentencing Commission suggests that health care fraud offenders often receive shorter sentences than other white-collar offenders in cases with similar loss amounts. So people basically feel you can do health care fraud and get away with it and you will not pay a major price. According to statements from cooperating health care fraud defendants, many criminals are drawn to health care fraud because of this low risk-to-reward ratio.

As we have an incredible expansion of health care that will go forward, with more funds, we know criminals out there think this is easy. They think: I can go out and commit fraud. It is a very complex process, but I commit the fraud. My chances of getting caught are not that great, but even more, I have an added bonus that, if I get caught, I will not get much of a penalty.

That is why we need to ensure these offenders are punished not only commensurate with the costs they impose upon our health care system but also at a level that will offer a real deterrence. These folks believe they can engage in health care fraud and even if they get caught they will not have much of a penalty. Our amendment directs changes in the sentencing guidelines that, as a practical matter, amount to between 20 and 50 percent for health care crooks stealing over $1 million.

In addition, the amendment updates the definition of ''health care fraud offense'' in the Federal Criminal Code to include violations of the antikickback statute, the Food, Drug, and Cosmetic Act, and certain provisions of ERISA.

These changes will allow the full range of law enforcement tools to be used against all health care fraud.

The amendment also provides the Department of Justice with subpoena authority for investigations conducted pursuant to the Civil Rights for Institutionalized Persons Act, also known as CRIPA.

It is hard to believe, but under current law the Department of Justice must rely upon the cooperation of the nursing homes, mental health institutions, facilities for persons with disabilities, and residential schools for children with disabilities that are the targets of CRIPA investigations. You can figure out that in most cases these targets will cooperate, but sometimes they may not. The current lack of subpoena authority puts vulnerable victims at needless risk.

Finally, the amendment corrects an apparent drafting error by providing that obstruction of criminal investigations involving administrative subpoenas under HIPPA—the Health Insurance Portability and Accountability Act of 1996—should be treated in the same manner as obstruction of criminal investigations involving grand jury subpoenas.

As we consider and debate meaningful health care reform, we must ensure criminals who engage in health care fraud, and those who think about doing so, understand two things: If they engage in health care fraud, they are going to be faced with swift prosecution by more prosecutors and more folks who enforce the law, and when they are found guilty, they will face substantial punishment.

These commonsense provisions should be a central part of health care reform. I urge my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, 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

Mrs. HUTCHISON. Mr. President, I rise today to speak about the health care bill that is pending. The Department of Defense bill is also pending. It is the business we have on the floor today. I have no doubt that at the appropriate time there will be a vote in support of funding our troops. I know that may come on Saturday after the time for debate has run out.

I want to talk about the health care issue because it is the reason we have been here for really most of the last month—voting every Friday, Saturday, and Sunday—is to talk about the health care bill, debate the health care bill, ensure the American people know what is in this health care bill, and ensure people start looking at the effect it is going to have on their businesses and their families. I can't think of anything we have ever voted on in this body since I have been here that will affect people's lives in such a personal way.

I have tried to look at what is good in the bill, and then I look at what I don't like in the bill, and I have to say the scale is very heavily tilted toward what I don't like.

In fact, I had a tele-townhall meeting, which is a new capability we have to talk to people. It is a wonderful way to be able to reach out in your State to people who are interested in asking questions and actually call them and let them ask their question. At all times during the tele-townhall I had last night, there were over 6,000 people who were in and out of that tele-townhall meeting. I was very pleased because every single question was a real question, a real person. One man who called is on kidney dialysis treatments. He has very high drug costs and high expenses. Then we had people on Medicare asking how the cuts in Medicare would affect their treatment and their care. Then we had small businesspeople who are scared to death of having more burdens, more taxes, and more mandates on their small businesses. Some were almost screaming into the phone: But don't people realize how hard it is to make ends meet right now for small business? Don't you all realize we are trying to stay afloat while we are in one of the worst recessions of our lifetime?

Of course, I assured them I do understand that. That is why I am trying to amend this bill, trying to change it, trying to encourage my colleagues on the other side of the aisle that we should really start over and try to have a health care reform bill that does three basic things.

We want a bill that actually lowers the cost of health care. Right now, the bill before us will increase the cost of health care. The cost of the bill that is before us today, if you start with when the bill takes effect, which is 2014, and you go 10 years out, you are looking at $2.5 trillion in costs.

We have a debt of $12 trillion in America right now. Those numbers are staggering. We used to be worried about $12 billion, $15 billion, and $100 billion; now we are talking about trillions of dollars. We are talking about $12 trillion in debt right now. The idea that we would put $2.5 trillion more in this health care bill, which mandates taxes, to offset some of it, to businesses, employers, and families, is unthinkable. It is unthinkable in good times, but in the bad times we have now, it is absolutely unthinkable. Here we are now talking about this bill that will increase the debt and increase taxes and mandates.

In talking with the people of Texas, I did a little poll on the tele-townhall. I said: Register in, punch 1 for yes, 2 for no, and 3 for undecided. I asked: Do you support the bill that is before us today? If you say yes, press 1; no, press 2. Eighty-one percent instantly started registering against this bill.

I was listening to my colleague, Senator BARRASSO of Wyoming. He also had a tele-townhall meeting for Wyoming. Many Senators are doing this now. He had a couple of thousand people on the call. Ninety-three percent who registered on the poll were against this bill. My colleague from Nebraska, Senator JOHANNS, said the polls in Nebraska are overwhelmingly against this bill.

People are listening to the debate, reading the newspapers, getting every bit of information they can, listening to the tele-townhall conference calls, they are asking their questions, and in unprecedented numbers they are registering their interest and their overwhelming rejection of this bill.

I talked about what is in this bill and what we could have. Instead of $100 billion in new taxes, which would start next month, we could step back and say we are not going to put new taxes on businesses and families and companies before the bill even takes effect. In fact, Senator THUNE and I had a motion that was rejected on the floor. It was tabled yesterday afternoon. It would have done exactly that. Very simply, if the bill is going to pass, at least don't start the taxes until there is some program available that is as a result of the bill. It is very simple and clear. That was our motion, and it was tabled, with only 41 Senators saying yes, so we lost the motion.

It is of great concern to us that the tax increases in this bill start next month—we will have over $100 billion in new taxes starting next month—and that the 40-percent excise tax on premium health care coverage policies takes effect in 2013 but the bill doesn't take effect until 2014.

That is the bill we are debating today, which an overwhelming number of American people are rejecting. They don't want taxes, mandates, and they don't want the government to step between them and their doctors. They want the physician-patient relationship that is the hallmark of American health care. It is what makes us different from most other countries in the world—that we don't have government standing in the way and most of our private plans don't say: No, you can't have this treatment because you are too old or you are not fit enough, or having the government say: Here is who is qualified for this procedure. That is not the health care we have known in America.

We are for health care reform that lowers the cost of health care in our country, and more people will have affordable options. There is a part of this bill that could provide that. It doesn't mean a government takeover. We don't need a government takeover. That is why you have all the taxes and mandates, because it will cost so much that taxes and mandates are the way the majority is putting forward to pay for this expensive government takeover.

Why not have the health care exchange without all the mandates so there would be a free market on the exchange with no cost that would allow people to have choices? The insurance companies would come forward and there would be high-deductible plans for people who wanted high-deductible plans, and there would be low-deductible plans that would be more expensive, but some people would prefer to have that. You could make your choices among the plans that would be put on an exchange that would be open, transparent, and competitive. You would have bigger risk pools and, therefore, lower premiums would be the result.

Talking about what Republicans wish to see in health care reform and asking the majority if we could stop going through every weekend with one vote on Friday, one vote on Saturday, one vote on Sunday so that we are not able to do anything with our families during this holiday season, instead why don't we step back and say we will come back after Christmas or whenever the majority wishes to come back and say: Let's sit down in a bipartisan way, and let's have three principles in a health care reform bill. No. 1, we would lower the cost with the exchange, bigger risk pools, lower costs. No. 2, how about tax credits for every individual or family who would buy their own policies because they don't have access through an employer or if they are going to go on this exchange that would not cost anything, they would be able to have a tax credit to buy their own health care coverage. That would increase the number of people insured in our country, much larger than we are looking at today with a big government-run plan, which is said to increase the number of insured 31 million, but leave 24 million uninsured. We could get 31 million with the free market working.

No. 3, what about medical malpractice reform? We could take $54 billion out of the cost of health care by having frivolous lawsuits curbed with some kind of reasonable limits on damages or attorneys fees that would allow

people to get some compensation for a transgression, but not something that is going to raise the cost of premiums so high for doctors and hospitals that they have to order more medical tests and that raises the cost of health care across the board.

Those would be the principles we could support. Let's start again after Christmastime and do a rational proposal that the American people would accept.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. HUTCHISON. I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, is it any wonder that people are responding negatively when asked, Do you support health care, when they have been bombarded with millions of dollars of TV advertisements that are not telling what this health care bill does?

Is it any wonder when they hear comments such as this health care bill will not save the American consuming public on their health insurance premiums? What does it do?

Can you believe that it is not going to allow insurance companies to cancel your policies?

Can you believe that it is not going to let an insurance company come up with some kind of fictitious excuse that you have had a skin rash and, therefore, you have a preexisting condition and they are not going to insure you?

Can you believe that it is going to bring in 31 million new people who are going to have health insurance who did not have health insurance before, and that all the rest of us paid for when they showed up at the emergency room?

Can you believe that this health care bill is going to bring down the cost of Medicare over the course of time and is going to save Medicare instead of Medicare running out of funds in about 6 or 7 years?

Can you believe that by creating a health insurance exchange for the private marketplace for private health insurance companies to compete for that available exchange of people who want to buy health insurance there, it is going to bring down their health insurance premiums from what they would otherwise pay?

You probably say it is hard for me to believe that because of all the negative I have heard. But that is exactly what the experts tell us this bill is going to do. And, oh, by the way, it is going to do one more thing. Over 10 years, this bill is going to reduce the deficit by $130 billion. Can you believe that? Not if you have been listening to all the stuff that has been thrown around about how bad the bill is. But that is the tactic. That is the tactic of ''in your face,'' ''oh, ain't it awful.'' It is time the real story gets out.

You know what will happen? When this bill is passed and it is finally signed into law by the President, then the real story is going to get out and people will know. In the meantime, I wish that in the Senate we could have closed the doughnut hole. The doughnut hole is the gap in coverage for Medicare recipients where they have to continue to pay premiums for Medicare but they receive no drug coverage whatsoever.

Under current law, a Medicare beneficiary will pay up to $310 for their drugs, which is the deductible, and then they pay 25 percent of their drugs up until they have paid out a total out of their pocket of $940. Above that, they hit the dread doughnut hole and they continue to pay premiums, but they receive no help from Medicare for their drugs all the way up to a much higher level. There are 3.5 million people who hit that dread doughnut hole.

Each year, because of the formulas, the doughnut hole grows bigger and it is compounded by higher and rising drug prices. We have seen that the pharmaceutical industry has raised their prices 9 percent. These out-of-control increases in prescription costs are hurting our folks and especially seniors on fixed incomes.

It is no secret that I wanted to fill the doughnut hole. It is not going to happen. But what is going to happen when this gets into conference with the House of Representatives—in fact, there has been a commitment by the majority leader, there has been a commitment and a statement by AARP, which has a significant interest in this legislation, there was a pledge on this floor by Senators REID, BAUCUS, and DODD to close the doughnut hole. I suspect that what has happened is, they have gotten the agreement of the pharmaceutical industry to help them close that doughnut hole once we get into the conference committee with the House of Representatives.

But first, we have to get the bill out of here. That means we have to stand up and push back all of this nonsense and misinformation that is coming about this bill.

What does it do, to recapitulate. It lowers the cost of Medicare over time. It gives a reduction of the Federal deficit. It allows insurance for people who do not have it to be available and affordable and they cannot cancel or use some flimsy excuse to cancel. It will utilize the private marketplace in which to make this happen. This is an American story, and it is going to be an American success story.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CORNYN. Mr. President, as I contemplate the task ahead of us between now and Christmas to consider this huge change—some might say radical change—in our health care system, I am reminded of an oath that doctors take called the Hippocratic oath, which basically is, first, do no harm. In other words, you don't want to kill the patient when you are trying to cure them of cancer. You don't want to disable a patient, make their condition actually worse than trying to help them. I think it would be advisable if Congress took a Hippocratic oath, and nowhere is that more appropriate than when talking about health care.

We ought to make sure whatever we do, we don't make things worse. Yet the underlying health care bill, the Reid bill, makes things worse. I will talk about that in detail.

We all agree health care reform is needed. Some of us have different ideas about what reform should look like. We know health care premiums have more than doubled in the last 10 years for American families and that health care costs typically rise at two or three times the rate of wage growth. We also know this is all unsustainable. We can't keep doing what we are doing. Republicans and Democrats agree on the nature of the problem. The question is, What is the cure? What are we going to do to make it better? Are we, perhaps, due to inadvertence or unintended consequences, actually going to make things worse than they are now?

The Reid bill, the health care bill that will be considered along with a substitute that has been negotiated behind closed doors and which we haven't seen, the basic Reid bill would actually increase premiums by $2,100 for American families purchasing insurance on their own.

I would like to recall the words of President Obama as he was describing his bill. He said:

> I have made a solemn pledge that I will sign a universal health care bill into law by the end of my first term as president that will cover every American and cut the cost of a typical family's premium by up to $2,500.

Yet this bill breaks President Obama's pledge because for an average American family buying their insurance on their own, it would raise their premiums by $2,100. According to the CBO and the Joint Committee on Taxation, all of the new taxes—the tax on health benefits, if you have so-called Cadillac plans. I had three firefighters from Texas in my office 2 days who said: Please don't let them tax our health care plans. We have negotiated those in lieu of wage increases. We accepted lower wages because we wanted a better health care plan. Now you are going to tax our health care plan. That is just not right.

We know those taxes on medical devices, on health insurance, whatever they may be—on prescription drugs—eventually will find their way back to the consumer. It is sheer fantasy to think these companies are just going to absorb those taxes and those cuts and they would not have an impact on

the price to the consumer. That is why rather than bending the cost curve down, making health care more affordable, this will actually make it worse.

A new independent study by Oliver Wyman found that the Reid bill would actually increase insurance premiums for people with insurance. Again, I thought the purpose of health care reform was to bring costs down through managed care, medical homes, accountable care organizations, delivery reform, medical liability reform, parity of tax treatment, increased competition across State lines. Those are the kinds of things this bill does not do which would actually have some hope of bending the cost curve down for the average American family.

This study by Oliver Wyman found that the Reid bill would actually make people's insurance premiums go up. This study said premiums would go up by 54 percent—in my State of Texas, by 61 percent—for Americans purchasing health insurance on their own. In other words, it is not employer provided. They would have to go out in the marketplace, if you are a small business man or woman, and buy insurance or if you are an individual buying health insurance, this will make your premiums go up by 61 percent in Texas and 54 percent across the Nation. So an average family of four in Houston would see their premiums more than double to $1,352 a month.

Is that the kind of health care reform we thought we were signing on to when we engaged in this debate? It certainly isn't what I call health reform. This is not what my constituents in Texas call health reform, to double the premiums for an average family of four in Houston. That just makes things worse. Premiums could go up 20 percent higher for small businesses struggling to provide benefits for their employees.

The worst part about this is that these kinds of so-called reforms have been tried before. They failed miserably. For example, in New Jersey and New York, both tried the kinds of mandates, community ratings, guaranteed issue—these other things that sound a little arcane but which have had the impact of skyrocketing premiums in those States and causing insurance companies to leave the market. Rather than bearing these financial and regulatory burdens, many of them say: We are out of here—leaving people with less choice and higher premiums.

Then there is the Medicaid-Medicare cost shift. For example, Medicare pays about 80 percent of what private insurance does to a doctor or a hospital, Medicaid even less. So these providers have to make it up somewhere else. What they end up doing is charging more to people with insurance. That is what the cost shift is all about. According to one study, that cost shift means higher premiums of about $1,800 a year for the average family. About half of that comes from Medicaid alone. Yet the Reid bill includes the biggest expansion of Medicaid since the program was created in 1965. And lest we forget, Medicaid is a joint Federal-State program. By expanding the coverage of Medicaid, we are basically imposing an unfunded mandate on the States.

In my State, a State of 24 million people, this Medicaid expansion will result in a $20 billion unfunded mandate imposed on State taxpayers that the Federal Government is not going to help them out with, $20 billion over 10 years.

The American people intuitively know all of this. A new Washington Post-ABC poll came out this week that found that most Americans, 53 percent, believe Washington's health care bill will actually increase their costs. Small businesses know this is true. According to a letter I received from the National Federation of Independent Business:

> The Patient Protection and Affordable Care Act, which is short on savings and long on costs, is the wrong reform at the wrong time and will increase health care costs and the cost of doing business.

Why in the world would we impose additional costs on small businesses at the same time we are trying to get small businesses to create jobs to try to get our economy to come back? We know that small businesses are the engine of job creation. Now we are just going to impose more costs, more higher premiums on them. What is that going to do? That will discourage them from keeping employees they have in a tough economy and perhaps not hiring new people, when we want to do everything we can to bring down the 10 percent unemployment rate.

In Houston, TX, according to one small business owner:

> The proposed health care bill is going to have a negative impact on my business because the cost of employee health insurance will go up. I don't believe what some are saying that the costs will go down. This bill does not make economic commonsense.

One thing about common sense is, as you find out the older you get, it is not too common. This bill simply defies the explanation that some have given to it that it will actually make things better rather not worse. My constituents, small business owners, everyone understands that the pressures put on premiums and costs is going to make things worse.

Here is a chart that shows that from the time this bill is passed until 2016, we will see a huge increase in premiums for businesses and individuals as well—large businesses, small businesses, individuals. Americans know this is going to make an unsustainable status quo even worse. Yet the President and the majority——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CORNYN. I ask unanimous consent for an additional 2 minutes.

The PRESIDING OFFICER. In my capacity as a Senator from Alaska, I object.

Mr. CORNYN. I thank the Senator for his courtesy.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent to speak for an additional 5 minutes.

The PRESIDING OFFICER. In my capacity as a Senator from Alaska, I object.

Mr. CORNYN. Mr. President, may I inquire of the Chair, is it the intent of the Presiding Officer to prevent any Senator from speaking on the floor on this important bill? I am looking around. I don't see any other Senator waiting to speak. I simply would like an explanation of the Chair's ruling.

The PRESIDING OFFICER. I release my objection.

Mr. CORNYN. Mr. President, the Congressional Budget Office has said—this, of course, is the nonpartisan office which is tasked with the job of scoring or determining the cost of these bills before us—the CBO has opined that the Reid bill will result in 90 percent of Americans seeing the same unsustainable premium increases as they currently do year after year or, in some cases, even higher. If we are going to spend $2.5 trillion over 10 years, if we are going to cut Medicare by half a trillion dollars, if we are going to raise taxes by another half a trillion just to have no impact for 90 percent of Americans and for the others to actually see premiums go up, it strikes me that this is a solution in search of a problem.

The problem is, we know the premiums are too high, costs are too high, and we need a better answer than is being proposed by the Reid bill.

The Congressional Budget Office estimates that families who get their health care through small businesses or large employers will see their premiums go up under this bill. The new ideas we have seen offered by our friends on the other side are designed to score political points but are not aimed at solving problems.

For example, one of our colleagues, the Senator from Arkansas, offered an amendment to cap compensation for insurance executives and argued that it would actually lower premiums somehow miraculously. We asked the Congressional Budget Office whether that would have any impact on premiums. It said the impact would be negligible. So what is the point?

We have heard a lot about repealing the antitrust exemption for health insurers. The CBO said while that may be a feel-good sort of provision, that it would actually make premiums higher and make things worse.

The CBO concluded that by enacting the legislation, it would have no significant impact on the premiums that private insurers would charge for health insurance. They also noted that to the extent insurers would become subjected to additional litigation, their costs and their premiums charged to consumers might increase.

We have also heard from some of our colleagues about their cost containment ideas, a group of Democratic Senators who offered an amendment. I

think it does have some good ideas in it, but it only saves $200 million, not an insignificant amount of money, but in a $2.5 trillion bill?

So the bottom line is, this bill spends $2.5 trillion to increase premiums or, at best, maintain the status quo. That is not health care reform. We should reject this bill and start over with a step-by-step approach that will actually solve the problems confronting the American people.

We should not accept, no matter what the crush is before the Christmas holidays—these last 8 days of this year—we should not accept a bill that cuts $½ trillion from Medicare, which cuts benefits from Medicare Advantage beneficiaries—one-half million of whom live in Texas; there are 11 million total—we should not accept a bill that raises premiums for many Americans, and we should not accept a bill that puts crushing new taxes on small businesses when unemployment is at 10 percent.

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. ROCKEFELLER. 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. ROCKEFELLER. Mr. President, I rise with my colleagues, Senator LIEBERMAN and Senator WHITEHOUSE—who are on their way to the Chamber—to discuss an amendment to strengthen and improve the independent Medicare advisory board included in the underlying bill.

I firmly believe creating an independent authority to help Congress make informed decisions about reimbursing Medicare, getting away from a fee-for-service system, and making it based upon the cost which is incurred—but also the quality which now has to be required: evidence-based outcomes—that is the direction Medicare, all of health care, has to go.

These are not just cost decisions but quality decisions. I think it is critical to sustaining our program and the promise we made to millions of seniors that we would do right by them and still keep Medicare affordable, keep the trust fund solvent. It is meant to go broke in 2017. That does not help hospitals, doctors, Medicare beneficiaries, or anybody else. So we have to keep that in mind as we talk about this issue.

I applaud Leader REID for his bold leadership in including this advisory board in his underlying bill. It is a very strong step forward.

In their May report this year, the Medicare trustees determined, if we do nothing, the Medicare trust fund will basically go insolvent in 2017. In health care terms, that is like next February.

It is abundantly clear if we fail to put Medicare on a path of fiscal sustainability, this incredible program—and the security it means for seniors in my State of West Virginia and in the Presiding Officer's State of Alaska and people everywhere; and the disabled, who are, unfortunately, often forgotten—it will be in tremendous danger. We cannot allow that to happen.

So what does this amendment do? If we are serious about protecting Medicare's future, we have to be serious how we handle Medicare, how we allocate it, and use it as a reimbursement and quality tool. So this amendment includes a number of changes to do exactly that.

The most important change: This amendment eliminates a significant loophole in the underlying bill; that is, it eliminates the carve-out which was created by some for hospitals and other providers. I repeat, it eliminates the carve-out.

The carve-out now comprises about 60 percent of all Medicare. So it is a sham. It has to go or else Medicare is in deep trouble. I wish to talk about this a little bit.

We protect the board's integrity. In fact, we give the board integrity and we give them authority. Congress, right now, has the sole authority to change Medicare's cost curve. Yet as the ranks of lobbyists grow and prey upon Members of the House and Senate—it is amazing the relationship between how the cost of Medicare grows and their activities.

Let's be quite honest about it. This is not a politic thing to say, but it is the truth. Probably about 12 percent of the Congress understands health care down to the wee depth that is needed to be able to decide on the reimbursement procedures, the quality outcomes procedures, which we use to reimburse Medicare providers. This means we have made a lot of mistakes, the cost of Medicare has gone out of control, and we provide Medicare reimbursement unevenly and unfairly. People complain when they should not; do not complain when they should.

You have to understand, Medicare is such a powerful force it drives prices and it drives policies in health care for years and years to come all across the span of health care. It is the elephant in the room.

Power represents an opportunity. Medicare's force and clout can also be harnessed in a direction to improve our health care system, improve efficiency. That is why I am adamantly opposed to the carve-out for hospitals and other providers because it weaves special-interest treatment into the very fabric of a board created to remove them from the process.

MedPAC was created by a Republican Congress in 1997. It, in theory, decides how Medicare reimbursement is going to be updated on an annual basis. The fact is, it has no power to do any such thing. That has to be changed.

Is this a significant change? Yes, it is. Is it just like people changing their lives in various ways all across America because they are facing situations which they have not faced before? People do not have work; people have anxiety over all kinds of subjects; they have anxiety over health care, and they should have anxiety over health care because, particularly if you are a senior, the Medicare trust fund is running out on us.

So the only way you can do that, in my judgment, is to get away from fee for service; that is, you provide the service, and whatever it is, I will pay you the fee. It is simple. It is what we have used. It is what has gotten us in trouble because we do not insist upon experts making these decisions and on demanding evidence-based outcomes in the way hospitals, doctors, and others are reimbursed under Medicare. Medicare is taxpayers' money. It is not a frivolous matter.

As was the intent of my original policy, it is time to change the equation and put expert evidence and advice at the forefront of health care decision-making. It is time to take the special interests out of the process and create an independent, politically insulated entity with its sole job to be to protect Medicare's long-term quality and solvency. I am sure many will come and object to that, saying we should do that in Congress, but I repeat: Is Congress qualified? Does it have the knowledge to the depth that it can make a decision on how much providers should be reimbursed? My answer is some do, most don't and, therefore, the cost of Medicare keeps rising and the system is more endangered.

I have no doubt that a strong independent Medicare advisory board would be a powerful cornerstone for meaningful health reform in all of the right directions, but if we want the board to succeed, it needs the tools for both Medicare reform and genuine private sector cost containment.

Congress cannot do this on its own. We have proven ourselves incapable of making efficient, consistent decisions about Medicare's future, which now amounts to a crisis. We cannot continue standing in the way of progress. I urge my colleagues to join me in support of this truly transformative policy.

I simply repeat: If we are going to make it in health care, if we are going to make it in Medicare, if we are going to preserve the trust fund, we have to change the way we do business. People may not like that. People will complain about it. People will complain if we do nothing. People will complain if we do everything. People complain. That is the nature of it. That doesn't matter. What matters is that we do the right thing; that we bend the cost curve by making accurate decisions; that we are tough in our decision-making; and that is what this board—and Congress will have a chance to review it but cannot override it except by a very substantial vote—and that is what the Medicare advisory board is all about. It is the answer to Medicare's future, in this Senator's judgment.

The security this policy provides for our seniors is too important. We need to fight for them, always. We need to protect them. We need to protect the solvency of the trust fund, and we need to make sure seniors are getting the best possible care. The day has ended when people can submit a bill and say: I did this and, therefore, pay me that. That is our system now. It is the wrong system. It has gotten us into trouble. It is not good for health care, and it is very bad for the solvency of the trust fund.

I see my distinguished colleague Senator LIEBERMAN has arrived. He and I have been working on this for some time together, I am proud to say.

I thank the Chair. I say to my colleagues the full text of the amendment, No. 3240, is printed in the RECORD of Tuesday, December 15.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I am honored to stand and speak on behalf of this amendment which I have filed with Senator ROCKEFELLER and Senator WHITEHOUSE, and I thank them for their leadership.

I wish to speak for a few moments about it. It is not a noncontroversial amendment, but I think it redeems one of the two central promises or goals of this bill. The fact is that a lot of the current health care reform debate in fact is focused on issues that are not central to two big goals that I think most of us share, which are, first, to expand the number of people who have health insurance coverage in our country; secondly, to lower the costs, because the costs continue to go up way beyond the rate of general inflation in our country, and that has a very burdensome effect on millions of individuals, families, businesses, our government—indeed, our entire economy.

This amendment focuses on the second of those two big shared goals, which is containing the increases in health care costs. It has become a mantra around here—but it is never bad to repeat a mantra—which is that national health expenditures in our country are now well over $2 trillion. It is hard to imagine that amount of money, but let me try to get inside it.

We spend twice as much per person on health care as the average developed country in the world, but I am afraid we are not receiving as a country the best value for our health care spending. The fact is that the United States provides some of the best health care in the world, but we don't provide it to all of our people and we don't provide it efficiently. Medicare and Medicaid account for over 20 percent of the Federal budget and over 27 percent of national health expenditures. These two programs are expected to rise to equal 20 percent or one-fifth of our gross domestic product by 2050.

Here is the animating, motivating fact that brings Senator ROCKEFELLER, Senator WHITEHOUSE, and me together to file this amendment: The Medicare trust fund, which provides Medicare benefits to approximately 37 million senior Americans that they depend on, that they have depended on in a way that has helped to extend their lives as average life expectancy goes up, the Medicare trust fund is expected to be insolvent, out of money, bankrupt, by 2017—unable to pay the bills by 2017. That is 8 years from now. It is to prevent that unacceptable result that my colleagues and I come forth to file this amendment to make sure that by then—we have done a lot of things, but one of them is to make the delivery of health care more efficient, the delivery of health care to seniors through Medicare more efficient, so they can look forward with confidence to having Medicare coverage throughout the rest of their lives.

As we all know, it is not just the ones on Medicare now; the baby boomers are coming of age to get on Medicare, and that will add enormously to its responsibilities.

I would say that Senators REID, BAUCUS, DODD, and HARKIN did a superb job, a very good job, with the Patient Protection and Affordable Care Act, the underlying bill, to reduce health care spending and particularly to do so while expanding coverage for 30 million more Americans, which is the second great goal that I believe we all share. While these numbers are encouraging, Senators Rockefeller, Whitehouse, and I think we can and should do more, and that is the cost containment numbers.

My colleagues introduced earlier this year the MedPAC Reform Act, which created an independent authority, a separate nonpartisan body, to make critical health care cost decisions or make recommendations about them. In the current Senate health care reform bill, their idea appears centrally as the independent Medicare advisory board. It will bring together a panel of experts whose mission it will be to extend the solvency of the Medicare trust fund by seeking out new efficiencies, new cost containments, and improving the quality of care delivered by Medicare in the private sector. The board will have the authority to make recommendations to the President and Congress to reduce Medicare spending in particular ways. Those recommendations will be fast tracked through Congress with strict requirements for the committees of jurisdiction to review them, report the recommendations to the full Congress, and then be subject, those recommendations, to limited floor debate, limited by the underlying legislation. If Congress does not pass the advisory board's recommendations or adopt other proposals that produce an equivalent amount of savings, the Secretary of Health and Human Services will be required to implement the board's original recommendations.

As Senator ROCKEFELLER said—this is the second time today I have said this—earlier today the Homeland Security Governmental Affairs Committee held a hearing on efforts to establish a commission to begin to turn around the exploding national debt we have. Part of the reason we do that and part of the reason this independent board outside of Congress is being created is that we haven't proven ourselves capable of controlling costs because we find it a lot easier to say yes to people, for good reasons, for humane reasons, but don't find it so easy to pay for the resulting costs of our affirmative answers to their requests.

The CBO has estimated that the advisory board in the current bill will save $23 billion in the next 10 years. The Obama administration and dozens of respected economists have said that the creation of this board is instrumental in lowering costs and literally saving Medicare from bankruptcy. The amendment I have filed with Senators ROCKEFELLER and WHITEHOUSE, I am convinced—certainly our intention is to make this independent board stronger so it will result in larger savings and contain more costs over the long run.

There are six provisions in the amendment that I want to denote, describe briefly. First, this amendment will extend the board's authority to cover hospitals and hospices; sensitive, I know, but the board must have the authority to consider the entire breadth of Medicare expenditures in making its recommendations to Congress to maximize savings for the government, for taxpayers and, most of all, for the beneficiaries of Medicare so the program is still there to help them.

Second, our amendment makes it easier for the board to make recommendations in the years beyond 2019 than the underlying bill does so that it can continue to monitor Medicare over the longer term and ensure its long-term solvency. We want those on Medicare now, and those coming on Medicare, to be able to depend on it over the course of their lives.

Third, this amendment will raise the amount of savings the board must meet in years where Medicare growth exceeds the target growth rate set in the law, in the proposal.

Fourth, we move up the time of implementation of the board's recommendations by 2 months to minimize, frankly, the influence of interest groups who will be in the normal course of the process fighting to stop these cost-effective recommendations.

Fifth, the amendment allows the board to offer recommendations in years where the Medicare growth rate does not outpace the target growth rate. The goal of this provision is to be clear that the purpose of the board is not just to contain costs beyond a certain standard but also to search out constantly for inefficiencies, for waste, for the expenditure of Medicare dollars that is not actually benefiting Medicare recipients.

Finally, our amendment clarifies that the purpose of the board is not just to contain costs within Medicare but to look more broadly at health

care spending outside of these publicly supported programs. That is very significant. It will provide an opportunity for broad savings in health care and health insurance for pretty much everybody in our country.

I am proud to join today with my friends, Senators ROCKEFELLER and WHITEHOUSE, to announce the filing of our amendment. These six provisions will make this advisory board stronger and reduce costs.

While we disagree on some aspects of health care reform, I hope we can agree across party lines that health care spending is out of control, and that we can contain it in a way that doesn't threaten access or benefits. We must preserve and extend Medicare for future generations, and we must ensure that the new private market we are creating in health care reform is one where health care quality and efficiency justifies the cost.

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. LIEBERMAN. I wonder if I could ask unanimous consent for an additional moment.

The PRESIDING OFFICER. In my capacity as a Senator from Minnesota, I object.

Mr. LIEBERMAN. Really. OK. I won't take it personally.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senator from Rhode Island be recognized for 10 minutes followed by the Senator from Michigan, the distinguished chairman of the Armed Services Committee who will be speaking on the bill, and that I be recognized to follow him.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. No objection. I assume that is for 10 minutes each?

The PRESIDING OFFICER. Is that for 10 minutes each?

Mr. MCCAIN. Yes. I have been around here 20-some years. It is the first time I have ever seen a Member denied an extra minute or two to finish his remarks. I must say that I don't know what is happening here in this body, but I think it is wrong.

It is fine with me that it be 10 minutes.

I will tell you, I have never seen a Member denied an extra minute or so, as the Chair just did.

Mr. LEVIN. If the Senator will yield, I don't object to the unanimous consent request on that condition. I think the same occurred earlier this afternoon for reasons that have to do with trying to get this bill going.

Mr. MCCAIN. I haven't seen it before. I don't like it, and I think it harms the comity of the Senate not to allow a Member at least a minute. I am sure the time is urgent, but I doubt if it is that urgent.

I renew my unanimous consent that the Senator from Rhode Island be recognized for 10 minutes, the Senator from Michigan for 10 minutes, and then that I be recognized for 10 minutes.

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

The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Mr. President, I know the Senators have been waiting longer than I have. It is a personal courtesy from them to me to allow me to join Senator ROCKEFELLER and Senator LIEBERMAN as a cosponsor and have our remarks follow in series. I am grateful to both of them.

I am here to speak in support of the amendment offered by Senators ROCKEFELLER, LIEBERMAN, and myself, which would strengthen the provisions of the reform bill creating a nonpartisan group of experts to put the brakes on out-of-control medical spending.

One of the first things we can count on in terms of this amendment being one to protect Medicare beneficiaries is that the prime sponsor is Senator ROCKEFELLER, a man who has dedicated his career since long before I was here—even during his days in West Virginia—to looking out for seniors and for the disabled and, since he has been in the Senate, looking out for Medicare. That is a credential that deserves great respect with respect to this amendment.

One of the most persistent concerns in this health care debate is, of course, cost control. I have spoken many times on the floor about the overriding importance of cost containment for the future of health care and especially the need for innovative delivery system reforms, which can be driven by the way you pay providers.

Our Republican attackers complain that Democrats on the bill are just doing more of our usual taxing and spending and that we won't impose any discipline on the system. Mr. President, as somebody who has worked for years on health care delivery system reform, I can tell you that is simply not true. This bill undertakes the most comprehensive redesign of our chaotic, wasteful system ever attempted.

One leading health economist and expert in cost containment, MIT professor Jonathan Gruber, recently wrote of the Senate Democrats' efforts in this bill that he couldn't ''think of a thing to try that they didn't try. They really made the best effort anyone has ever made. Everything is in here. . . . You couldn't have done better than they are doing.''

Many critics talk about cost control as if it were just a matter of political will, that Congress can come here and cut costs by flipping a switch. Well, that may be true if you want to cut benefits for the elderly and disabled or if you want to throw the elderly and disabled off of coverage or if you want to pay doctors even less for treating Medicare patients. But those would be brutal, callous cuts that would create human misery and suffering. Better to tackle the waste in the system, the $700 billion annually in excess costs found by President Obama's Council of Economic Advisers—a number that may actually be as high as over $1 trillion every year, according to the Lewin Group and to George Bush's former Secretary of the Treasury, Paul O'Neill.

By this method, you save money by improving the quality and efficiency of care; by tackling the multiple sources of waste and inefficiency in the system; by improving quality and access to care and giving doctors, hospitals, employers, and employees all the correct financial incentives to adopt healthy, cost-saving, efficient practices. The complexity of getting those incentives right, aligned with top-flight health care, versus the power of the interest groups that are involved, has historically paralyzed Congress.

History teaches that the significant national dialog and debate we are now having about health care is a momentary exception rather than the general rule. It is possible this debate will usher in a sustained period of focus on health reform, but the steepening fall of our health care system toward catastrophe should counsel us to protect against that congressional institutional paralysis.

This independent, nonpartisan board of experts to help control costs in a way that is smart, humane, and not all politics, is important. The independent Medicare advisory board will force Congress to act by issuing recommendations to reduce cost and increase efficiency that will automatically go into effect if Congress does what we so often do around here—nothing. If Congress can agree to different ideas, it can change the board's recommendations, but we still have to reduce Medicare costs by a minimum savings target. In other words, the board will force Congress to engage thoughtfully and for the public good on the most important fiscal and health issue our Nation faces.

Senator ROCKEFELLER's amendment strengthens this board in several important ways: It expands the circumstances in which the board's recommendations go into effect when Congress does nothing. It raises the maximum level of savings that the board's recommendations must achieve. It ensures all providers of health care services, including large hospitals, are equally responsible for bringing down Medicare costs. It empowers the board to issue recommendations for improving Medicare over the long term, even in years where spending is under control.

My colleagues on the other side of the aisle have depicted the board as a frightening, Orwellian, all-powerful dictator that will cut Medicare benefits. Hogwash. The bill specifically prohibits the board from doing anything to increase premiums, ration care, restrict benefits, or modify eligibility.

The facts no longer seem to matter to our friends on the other side. They have called this group the ''rationing

commission.'' If you look at page 1004, lines 3 and 4, it says this:

The proposal shall not include any recommendation to ration health care.

You are entitled to your own opinion—and we all have one—but not your own facts.

It is actually that kind of demagoguery about Medicare that proves the case for creating the board. Thoughtful, smart, technically expert people under congressional oversight but protected from these partisan spasms of congressional vitriol, passion, and folly will make careful and consistent decisions for all of our benefits, without diminishing the power of the American people and their elected representatives, so that we can preserve and protect Medicare.

I urge my colleagues to support Senator ROCKEFELLER's amendment, in which Senator LIEBERMAN and I have so proudly joined him.

I yield the floor with my thanks to the Senator from Michigan for being so gracious in allowing me to join my colleagues in sequence on the bill.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I wish to speak for the few minutes we have this afternoon in support of the appropriations bill that is before us, the Defense appropriations bill.

Senator MCCAIN and I and other members of the Armed Services Committee have spent a lot of time each year authorizing important programs to support our troops, protect our troops, and support their families in a whole host of ways. Hopefully, it will authorize funds that can help us succeed in Afghanistan and Iraq. That bill is now law, and in front of us is an appropriations bill that contains most of those same provisions—not all but most of the same provisions.

It is critically important that this appropriations bill be passed. There are differences in this body and between this body and the House of Representatives about the policies that are involved in the war in Afghanistan and the war in Iraq. That is normal. That is the way it should be. We can have democratic debates inside this great democracy of ours. We don't have to agree, and we don't on many of the policies involved in these two war efforts. Where I believe this body is unanimous is that we are determined to support our troops when they are in the field regardless of whether we agree with the particular strategy they are supporting or whether we happen to have supported their mission.

It has been the tradition of the Congress, once a decision has been democratically arrived at to send troops to the field, that we support those troops. This appropriations bill has critically important provisions in it to support our troops. I believe there is unanimity and consensus in this body on those provisions. I will focus on a few of those provisions.

We have added significant funds. One example is the so-called Mine Resistant Ambush Protected Vehicles or MRAP. These are life-and-death matters we are talking about. These vehicles are a perfect example of that. The faster we can get the advanced MRAPs to the field in Afghanistan, the more we can get to the field in Afghanistan, the fewer Americans are going to be killed in Afghanistan. So we have funds in here—more than actually were requested—to send over 6,600 new MRAP vehicles, all-terrain vehicles that can function better there than the ones we sent to Iraq. These all-terrain vehicles have been designed and developed in record time in order to get them to our troops. We should be acting in record time on this appropriations bill, and there are many reasons for that. Surely, getting more MRAPs more quickly into the field is one of those reasons.

We have an organization called the Joint IED Defeat Organization whose sole purpose and mission is to come up with the strategies and technologies to defeat these IEDs, these improvised explosive devices that are killing our troops. In order to defeat these devices or train our troops who are deployed there in how to identify and protect themselves against IEDs, we have $1.8 billion in this appropriations bill for that organization. They have a laser mission to defeat the IEDs. We have to get this money to them.

This bill needs to be signed. The President has to sign it—and he will—so we can get these funds as quickly as possible to our troops. We need to adopt this appropriations bill.

We have pay raises and health programs in the bill. We add $1.3 billion more than the President requested for the Defense Health Program. This covers shortfalls in private sector care, increases funds for medical research, including what is called TBI, which are the brain injuries, as well as PTSD, which has so afflicted our troops in these wars. We add additional funds for those programs. The quicker the bill is signed, the faster those funds get appropriated and spent, the better off our wounded warriors who suffer from TBI and from psychological health problems are going to be.

In Afghanistan now, one of the key issues is going to be whether we can get the Afghan troops trained quickly enough, supported quickly enough, given the equipment they need so they, hopefully earlier rather than later, can join with us, partner with us, and take responsibility for their own security. Regardless of people's differences over the policies and strategies in Afghanistan, I believe there is a consensus in this body—no matter what the vote ends up being on the bill, whether people vote for the bill or against the bill, I would think all of us believe we must quickly provide funds to train, support, and sustain the Afghan security forces. We want to fund that effort in this bill at $6.6 billion.

Counternarcotics in Afghanistan. We all know the narcotics industry in Afghanistan is being used to support the Taliban. We want to continue efforts to train Afghan counternarcotics forces and support U.S. counternarcotics and interdiction activities in Afghanistan, so $300 million in this bill is going to do that.

We have a fund called the Commander's Emergency Response Program or CERP. That fund has been used to great advantage. This bill provides $1.2 billion for that Commander's Emergency Response Program; $1 billion of that is for that program in Afghanistan and $200 million of the CERP program in Iraq. This represents about twice as much CERP funding for Afghanistan as we had in fiscal year 2009.

Those CERP funds are able to provide very quickly support and economic development village by village. Our commanders are able, without going through a whole lot of red tape, to make relatively small investments in things which make a difference, in terms of the security of our troops and the betterment of the lives of the Afghans. It has had a huge, positive impact in terms of the perception of the Afghan community about us, satisfying them that we are there for their benefit, not just for our benefit. We are not occupying Afghanistan. When we leave Afghanistan, we want to leave Afghanistan in better shape than we found it. The CERP funds are a major contribution to that goal.

One of the things we have authorized in the bill, which Senator MCCAIN and I and members of the Armed Services Committee have brought to this body, was adopted by this body, and signed into law, was the authorization to use those CERP funds to help reintegrate, where we can, Afghan Taliban fighters into Afghan society—those who will renounce violence against the Government of Afghanistan and make a commitment to participate in civilian life. We are able to actually have the funds that are so essential to make that program work. We do not yet have a program in place. That is being worked on as we speak. But these funds need to be available to support that program of reintegration of Afghans, those low-level Taliban people who are with the Taliban not for any ideological reason but because they get some pay from the Taliban. Not all the members of the Taliban fall into that category. But for the ones who do, this funding becomes critical.

Mr. President, I will only take a few minutes more, but I did want to highlight a few additional points that I believe my colleagues should know about.

The first area pertains to three initiatives that originated in the Defense authorization bill that relate to the continuing fight against al-Qaida and associated terrorist organizations.

The bill includes nearly all of the $1.6 billion the administration requested for the coalition support fund, which is used to reimburse key partner nations, particularly Pakistan, for support provided to the United States in Operation Enduring Freedom and Overseas Contingency Operations.

It includes $350 million in fiscal year 2010, the full amount authorized, for the train and equip program to build the capacity of foreign militaries to conduct counterterrorism operations and support military or stabilization operations in which the U.S. participates. As clarified in the fiscal year 2010 NDAA, this authority can be used to build the capacity of ISAF coalition partners to prepare their training teams and special operations forces to be available for use in Afghanistan.

The bill also provides the full $100 million authorized for the authority to transfer funds from DOD to the State Department to support State's security and stabilization assistance programs.

The other area pertains to missile defense.

The bill before us provides important funding for ballistic missile defense programs. It supports the decisions made by Secretary Gates and President Obama to restructure the missile defense program with a greater focus on regional missile defense against existing missile threats. These changes include the termination of the Multiple Kill Vehicle Program and the Kinetic Energy Interceptor Program, and cancel procurement of additional airborne laser aircraft. This defense appropriations act also supports the decision to cap deployment of the ground-based midcourse defense system at 30 operational ground-based interceptors in Alaska and California, rather than the 44 previously planned for deployment.

The bill supports funding for alternative missile defense systems in Europe, to defend against current and future Iranian ballistic missiles.

It also includes an additional $57 million, above the budget request of $169 million, to procure more standard Missile-3 interceptors for our Aegis ballistic missile defense system. This type of interceptor will be at the heart of the new missile defense plan for Europe. The amendment also provides the full $1.1 billion requested for the terminal high altitude area defense, THAAD, system, which is another key element of our regional missile defense capabilities.

I believe my 10 minutes is up. I thank my good friend from Arizona, Senator MCCAIN, for allowing me to go first. The order of priority was that he go immediately after someone speaking on this side. But as always, his courtesy shines through to me, and I very much appreciate it.

I yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I thank my friend from Michigan. I thank him for his leadership of the Armed Services Committee.

The train is about to leave the station on the last of the appropriations bills for 2010 and, unfortunately, nothing has changed. Everything is the same—earmarking, porkbarrel, excessive and unnecessary spending. Billions in wasteful earmarks again have found their way into this bill which could otherwise be spent for the priorities that our men and women, our military leaders, as well as the Secretary of Defense, has asked for.

There is in this bill—here we go again: an appropriations bill loaded up with earmarks—a 523-page explanatory statement for 1,720 earmarks totaling $4.3 billion. Let's do some simple math: $4.3 billion in pork, $2.5 billion in unauthorized and unrequested C–17s; $500 million in unrequested and unwanted funding for the Joint Strike Fighter alternative engine; and a Presidential helicopter. That is $7.3 billion that neither the military nor the Defense Department requested and does not need—$7.3 billion.

Some people say that is not a lot of money. It is enough to keep the State of Arizonas budget requirements fulfilled for 10 months. States across America are facing great difficulties, as we know, and an additional $7.3 billion would not be so bad.

I wish to say, again, this process of earmarking breeds corruption. That is why we have former Members of Congress in Federal prison. It was not inadequate disclosure requirements that led Duke Cunningham to violate his oath of office and take $2.5 million in bribes in exchange for doling out $70 million to $80 million of the taxpayers' funds to a defense contractor. It was his ability to freely earmark taxpayer funds without question.

I wish to point out, again, the President pledged during the campaign he would work to eliminate earmarks. The President, last March, when we had an omnibus spending bill, said they would not do it anymore. In September, the President spoke in Phoenix, AZ, to the Veterans of Foreign Wars. In that speech, the President's words were quite compelling about waste and porkbarrel spending in Defense bills. In that speech, the President promised—promised—an end to ''special interests and their exotic projects'' and reaffirmed he was leading the charge to kill off programs such as the F–22, the second engine for the Joint Strike Fighter, and the outrageously expensive Presidential helicopter.

The President went on to say:

> If a project doesn't support our troops, we will not fund it. If a system doesn't perform well, we will terminate it. And if Congress sends me a bill loaded with that kind of waste, I will veto it. We will do right by our troops and taxpayers.

Mr. President, I can tell you, the President of the United States, that meets your criteria with over $7 billion of unnecessary, unwanted spending. Will the President veto this bill? Not a chance. Not a chance. But the American people are going to demand this obscene process stop. The American people are going to demand it be stopped, wasting $7 billion of their tax dollars on wasteful and earmark spending. I am confident they are aware. They are aware we are spending $7.6 million to fund research in Montana on hypersonic wind tunnels, called MARIAH. This self-licking ice cream cone has been earmarked and unrequested since 1998. The Air Force lost interest in 2004, so the appropriators moved it to the Army. The Army has no requirement for this capability and published a report in 2005 stating their disinterest in the program. In summary, we spent $70 million for some hypersonic wind tunnels nobody wants—$70 million. Unless we demand and receive change, there will be more millions in it next year.

There is $5 million going to the battleship USS *Missouri* Memorial Association; $18.9 million for a center at the University of Massachusetts ''dedicated to educating the general public, students, teachers, new Senators, and Senate staff about the role and importance of the Senate.'' What does that have to do with defending this Nation? What does that have to do with providing the men and women who are risking their lives, as we speak, with the equipment they need? Madam President, $18.9 million to educate the public about the importance of the Senate? Give me a break.

There is $9.5 million going to the University of Hawaii for a program called the Panoramic Survey Telescope and Raid Response System. The list goes on and on. The Air Force is paying for this, and the Air Force will not be allowed to be getting much in return, since it will only be allowed to use the telescope 5 percent of the time. In other words, in dollar figures, the Air Force pays $10 million to the university and receives $500,000 in return.

What is more, the Air Force has not, in the 9-year life of this earmark, requested a single dollar for this program. Since 2001, the Air Force has been forced to spend more than $75 million of its budget allocation on a program it does not want.

I ask unanimous consent to have printed in the RECORD these other porkbarrel earmark programs, such as $1.2 million for the American Museum of Natural History Infectious Disease Research.

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

> $7.6 million to fund research in Montana on hypersonic wind tunnels, called MARIAH. This self-licking ice cream cone has been with us, earmarked and unrequested, since 1998. The Air Force, leader in hypersonic testing and technology, lost interest in 2004, so appropriators moved the program to the Army. The Army has no official requirement for this capability and published a report in 2005 stating their disinterest in the program. To date, the Army has no plans to fund the MARIAH wind tunnel effort, as they have stated in their budget documents. But that hasn't kept Congress from pouring more than $70 million into it, with no discernable return. One group has made out particularly well in the deal, however. Of course, I'm referring to lobbyists, including Gage LLC, whose CEO, coincidentally, had been a senior staffer to an appropriator from Montana.

$5 million to the battleship USS *Missouri* Memorial Association. This is a private organization which owns and operates this battleship as a museum in Pearl Harbor. I am aware that the Association plans to put the *Missouri* in dry-dock and refurbish it, and also aware that it was not part of the donation agreement that the Defense Department would pay for required maintenance.

$20 million for the National WWII Museum in New Orleans, to help pay for the construction of new facilities as part of a $300 million expansion. This privately funded museum opened in 2000 and, through the help of the Louisiana delegation, has already received $13 million in Department of Defense funds tucked into previous appropriations bills. This earmark has no benefit to the United States military and will be paid at the expense of equipment and training for our troops, something few WWII veterans would support.

$14.8 million for five different earmarks pertaining to nano-tube research. Of the 1,720 earmarks in this bill, hundreds are for high-tech research or devices. I ask my colleagues whether they are capable of weighing the merits of specific technologies that they fund in this bill. The answer is they are not.

$18.9 million for a center at the University of Massachusetts ''dedicated to educating the general public, students, teachers, new Senators, and Senate staff about the role and importance of the Senate.'' This center was neither requested in the President's budget nor authorized by Congress.

$9.5 million to the University of Hawaii for a program called the Panoramic Survey Telescope and Raid Response System (Pan-STARRS). On the surface, this program seems like a reasonable need for the Air Force as a part of its Space Situational Awareness efforts. Unfortunately, the Air Force won't be getting much return on this investment, since it will only be allowed to use the telescope 5 percent of the time. In dollar figures, the Air Force pays $10 million to the University and receives $500,000 in return. What's more, the Air Force has not, in the nine-year life of this earmark, requested a single dollar for this program. So, since 2001, the Air Force has been forced to spend more than $75 million of its budget allocation on a program it doesn't want—but might be able to use—only to be denied use 95% of the time.

$500,000 for the Brown Tree Snake Program.

$1.8 million to renovate and upgrade the Historical Fort Hamilton Community Club in the New York City area.

$1.6 million to study human genetics at the Maine Institute for Human Genetics and Health in Brewer, Maine.

$3.5 million for a Micro-algae Biofuel Project in Hawaii.

$5 million for the Presidio Heritage Center, a museum, in San Francisco.

$1.6 million for the Center for Space Entrepreneurship.

$2 million for National Initiatives for Applications of Multifunctional Materials.

$1.6 million for a Virtual Business Accelerator for the Silicon Prairie.

$7.8 million to develop key technologies needed for long term operations in ''near space'' conditions for the Orion High Altitude Long Endurance Risk Reduction Effort, Aurora Flight Sciences in Columbus, Mississippi.

$2.4 million for Fusion Goggle System.

$800,000 for ''Advanced Tactical Laser Flashlight'' in Wyandotte, MI.

$2 million for Cedars-Sinai Medical Center's Operating Room of the Future, Los Angeles, California.

$4.8 million for New Vaccines to Fight Respiratory Disease and Central Nervous Disorders at the Iowa State University.

$720,000 to survey epidemiologic health for the University of Iowa.

$3 million for the New Jersey Technology Center.

$1.2 million for American Museum of Natural History Infectious Disease Research.

$1.6 million for Army Plant Vaccine Development Program.

$1.4 million for Flight/Hangar Deck Cleaner.

$4 million for the Hampton University Proton Cancer Treatment Initiative.

$10 million for the Hawaii Technology Development Venture.

$3.9 million for Intelligent Decision Exploration.

$12 million for Laser Phalanx.

$2.4 million for Marine Mammal Awareness Alert and Response Systems.

$2 million for a Marine Mammal Detection System.

$2.3 million for Marine Species.

$1.2 million for the Maritime Directed Energy Test and Evaluation Center.

$3.2 million for a National Functional Genomics Center Collaborating Site.

$2.4 million for NAVAIR High Fidelity Oceanographic Library.

$2 million for Non Traditional Ballistic Fiber and Fabric Weaving Application for Force Protection.

$4 million for Smart Instrument Development for the Magdalena Ridge Observatory.

$2 million for underwater imaging and Communications Using Lasers.

$800,000 for Unmanned Undersea Vehicle Submerged Long Range Positioning.

$2.4 million for an Unmanned Vehicle Sensor Optimization Technologies Program.

$8 million to study oceans at the Center for Excellence for Research in Ocean Sciences.

$2 million for an Advanced Laboratory for Information Integration in Hawaii.

$2 million for PaintShield for Protecting People from Microbial Threats.

$3.2 million for Playas Training and Research Center.

$1.2 million for Progressive Research for Sustainable Manufacturing.

$1.6 million for Protective Self-Decontaminating Surfaces.

$1.5 million for the Institute for the ''Advancement of Bloodless Medicine'' for the Englewood Hospital in Englewood, New Jersey.

$1.2 million for the Model for Green Laboratories and Clean Rooms Project.

$1.6 million for the Maine Center for Toxicology and Environmental Health at the University of Southern Maine in Portland, Maine.

$6 million to study the molecular signatures in tumors for the National Functional Genomics Center.

$1.6 million for Multi-Dose Closed Loop pH Monitoring System for Platelets at Blood Cell Storage Inc., Seattle, Washington.

$4.8 million for the National Oncogenomics and Molecular Imaging Center in Detroit, Michigan.

$800,000 for the Natural Gas Firetube Boiler Demonstration, Rock Island Arsenal, Illinois.

$5.8 million for the Rock Island Arsenal Roof Replacement, Rock Island, Illinois.

$800,000 for Near Infrared Spectroscopy Military Personnel Assessment at the University Community Hospital, Tampa, Florida.

$4.2 million for the Nicholson Center for Surgical Advancement Medical Robotics and Simulation in Central Florida.

Mr. McCAIN. Madam President, the list goes on and on: $2 million for the Cedars-Sinai Medical Center's operating room of the future in Los Angeles, CA. That is the second earmark I have seen. The other one is for irritable bowel syndrome. Now we have the operating room of the future. Remarkable.

There is $2.3 million for marine species; $2 million for a marine mammal detection system. There is a threat. Also, $2.4 million for marine mammal awareness alert and response system. The list goes on and on.

I know my time is near to expire.

Here we are with a deficit of $1.4 trillion for this year, a debt of over $12 trillion, unemployment at 10 percent, 900,000 families lost their homes in 2008, and we are spending over $7 billion on earmarks, porkbarrel projects the Department of Defense neither needed nor wants, and there are programs not fully funded because of this that are vital to defending the lives of the men and women who are serving in the military.

Again, this appropriations bill is a disgrace.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I rise to speak on something else, but I will say very quickly, I have listened to colleagues on the other side of the aisle lamenting where we are today. It has been 11 months since a new President was inaugurated and, obviously, everybody understands this is not a mess he created. The last 8 years of the stewardship of this country, where there was never one appropriations bill vetoed in that entire time, is an extraordinary story of public negligence and even malfeasance.

We are where we are. We are creating jobs. The economy is turning around. We had the least loss in the last 11 months. We are beginning to see those changes. We will ultimately have the strength in our economy to deal with this deficit.

TRIBUTE TO DAVID MCKEAN

Madam President, I rise for a different reason right now. It is a bittersweet privilege for me to speak about my friend and my counselor, David McKean, staff director of the Foreign Relations Committee, who is leaving the Senate at the end of this month to become the chief executive officer of the John F. Kennedy Library Foundation.

I have enjoyed the benefit of David's advice for almost 20 years now. He will be sorely missed. My only consolation is, this son of Massachusetts will again be able to vote for me.

He has been a part of my life in the Senate since 1987, when I was a freshman and he was a younger and idealistic legislative assistant. Over the years, I have drawn significantly on his knowledge and his skills. He leaves the Senate now to continue in public life, but he leaves it a little bit older but still idealistic and young at heart.

When he came to our office, he had already made a mark. He had graduated magna cum laude from Harvard College and received a law degree from

Duke University and a master's degree from the Fletcher School of Law and Diplomacy. He also taught English at the Waterford Kamhlaba School in Swaziland, Africa. But he was a crusading soul deeply interested in public policy, with a zeal for investigations and an instinct to hold Washington accountable. He was looking for a place to put all those interests to work in the Senate, and he found it.

But he also found something more, I might add—much more—that summer of 1987. There was a young Kellogg fellow from the University of Pennsylvania working in my office at that time. Her name was Kathleen Kaye. She was extraordinarily smart and committed. David did not fail to notice those qualities and a lot more. Their marriage and their three wonderful children, who I am pleased to say are with us right now, Shaw, Christian, and Kaye, are a tribute and more to the relationship they share.

David has devoted his career to public service. After 5 years of working in my office, he moved across the Capitol as chief of staff to another member of the Massachusetts delegation, Representative Joe Kennedy. He later became special counsel at the Commodity Futures Trading Commission before returning home to the Senate as deputy chief counsel at the Governmental Affairs Committee and staff director of the Permanent Subcommittee on Investigations.

I failed to mention that before going to the Permanent Subcommittee, he worked with my staff early in his career in helping to develop one of the great investigative efforts in the Senate in recent memory, which was the BCCI investigation. That wound up on the cover of Time magazine and was a seminal report—one of the best reports I have seen in the 26 years I have been here.

In 1999, I was lucky to entice him to come back to my office as chief of staff. It turned out to be his longest tenure in any of those public jobs so far. Earlier this year, when I became chairman of the Foreign Relations Committee, he became the staff director.

David is the ultimate team builder and a magnet for great talent, so he would be the first to tell you that his success did not come single-handedly. But it is clear David played the essential role in turning 2009 into a stellar year for the committee and for its new chairman. Under his guidance, we conducted 125 hearings on topics ranging from Afghanistan to Zimbabwe. We secured passage of the Enhanced Partnership with Pakistan Act, and we won approval of legislation bringing far-reaching reform to our foreign assistance program. He has worked tirelessly with the committee members and the White House over the past year, and our record is a testament to his determination and skill. I think our committee has succeeded in going through the nominations of more people and passing them more rapidly to the floor than any other in the Senate, and I congratulate him for that effort.

Somehow, during his career of service, he has found time to indulge in his passion for history and scholarship. He is the author of a highly acclaimed biography of Tommy Corcoran, the ultimate Washington insider. He also wrote a biography of Clark Clifford, which was a New York Times ''notable book of the year,'' and he is the co-author of ''The Great Decision,'' which skillfully, and perhaps surprisingly, transformed the story behind the Supreme Court's landmark Marbury v. Madison case into what the Washington Post called ''a political thriller.''

As those of you in this body know, we are—all of us—really only as capable or competent as our staff. Over the years, I have depended on David McKean at every stage. He has been the consummate adviser—trustworthy, loyal, unafraid of speaking up when I was about to veer off in the wrong direction—which, clearly, was very seldom indeed. Never was he more valuable to me than in the immediate aftermath of the 2004 Presidential election. Forty-eight hours after an election night—and early morning and early afternoon—that didn't end up the way that I had hoped it might, I returned to the Senate for a vote. Back to work. I don't remember what the vote was about, but I do remember that David was there with a plan to get us through the day and the next 2 years. I will miss that wisdom and guidance.

Our loss is the Kennedy Library's gain. In some ways, I think something like the Kennedy Library is the perfect place for this man who is at heart a scholar and an intellectual. But the Kennedy Library is particularly well-suited to David because it is a place Jackie Kennedy hoped would help turn history into advocacy and activism, and I have no doubt David's vision and experience will help to ensure that the legacy of President Kennedy endures to inspire future generations.

Madam President, I want to close by simply saying that my colleagues and I are grateful for David's distinguished service. I will personally miss him very much. I wish him, Kathleen, and their children my very best as they return home to Massachusetts to start this next special chapter in David's career in public service.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. STABENOW. I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. STABENOW. Madam President, I ask unanimous consent that at 5:30 p.m. today, the majority leader be recognized to make a motion to recess until 12:01 a.m.

Mr. SESSIONS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SESSIONS. Reserving the right to object, if I might, if the Senator would propose her request again.

Ms. STABENOW. Madam President, I ask unanimous consent that at 5:30 p.m. today, the majority leader be recognized to make a motion to recess until 12:01 a.m.

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

Ms. STABENOW. Madam President, I rise to speak about the position we find ourselves in as we come to the end of the year. Despite the incredible successes we have had with the recovery act and equal pay and the Children's Health Insurance Program and so many other areas where we have been focused and working hard to make a difference, every step of the way, as with the current bill, we have been faced with stalling tactics, objections, and filibusters. Now with the very important Department of Defense funding bill, we are in a filibuster again. I had to make the motion I offered because we will have to come in at 1 o'clock in the morning and have a vote to stop a filibuster. That is what this is all about, filibustering a bill that has a pay raise in it for our troops, that has help for military families, that has the funding for the next year—we are in the middle of two wars—essential funding that is needed to support our military. As our Presiding Officer knows, having been a leader on this as well, we also have placed into this bill provisions that are incredibly important for families, extending unemployment insurance for families across the country who find themselves in a situation not of their making where their job has gone away or they have been laid off because the company can't continue to employ them, maybe because of rising health care costs, which is certainly part of the equation. People are finding themselves in a situation where due to nothing they have done other than be a good citizen, care for their kids and follow the rules, they are without employment. We have this year extended unemployment insurance—and I am so grateful that President Obama has been willing to do this, has helped to lead this in the recovery act and then again as we ended a filibuster, a month-long filibuster in October, brought that to an end in November to extend unemployment insurance. We find ourselves again, because of the unemployment situation, even though we see it getting a little bit better, with a long way to go. We are moving in the right direction, but we have a long way to go. This bill would extend for 2 months unemployment insurance that is critical for families. It would also extend help with health insurance. We are debating the larger health reform bill to create a way for families to be able to afford insurance and for us to bring down costs over the long run for businesses and for families.

This bill in front of us that is being filibustered by the Republicans would extend help for health care, for health insurance, for COBRA payments—a program put in place that made a lot of sense. If you lose your job, you could pay on your own to continue the coverage. But it is incredibly expensive.

So recognizing that, and recognizing how tough it is when you lose your job and you are in a situation—it is either savings or unemployment insurance or both—and you are trying to make the mortgage payment and care for the kids and put food on the table and pay the electric bill and all of the other things, and then to add a several hundred or several thousand dollar payment for COBRA on top of that has not been realistic for families. So we have placed a 65-percent subsidy, to help families get through this tough time, for health insurance. We also have assistance for food for families who, right now, again, have never had to ask for help before in their lives but now have a situation where they cannot put adequate food on the table for their children.

This bill is very important, and what we have in front of us, unfortunately, is another filibuster, another objection—like we have seen all year—to stop us from moving forward to fund our military, to support our troops with a pay raise, to help military families, and then to do a number of other things that are critical to do in the short run until we get into the new year and are able to focus more broadly on these things.

As the Presiding Officer knows, this is not the first time this has happened. We have had from the party of no 98 different objections this year. This is a record, a world's record I think: 98 different times that we have seen them objecting, filibustering, having stalling tactics to moving forward on things that ought to be bipartisan.

These are not Democratic issues when somebody has lost their job or when a small business needs help or needs health insurance they can afford or when a family finds themselves in a situation where they need to be able to have help to continue their health insurance or put food on the table. This is not a Democratic idea or a Republican idea, this is American.

We have Democrats, Republicans, Independents, people who do not have a party, people who are not active politically, people who vote, people who do not vote. They are losing their jobs. They expect us to get it. They expect us to have a sense of urgency around here.

The troops who are serving us right now, who are in tougher times than we will ever face, are not saying what matters is whether you are Democrat or Republican as to whether we fund the troops and fund the Department of Defense and give them a pay raise they have earned and need or to help their families. They are saying: Come on. Come together. Solve problems. Get things done.

But yet, over and over—and we find ourselves tonight where we are going to be stopping a filibuster at 1 o'clock in the morning on a bill to fund the Department of Defense, on a bill that would help families get through the holiday season, keep a roof over their head, pay their heating bills, and keep food on the table.

To dramatize this even more, it is stunning to think about the fact that out of the 40 weeks we have been in session this year—40 weeks—for 36 of those weeks, we have had filibusters or stalling tactics, objections to amendments or objections to bills being put on the floor. That means only 4 weeks out of the entire year we have been in a situation where the Republicans have not been saying no, have not been stalling on things that are incredibly important.

Even with all of this, by any objective measure, there has been more accomplished this year than in any other time since the Great Depression. We need to be accomplishing more and faster because people have a tremendous sense of urgency about what is happening in their lives right now. So we need to be acting. Think of what we could have gotten done. We have all the things that have gotten done and have been addressed. Think about what we could have gotten done if we did not have 36 weeks of filibusters that we had to deal with and objections we had to deal with.

I hope, as we are going through this new year, there will be a sense that it is time to get things together here and work for the common good and put people back to work and tackle their health care costs and make sure people can afford to have health insurance.

Let me close by sharing a story from Annette from Lake Orion, MI. She says:

> After a successful 21-year journalism career, I was laid off in May when my newspaper closed. I will turn 60 in October and am a 12-year survivor of breast cancer. My husband, who is 62, is on my health insurance.
>
> Thankfully, the federal government is helping [us] pay for our COBRA, which would be more than $800 a month.
>
> Senator, we're not pleading poverty. But it's easy to see the dilemma of many Americans in our shoes: Risk going without health insurance, you risk bankruptcy if someone gets sick. Pay the current price, and watch your life savings, which were supposed to support you in [your] old age, dwindle down.
>
> Don't listen to those screaming to maintain the status quo; it doesn't work for too many Americans.

We have story after story where people are facing an early retirement—not by choice—dipping into retirement savings to try to keep their health care going. Young people, old people need us to act now, and I am urging Congress to act now.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. STABENOW. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, it is very distressing that Senator STABENOW could not finish her remarks and that other Senators such as Senator WHITEHOUSE and Senator LEVIN and Senator LIEBERMAN have been shorted of time. Why? Because, for some reason, the majority leader feels we should not go past 5:30 tonight.

This is a defense bill, and it is important. We need to be talking about the good things that are in it and the things that have been added to it that are not so good. I do not think working a few extra hours is going to hurt anybody.

I hear colleagues complain that they cannot work a weekend, they cannot work up to Christmas, they cannot work at night. Well, what about our men and women who are serving in Iraq and Afghanistan 7 days a week, 12 hours a day, Christmas and holidays? They are away from their families so I do not have any sympathy for any Member of the Senate who feels this is too hard for them. Also, I do not appreciate the fact that we are shut off from debate tonight to be able to talk about this issue that is before us. I see no reason for that to have to occur.

I object to the health care bill. The American people object to the health care bill—sixty-one percent say no. But we are supposed to now agree and go along with the majority? And if we do not, we are some sort of obstructionists? I do not think so. I believe I am representing my constituency. I believe I am representing the best interests of the United States of America. I do not believe this health care bill is part of that.

With regard to the armed services bill—I am a member of the Armed Services Committee, and I have been a Member for 12 years; I have been to Iraq six times and Afghanistan six times—I believe it is great we can give our soldiers a pay raise and support them. A lot of things in the bill are good. There are some that are cut too much, but there are a lot of things that are good, and I wish to vote for the bill. But this defense bill has $18 billion in unrelated spending items attached it: increased unemployment, COBRA, food stamps, and loan subsidies for businesses.

Two things strike me about this. First, these new expenditures are not paid for. They are not within the budget. They are above the budget. What does that mean? Well, the budget itself has us in deficit. So if it is not paid for in the budget resolution, every penny of this $18 billion goes straight to the debt of the United States of America. We need to stop this.

Second, why did they put this kind of spending on the defense bill? Because they want to come down here and say: Anybody who is not willing to go along with this scheme to pad $18 billion straight to the debt of the United States of America—anybody who objects does not love our soldiers.

That is wrong, and people are getting tired of that. This is how the debt of this country is surging out of control.

This Congress is irresponsible in our spending. We have increased the debt the likes of which this Nation has never seen, and we are spending as if it is going out of style.

I would point out one matter here about the interest we pay on the debt. In 2008, the annual deficit was $450 billion—at that time, the largest ever. This past year, the deficit for the fiscal year ending September 30 was $1,400 billion, $1.4 trillion. This puts us on the map, according to the Congressional Budget Office, to double the entire debt of America in 5 years, and triple it in 10. Unbelievable.

This is a kind of gimmick—attaching unpaid for, nonbudgeted items to the defense bill, then trying to force it through, so we cannot do anything about it. They snicker, I am sure, in their self-confident way that: We got 'em. If they object to the bill, we will say they don't love our soldiers, they don't support America's defense.

I am getting tired of it. I think the American people are getting tired of it. I saw a poll where the most popular party in America today is the tea party—more than Republicans or Democrats.

Somebody said: Well, $18 billion, Sessions, that is not too much money. But it is done on bill after bill. This is not the only bill that has these kinds of gimmicks in it. Let me show you. I figured this out one day. I put together a chart here a little bit hastily: Baseline Increases: A Destructive Pattern.

When we increase funding in these bills above the budgeted amount and increase the debt, people like to think: Well, it is just $18 billion. That is not much.

Look how that works when you do it over a period of ten years. So let's say next year, we go over $18 billion. This adds another $18 billion to the national debt. Well, that is not so much. But wait, it is a lot. The State of Alabama's general fund budget is $2 billion. Do not tell me $18 billion in one bill, on top of this defense bill, is not a lot of money. It is a huge amount of money.

But it does not work that way. This $18 billion tends to go into the baseline, so the next year, when they talk about increasing the budget, they pad it by another $18 billion. It is not just $18 billion the next year, you see. It is $18 billion on top of what was pumped into the baseline the year before, and that totals out to $36 billion. Then the next year, it is $36 billion, plus $18 billion more. And the next year, it is $54 billion, plus $18 billion more. The next year it is $72 billion, plus $18 billion. The next year, it is $90 billion, plus $18 billion. And the next years, it is $108 billion, $126 billion, $144 billion, and $162 billion if you pad the budget. And this bill is just 1 of 13 accounts: Defense. We have 13 different spending bills. How much is that? It is $900 billion in additional deficits, just because of our inability, our unwillingness, to stay by the numbers that we voted on as our budget limit.

The budget itself, as presented by the President and passed by the Democratic majority, put us on a road to having $1.4 trillion in deficit last year, and it looks as though this year we are going to have a another $1.4 trillion deficit. But just this one little gimmick, if it is replicated each year, can add almost $1 trillion more to the debt of America over ten years. That is why we are concerned about it.

By the way, when we talk about the scheme that puts us on the road, according to the Congressional Budget Office, to tripling the debt of America by 2019, that does not include the health care bill. The health care bill has not passed. This outlook only includes the things that are in law now. So how much more would those figures be if the debt goes up?

I will point to one last thing about the overall financial status of this country: the interest we pay on that debt. This chart shows it.

Last year, this Nation paid $170 billion in interest on the borrowings we have as a nation. In that 1 year it was $170 billion. That is a lot of money. As I said, not counting the State education budget, for all the other matters of our State of 4.6 million people—which is almost one-fiftieth of the Nation's population, an average-sized State—our general fund is $2 billion. However, $170 billion is how much we paid in interest last year. According to the Congressional Budget Office, those numbers will increase to where in 2019, as a result of surging debt, $799 billion will be added to our debt because of interest we must pay; $799 billion just in that 1 year. That is more than the whole defense budget. That is more than the whole U.S. discretionary budget from not too long ago. That is a huge amount of money. It is going to crowd out spending for schools, for highways, for health care, and for other projects.

I am very upset about it. We cannot continue. The President has said this is an unsustainable course. Every economist we talk to says it is an unsustainable course.

But how do we get there? We get there by taking a Defense bill and tacking on $18 billion worth of unfunded spending. Every penny of that gets added to the debt.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. I thank the Chair.

I urge my colleagues to send this bill back and reform it so we can have a clean Defense bill. We need to take these unpaid matters out and make sure they are paid for.

I thank the Chair and yield the floor.

Mr. JOHNSON. Madam President, I rise today to recognize this incredible opportunity to dramatically improve the health of our Nation. Americans face out-of-control health care costs, great inequalities in access to care, eroding benefits, and the ever-increasing threat of losing their health insurance. While it is no easy task to fix a system that is both very complex and very troubled, we cannot fail to act.

I wish today to highlight the challenges faced by approximately 12 million Americans who buy health insurance in the individual market. Many farming and ranching families in South Dakota are forced to purchase from this market, where they all too often wind up underinsured with coverage that costs too much and provides too little.

South Dakotans have contacted me directly to report health insurance discrimination that results in increased premiums, refusal of coverage for necessary treatments, and denial of coverage. I have even heard complaints from people who work in the insurance industry, like Pam from Sioux Falls, SD. She shared with me the serious barriers people encounter when looking for health insurance on the individual market. ''There are huge loopholes in the individual market. People who are not healthy cannot get insurance. We turn people away every day and they want to buy health insurance.''

Insurance companies increase their profits by selling to individuals who will pay premiums but rarely use their benefits, and by avoiding individuals who have health issues. This cherry-picking leaves millions of Americans without access to affordable health insurance coverage. And when families go without health insurance, they receive less preventive care and often must undergo more costly medical treatment when illness progresses undetected. This uncompensated care for the uninsured drives health care costs up for all of us.

Those who buy insurance on the individual market pay top dollar for very limited coverage. They will benefit immensely from health reform. The Patient Protection and Affordable Care Act will increase the insurance options in the individual market and address injurious insurance industry practices that limit access to care. Immediately after enactment, a new program will be created to provide affordable coverage to Americans with preexisting conditions until insurance industry reforms are fully implemented. The legislation will also form health insurance exchanges in every State through which those limited to the individual market will have access to affordable and meaningful coverage. The exchange will provide easy-to-understand information on various health insurance plans, help people find the right coverage to meet their needs, and provide tax credits to significantly reduce the cost of purchasing that coverage.

Pam says, ''People who want to buy individual insurance should be able to, regardless of their health status.'' I couldn't agree more. The Patient Protection and Affordable Care Act will ensure that no American is denied coverage because of their medical history, and it will provide the security of meaningful, affordable health care coverage for all.

Mr. JOHNSON. Madam President, 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. REID. First of all, Madam President, I apologize to everyone. I indicated to both the majority and the minority that we would be here at 5:30, but I had some things that came up, and I simply could not be here.

SERVICE MEMBERS HOME OWNERSHIP TAX ACT OF 2009—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Madam President, I move to proceed to Calendar No. 175, H.R. 3590. I have a cloture motion that is at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative 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 motion to proceed to Calendar No. 175, H.R. 3590, the legislative vehicle for the Patient Protection and Affordable Care Act.

Harry Reid, Christopher J. Dodd, Mark Udall, Patrick J. Leahy, Daniel K. Akaka, Richard J. Durbin, Sherrod Brown, Jeanne Shaheen, John F. Kerry, Jack Reed, Tom Harkin, Sheldon Whitehouse, Kirsten E. Gillibrand, Jeff Merkley, Joseph I. Lieberman, Barbara Boxer, Debbie Stabenow.

Mr. REID. I now withdraw that motion.

NEED FOR JUSTICE IN NEPAL

Mr. LEAHY. Mr. President, I want to speak briefly about a matter that is of concern to the Congress and the Department of State, involving a heinous crime that occurred in Nepal and the need for justice.

Many people are familiar with the brutal murder of Maina Sunuwar in February 2004. At the young age of 15, she was arrested by Nepali soldiers and severely tortured to death at, of all places, the Birendra Peace Operations Training Center. After her murder, the army made it look as though she had been shot while trying to escape, and then buried her body at the center.

According to a United Nations report, in September 2005, after intense public and international pressure, three army officers were brought before a court martial and sentenced to a mere 6 months imprisonment for failing to follow proper procedures when disposing of Maina's body. In spite of many requests, the Nepal army refused to disclose the nature of the charges that led to this sentence, or provide copies of any documents relating to the court of inquiry or court martial. It also refused to cooperate with police investigations.

It is shocking that one of the officers accused in her murder, Major Niranjan Basnet, was permitted to participate in a United Nations peacekeeping mission in Chad. This speaks volumes about the inadequacy of vetting procedures of military personnel for such missions, which is a separate subject that I intend to take up with officials at the Department of State and United Nations.

To his credit, Prime Minister Madhav Kumar Nepal had Major Basnet returned from Chad, following the issuance of an arrest warrant and in response to public calls for his arrest. However, when he arrived back at the Katmandu airport the army took him under its control and apparently, despite initial promises and requests from the police and orders from the Prime Minister, has still not handed him over to the police.

This case represents a critical juncture for Nepal. In large measure, and as others have pointed out, Maina's death will decide whether a civilian, democratic government and the rule of law will determine Nepal's future, or it will remain dominated by the interests of the Nepal army.

Just a few days ago, President Obama signed into law the Consolidated Appropriations Act, 2010, which includes a prohibition on assistance to the Nepal army unless it, among other things, is cooperating fully with investigations and prosecutions by civilian judicial authorities of violations of internationally recognized human rights. This provision applies squarely to Maina's case.

I urge the new Chief of the Army Staff, General Chhattraman Gurung, to seize this opportunity to demonstrate that the army is reforming, that it recognizes in a democracy its members are answerable to the civilian courts, and that it will no longer perpetuate the impunity that has undermined the rule of law in Nepal for far too long.

PAROLE GUIDELINES

Mr. LEAHY. Mr. President, I have long questioned the policy of detaining asylum seekers who present genuine claims for protection under our laws. Asylum seekers who express a fear of return to their country, and who can establish their identity and show that they are neither a flight risk nor a threat to the community, should be allowed to pursue a claim for relief in the United States free from custody. Yesterday, U.S. Immigration and Customs Enforcement, ICE, announced new guidelines for release of asylum seekers that override an unduly harsh policy implemented in 2007 by the Bush administration and that are a welcome step toward compliance with our obligations under the Refugee Convention.

Under current law, an asylum seeker who arrives at a port of entry and asks for refugee protection is given a brief interview to ascertain whether he or she has a credible fear of persecution in their home country. If the asylum seeker passes that interview, they are detained, pending a hearing on their claim before an immigration judge. That hearing may take place weeks or months after the asylum seeker arrives in the United States. Unless the asylum seeker can convince the Department of Homeland Security that they should be released, that asylum seeker can spend those weeks or months in immigration detention. This policy is an affront to our ideals as a nation that aspires to be a beacon of light to persecuted refugees.

In 1997, the Immigration and Naturalization Service developed guidelines to determine whether asylum seekers should be released from custody in ''parole'' status while their asylum claims were adjudicated. To obtain parole, asylum seekers were required to establish their identity, and show that they were neither a flight risk nor a threat to the community. These guidelines were properly calibrated to deter fraud in the asylum system and threats to our national security. They also ensured that those who met the criteria for parole should be released. The 1997 parole guidelines were imperfectly implemented, but the policy contained in them was reasonable and appropriate.

For reasons that were never adequately explained, under the prior administration, ICE issued new parole guidelines that raised the bar for asylum seekers. In addition to the 1997 requirements, under the Bush policy, an asylum seeker had to demonstrate other factors, such as a serious medical condition, pregnancy, status as a minor, or that his or her release was in the ''public interest.'' The term ''public interest'' was not defined in the 2007 guidelines and it is not clear how a detained asylum seeker could have met such a vague standard. Members of Congress and the bipartisan U.S. Commission on International Religious Freedom questioned the need for such a restrictive policy, especially when many asylum seekers have no criminal record and pose no risk to Americans.

The new parole policy generally hews to the 1997 parole guidelines, but contains an important improvement. Again, asylum seekers will be eligible for parole if they demonstrate a credible fear of return to their country of origin, establish identity, and show that they are neither a flight risk nor a threat to the community. For the first time, however, the government will conduct a parole review of each case in which the asylum seeker establishes a credible fear of return. Under both the 1997 and 2007 policies, an asylum seeker had to request a parole determination in writing. Many asylum seekers arrive on our shores with genuine claims for protection, but no English language skills and no legal counsel. For these asylum seekers, navigating our complex immigration system presents an enormous hurdle. It is a challenge for them to even comprehend that they may seek parole

from detention. Therefore, an automatic parole review will assist many bona fide refugees in winning release from custody. Our commitment to fair and humane treatment of refugees demands no less. This new policy will also save taxpayer dollars spent to detain immigrants, including asylum seekers who are otherwise eligible for parole, at an average of $100 per person, per day.

In 1996, when our asylum laws were rewritten to restrict access to protection for many who requested protection upon arrival, I fought hard to preserve our role as a nation that welcomes refugees. I offered an amendment to restore basic due process protections to the summary exclusion and expedited removal provisions proposed for asylum seekers. Former Senator Michael DeWine of Ohio cosponsored the amendment, which prevailed by only one vote. Since that time, I have worked to strengthen access to due process for asylum seekers and ensure that our government complies with its international treaty obligations under the Refugee Convention.

I commend President Obama and Secretary Napolitano for engaging in a serious review of our asylum policies and taking steps to bring us closer to full compliance with international law. With the thirtieth anniversary of the Refugee Act of 1980 approaching, I will continue to press for both legislative and administrative changes to the law that will protect refugees and asylum seekers from harm and provide them with safety and security in America.

RECOGNIZING THE BOY SCOUTS OF AMERICA

Mr. BROWNBACK. Mr. President, I rise today to honor one of the most distinguished and recognized organizations for young people in the United States, the Boy Scouts of America. Specifically, I want to recognize its tremendous efforts to uphold the principle of service to others.

Today, the Boy Scouts of America is the largest youth service organization with nearly 3 million members. Its teachings of citizenship, character development, and self-reliance are those which all Americans should strive to emulate in their daily lives. The programs give participants the opportunity to engage in a wide range of outdoor activities, education programs, and career-oriented programs in partnership with many community organizations. Boy Scouts of America celebrates 100 years of service on February 8, 2010, with the theme ''Celebrating the Adventure, Continuing the Journey.'' This motto will serve its members as they continue teaching the necessary skills to many more generations to come.

I want to recognize the efforts of the Jayhawk Area Council in northeast Kansas. These members are planning for the next 100 years of Scouting through their ''Building Tomorrow's Leaders'' project. This is just one of many projects that will honor the spirit of service in communities of Scouts across the Nation.

Boy Scouts of America recognizes that young leaders are developed over time, and has expanded its programs to help young men and women up to 20 years of age through Venturing Crews, Explorer Posts, and the Learning for Life groups. These programs have been shown to be meaningful and to improve a Scout's likelihood for success as an adult and enhance the quality of life in the community where he resides. Boy Scouts of America has kept up with the evolving and changing needs of our Nation, by adding programs in areas such as environmental ethics and responsibility. President Dwight Eisenhower recognized the contributions of the Boy Scouts 56 years ago when he praised the organization, as it ''yearly enriches our Nation, and contributes generously to the economic, physical and spiritual resources of the country.''

Mr. President, the Boy Scouts of America have helped shape young people of America for the past 100 years. This achievement is one to be celebrated, and I hope many of my colleges will join me in wishing this organization the best for the next 100 years.

JOHN BRADEMAS CENTER FOR THE STUDY OF CONGRESS REPORT

Mr. KERRY. Mr. President, from the Marshall Plan to tsunami relief, America's arsenal has always been most powerful when we have marshaled not just the force of our arms but the power of our ideals. It is no secret that for 8 recent years, the United States seemed to have broken with some of our best tradition and time-honored values—and it set back our security to be so isolated in the world. I have said many times that even the most powerful Nation needs some friends on this planet. Now, 1 year into President Obama's administration, the time is right for a robust public diplomacy to advance our interests in the world and to enhance our national security. That is the conclusion of a new report from New York University's John Brademas Center for the Study of Congress.

The center, well known to the Senate for its research and recommendations for new perspectives on public policies, recommends in its report that international arts and cultural exchanges be incorporated more fully into the planning strategies of U.S. policymakers.

Mr. President, this is a timely and important study. I recommend it to the Senate and ask that it be printed in the RECORD.

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

MOVING FORWARD: A RENEWED ROLE FOR AMERICAN ARTS AND ARTISTS IN THE GLOBAL AGE

The 2008 election of Barack Obama as the 44th President of the United States has offered an historic opportunity for the renewal of faith in the American political system and restoration of America's image around the world. In January 2009, the John Brademas Center of the NYU Wagner convened a group of experts to explore the public policy implications for American arts and culture of a renewed focus on U. S. public diplomacy and issued a call for an expansion of international arts and cultural exchanges in the service of this new direction. The following report is the result of their expert opinions and deliberations.

The mission of the John Brademas Center for the Study of Congress is to increase the understanding of Congress—its role in making policy and its powers, processes, and responsibilities. The Center's nonpartisan work reaches scholars, students, public servants, policy makers and the general public. The Center conducts research, sponsors student internships, organizes academic conferences and public symposia, and hosts policy addresses by Members of Congress. As a part of the New York University's Robert F. Wagner Graduate School of Public Service, the Center strives to help the next generation of public service leaders develop a deeper understanding of how and why Congress makes decisions. It is named for its founder, NYU President Emeritus John Brademas, who served in the U.S. House of Representatives for 22 years (1959–81).

The Robert F. Wagner Graduate School of Public Service of New York University is a leadership school of public policy, urban planning and non-profit management whose faculty members are widely recognized for reframing the way people understand and act on issues of public importance, and whose graduates are bold, well-prepared change makers who expertly navigate real-world complexity and produce results that matter.

This report has been prepared and edited by Michael F. DiNiscia and Thomas M. McIntyre of the John Brademas Center and Professor Ruth Ann Stewart of the Robert F. Wagner Graduate School, New York University.

EXECUTIVE SUMMARY

Over the past decade, studies have shown that public opinion in other countries—particularly in the Islamic world—has taken an increasingly unfavorable view of the government and foreign policy of the United States. Yet international opinion about the values and culture of the United States, as distinct from government policies, has remained more positive according to the most recent surveys conducted by the non-partisan Pew Global Attitudes Project even in Middle Eastern countries. The inclination to view the fundamental ideals of American society as positive provides a valuable opening for policymakers to utilize the arts and culture both to advance America's international interests and enhance the cultural experience of its citizens and their understanding of America's place in a rapidly changing world.

To these ends, this report recommends that international arts and cultural exchanges be integrated into the planning strategies of U.S. policymakers as a key element of public diplomacy. History has proven that a robust public diplomacy is essential to U.S. national security and the promotion of American interests around the globe. The arts community has observed firsthand the value of international artistic exchanges in promoting moderation and tolerance among widely diverse religious and cultural groups.

Recognizing the fiscal constraints imposed by the current economic downturn, the report advises policymakers and the arts community to first focus on new and better ways to utilize arts and cultural exchange initiatives that are currently underway in both the private and governmental sectors.

As responsibility for America's public diplomacy initiatives is shared among the White House, National Security Council, Department of State, Congress, National Endowment for the Arts (NEA), National Endowment for the Humanities (NEH), Institute of Museum and Library Services, and other Federal agencies, this report offers specific suggestions and recommendations for fostering greater interagency cooperation in the integration of arts and cultural exchanges into their respective strategies.

At the same time, American arts groups feel a responsibility for promoting an understanding of the vibrancy of arts and culture in our country that both animates our democracy and nourishes international exchanges and America's image. Thus, the report recommends a national conversation on the arts generally and their centrality to the quality of American life both home and abroad.

A NATIONAL CONVENING ON CULTURAL DIPLOMACY

We recommend that a National Convening on Cultural Diplomacy be held in Washington, DC to bring together policymakers and leaders in the arts community. Such a meeting would be a way of directly engaging artists, at a time of domestic and international difficulty, in the efforts to tell anew America's story and expand and to deepen our country's understanding of foreign societies and the value of cultural diplomacy to the security and quality of American life.

The Convening would attempt to engage the relevant agencies of the Federal Government to make arts and cultural exchanges a strategic part of U.S. public diplomacy. While the meeting could be best organized by one or more nonprofit organizations working in this field, it would benefit greatly from the support and collaboration of the U.S. Department of State as the lead Federal agency promoting international exchanges.

We believe that the meeting would be greatly enhanced by the inclusion of representatives from other countries who are leaders of international cultural initiatives.

We believe such a meeting, drawing together policy makers, artists, scholars and representatives of professional service organizations, foundations, and other nonprofit as well as for-profit groups involved in the arts, would provide an agenda for Congress and the Administration to build on current resources and programs to expand international arts and cultural exchanges—in both directions—in the service of America's national security and quality of life.

BUILDING DEEPER AND BROADER EXCHANGES

We believe it is critical that international arts and cultural exchanges be two-way, person-to-person endeavors in order to promote the human connection and that such connections be sustained over time and not just episodic events, as too often has been the case. As an example, we recommend that visual arts presentations include an educational component and performing arts master classes to strengthen the value of these face-to-face interactions.

We believe that given the appropriate level of funding and commitment long term, cultural diplomacy programs can demonstrate—using evidence-based evaluation—their success and effectiveness in promoting the best aspects of America's culture and democracy.

American culture is rich in its diversity and demographic make-up. Through the recruitment and exchange of outstanding representatives of all of America's many cultures, we can demonstrate the multicultural nature of American society at its best, presenting a vision of openness and freedom of expression to societies where such opportunities are often lacking. Similarly, we urge a public diplomacy policy that welcomes the cultures of others to our shores.

We believe that cultural exchanges must not only be two-way but also sensitive to local needs, practices, and aspirations in selecting the type of American art to promote in a given country or region. The Internet has opened up to the world the rich variety of art and artists the U.S. has to offer and we should seek to meet those expectations and interests including for popular culture and the nonconventional.

It would seem that a priority for arts and cultural exchanges would be with countries with which the United States has limited official relations as well as with countries where there is a low level of travel or interaction at the citizen level.

We think cultural exchanges that focus on restoration and preservation projects are especially productive as would be the exchange of experts in the areas of performing arts administration, museum policies and techniques, etc. Technical assistance exchanges have a long history of helping other countries to celebrate their heritage and promote tolerance between nations while at the same time giving Americans opportunities to learn about other cultures.

In the past, cultural exchanges organized by the Federal Government have on occasion raised suspicions that artists had compromised their artistic integrity. We believe in the importance of government at all levels—federal, state and local—working with nonprofits and NGOs both at home and in foreign countries to avoid the appearance that cultural exchanges are contrived solely to serve U.S. foreign policy interests rather than the intended purpose of furthering mutual understanding. To that end, we urge that the international exchange process not be centralized in or overly coordinated at the national level but instead structured to draw in artists and arts groups directly at all levels.

RESEARCH

Policymakers need credible evidence to help them determine the merits and value of expanding international exchange programs. We believe that a National Convening on Cultural Diplomacy would provide the appropriate forum for assembling a body of expert testimony and current and directed research that would facilitate a clear and focused examination of potential outcomes.

We believe it would be beneficial to such deliberations if a comprehensive inventory and review were undertaken of current programs by federal, state, and local governments and private groups in the international arts and cultural exchange area.

We recommend that a State Dept Working Group on Cultural Diplomacy be charged with responsibility for coordinating the effort to collect, examine and evaluate relevant reports and data generated by both government and civil society organizations as supplemented and supported by the Congressional Research Service, private foundations, and scholarly research efforts sponsored by the National Endowment for the Arts (NEA), National Endowment for the Humanities (NEH), and Institute of Museum and Library Services (IMLS).

We believe that a particularly productive part of the research process would be the opportunity to document actual experiences and impacts of both past and on-going cultural exchanges, especially the person-to-person encounters that have well established track records for generating significant and measurable goodwill toward the United States.

We believe that verification of such successes would not only help substantiate the case for international art and cultural exchanges as an important part of public diplomacy but would also enable us to identify and evaluate best practices in the field.

It is our hope that private foundations would support the research process and, working in collaboration with the arts community, help to determine a series of metrics for not only evaluating international programs but the adequacy as well of resources and work opportunities for the American artists and institutions who would fuel such efforts.

We recommend that the State Department be encouraged to be an active participant in the ongoing efforts by such international organizations as UNESCO and World Monuments Fund to map the world's cultural infrastructure toward the protection of important art objects, artistic forms, sites, and institutions located in disaster and conflict areas. The U.S. Defense Dept and Federal Emergency Management Agency might also be considered as a source of funding and assistance for such undertakings.

TECHNOLOGY & TECHNICAL ASSISTANCE

In recognition of the borderless nature of the Internet we urge that the latest and most advanced electronic social networking technology be utilized in cultural diplomacy programs.

We believe that stronger cultural exchanges would result from government moving beyond the older idea of technology as broadcasting medium to harness the new and most advanced social networking technologies that not only distribute message and art but also encourage civic engagement and social connectivity.

Given the effectiveness of the American public/private model, a National Convening on Cultural Diplomacy would explore opportunities to recommend to Government ways of working in association with private nonprofit and for-profit cultural organizations with popular social networking sites in order to expand the range of possibilities for sharing and exchanging cultural experiences.

We believe that the pairing of technology and culture would be especially efficacious through the dissemination of hardware and software (e.g., cell phones, wi-fi systems, low-cost computers, hand-crank radios, etc.) to more remote areas of the globe where cultural understanding and exchanges are especially needed.

We also recommend cultural exchanges involving scholars and experts in such specialties as performing arts management, conservation and preservation, museology, and curation, especially those with expertise in newer forms of media and technology. For example, we urge the expansion and integration into public diplomacy efforts of the Cultural Preservation Fund which currently sends conservators abroad to provide technical assistance and run education projects,

PUBLIC/PRIVATE PARTNERSHIP

We believe that the Government should encourage and promote two-way international exchanges, acting in a convening role to bring together private organizers and private funders, as the cost should not be fully assumed by American taxpayers.

We urge the State Department to consider ways in which it might utilize its administrative capacity and area expertise to explore possibilities for working with foundations and U.S. corporations to increase grants for international exchanges, as well as to investigate the potential of coordinated activity with the many arts and media industries engaged in the international marketplace of culture.

At the same time, we recognize the importance of members of the arts community keeping informed about policy changes and shifts in the national agenda. We believe

that over time and in evolving ways, cultural exchanges could render service in partnership with government (as well as foundations and corporations) that would continue to enhance America's public diplomacy process.

We believe that through the export of a wide diversity of American arts and artists, and the import (and ready admission through the passage of the Arts Require Timely Service Act [H.R. 1785 and S. 1409]) of a broadly representative group of foreign arts and artists, America's best foreign and domestic cultural interests would be served.

LEADERSHIP AT THE FEDERAL LEVEL

We believe that the effectiveness of American public diplomacy would be advanced by the integration of cultural diplomacy into the policy-making process of the White House and the State Department.

We propose that a National Convening on Cultural Diplomacy incorporate into its agenda an examination of the recent call by various nongovernmental study groups concerned with Federal support of the arts generally for the creation of a full time White House post specifically charged with promoting the arts and culture as part of the Domestic Policy Council. Arts and cultural professionals agree that without a strong and healthy cultural sector at home (frequently characterized as cultural vibrancy), the U.S. would not have the rich pool of diverse talents in place and available when selecting art and artists to represent the nation at its best internationally.

We further recommend that a National Convening on Cultural Diplomacy be given the opportunity to propose the creation by the President of a position on the National Security Council (NSC) to oversee public diplomacy, including the coordination of relevant arts and cultural exchange efforts with the Domestic Policy Council, State Department, and the Federal cultural agencies.

We further recommend the National Convening agenda include a proposal for the creation of a Standing Committee to advise the Secretary of State on ways in which the State Department could begin to renew its diplomatic strength and expertise in the area of culture. Committee members would be persons in the arts world involved in both informal and formal international exchanges.

We would also recommend that a Special Envoy for Culture be appointed by the State Department to work on building relationships and partnerships with foreign governments and international bodies such as UNESCO, International Council of Museums, World Heritage Alliance, et al.

EXPANDING FEDERAL PROGRAMS

We believe that it is both timely and desirable to urge the creation of a new direction for public diplomacy through the expansion of Federal cultural programming.

We believe that key to this new direction is an expansion of the budgetary capacity of the State Department to increase the number of cultural affairs officers stationed at embassies and consulates and their capabilities for carrying out cultural programming as the ones most informed about what exchanges would be best coupled with which country.

We recommend that, in addition to increasing its personnel numbers, the State Department further enhance its ability to attract good people by creating parity in career advancement and status between cultural affairs officers and political officers.

We believe that the State Department would benefit as well from the creation of a Cultural Diplomacy Fellowship Program that would increase the flow of personnel through the cultural diplomacy system; rotate outside cultural experts through the Department; and enable State Department employees to go for further training at cultural institutions in the U.S. and abroad for fixed periods of time.

Additional recommendations that have been proposed for consideration by a National Convening on Cultural Policy include:

A publicity campaign coordinated by the State Dept., NEA, NEH, and IMLS to alert more U.S. and foreign artists and cultural institutions about the opportunities available for international cultural exchanges, including Fulbright fellowships.

Ways for the United States Agency for International Development (USAID) to support cultural programs that are consistent with their development goals (i.e., cultural preservation projects and arts and crafts programs).

Ways for the Peace Corps and AmeriCorps to develop cultural projects and recruit artists into both organizations.

Ways for the Commerce Department to promote cultural tourism that would direct Americans to cultural programs abroad and market cultural activities in the U.S. to foreign tourists.

Increase funding for arts and cultural exchanges in departments other than State and the Federal cultural agencies (e.g., Defense Department, Commerce Department, etc.) to encourage the sending of artists and technical assistance to localities deemed to be less developed and comfortable.

CONGRESSIONAL ACTION

We encourage the relevant committees in Congress, in particular the House and Senate Foreign Affairs Committees, to hold a series of public hearings on the proposals coming out of the National Convening on Cultural Diplomacy.

We believe that congressional hearings are key to the development of new and expanded legislation and programs in support of two-way cultural exchanges, for all the reasons and recommendations outlined above.

We offer the Arts and Artifacts Indemnity Act of 1975 for consideration by the Congress in its deliberations as a legislative model of the time proven success of international cooperation and cultural exchange.

We recommend the inclusion in such hearings of a broad representation of knowledgeable parties, especially representatives of state and local arts and humanities councils and agencies and of professional service organizations.

Finally, we again urge the reintroduction and passage by Congress of the Arts Require Timely Service Act [H.R. 1785 and S. 1409] as an essential component of cultural exchange and the enrichment and diversity of the cultural experience of the American public.

LAW STUDENT PARTICIPATION ACT

Mr. CARDIN. Mr. President, I have introduced the Law Student Participation Act of 2009.

The bill creates exceptions to Federal conflicts of interest law which generally prohibits Federal employees from acting as an attorney or agent in a matter adverse to the U.S. government. The legislation directs the exceptions to Federal employees attending law school and participating in legal clinics and employees of the District of Columbia who staff legal clinics. Where the Federal employee has participated personally and substantially in the matter or the matter is before the employee's particular agency or department, specific conflicts of interest provisions still apply. The current law is over broad and denies learning and teaching opportunities where no real conflict may exist.

Law schools, including schools in my home State, have voiced concern over the present law. Some of these schools include the University of Maryland, the University of the District of Columbia, and Georgetown University School of Law. The schools have related stories of students, who are Federal employees, regulated to clinics dealing only with state matters. In other instances a student might start working on a client's matter, but will be unable to continue once the matter goes to trial or before an administrative proceeding. Law schools complain that under such circumstances the client's right to effective counsel is diminished. Due to a requirement I championed, the University of Maryland School of Law faces unique challenges. Each student must provide legal services to the poor or persons who otherwise lack access to justice prior to graduation. Federal employees, unlike other students, must choose from a smaller selection of clinics due to the current Federal conflicts of interest law. Finally, if Federal employee students seek careers in practice areas where Federal law predominates, they likely will obtain no practical clinic experience in law school.

It should be noted that the Office of Government Ethics, OGE, and the Department of Justice are aware of the text of the bill. Both have conveyed informally that they do not have problems with this legislation. The OGE released a report in 2006 that was critical of current Federal conflict of interest law as being overbroad and specifically pointed out that volunteer work was frequently barred even when no potential for conflict of interest existed.

The current law deprives law students who are Federal employees of valuable practical educational opportunities. Ultimately participation in these clinics would result in better attorneys many of whom later go on to work for the Federal government.

ADDITIONAL STATEMENTS

REMEMBERING SOL PRICE

• Mrs. BOXER. Mr. President, I am honored to remember Sol Price, who passed away on December 14, 2009, at the age of 93. Sol was a man of vision in business, charity, and community. I will remember his great accomplishments, but I will also remember him as a wonderful man and a dear friend.

A trendsetter in retail, Sol Price founded FedMart and the Price Club, which subsequently sparked the wholesale warehouse industry. He envisioned providing consumers with products at low prices while providing good wages and working conditions for his employees. When FedMart opened its first

store in San Antonio, TX, in 1957, Sol Price paid double the minimum wage. He also succeeded getting a mortgage company to drop its requirement on separate restroom facilities for ''Colored'' and ''Whites.''

Sol Price was a leader in philanthropy and education. In 1991, after the death of his grandson Aaron, he established the Price Fellows program for young people in San Diego County, with a mission to enrich their lives and encourage stewardship for their community. The 3-year program for high school students teaches them about business, cultural institutions, and government; it also encourages lasting relationship across different ethnic, religious, and economic backgrounds. This program has created a new generation of local leaders in government, business, and civic life.

In 2000, Sol and his wife Helen set up the San Diego Revitalization Corporation, which was later renamed Price Charities. The end goal is to improve the lives of the urban poor. Among his many commitments, Sol worked to revitalize City Heights, a neighborhood in the city of San Diego that was a poor, high-crime but diverse community. In partnership with the city of San Diego, he built low-income housing and commercial space for community organizations and attracted businesses that would not otherwise have located in City Heights.

Sol was a member of the board of trustees for the Urban Institute in Washington, DC, the board of directors for the Center on Budget and Policy Priorities, the Consumer Affairs Advisory Committee of the U.S. Securities and Exchange Commission, and the San Diego Financial Review Panel.

Born in the Bronx, NY, Sol Price grew up in San Diego. He graduated from San Diego State University in 1934 and earned a law degree in 1938 from the University of Southern California.

Sol will be dearly missed. There is no doubt that his spirit will live on, carried along by the people he helped, the neighborhoods he transformed, and the entrepreneurial path he blazed.

He is survived by two sons, Robert and Larry, five grandchildren, and four great-grandchildren. My heart goes out to the family during this time of grief. They are in our thoughts and in our prayers.●

REMEMBERING ORVAL ALLEN KELSO

● Mr. CRAPO. Mr. President, today I wish to ask my colleagues to join me in recognizing the accomplishments of Mr. Orval Allen Kelso.

Today, deeply engaged in a war on terror, thousands of American civilians are working and serving in harm's way. Like the brave men and women serving in uniform, these patriotic citizens risk their lives every day in an effort to rebuild a stronger future for the people of Iraq. However, they are not alone. American civilian contractors have been operating in combat theatres since as early as World War II, and I am here today to tell you about one of those.

Hailing from Emmett, ID, Orval Allen Kelso arrived on Wake Island in the North Pacific in June 1941, working as a powerplant operator for Morrison Knudsen. Mr. Kelso worked as a powerplant operator until December 1941, when he was captured and taken as a POW to Camp 18, Sesabo, Japan. While a POW at Camp 18, Orval helped build the Soto Dam that provides water to Sesabo city today. He, among several hundred civilian POWs, built this dam with hardly the right tools to work with, malnutrition, improper clothing, and daily physical and emotional abuse by their captors. Orval later died in Camp 18 on April 8, 1943, just days after his birthday. In 1949, his only child, Walter Richard ''Dick'' Kelso, reclaimed his father's remains, and brought him back to rest on U.S. soil at the National Memorial Cemetery of the Pacific in Honolulu, HI. I also note that although Mr. Kelson was a civilian during the time I have discussed, after his death, the Department of the Navy awarded him an E4 military status.

It is fitting that we honor Mr. Kelso for his sacrifice and also be reminded of the many others who were taken prisoner or who paid the ultimate sacrifice working in harm's way. We often forget about the nonmilitary Americans who gave their all for the freedoms we cherish in our great Nation. Let us help remedy that today by recognizing Mr. Kelso and the civilian POWs taken during World War II. They are an exemplary example of the selflessness displayed by Americans in an effort to bring peace and freedom to millions, and we thank them for their sacrifice.●

TRIBUTE TO RICHARD R. JENNINGS

● Mr. KERRY. Mr. President, I wish to congratulate Richard R. Jennings of Wilmington, MA, for the honor he received from the Smithsonian Institution at the American History Museum earlier this year. Mr. Jennings was recognized for his long service with the Railway Mail Service. The 85-year-old Mr. Jennings is one of the last survivors of one of the most important innovations in the history of mail service in the United States.

Mr. Jennings was honored as part of a postal service exhibit at the American History Museum last summer. In addition to the recognition he received, the Smithsonian also recorded Mr. Jennings's memories of his years as part of the Boston-to-Albany and the Boston-to-New York ''mail by rail'' routes—part of a network that was so important to U.S. mail service before the airlines took over much of the service.

The Railway Mail Service began in the mid-19th century but grew in importance as the railroads became dominant in transportation until the mid-20th century. ''Mail by rail'' was quite successful—dramatically increasing the speed of delivery of mail, especially over long distances.

Mr. Jennnings and his fellow Railway Mail Service clerks were considered the elite of the Postal Service's employees. And for good reason. Their jobs were exhausting and dangerous. They were required to sort 600 pieces of mail an hour in a speeding train that could wreck—and occasionally did. The potential for danger certainly added pressure to an already difficult job.

In addition to changing our postal system, the Railway Mail Service was the source of an expression well known in the United States. Empty mail sacks and sacks filled with damaged, misaddressed or otherwise unsortable mail were referred to as ''bums.'' And before the trains would leave the stations along their routes, rail clerks would often shout ''throw the bums out.''

Mr. Jennings served this country in important ways, not only as a postman in the ''mail by rail'' network but also as a sergeant with the U.S. Army Medical Corps in Italy and North African during World War II. There, as much as with the ''mail by rail'' service, Mr. Jennings helped to ''throw the bums out.''

Mr. Jennings deserves our thanks for his unique and great service to our country. I congratulate him and his family and I share their pride in him and his important role in the history of our country's Postal Service.●

TRIBUTE TO DICK AND CHRISTINE MOODY

● Mr. KERRY. Mr. President, anyone who has served in our Armed Forces or who has had a loved one in uniform understands just how difficult the holiday season can be—separated from husbands, wives, fathers, mothers, daughters, and sons. It can be the loneliest time of the year. Dick and Christine Moody understand that better than most, and since 2003 they have worked tirelessly to make the holidays a little cheerier for the men and women who keep America safe. They have done it with Operation Troop Support, the organization they founded 6 years ago as a way to say thank to those serving in the military.

Since its founding, Operation Troop Support has sent more than 25,000 care packages to men and women in the military abroad. These packages are sent throughout the year, but during the holidays extra care is taken to see that the season is a little brighter for the troops. And it is for that reason that during this holiday season, I would like to recognize and commend Dick and Christine Moody for their efforts—efforts that have earned them national recognition and the accolades of the National Military Family Association, the Employer Support to the

Guard and Reserve, ESGR, and numerous State and local officials.

I also want to recognize the hundreds of volunteers who have contributed their time, energy and money to Operation Troop Support. The support the North Shore community has given the organization has been inspiring. Volunteers have spent countless hours boxing the care packages, and they have donated thousands of dollars to ship the packages to ensure that each soldier, marine, airman and sailor receives something during the holiday season.

I had the opportunity to meet with many of the Operation Troop Support volunteers while attending a St. Patricks Day luncheon hosted by the organization last year. During the luncheon, I spoke with a soldier, Thomas Lanzoni, who had recently returned from Iraq. Inspired by the volunteers of Operation Troop Support, Sergeant Lanzoni walked across the Commonwealth of Massachusetts to raise money and awareness for the Moodys's organization.

Dick and Christine Moody understand the special burden placed on military families. Dick spent 23 years in the Air Force and retired as a lieutenant colonel. Additionally, the Moodys have a son and a daughter who have served abroad in the Air Force. The military has long been a part of their life. Consequently, Operation Troop Support not only supports the troops in the field but also hosts family support group meetings for the loved ones of servicemembers deployed or about to be deployed overseas.

I salute the Moodys and Operation Troop Support for their service and dedication to our country. Their gestures of gratitude have reached thousands of servicemembers, reminding each of them that we support them and their families while they are deployed and when they return.●

2009 NATIONAL BOARD CERTIFIED RHODE ISLAND TEACHERS

● Mr. REED. Mr. President, I commend the announcement yesterday that 44 Rhode Island teachers and nearly 9,000 teachers nationwide achieved National Board for Professional Teaching Standards certification this year.

The single most effective step we can take to raise student achievement and turn around struggling schools is to ensure that we improve the quality of our teachers. For years I have worked to improve what the Federal Government does to help train and develop teachers. Indeed, I have worked with National Board on nearly every piece of teacher quality legislation I have introduced in the Senate. The National Board has been instrumental in identifying effective teaching practices and infusing those practices throughout our Nations schools. Their certification process is rigorous and includes multiple components that regularly assess and improve a teacher's ability to improve student learning. Since 1994, 82,000 teachers have been National Board certified, including 383 Rhode Island teachers.

Last week, the National Board announced an expansion of their certification process to include principals and other school leaders, recognizing the research that effective leadership is second only to classroom instruction among factors that influence student outcomes. I was pleased that this important expansion was made possible through Federal funding provided through the fiscal year 2009 Labor, Health, and Education appropriations bill.

I congratulate the Rhode Island teachers and teachers nationwide on their significant accomplishment and dedication to their professional development, and I look forward to continuing to work with the National Board to ensure that our children have the most effective teachers, principals, and school leaders.

I ask that the names of the Rhode Island teachers who achieved National Board certification this year be included in the RECORD.

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

2009 RHODE ISLAND NATIONAL BOARD CERTIFIED TEACHERS

Rhonda Asprinio, Michelle Beaulieu, Karen Bessette, Catherine Boutin, Dawn Brooder, Alison Burke, Jaclyn Cambio, David Clegg, Leila Connolly, Suzanne Costa, Lilly Coustan, Cheryl Degnan, Stephanie Desmarais, Amy Devault, Jonathan Dune, Kerri Gendice, Michael Gendice, Andrea Hainey-Turcotte, Carolyn Higgins, Michaela Holmes, James Hovey, and David Kearsley.

Denise Ledoux, Jeanne Maggiacomo, Treva Mcelroy, Karen Mchenry, Maryelizabeth Melillo, Bonnie Morency-Lima, Lisa Narcisi, Kerry Perschau, Margaret Pouliot, Mary Roberts, Elizabeth Ruest, Lynn Rzemien-Plotkin, Marilyn Salisbury, Elyse Scherza, Denise Sherman, Nicole Tetreault, Jennifer Theroux, Julee Thomas, Christa Thompson, Jennifer Walker, Lynn Warila, and Amy Weigand.●

TRIBUTE TO ANDREW SAMWICK

● Mrs. SHAHEEN. Mr. President, today I congratulate Professor Andrew Samwick for being recognized for his dedication to and his excellence in teaching. Professor Samwick is the winner of the 2009 New Hampshire Professor of the Year Award, one of the most prestigious awards for undergraduate teaching. Honorees are recognized for their influence in the lives and careers of their students.

Mr. Samwick has taught at Dartmouth College since 1994 and is a professor of economics and the director of the Nelson A. Rockefeller Center for Public Policy and Social Sciences. He is a well-known expert on the economics of retirement and social security reform, and has testified several times before Congress and has served as chief economist on the staff of the President's Council of Economic Advisors. He is also a research associate at the National Bureau of Economic Research where he cochairs the Social Security Working Group.

Professor Samwick graduated summa cum laude from Harvard College and received a Ph.D. in economics from the Massachusetts Institute of Technology. He has won numerous prizes, grants, and fellowships for his work. His articles frequently appear in prestigious economics and finance journals and he often provides commentary and opinion for national public radio and national newspapers.

The U.S. Professors of the Year program acknowledges the most exceptional undergraduate instructors in the country—those who stand out in their teaching and positive influence on the lives and careers of their students. It is important that we recognize the critical work and contribution that our talented professors make in educating the next generation of young people. I am extremely proud that Professor Samwick has been honored by this prestigious distinction.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:03 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1472. An act to establish a section within the Criminal Division of the Department of Justice to enforce human rights laws, to make technical and conforming amendments to criminal and immigration laws pertaining to human rights violations, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

At 10:38 a.m., a message from the House of Representatives, delivered by Mrs. Cole, 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. 1147. An act to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service.

H.R. 3714. An act to amend the Foreign Assistance Act of 1961 to include in the Annual

Country Reports on Human Rights Practices information about freedom of the press in foreign countries, and for other purposes.

H.R. 4194. An act to amend title 18, United States Code, to exempt qualifying law school students participating in legal clinics or externships from the application of the conflict of interest rules under section 205 of such title.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3714. An act to amend the Foreign Assistance Act of 1961 to include in the Annual Country Reports on Human Rights Practices information about freedom of the press in foreign countries, and for other purposes; to the Committee on Foreign Relations.

H.R. 4194. An act to amend title 18, United States Code, to exempt qualifying law school students participating in legal clinics or externships from the application of the conflict of interest rules under section 205 of such title; to the Committee on the Judiciary.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 17, 2009, she had presented to the President of the United States the following enrolled bill:

S. 1472. An act to establish a section within the Criminal Division of the Department of Justice to enforce human rights laws, to make technical and conforming amendments to criminal and immigration laws pertaining to human rights violations, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 1490, a bill to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance , and other protections against security breaches, fraudulent access, and misuse of personally identifiable information (Rept. No. 111—110).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

H.R. 730. A bill to strengthen efforts in the Department of Homeland Security to develop nuclear forensics capabilities to permit attribution of the source of nuclear material, and for other purposes.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

H.R. 1817. A bill to designate the facility of the United States Postal Service located at 116 North West Street in Somerville, Tennessee, as the ''John S. Wilder Post Office Building''.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with amendments:

H.R. 2711. A bill to amend title 5, United States Code, to provide for the transportation of the dependents, remains, and effects of certain Federal employees who die while performing official duties or as a result of the performance of official duties.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

H.R. 2877. A bill 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. 3072. A bill to designate the facility of the United States Postal Service located at 9810 Halls Ferry Road in St. Louis, Missouri, as the ''Coach Jodie Bailey Post Office Building''.

H.R. 3319. A bill to designate the facility of the United States Postal Service located at 440 South Gulling Street in Portola, California, as the ''Army Specialist Jeremiah Paul McCleery Post Office Building''.

H.R. 3539. A bill to designate the facility of the United States Postal Service located at 427 Harrison Avenue in Harrison, New Jersey, as the ''Patricia D. McGinty-Juhl Post Office Building''.

H.R. 3667. A bill to designate the facility of the United States Postal Service located at 16555 Springs Street in White Springs, Florida, as the ''Clyde L. Hillhouse Post Office Building''.

H.R. 3767. A bill to designate the facility of the United States Postal Service located at 170 North Main Street in Smithfield, Utah, as the ''W. Hazen Hillyard Post Office Building''.

H.R. 3788. A bill to designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the ''Corporal Joseph A. Tomci Post Office Building''.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 678. A bill to reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. DODD for the Committee on Banking, Housing, and Urban Affairs.

*Eric L. Hirschhorn, of Maryland, to be Under Secretary of Commerce for Export Administration.

*Ben S. Bernanke, of New Jersey, to be Chairman of the Board of Governors of the Federal Reserve System for a term of four years.

*Marisa Lago, of New York, to be an Assistant Secretary of the Treasury.

*Steven L. Jacques, of Kansas, to be an Assistant Secretary of Housing and Urban Development.

By Mr. ROCKEFELLER for the Committee on Commerce, Science, and Transportation.

*Julie Simone Brill, of Vermont, to be a Federal Trade Commissioner for the term of seven years from September 26, 2009.

*Edith Ramirez, of California, to be a Federal Trade Commissioner for the term of seven years from September 26, 2008.

*Nicole Yvette Lamb-Hale, of Michigan, to be an Assistant Secretary of Commerce.

*Michael A. Khouri, of Kentucky, to be a Federal Maritime Commissioner for a term expiring June 30, 2011.

*David L. Strickland, of Georgia, to be Administrator of the National Highway Traffic Safety Administration.

*Coast Guard nomination of Rear Adm. (1h) Steven E. Day, to be Rear Admiral.

Mr. ROCKEFELLER. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORDs on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

*Coast Guard nomination of Andrew G. Liske, to be Captain.

*Coast Guard nomination of Robert A. Moomaw, to be Lieutenant.

*National Oceanic and Atmospheric Administration nominations beginning with Keith E. Tucker and ending with Jason P.R. Wilson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on December 9, 2009.

By Mr. LEAHY for the Committee on the Judiciary.

Mark Anthony Martinez, of Nebraska, to be United States Marshal for the District of Nebraska for the term of four years.

Michael W. Cotter, of Montana, to be United States Attorney for the District of Montana for the term of four years.

Barbara L. McQuade, of Michigan, to be United States Attorney for the Eastern District of Michigan for the term of four years.

James L. Santelle, of Wisconsin, to be United States Attorney for the Eastern District of Wisconsin for the term of four years.

Christopher A. Crofts, of Wyoming, to be United States Attorney for the District of Wyoming for the term of four years.

*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.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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 Mr. WYDEN:

S. 2895. A bill to restore forest landscapes, protect old growth forests, and manage national forests in the eastside forests of the State of Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FRANKEN (for himself, Mr. HATCH, Mr. BENNET, Mr. BROWN, and Mr. CARPER):

S. 2896. A bill to recruit, support, and prepare principals to improve student academic achievement at high-need schools; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BENNET:

S. 2897. A bill to establish incentives to increase the energy efficiency of federally assisted housing; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. LANDRIEU (for herself and Mr. ALEXANDER):

S. 2898. A bill to provide for child safety, care, and education continuity in the event of a presidentially declared disaster; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN (for herself and Mr. MERKLEY):

S. 2899. A bill to amend the American Recovery and Reinvestment Act of 2009 and the Internal Revenue Code of 1986 to provide incentives for the development of solar energy; to the Committee on Finance.

By Mrs. GILLIBRAND:

S. 2900. A bill to establish a research, development, and technology demonstration program to improve the efficiency of gas turbines used in combined cycle and simple cycle power generation systems; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself, Mrs. MCCASKILL, and Mr. BENNETT):

S. 2901. A bill to improve the acquisition workforce through the establishment of an acquisition management fellows program, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Ms. COLLINS (for herself, Mrs. MCCASKILL, and Mr. BENNETT):

S. 2902. A bill to improve the Federal Acquisition Institute; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BURR (for himself and Mr. ENZI):

S. 2903. A bill to amend the Child Care and Development Block Grant Act of 1990 to require criminal background check for child care providers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FRANKEN (for himself, Ms. SNOWE, Mr. KERRY, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. MENENDEZ, Mr. DURBIN, Mrs. GILLIBRAND, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MCCASKILL, Mr. HARKIN, and Mr. SCHUMER):

S. 2904. A bill to amend title 10, United States Code, to require emergency contraception to be available at all military health care treatment facilities; to the Committee on Armed Services.

By Mr. INOUYE:

S. 2905. A bill to amend the Internal Revenue Code of 1986 to repeal the reduction in the deductible portion of expenses for business meals and entertainment; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Mr. MCCAIN, and Mr. LIEBERMAN):

S.J. Res. 23. A joint resolution disapproving the rule submitted by the Federal Election Commission with respect to travel on private aircraft by Federal candidates; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. HAGAN (for herself and Mr. BURR):

S. Res. 377. A resolution congratulating the University of North Carolina Tar Heels for winning the 2009 National Collegiate Athletic Association Field Hockey National Championship; to the Committee on the Judiciary.

By Mrs. HAGAN (for herself and Mr. BURR):

S. Res. 378. A resolution congratulating the University of North Carolina Tar Heels for winning the 2009 National Collegiate Athletic Association Women's Soccer National Championship; to the Committee on the Judiciary.

By Mrs. GILLIBRAND:

S. Res. 379. A resolution to express the sense of the Senate regarding the protection of intellectual property rights for clean energy and environmental technology; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 604

At the request of Mr. SANDERS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 604, a bill to amend title 31, United States Code, to reform the manner in which the Board of Governors of the Federal Reserve System is audited by the Comptroller General of the United States and the manner in which such audits are reported, and for other purposes.

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 619, a bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases.

S. 841

At the request of Mr. KERRY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 841, a bill to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1183

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1183, a bill to authorize the Secretary of Agriculture to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes.

S. 1197

At the request of Mr. VOINOVICH, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1197, a bill to establish a grant program for automated external defibrillators in elementary and secondary schools.

S. 1255

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1255, a bill to amend the Magnuson—Stevens Fishery Conservation and Management Act to extend the authorized time period for rebuilding of certain overfished fisheries, and for other purposes.

S. 1345

At the request of Mr. REED, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1345, a bill to aid and support pediatric involvement in reading and education.

S. 1492

At the request of Ms. MIKULSKI, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1492, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 1589

At the request of Ms. CANTWELL, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 1589, a bill to amend the Internal Revenue Code of 1986 to modify the incentives for the production of biodiesel.

S. 1739

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1739, a bill to promote freedom of the press around the world.

S. 1938

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 1938, a bill to establish a program to reduce injuries and deaths caused by cellphone use and texting while driving.

S. 2831

At the request of Mr. REED, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2831, a bill to provide for additional emergency unemployment compensation and to keep Americans working, and for other purposes.

S. 2833

At the request of Mr. REED, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2833, a bill to provide adjusted Federal medical assistance percentage rates during a transitional assistance period.

S. 2853

At the request of Mr. GREGG, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2853, a bill to establish a Bipartisan Task Force for Responsible Fiscal Action, to assure the long-term fiscal stability and economic security of the Federal Government of the United States, and to expand future prosperity growth for all Americans.

S. 2854

At the request of Mr. KOHL, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Missouri (Mrs. MCCASKILL) were added as cosponsors of S. 2854, a bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for new qualified hybrid motor vehicles, and for other purposes.

S. 2874

At the request of Ms. LANDRIEU, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 2874, a bill to designate the facility of the United States Postal Service

located at 2000 Louisiana Avenue in New Orleans, Louisiana, as the ''Ray Rondeno, Sr. Post Office Building''.

S. 2886

At the request of Ms. CANTWELL, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 2886, a bill to prohibit certain affiliations (between commercial banking and investment banking companies), and for other purposes.

S. RES. 316

At the request of Mr. MENENDEZ, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 316, a resolution calling upon the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide, and for other purposes.

AMENDMENT NO. 2790

At the request of Mr. CASEY, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of amendment No. 2790 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2845

At the request of Mr. SANDERS, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 2845 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2846

At the request of Mr. SANDERS, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 2846 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2847

At the request of Mr. SANDERS, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 2847 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2848

At the request of Mr. SANDERS, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 2848 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2849

At the request of Mr. SANDERS, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 2849 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2871

At the request of Mr. BROWN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 2871 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2883

At the request of Ms. STABENOW, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of amendment No. 2883 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2909

At the request of Mr. NELSON of Florida, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 2909 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2978

At the request of Mr. BEGICH, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 2978 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2995

At the request of Mr. SCHUMER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 2995 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3037

At the request of Mr. JOHNSON, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of amendment No. 3037 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3076

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of amendment No. 3076 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3088

At the request of Ms. COLLINS, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 3088 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3112

At the request of Ms. CANTWELL, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of amendment No. 3112 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3114

At the request of Mr. GRASSLEY, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 3114 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3117

At the request of Mr. WYDEN, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of amendment No. 3117 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3136

At the request of Mr. UDALL of New Mexico, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of amendment No. 3136 intended to be proposed to H.R. 3590, a

bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3170

At the request of Mr. PRYOR, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 3170 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3173

At the request of Mr. MERKLEY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 3173 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3185

At the request of Mr. BROWN, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Michigan (Ms. STABENOW), the Senator from Massachusetts (Mr. KIRK) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 3185 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3203

At the request of Mr. BAYH, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of amendment No. 3203 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3228

At the request of Ms. LANDRIEU, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 3228 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3240

At the request of Mr. ROCKEFELLER, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of amendment No. 3240 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN:

S. 2895. A bill to restore forest landscapes, protect old growth forests, and manage national forests in the eastside forests of the State of Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, I rise today to introduce critical forest legislation for my home State of Oregon.

For too many decades, Oregon has been at war with itself over the fate of one of our most abundant—and most threatened—resources, our forests.

Nowhere has the negative impact of this battle been greater than in Oregon's eastside forests.

Over-logging and disastrous fire suppression policies of the past gave way over time to excessive litigation and gridlock.

With each passing month, our inability to take action, our inability to address the needs of Oregon's declining forests means that they are growing more at risk of preventable fire and disease.

With each passing month and each attempted timber sale and threatened lawsuit, the relationship between the environmental community and the timber industry has grown increasingly bitter.

Each side in these disputes has thoroughly armed itself politically enough to survive, but never enough to succeed.

The end result is that today, across Oregon's Federal forest landscape, we have around 9.5 million acres of choked, at-risk forest in desperate need of management, and millions of acres of old growth, species habitat, and watersheds face an uncertain future.

Unless something fundamental changes, that number and that peril will grow, not shrink, in coming years.

Today, good and decent people on both sides of these difficult issues have come together with me to craft legislation that will bring peace, jobs, and a healthier tomorrow to 8.3 million acres of Federal forest in eastern and central Oregon.

Today, for the first time in memory, timber executives are standing shoulder-to-shoulder with leaders of the Oregon environmental community to take shared responsibility for saving our endangered forests.

These folks have been a part of negotiations with my office for over 8 months, and have made difficult concessions in order to save our threatened Eastside forests.

Today in eastern Oregon we are down to only a small handful of surviving mills. Without far greater certainty of supply and an immediate increase in merchantable timber, more mills will close.

If that happens our Eastside forests will pay the price.

Without mills to process saw logs and other merchantable material from forest restoration projects, there will be no restoration of our Eastside forests.

The folks my office worked with to come to an agreement set aside their differences and found common ground that will prevent that from happening.

The legislation that we are rolling out today, the Oregon Eastside Forests Restoration, Old Growth Protection and Jobs Act of 2009, will provide an immediate supply of logs in the short term to jump-start restoration efforts and keep our timber mills alive.

Job One must be saving our remaining forest management infrastructure in central and eastern Oregon while preserving our old growth and watersheds.

Over the long term—in 3 years from its passage to be precise—this legislation will also provide the long-term certainty required to restore each of the six Eastside national forests, protect our most sensitive environmental assets, and restore countless jobs to rural communities.

I want to make clear that the road ahead is likely to see some challenges. Our coalition will be tested. But I have great faith that the decent people who helped to put this bill together will honor the components of this agreement and will fight to preserve its many elements as we move through the process.

I also want to point out that none of our efforts will succeed unless Oregon Federal forests are also adequately funded to properly manage and restore these valuable Federal assets.

Together, we have entered a partnership that goes beyond the four corners of this legislation. Together, as a team, we will fight for the funding to put our people back to work and restore the health of our forests.

Together, we have demonstrated something that I think my colleagues here in the Senate will appreciate: working together on a difficult issue is not only possible, it yields far greater results than working apart.

Later today, and tomorrow, I will be sitting down with key members of the Obama administration and the timber industry so that the administration can better understand the peril and opportunity in Oregon's Eastside forests. This is a united front that has not been witnessed by a White House since the onset of the timber wars.

It is my hope we will learn to work together, we will develop real trust, and that we will use these new experiences to tackle the difficult issues that await us on the west side of the Cascades.

I also want to single out a few individuals who have endured thousands, of hours of difficult work and negotiations to reach this point: John Shelk, president of Ochoco Lumber; Andy Kerr; the American Forest Resource Council, represented by Heath Heikkila and Tom Partin, who spearheaded negotiations.

I also want to recognize others that joined me earlier today to rollout this legislation Tim Lillebo with Oregon Wild; Tom Insko with Boise Cascade;

Mary Scurlock, with Pacific Rivers Council; Randi Spivak, with the National Center for Conservation Science and Policy; Ben Bendick with the Nature Conservancy; and Bob Irvin with Defenders of Wildlife.

I also want to recognize back in the State, their colleagues that could not join me earlier today; Rick Brown with Defenders of Wildlife, Joseph Vaile of Klamath Siskiyou Wildlands Center, Steve Pedry with Oregon Wild, and Michael Powelson with the Nature Conservancy, as well as the other members and mill owners of AFRC.

I want to thank my staff, Michele Miranda, Mary Gautreaux, and Josh Kardon, who gave their nights and weekends to get us to this point.

I am proud to introduce this legislation today, and I am going to keep working with all the folks in my State who are willing to talk in good faith about restoring our eastside forests.

By Mrs. FEINSTEIN (for herself and Mr. MERKLEY):

S. 2899. A bill to amend the American Recovery and Reinvestment Act of 2009 and the Internal Revenue Code of 1986 to provide incentives for the development of solar energy; to the Committee on Finance.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Renewable Energy Incentive Act of 2009, which is cosponsored by Senator JEFF MERKLEY.

This act would extend, expand, and improve existing tax incentives and grant programs for renewable energy, especially for solar energy.

Provisions of this act are widely supported by public power utilities, environmental groups, renewable energy companies, renewable energy industry associations, and labor unions.

These include, for example: the American Public Power Association; the Solar Energy Industries Association; the Los Angeles Department of Water and Power; the Northern California Power Agency; the Southern California Public Power Agency; the Large Public Power Council, LPPC; solar companies including Brightsource, Solyndra, Tessera Solar, and Stirling Energy Systems and many others.

First, the bill would allow renewable energy companies to claim grants from the Treasury department, in lieu of renewable energy tax credits, through 2012 instead of 2010.

Second, it would permit public power utilities to claim these same Treasury Grants.

Third, it expands the solar investment tax credit to include manufacturing equipment and solar water heaters for commercial and community pools.

Finally, it establishes a new tax credit for solar companies who consolidate and develop disturbed private land instead of developing our more pristine public lands.

The most significant provision in this bill would extend the Treasury Grants Program established in the stimulus by two years, allowing renewable energy developers to continue claiming these grants.

Section 1603 of the American Recovery and Reinvestment Act established ''payments in lieu of tax credits for specified energy property'' in order to support renewable energy development.

The program allows renewable energy developers to take grants, or payments, from the Treasury department instead of claiming tax credits in order to help build projects that require a great deal of capital upfront.

The provision has reduced the impact of the financial crisis on renewable energy development.

Before the grants program was established, most renewable energy developers had to partner with profitable banks, or ''tax equity partners,'' in order to take advantage of renewable energy tax incentives.

These big financial institutions would apply tax credits against their large profits, taking a cut for themselves along the way.

But in 2008, when financial sector profits sank, the $8 billion ''tax equity'' market largely evaporated.

Renewable energy development ground to a halt because developers could not find tax equity partners.

Major players in the space, such as AIG and Lehman Brothers, disappeared. The banks that still had profits began demanding a much higher cut.

That's when Congress stepped in.

The stimulus created the Treasury Grants, which allow developers to claim their tax benefits directly, instead of partnering with profitable banks.

The U.S. wind industry installed 1,649 megawatts of new capacity in the third quarter of this year alone, a boost from the previous two quarters and in excess of 2008 levels. Experts credit the Treasury grants program.

Solar is also getting back on track. For instance, SunEdison used a Treasury grant in lieu of tax credits to accelerate construction of an 18 megawatt photovoltaic array—one of the largest in the U.S.

The firm's CEO told the press: ''That could not have been done without this program.''

The Treasury program is also allowing renewable energy developers to attract significantly more debt backing for projects than would otherwise be possible, according to recent statements by the managing director of energy investments at J.P. Morgan Capital.

But the grants program is set to expire in 2010, far before most utility scale solar projects will begin construction or financial analysts predict tax equity markets will recover.

If the grant program is not extended, bank profits will again become the limiting factor on renewable energy development in the U.S., and that makes no sense.

That is why I propose to extend the program two years.

This legislation would also level the playing field between public power and for-profit companies by allowing public power utilities to receive Treasury Grants for renewable energy projects.

Public power utilities serve 45 million American consumers, but they are currently prohibited from receiving grants for their renewable energy development.

The basis for this prohibition is that public power utilities are tax exempt, non-profit corporations owned by local governments, who therefore have not been able to claim tax credits directly on their income tax returns.

But excluding public power from the grants program does not make sense.

Congress created the Treasury grants program specifically to assist firms that lacked the ability to claim the full benefits of renewable energy tax incentives.

If we are going to allow for-profit companies to claim these direct grants, why would we exclude our non-profit public power utilities?

So leveling the playing field for public power is fair.

This provision is also necessary to protect our local community utility companies who want to deploy renewable energy.

The federal grants make building renewable energy projects cost effective for rate payers.

Because public power utilities lack access to these grants, they are now frequently establishing complex financial arrangements with private developers in order to build renewable energy projects that qualify for federal help.

This is in direct conflict with public power's historic, proven business model as a vertically integrated, non-profit.

It requires our cities and towns to negotiate unnecessarily complex deals with Wall Street.

Let me give you an example.

Turlock Irrigation District, TID, a public power utility in my state, decided to build a 137 megawatt wind farm in 2007.

They wanted to build and own.

But to make it cost effective, Turlock signed a contract to buy the power, but a tax equity partner would ''own'' the project and receive the benefit of the federal production tax credit.

The contract was extremely complex and costly, requiring the participation of an investment bank to find a tax equity partner, an equity group to be the tax equity partner, legal counsel for the equity group, experts to provide risk advice and engineering advice to the equity group; bond counsel to provide renewable asset specialists; an operator to run the plant for the equity group; and an asset manager, to advise the equity group on the performance of the operator.

After 2 years and millions of dollars spent trying to finalize this deal,

Turlock learned that the supposedly profitable equity partner, American International Group, AIG, wasn't profitable at all.

AIG backed out and the entire deal collapsed.

After much analysis, Turlock Irrigation District decided to own and operate the wind farm, giving up on receiving any Federal support.

Larry Weis, the General Manager, explained in a letter to me:

> The bottom line is that TID made a business decision to forego working with a private developer to develop a project, because the complexity of the deal and the dollars spent to arrange it meant that much of the value of the tax credit would go to the equity partners and not pass through to our consumers. Given the facts and the absence of a comparable incentive for consumer-owned utilities, TID made the best choice it could under the circumstances, even though it means our customers will pay more.

This legislation is necessary to prevent other public power utilities from being forced to make this difficult, unnecessary choice.

Public power utilities deserve access to renewable energy incentives comparable to those awarded to the private sector, and this legislation will assure that happens.

This legislation also expands the solar investment tax credit to include manufacturing equipment and solar water heaters for commercial and community pools.

The bill would allow equipment that makes solar panels to qualify for the 30 percent solar investment tax credit.

Solar panel manufacturing is moving offshore, to Germany and Asia, where support is considerable.

This financial incentive could jumpstart solar manufacturing in this country, and could lead to thousands of new jobs, such as those being created at Solyndra's new factory in Fremont, CA. Or those proposed by Applied Materials at their proposed facility near Los Angeles.

The bill would allow commercial pool solar hot water heaters to qualify for the solar tax credit.

Approximately 189,000 commercial pools nationwide—at hotels/motels, health clubs, and schools—use fossil fuel or electricity to heat an estimated 27 billion gallons of water.

If the heating systems were replaced with solar hot water systems, there would be 1.23 million metric tonnes of carbon dioxide emissions avoided annually.

That is the equivalent of taking 237,000 cars off the road.

In California, which has 26 percent of all commercial pools in the U.S., this provision could significantly reduce pollution.

Finally, the legislation would establish a new tax credit for the purchase, consolidation, and use of multiple, 100 acre or less blocks of high solarity, disturbed private lands for solar development.

Solar developers have focused development proposals on pristine public land because it is very difficult, costly, and time intensive to consolidate large blocks of disturbed private land from many different owners.

This tax credit will financially reward those firms that are willing to go through the trouble of land consolidation, thereby making the increased burden of private lands development more appealing.

Over the last few years, the renewable energy industry has grown dramatically.

Last year the U.S. added more new capacity to produce renewable electricity than it did to produce electricity from natural gas.

A great deal of this growth can be attributed to our renewable energy tax policies.

This legislation, I believe, would continue this growth into the future.

By Ms. COLLINS (for herself, Mrs. MCCASKILL, and Mr. BENNETT):

S. 2901. A bill to improve the acquisition workforce through the establishment of an acquisition workforce fellows program, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, along with Senators MCCASKILL and BENNETT, I rise to introduce two bills that would lay a strong foundation to improve the Federal acquisition system.

The first bill, the Acquisition Workforce Improvement Act of 2009, would create a federal acquisition management fellows program to develop a new generation of acquisition leaders with government-wide perspective, skills, and experience.

The second bill, the Federal Acquisition Institute Improvement Act of 2009, would institute much-needed organizational clarity to enable the Federal Acquisition Institute, FAI, to fulfill its mission of facilitating career development and strategic human capital management for the federal acquisition workforce.

The federal acquisition system is under tremendous stress. Between fiscal years 2000 and 2008, acquisition spending by the Federal Government expanded by 163 percent, from $205 billion to $539 billion. The rising costs of military operations, natural disasters, homeland security precautions, and other vital programs will drive those expenditures to even higher levels in the years ahead.

This prodigious level of purchasing creates abundant opportunities for fraud, waste, and abuse. We have seen far too many outrageous failures in government contracting, such as unusable trailers for hurricane victims, shoddy construction of schools and clinics in Afghanistan, or the installation of showers in Iraq for our troops that pose electric-shock hazards. These and other failures demand strong steps to protect taxpayer dollars and deliver better acquisition outcomes.

As a long-time advocate for stronger competition, accountability, and transparency in government contracting, I recognize and appreciate the steps the administration has taken recently to improve Federal contracting. Many of these initiatives originated from legislation I co-authored with Senator LIEBERMAN during the last Congress.

But no matter how many laws we pass or OMB guidance documents are issued, the effectiveness of our Federal acquisition system depends on a vital human component—the acquisition workforce.

While contract spending has risen dramatically, the number of acquisition professionals who help plan, award, and oversee these contracts has been stagnant. With roughly half of the current acquisition workforce eligible to retire over the next decade, the difficulties of strengthening that workforce will become increasingly acute. A well-trained and well-resourced acquisition workforce is critical to keeping pace with increased Federal spending and much more complex procurements of services and goods.

The two pieces of legislation I am introducing today would help to address these important long-term problems that we must solve to make our acquisition system healthy again.

First, the Acquisition Workforce Improvement Act of 2009 would create a centrally-managed Government-wide Acquisition Management Fellows Program that combines both a Master's degree-level academic curriculum and on-the-job training in multiple federal agencies. By partnering with leading universities that have specialized government acquisition programs, the government can attract top-caliber students who are interested in pursuing both academic advancement and public service.

Compared to the several existing agency-specific intern programs, this government-wide program would provide a unique and much-needed skill set that we currently do not have in sufficient number, that is, acquisition professionals with multi-agency and multi-disciplinary training who can understand and manage government-wide acquisition needs and perspectives.

Considering that interagency acquisition now accounts for approximately 40 percent of the entire contract spending and that GAO has designated the management of interagency contracting a high-risk area since 2005, it is without question that we need to develop future acquisition leaders who can understand government-wide needs and perspectives.

Specifically, the program would include the following: one academic year of full-time, on-campus training followed by 2 years of on-the-job and part-time training toward a Masters or equivalent graduate degree in related fields; and a curriculum that would include rotational assignments at three or more executive agencies covering, among other issues, acquisition planning, cost-estimating, formation and

post-award administration of ''high risk'' contract types, and interagency contracts.

Upon graduation, participants will have completed all required non-agency-specific training courses necessary for a basic contracting officer warrant.

In addition, participants would be required to enter into a service commitment appropriate in length to ensure the Federal Government receives a proper return on its investment. The service commitment would be no less than one year for each year in the program, and would require reimbursement of funds for those who do not successfully complete the program or do not fulfill the minimum service requirements.

It is also important to note that this program would be less expensive than its current alternative. Typically, existing agency career intern programs like those run by DHS or GSA hire interns at GS–5, –7, or –9 level, which pays between $33,000 and $66,000, for Washington, DC area. These interns also receive benefits and free training during this internship period.

The proposed program would not pay salaries during the training, but unlike the other programs, would award a graduate degree. Based on market research, this alternative money-saving arrangement would be able to attract top-notch candidates with both public and academic interests.

Second, the Federal Acquisition Institute Improvement Act of 2009 would strengthen the Federal Acquisition Institute, FAI, whose key responsibilities are to promote career development and strategic human capital management for the entire civilian acquisition workforce.

In part due to the lack of organizational clarity and the disproportionate funding compared to its counterpart in the Department of Defense, the FAI has remained largely underutilized.

The proposed legislation would establish a clear line of responsibility and accountability for the Institute by requiring that the Federal Acquisition Institute, through its Board of Directors, directly reports to the Office of Federal Procurement Policy; the director of FAI be appointed by the OFPP Administrator and report directly to the Associate Administrator for Acquisition Workforce at OFPP.

All existing civilian agency training programs fall under the purview of FAI. This would ensure consistent training standards necessary to develop uniform core competencies; and the OFPP Administrator would be required to report annually to Congressional committees of jurisdiction projected budget needs and expense plans of FAI to fulfill its statutory mandate.

With respect to its core government-wide functions, FAI would be required to provide and keep current government-wide training standards and certification requirements including—ensuring effective agency implementation of government-wide training and certification standards; analyzing the curriculum to ascertain if all certification competencies are covered or if adjustments are necessary; developing career path information for certified professionals to encourage retention in government positions; and coordinating with the Office of Personnel Management for human capital efforts.

The administration has identified acquisition workforce development as a pillar for improving acquisition practices and contract performance. While I fully agree with this goal, we need specific and concrete action to solve this problem. It is also important to remember that it took the better part of two decades for the acquisition workforce to reach its current state and that it will likely take a similar amount of time to rebuild.

My legislation would prompt the sustained effort necessary to rebuild the acquisition workforce. While this will take time and investment, I am confident this is a wise investment that will yield substantial returns. Just think about it, if our better-trained acquisition professionals can prevent one failed procurement, it can save the taxpayer hundreds of millions of dollars. If they can avoid overpaying one percent of our contract spending, it will save the taxpayer more than 5 billion each year. The numbers speak for themselves.

The Acquisition Workforce Improvement Act and the Federal Acquisition Institute Improvement Act are critically needed and both enjoy bipartisan support. I encourage my colleagues to support them.

By Mr. FRANKEN (for himself, Ms. SNOWE, Mr. KERRY, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. MENENDEZ, Mr. DURBIN, Mrs. GILLIBRAND, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MCCASKILL, Mr. HARKIN, and Mr. SCHUMER);

S. 2904. A bill to amend title 10, United States Code, to require emergency contraception to be available at all military health care treatment facilities; to the Committee on Armed Services.

Mr. FRANKEN. Mr. President, the Compassionate Care for Servicewomen Act, which I am introducing today with my friend and colleague, Senator SNOWE, is a straightforward but vital piece of legislation. It would ensure that servicewomen in our military have reliable and timely access to emergency contraception when they need it.

Emergency contraception, or Plan B as it is more commonly known under its brand name, is Food and Drug Administration-approved medication that prevents pregnancy. It is safe and, if taken shortly after pregnancy, highly effective. Since 2006, the FDA has approved it for over-the-counter sale. Currently, women 17 years old and older may purchase emergency contraception over the counter, while those younger require a prescription.

Emergency contraception is widely available at pharmacies throughout the U.S.

The problem this legislation is meant to address is that there's no guarantee that emergency contraception be available to our servicewomen in the military. The military health care system includes what is called a basic core formulary, which lists the medications that must be stocked at all Department of Defense medical facilities, including those overseas. Emergency contraception is not currently on the basic core formulary.

Consequently, emergency contraception is not systematically and reliably available at all medical military facilities. It is allowed to be stocked at such facilities, so it is available in some places. In that regard, the bill that Senator SNOWE and I are introducing today is not a dramatic departure from existing practice.

But there is no guarantee that a servicewoman will have access to it. Immediate accessibility is especially important in the case of emergency contraception because it is only effective if taken within a short window of time. Once a pregnancy is established, it doesn't work.

There is no good reason why servicewomen shouldn't have the same access to emergency contraception that civilians here in the U.S. have.

That is just what this legislation would do. It would guarantee that all military health care treatment facilities stock emergency contraception by placing that medication on the basic core formulary.

All servicewomen should be able to have access to emergency contraception in order to prevent unwanted pregnancy. The fact that more than 2,900 sexual assaults were reported last year in the military only heightens the need to ensure emergency contraception is always available.

This is legislation that has been endorsed by a wide range of organizations both in Minnesota and nationally.

I hope that my colleagues will join me in supporting this commonsense legislation. I thank Senator SNOWE for joining me in introducing this bill, and I thank all my colleagues who have signed on as cosponsors.

Mr. President, I ask unanimous consent that the text of the bill and a list of supporters be printed in the RECORD.

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

S. 2904

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 ''Compassionate Care for Servicewomen Act''.

SEC. 2. REQUIREMENT TO MAKE AVAILABLE EMERGENCY CONTRACEPTION AT ALL MILITARY HEALTH CARE TREATMENT FACILITIES.

Section 1074g(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(9)(A) Emergency contraception in drug form shall be included on the basic core formulary of the uniform formulary, notwithstanding any provision of law or regulation requiring that only drugs ordered or prescribed by a physician (or other authorized provider) may be included in the uniform formulary. Emergency contraception in other than drug form may also be included on the basic core formulary, notwithstanding any such provision.

''(B) Nothing in subparagraph (A) may be construed to require emergency contraception to be covered under the pharmacy benefits program.

''(C) Notwithstanding paragraph (4), prior authorization shall not be required for emergency contraception. Nothing in the preceding sentence may be construed as waiving any provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or any other provision of law administered by the Food and Drug Administration, including rules and orders of such Administration in effect at any time under such Act or other provisions of law.

''(D) In this paragraph, the term 'emergency contraception' means a drug, drug regimen, or device that is—

''(i) approved by the Food and Drug Administration to prevent pregnancy; and

''(ii) used postcoitally.''.

MINNESOTA AND NATIONAL ORGANIZATIONS THAT HAVE ENDORSED THE COMPASSIONATE CARE FOR SERVICEWOMEN ACT

MINNESOTA

NARAL Pro-Choice Minnesota
Minnesota Nurses Association
Minnesota Medical Association
Planned Parenthood Minnesota, North Dakota, South Dakota
Minnesota Indian Women's Sexual Assault Coalition
Minnesota Coalition Against Sexual Assault
Sexual Violence Center
Minnesota National Organization for Women
Pro Choice Resources
Midwest Health Center for Women
Religious Coalition for Reproductive Rights

NATIONAL

NARAL Pro-Choice America
SWAN: Servicewomen's Action Network
National Council of Women's Organizations (NCWO)
National Partnership for Women and Families
Women's Research & Education Institute (WREI)
American Association of University Women
National Coalition against Domestic Violence
American Civil Liberties Union
American College of Obstetricians and Gynecologists
American Association of University Women
American Society for Reproductive Medicine
Center for Reproductive Rights
National Council of Jewish Women
National Family Planning & Reproductive Health Association (NFPRHA)
National Organization for Women
National Partnership for Women & Families
Planned Parenthood Federation of America
Population Connection
Religious Coalition for Reproductive Choice
Reproductive Health Technologies Project
Speaking Out Against Rape (SOAR)
National Women's Law Center
National Research Center for Women and Families

By Mr. INOUYE:

S. 2905. A bill to amend the Internal Revenue Code of 1986 to repeal the reduction in the deductible portion of expenses for business meals and entertainment; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I rise to introduce legislation to repeal the current 50 percent tax deduction for business meals and entertainment expenses, and to restore the tax deduction to 80 percent for all taxpayers. In 1986, the Congress reduced the allowable tax deduction for business meals and entertainment from 100 percent to 80 percent. In 1993, the Congress again reduced the deduction to 50 percent. Restoration of this deduction is essential to the livelihood of small and independent businesses as well as the food service, travel, tourism, and entertainment industries throughout the United States. These industries are being economically harmed as a result of the 50 percent tax deduction.

At a time when the nation is getting back on a stronger economic footing, the legislation is particularly critical especially for the small businesses and self-employed individuals that depend so heavily on the business meal to conduct business. Small companies often use restaurants as ''conference space'' to conduct meetings or close deals. Meals are their best, and sometimes only, marketing tool. Certainly, an increase in the meal and entertainment deduction would have a significant impact on a small businesses bottom line. In addition, the effects on the overall economy would be significant.

Accompanying my statement is the National Restaurant Association's, NRA, State-by-State chart reflecting the estimated economic impact of increasing the business meal deductibility from 50 percent to 80 percent. The NRA estimates that an increase to 80 percent would increase business meal sales by $6 billion and create an $18 billion increase to the overall economy.

I urge my colleagues to join me in cosponsoring this important legislation.

Mr. President, I ask unanimous consent that the text of the bill and a State-by-State chart be printed in the RECORD.

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

S. 2905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF REDUCTION IN BUSINESS MEALS AND ENTERTAINMENT TAX DEDUCTION.

(a) IN GENERAL.—Section 274(n)(1) of the Internal Revenue Code of 1986 (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by striking ''50 percent'' and inserting ''80 percent''.

(b) CONFORMING AMENDMENT.—Section 274(n) of the Internal Revenue Code of 1986 is amended by striking paragraph (3).

(c) CLERICAL AMENDMENT.—The heading for section 274(n) of the Internal Revenue Code of 1986 is amended by striking ''ONLY 50 PERCENT'' and inserting ''PORTION''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

ESTIMATED IMPACT OF INCREASING BUSINESS MEAL DEDUCTIBILITY FROM 50% TO 80%

State	Increase in Business Meal Spending 50% to 80% Deductibility (in millions)	Total Economic Impact In the State (in millions)	Total Employment Impact In the State (number of jobs created)
Alabama	$77	$155	$2,464
Alaska	17	29	401
Arizona	118	235	3,125
Arkansas	43	87	1,451
California	767	1,797	20,868
Colorado	114	264	3,328
Connecticut	71	133	1,624
Delaware	19	35	402
District of Columbia	31	43	254
Florida	368	745	9,746
Georgia	193	446	5,642
Hawaii	44	86	1,154
Idaho	24	47	799
Illinois	256	610	7,207
Indiana	117	241	3,712
Iowa	47	95	1,544
Kansas	46	92	1,314
Kentucky	78	158	2,266
Louisiana	81	158	2,374
Maine	24	46	709
Maryland	113	235	2,750
Massachusetts	161	324	3,884
Michigan	171	341	5,272
Minnesota	105	240	3,270

ESTIMATED IMPACT OF INCREASING BUSINESS MEAL DEDUCTIBILITY FROM 50% TO 80%—Continued

State	Increase in Business Meal Spending 50% to 80% Deductibility (in millions)	Total Economic Impact In the State (in millions)	Total Employment Impact In the State (number of jobs created)
Mississippi	41	78	1,340
Missouri	115	256	3,512
Montana	20	39	682
Nebraska	31	64	1,048
Nevada	71	127	1,703
New Hampshire	29	53	653
New Jersey	170	367	4,139
New Mexico	37	66	1,079
New York	379	751	8,855
North Carolina	176	371	5,435
North Dakota	11	20	333
Ohio	217	466	6,978
Oklahoma	60	127	2,016
Oregon	82	169	2,274
Pennsylvania	212	478	6,311
Rhode Island	24	45	598
South Carolina	87	179	2,689
South Dakota	14	27	458
Tennessee	121	272	3,531
Texas	477	1,164	14,109
Utah	41	92	1,375
Vermont	11	19	288
Virginia	157	331	4,155
Washington	129	279	3,419
West Virginia	28	47	830
Wisconsin	100	210	3,399
Wyoming	10	16	293

Source: National Restaurant Association estimates, 2009.

By Mr. FEINGOLD (for himself, Mr. MCCAIN, and Mr. LIEBERMAN):

S.J. Res. 23. A joint resolution disapproving the rule submitted by the Federal Election Commission with respect to travel on private aircraft by Federal candidates; to the Committee on Rules and Administration.

Mr. FEINGOLD. Mr. President, the very first bill debated on the floor of the Senate after the 2006 elections was S. 1, the Honest Leadership and Open Government Act of 2007, HLOGA. About 9 months later, President Bush signed that bill into law as Public Law Number 110–81. It was the most sweeping ethics reform legislation since Watergate, and it passed both houses of Congress by a wide margin—the final votes were 411–8 in the House and 83–14 in the Senate.

The new law contained, among many other provisions, significant reforms to the lobbying disclosure laws, a tough new prohibition on gifts from lobbyists, improvements to the revolving door rules, and new restrictions on privately funded fact-finding trips. It also contained new rules on personal, official, and campaign travel on non-commercial aircraft, often known as ''corporate jets.'' Prior to HLOGA, members who flew on corporate jets, often accompanied by corporate lobbyists, were required to reimburse the owner of the aircraft only the amount that they would have paid to fly first class between the origin and destination of the flight. HLOGA provided that Senators and presidential candidates would have to reimburse such travel at the charter rate. House members were prohibited from flying on non-commercial aircraft altogether.

Because Senators travel in different capacities, HLOGA addressed the issue in separate sections. Section 544(c) of the bill amended the Senate Rules XXXV and XXXVIII to address official and personal travel by Senators. The House had already amended its rules at the very beginning of the year. Section 601 dealt with campaign travel for both House and Senate candidates by amending the Federal Election Campaign Act, ''FECA''.

Both the House and the Senate have been living under these new rules for over two years. No House member has flown on a corporate jet, as far as we know. Senators, whether they were traveling in personal, official, or campaign capacity, and regardless of who was paying for the trip, have flown on them only if they were prepared to pay the charter rate for these trips. Presidential candidates in the last campaign abided by the new rules as well.

Because HLOGA made amendments to the FECA on this issue, the FEC started a rulemaking shortly after its enactment to implement the new provision. But at the end of 2007, just as the agency was poised to put new regulations in place, the terms of several recess-appointed Commissioners expired. A stalemate ensued that left the agency without a quorum to do business until the summer of 2008. Once a full slate of Commissioners was in place, the agency deadlocked on issuing final regulations. The three new Republican commissioners refused to sign off on the rules that the Commission had been prepared to adopt in December 2007. The deadlock was resolved only a few weeks ago, when a Democratic Commissioner reluctantly agreed to go along with modifications that the Republicans proposed. See Statement of Chairman Steven T. Walther, Campaign Travel Regulations, Nov. 19, 2009. The new rule was published in the Federal Register on December 7, 2009. Federal Election Commission, Notice 2009–27, Campaign Travel, 74 Fed. Reg. 63951, Dec. 7, 2009.

I will put this as simply as I can. The new FEC rule relating to travel on noncommercial aircraft is an outrage. Rather than respecting the intent of Congress in HLOGA to address all travel on corporate jets by members of Congress and presidential candidates, the FEC has carved a loophole in the statute for travel by candidates on behalf of someone other than their own campaigns. No one in the House or the Senate contemplated this exception when the bill was passed. No one discussed it. No one considered it. The FEC just made it up. Now we in Congress have no choice but to take action to correct it if the FEC refuses to do so.

We cannot let a lawless agency undermine our effort to police ourselves, to end a practice that exposed Congress to public criticism and even ridicule. Some Senators and House members may have agreed to kick the corporate jet habit reluctantly, but they have learned to live with it. There is no need for the loophole the FEC has opened. It is contrary to the statutory language and to the legislative history. It must be closed.

So today, I will introduce, along with my colleagues from Arizona, Connecticut, and New York, Senators MCCAIN, LIEBERMAN, and SCHUMER, all of whom played a key role in the enactment of HLOGA, a resolution of disapproval under the Congressional Review Act. This resolution, if passed by the House and signed by the President, will send the FEC back to the drawing board. After a rebuke of this kind, one can only hope that the Commission will craft a regulation that does not so completely ignore the letter and spirit of the provision we passed in HLOGA.

Let me take a minute to explain what the FEC has done and what it must do to correct its error. The new regulation takes the position that the key fact in determining what rate must be paid for a corporate jet flight is not who is flying, but who is paying for the flight. The explanation and justification, ''E&J'', adopted by the commission states:

[W]hen a presidential, vice-presidential, or Senate candidate, or a representative of the candidate, is traveling on behalf of another

political committee (such as a political party committee or Senate leadership PAC, rather than on behalf of the candidate's own authorized committee, the reimbursement for that travel is the responsibility of the political committee on whose behalf the travel occurs. If the political committee is other than an authorized committee or House candidate's leadership PAC, then the appropriate reimbursement rate for that political committee is set forth in new 11 CFR 100.93(c)(3), discussed below. In such cases, the presidential, vice-presidential, or Senate candidate or candidate's representative, is treated the same as any other person traveling on behalf of the political committee.

74 Fed. Reg. at 63955. That rate for such a trip, under an FEC regulation promulgated in 2003, is the first class rate unless regularly scheduled commercial air service is not available between the origin and the destination of the flight. The E&J also reiterates that leadership PACs of Senators and Presidential candidates can continue to pay the first class rate, even for the candidates themselves.

In addition, although House leadership PACs are prohibited from taking advantage of this loophole, the E&J makes clear that House candidates can do so if they are traveling on behalf of a political party committee or a Senate or presidential candidate, even though they are otherwise completely prohibited from traveling on a corporate jet. The loophole seems to apply to House members even if they are traveling on behalf of a corporate PAC.

In a recent article in the Capitol Hill newspaper Roll Call, FEC Commissioner Matthew Peterson attempted to explain the FEC's decision. He argues that the loophole is compelled by the statutory language, which is structured to prohibit an expenditure for any flight by a Senate candidate or the candidate's authorized committee unless the charter rate is paid for that flight. This interpretation ignores specific language in section 601 that requires payment of the charter rate by ''the candidate, the authorized committee, or other political committee'' and the lack of any language in the statute or the legislative history suggesting that Congress meant to leave open a way for Senators to travel on corporate jets without paying the charter rate.

Moreover, it ignores the clear intent of the two provisions of HLOGA concerning travel on private aircraft—to prohibit all corporate jet flights by Senators unless the charter rate is paid. There are literally more than a dozen statements by supporters of the bill that make this intent clear. The FEC chose to ignore the clear purpose of the bill in favor of a strained interpretation of the statutory language that flies in the face of that purpose. That is unacceptable. The FEC's duty is to implement the statute as Congress intended it. Its job is to give guidance to candidates and others who want to follow the law, not to provide a roadmap for evading it.

For the convenience of my colleagues, my staff has collected statements from the floor debate on HLOGA that show beyond any doubt that the corporate jet provisions were intended to apply to all travel on corporate jets by Senators without regard to who is reimbursing the jet owner. One Senator said the following:

I understand that for many Members, these jets are an issue of convenience. They allow us to get home to our constituents, to our families, and to the events that are often necessary for our jobs. But in November, the American people told us very clearly they are tired of the influence special interest wields over the legislative process. The vast majority of Americans can't afford to buy cheap rides on corporate jets. They don't get to sit with us on 3-hour flights and talk about the heating bills they can't pay, or the health care costs that keep rising, or the taxes they can't afford, or their concerns about college tuition. They can't buy our attention, and they shouldn't have to. And the corporation lobbyists shouldn't be able to either. That is why we need to end this corporate jet perk if we are to pass real, meaningful ethics reform.

Cong. Rec. at S263, Jan. 9, 2007. The speaker of those words, which make plain that the intent of the provision was to completely eliminate subsidized travel on corporate jets, was then-Senator Barack Obama. This strongly suggests that the President of the United States will sign the resolution of disapproval once we pass it.

Notwithstanding my strong feelings about the part of the FEC rule I have just discussed, significant portions of the rule are unexceptional. The intent of this resolution of disapproval under the Congressional Review Act is solely to reverse the FEC's decision to open a loophole in the requirements for corporate jet travel by members of Congress and their staffs. So we do not intend to disable the FEC from putting out a new regulation, only from including a gaping loophole in it.

I note this because the Congressional Review Act only allows Congress to disapprove, and therefore make ineffective, an entire regulation. It states that the agency may not promulgate a rule that is ''substantially the same'' as the old one without new congressional authorization. I want to be clear that the loophole created by the FEC's recent rule is so significant that a rule that is otherwise identical to the entire campaign travel regulation, but that does not contain the loophole that this resolution is designed to disapprove, should not be considered to be ''substantially the same'' as the previous rule, even though other portions of that rule may be re-promulgated unchanged.

The Congressional Review Act has only once been successfully used to overturn an agency regulation. Thus, there is little experience to fall back on to determine the consequences for future agency action of a successful disapproval resolution. Morton Rosenberg, a long time analyst at the Congressional Research Service, includes the following useful analysis in his 2008 assessment of the CRA:

A review of the CRA's statutory scheme and structure, the contemporaneous congressional explanation of the legislative intent with respect to the provisions in question, the lessons learned from the experience of the March 2001 disapproval of the OSHA ergonomics rule, and the application of pertinent case law and statutory construction principles suggests that (1) It is doubtful that Congress intended that all disapproved rules would require statutory reauthorization before further agency action could take place. For example, it appears that Congress anticipated further rulemaking, without new authorization, where the statute in question established a deadline for promulgating implementing rules in a particular area. In such instances, the CRA extends the deadline for promulgation for one year from the date of disapproval. (2) A close reading of the statute, together with its contemporaneous congressional explication, arguably provides workable standards for agencies to reform disapproved regulations that are likely to be taken into account by reviewing courts. Those standards would require a reviewing court to assess both the nature of the rulemaking authority vested in the agency that promulgated the disapproved rule and the specificity with which the Congress identified the objectionable portions of a rule during the floor debates on disapproval. An important factor in a judicial assessment may be the CRA's recognition of the continued efficacy of statutory deadlines for promulgating specified rules by extending such deadlines for one year after disapproval.

Congressional Research Service, Congressional Review of Agency Rulemaking: An Update and Assessment of The Congressional Review Act after a Decade, RL30116, May 8, 2008, at 30. Rosenberg notes that the fact that Congress specifically provided in the CRA for a one year extension of any statutory deadline for a rule that has been overturned by the CRA shows that Congress did not intend to disable an agency from issuing regulations on the same topic. Indeed, a Joint Explanatory Statement by the principal sponsors of the CRA in the House and Senate states the following:

The authors intend the debate on any resolution of disapproval to focus on the law that authorized the rule and make the congressional intent clear regarding the agency's options or lack thereof after enactment of a joint resolution of disapproval. It will be the agency's responsibility in the first instance when promulgating the rule to determine the range of discretion afforded under the original law and whether the law authorizes the agency to issue a substantially different rule. Then, the agency must give effect to the resolution of disapproval.

Joint Explanatory Statement of House and Senate Sponsors, 142 Cong. Rec. E 571, at E 577, daily ed. April 19, 1996; 142 Cong. Rec. S 3683, at S 3686 daily ed. April 18, 1996. It is the intent of this resolution of disapproval to invalidate the loophole that the FEC created in the E&J, but not to disable the FEC from issuing a new rule that properly implements Congress's intent in passing HLOGA.

My displeasure with the actions of the FEC over the past 7 years is well known. The agency has repeatedly failed to properly implement provisions of the Bipartisan Campaign Reform Act, BCRA, leading to its regulations being overturned by the courts numerous times. Indeed, because of the

agency's dismal record in the courts, some important BCRA regulations are still not in place 7½ years after BCRA's enactment. But the FEC's recent action on corporate jets may be its worst yet. Congress passed HLOGA with wide bipartisan support and clear intent. Because of the FEC's failure to issue rules promptly, members of Congress have been living under the terms of the statute alone with no misunderstanding of what it means. And yet, over two years after its enactment, the FEC has now created an unnecessary and wholly unjustified loophole in the statute. Congress must act to correct this egregious mistake.

I urge my colleagues to support this resolution of disapproval.

Mr. President, I ask unanimous consent that a collection of quotations concerning corporate jet provisions of HLOGA be printed in the RECORD.

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

SELECTED STATEMENTS CONCERNING TRAVEL ON CORPORATE JETS FROM 2007 DEBATE ON HLOGA

Sen. Reid, 1/4/2007

Another critical aspect requiring reform is the ability of a Member to travel on a corporate jet and only pay the rate of a first class plane ticket. This bill requires Senators and their employees who use corporate or charter aircraft to pay the fair market value for that travel. While I appreciate that such a change is not popular with some of my colleagues, the time has come to fundamentally change the way we do things in this town. Much of the public views our ability to travel on corporate jets, often accompanied by lobbyists, while only reimbursing the first-class rate, as a huge loophole in the current gift rules. And they are right—it is. I have no doubt that the average American would love to fly around the country on very comfortable corporate-owned aircraft and only be charged the cost of a first-class ticket. It is a pretty good deal we have got going here. We need to face the fact that the time has come to end this Congressional perk. [Cong. Rec. S186]

Sen. Obama, 1/9/2007

The second area in which we need to go further is corporate jets. Myself and Senator Feingold introduced a comprehensive ethics bill that, among other things, would close the loopholes that allow for subsidized travel on corporate jets. Today, I am very pleased to see the majority leader has offered an amendment that would serve the same purpose. I fully support him in his effort.

Let me point out that I fully understand the appeal of corporate jets. Like many of my colleagues, I traveled a good deal recently from Illinois to Washington, from Chicago to downstate, from fundraisers to political events for candidates all across the country. I realize finding a commercial flight that gets you home in time to tuck in the kids at the end of a long day can be extremely difficult. This is simply an unfortunate reality that goes along with our jobs.

Yet we have to realize these corporate jets don't simply provide a welcome convenience for us; they provide undue access for the lobbyists and corporations that offer them. These companies don't just fly us around out of the goodness of their hearts. Most of the time we have lobbyists riding along with us so they can make their company's case for a particular bill or a particular vote.

It would be one thing if Congressmen and Senators paid the full rate for these flights, but we don't. We get a discount—a big discount. Right now a flight on a corporate jet usually costs us the equivalent of a first-class ticket on a commercial airplane. But if we paid the real price, the full charter rate would cost us thousands upon thousands of dollars more.

In a recent USA Today story about use of corporate jets, it was reported that over the course of 3 days in November 2005, BellSouth's jet carried six Senators and their wives to various Republican and Democratic fundraising events in the Southeast. If they had paid the full charter rate, it would have cost the Democratic and Republican campaign committees more than $40,000. But because of the corporate jet perk, it only cost a little more than $8,000.

There is going to be a lot of talk in the coming days about how important it is to ban free meals and fancy gifts, and I couldn't agree more, but if we are going to go ahead and call a $50 lunch unethical, I can't see why we wouldn't do the same for the $32,000 that BellSouth is offering in the form of airplane discounts. That is why I applaud Senator Reid on his amendment to require Members to pay the full charter rate for the use of corporate jets.

As I said, I understand that for many Members, these jets are an issue of convenience. They allow us to get home to our constituents, to our families, and to the events that are often necessary for our jobs. But in November, the American people told us very clearly they are tired of the influence special interest wields over the legislative process. The vast majority of Americans can't afford to buy cheap rides on corporate jets. They don't get to sit with us on 3–hour flights and talk about the heating bills they can't pay, or the health care costs that keep rising, or the taxes they can't afford, or their concerns about college tuition. They can't buy our attention, and they shouldn't have to. And the corporation lobbyists shouldn't be able to either. That is why we need to end this corporate jet perk if we are to pass real, meaningful ethics reform. [Cong. Rec. S263–4]

Sen. Feingold, 1/9/2007

When I introduced my lobbying reform bill back in July 2005, it included a provision addressing the abuse of Members flying on corporate jets. At that time, I have to say, it seemed like a fantasy that we would actually pass such a provision. I heard complaint after complaint about it, that we shouldn't do it.

Slowly but surely, many people have come around to where the public is: Corporate jet travel is a real abuse. Sure, it is convenient, but it is based on a fiction—that the fair market value of such a trip is just the cost of a first class ticket. And when that fiction is applied to political travel, it creates a loophole in the ban on corporate contributions that we have had in this country for over a century. Any legislation on corporate jets must include campaign trips as well as official travel because one thing is for certain—the lobbyist for the company that provides the jet is likely to be on the flight, whether it is taking you to see a factory back home or a fundraiser for your campaign.

Our bill does that. It covers all of the possible uses of corporate jets, and amends all of the Senate rules needed to put in place a strong reform, and the Federal election laws as well. From now on, if you want to fly on a corporate jet, you will have to pay the charter rate. And these flights shouldn't be an opportunity for the lobbyist or CEO of the company that owns the jet to have several hours alone with a Senator. Our bill prohibits that as well. This is what the American people have been calling for. There are no loopholes or ambiguities here. Politicians flying on private planes for cheap will be a thing of the past if we can get this provision into the bill. Senator Reid's amendment includes a tough corporate jet provision. I am pleased to support that portion of the amendment. This is a big deal, and I commend the majority leader for taking this step. [Cong. Rec. S267]

Sen. Lieberman, 1/10/2007

I am also very pleased that the majority leader has included in this amendment that I referred to an additional amendment, a strong provision on the use of corporate jets. This is a controversial, difficult matter. It is an issue that Senators McCain, Feingold, Obama, and I wanted to pursue last year when we took this up essentially in its predecessor form, but we were unable to do so once cloture was reached on the bill because the amendment was determined to be nongermane.

Under current law this is the reality. When a Member of Congress or a candidate for Federal office uses a private plane instead of flying on a commercial airline, the ethics rules, as well as the Federal Election Commission rules, require a payment to the owner of the plane equivalent to a first-class commercial ticket. The current rules undervalue flights on noncommercial jets and provide, in effect, a way for corporations and individuals to give benefits to Members beyond the limits provided for in our campaign finance laws. The Reid amendment would eliminate that loophole by requiring that the reimbursement be based on the comparable charter rate for a plane. [Cong. Rec. S320]

Sen. Sanders, 1/16/2007

Members of Congress do not need free lunches from lobbyists. Members of Congress do not need free tickets to ball games. And they do not need huge discounts for flights on corporate jets. Congress does need transparency in earmarks and holds, and we do need a new policy regarding the revolving door by which a Member one year is writing a piece of legislation and the next year finds himself or herself working for the company that benefited from the legislation he or she wrote. In other words, we need to pass the strongest ethics reform bill possible. But in passing this legislation, we need to understand this is not the end of our work but, rather, it is just the beginning, and much more needs to be done. [Cong. Rec. S553]

Sen. Reid, 1/16/2007

Let me say a word about corporate jets. The State of Nevada is very large areawise. The cities of Las Vegas and Reno are separated by about 450 miles. There is good travel between those two cities. But to get around the rest of the State is not easy. When you travel from Las Vegas to Reno, I again say it is easy. But then let's say you want to go to Elko. By Nevada standards, it is a pretty large city. Going on a commercial airplane, it is very, very, very difficult, and to go to Ely is next to impossible. These two cities, both important in their own right, have required on a number of occasions calling upon people you know who have an airplane to take us up there.

Under the old rules, you could pay first-class travel. An example of that is Senator Ensign and I, last August, had to go to Ely. It was extremely important. We were working on a piece of legislation that has since passed. We wanted to sit down in person and talk to the people in Ely about what we were doing.

For us to get there was very difficult. The time factor was significant. To drive up and back is 2 days, 1 day up, 1 day back. It was

complicated by the fact that Senator Ensign had a longstanding engagement in Reno. To go from Ely to Reno—it is hard to get there. If you drive very fast, you can make it in 6 hours. So I called a friend of mine, Mike Ensign, Senator Ensign's father. This good man has done very well in the business world. He is a man with limited education but a great mind. He started out working in somewhat menial jobs in the gaming industry. He worked his way up. He became a dealer, a pit boss, a shift boss, and then Mike Ensign moved into the corporate world and became an executive and then ultimately started buying hotel properties himself and has done very well. He is the principal officer and owner of Mandalay Bay, a huge company. It is the second largest hotel-casino operator in the country. I called him and I said: Mike, with one of your airplanes, can you fly me and your son to Ely?

He is a wonderful man, just the greatest guy. He said: Sure, I will be happy to do that. And he did that. He is an example of the type of people we have called upon for these airplanes.

I tell this story. I have used these airplanes a lot because I live in Nevada and because of other duties I have here. The reason I tell the Mike Ensign story is because Mike Ensign doesn't want anything from me. There isn't a thing in the world I can give this man. He is famous, he is rich, he has a wonderful family. I can't do anything to help Mike Ensign. He did this because he is my friend.

Most every—I should not say most. For every airplane I fly on, of course I don't have the relationship with them that I have with Mike Ensign, but I want everyone who has allowed me to use their airplanes to know I am not in any way denigrating them. They have done this out of the goodness of their heart. I have never had anyone say: I will give you an airplane ride if you give me something, or, I have a piece of legislation pending, will you help me with that? That has never happened. I want all these people to know that I am certainly not in any way disparaging these good people who have allowed me and others to fly on their airplanes.

What I am saying, though, is that in this world in which we live, because of all the corruption that has taken place in the last few years here in America, that you not only have to do away with what is wrong but what appears to be wrong. I am confident I have never been influenced by anyone who provided me with the courtesy of a private airplane, but I have come to the realization that this practice presents a major perception problem. It is a major perception problem because the American people have the right to insist that we do what seems right as well as what is right. Does it appear it is OK? For us to fly around in these airplanes doesn't appear to be the right thing, no matter how good-hearted these people are, just like Mike Ensign. So because a perception isn't right, this amendment is pending, and it means Senators should pay the full fare when they fly on someone's private airplane. [Cong. Rec. S548–9]

Sen. Levin, 1/25/2007

Strong travel restrictions are also an essential component of this bill. The new rules will ensure that Members traveling on corporate jets would have to reimburse at the charter rate, not as is now the case merely at the level of a first class commercial ticket. [Cong. Rec. S1185]

Sen. Reid, 6/26/2007

The American people responded at the polls last November with a clear message that they wanted a new direction, and we, the Democrats, responded by passing the most sweeping ethics and lobbying reform in a generation. We did it with the help of the minority. I do not say that lightly. But let's see what is in this bill. Let's review it for a bit to find out what this bill does.

It prohibits lobbyists and entities that hire lobbyists from giving gifts to lawmakers and their staffs. It prevents corporations and other entities that hire lobbyists from paying for trips for Members or staffs. And it prohibits lobbyists from participating in or paying for any such trips. It requires Senators to pay fair market value prices for charter flights, which put an end to the abuses of corporate travel.

Many people in this Chamber flew in corporate jets and paid first-class airfare. That did not corrupt any Members of Congress, but it was corrupting. It didn't look right, and therefore it is important it be stopped. And I hope it stopped. We need legislation to make sure it is stopped. [Cong. Rec. S8400]

Sen. Klobuchar, 7/31/2007

This ethics bill, as many outside groups have stated, is the most sweeping ethics reform we have seen since Watergate. It is about banning gifts and free meals. It is about not allowing people to take advantage of corporate jets. It is about bringing transparency to the earmark process. [Cong. Rec. S10401]

Sen. Obama, 8/2/2007

In January, I came back with Senator Feingold, and we set a high bar for reform. I am pleased to report that the bill before us today comes very close to what we proposed. By passing this bill, we will ban gifts and meals and end subsidized travel on corporate jets; we will close the revolving door between Pennsylvania Avenue and K Street; and we will make sure the American people can see all the pet projects lawmakers are trying to pass before they are actually voted on. [Cong. Rec. S10692]

Sen. Levin, 8/2/2007

Strong travel restrictions are also an essential component of this bill. The new rules will ensure that Members traveling on corporate jets would have to pay for them at the charter rate, not at the current level of a first class commercial ticket, which is but a fraction of the cost. [Cong. Rec. S10703]

Sen. Feinstein, 8/2/2007

Section 544 includes a separate provision relating to flights on private jets. This provision requires Senators to pay full market value—defined as charter rates—for flights on private jets, with an exception for jets owned by immediate family members (or non-public corporations in which the Senator or an immediate family member has an ownership interest).

In general, the changes made by section 544 go into effect 60 days after enactment, or the date that the Select Committee on Ethics issues the required guidelines under the rule, whichever is later. Until the new rules take effect, the existing rules for travel will remain in place. In light of the transition to the new rule relating to reimbursement for flights on private jets and the lack of experience in many offices in determining ''charter rates,'' the Select Committee on Ethics may treat reimbursement at current rates as reimbursement at charter rates for a transition period not to exceed 60 days.

Section 601 amends the Federal Election Campaign Act to require that candidates, other than those running for a seat in the House of Representatives, pay the fair market value of airfare when using non-commercial jets to travel. Fair market value is to be determined by dividing the fair market value of the charter fare of the aircraft, by the number of candidates on the flight. This provision exempts aircraft owned or leased by candidates or candidates' immediate family members (or non-public corporations in which the Senator or his or her immediate family member has an ownership interest). The bill prohibits candidates for the House of Representatives from any campaign use of privately-owned, non-chartered jets.

Many candidates are not accustomed to determining charter rates. The FEC may, during a transition period of no more than 60 days, deem reimbursement at current rates to be charter rates while committees determine how to calculate charter rates. [Cong. Rec. S10713]

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 377—CONGRATULATING THE UNIVERSITY OF NORTH CAROLINA TAR HEELS FOR WINNING THE 2009 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION FIELD HOCKEY NATIONAL CHAMPIONSHIP–

Mrs. HAGAN (for herself and Mr. BURR) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 377

Whereas on November 22, 2009, the University of North Carolina defeated the University of Maryland by a score of 3-2 to win the 2009 National Collegiate Athletic Association (NCAA) Field Hockey National Championship;

Whereas the University of North Carolina Tar Heels finished the season with an overall record of 20-2, and an Atlantic Coast Conference (ACC) regular season record of 4–1;

Whereas the University of North Carolina's Illse Davids, Katelyn Falgowski, Danielle Forword, Jackie Kintzer, and Kelsey Kolojejchick were named to the 2009 All-ACC first team;

Whereas Kelsey Kolojejchick was named the ACC Rookie of the Year;

Whereas the Tar Heels entered the NCAA tournament ranked third, behind the only 2 teams to which they had lost during the regular season, the University of Virginia and the University of Maryland;

Whereas the Tar Heels defeated the University of Virginia by a score of 3–2 in the national semi-final game;

Whereas the defending national champion and top-ranked University of Maryland entered the NCAA championship game with an undefeated 23–0 record;

Whereas the University of North Carolina kept the University of Maryland scoreless during the first period, despite being outshot 8–1;

Whereas senior captain Danielle Forword lifted the Tar Heels to victory in the championship game on a game-winning goal with 11.7 seconds remaining;

Whereas the Tar Heels overcame a previous 4–1 loss during the regular season to the University of Maryland;

Whereas the University of North Carolina's Illse Davids, Katelyn Falgowski, Danielle Forword, and Jackie Kintzer were named to the 2009 NCAA All-Tournament Team;

Whereas the University of North Carolina's Katelyn Falgowski, Jackie Kintzer, and Kelsey Kolojejchick were named first team All-Americans by the National Field Hockey Coaches Association;

Whereas Kelsey Kolojejchick became the first Tar Heel freshman to earn first-team All-America honors;

Whereas the University of North Carolina's Illse Davids and Danielle Forword were

named second team All-Americans, with Melanie Brill named to the third team;

Whereas 31 North Carolina players have earned first-team All-America honors on 43 occasions;

Whereas Coach Karen Shelton was named as the South Region Coach of the Year by the National Field Hockey Coaches Association; and,

Whereas the University of North Carolina made its 26th NCAA Tournament appearance and won the school's sixth NCAA field hockey championship: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of North Carolina on winning the 2009 National Collegiate Athletic Association Field Hockey National Championship;

(2) recognizes the achievement of the players, coaches, and students, as well as their dedication to excellence that helped propel the field hockey team to win the championship; and

(3) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) the chancellor of the University of North Carolina, H. Holden Thorp;

(B) the athletic director of the University of North Carolina, Dick Baddour; and

(C) the head coach of the University of North Carolina field hockey team, Karen Shelton.

SENATE RESOLUTION 378—CONGRATULATING THE UNIVERSITY OF NORTH CAROLINA TAR HEELS FOR WINNING THE 2009 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION WOMEN'S SOCCER NATIONAL CHAMPIONSHIP

Mrs. HAGAN (for herself and Mr. BURR) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 378

Whereas on December 6, 2009, the University of North Carolina defeated Stanford University by a score of 1–0 to win the 2009 National Collegiate Athletic Association (NCAA) Women's Soccer National Championship;

Whereas the Tar Heels finished the regular season third in the Atlantic Coast Conference (ACC) with a conference record of 7–3–0 and an overall record of 14–3–1;

Whereas the University of North Carolina's Whitney Engen was named ACC Defensive Player of the Year;

Whereas the University of North Carolina's Whitney Engen, Ashlyn Harris, and Tobin Heath were named to the 2009 All-ACC first team;

Whereas the University of North Carolina's Ali Hawkins and Jessica McDonald were named to the 2009 All-ACC second team;

Whereas the third-seeded Tar Heels won the 2009 ACC Women's Soccer Championship with a 3–0 victory over Florida State University, winning the 20/th/ ACC Tournament Championship in the school's history;

Whereas the University of North Carolina's Casey Nogueira was named the Most Valuable Player of the 2009 ACC Championship;

Whereas the University of North Carolina's Casey Nogueira, Ashlyn Harris, Kristi Eveland, Whitney Engen, and Tobin Heath were each named to the 2009 ACC Women's Soccer All-Tournament Team;

Whereas Stanford University entered the National Championship game with an undefeated 25–0 record;

Whereas the University of North Carolina's Jessica McDonald scored the decisive goal in the third minute of the National Championship game on an assist from Casey Nogueira and Tobin Heath;

Whereas the Tar Heels withstood a furious second-half Stanford rally, with the University of North Carolina's goalkeeper Ashlyn Harris providing a key save to preserve the Tar Heels' victory;

Whereas Casey Nogueira was named the Most Valuable Player on Offense in the NCAA Women's College Cup for the second successive year;

Whereas Whitney Engen was named the Most Valuable Player on Defense in the NCAA Women's College Cup;

Whereas the University of North Carolina's Tobin Heath and Whitney Engen were named to the National Soccer Coaches Association of America All-America first team;

Whereas the University of North Carolina's 9 seniors completed their collegiate careers as the winningest senior class in the country, having won 3 National Championships and 4 ACC Tournament Championships with a combined overall record of 94–9–4;

Whereas the University of North Carolina's NCAA Tournament record stands at 106–7–1, and the University has won 93.4 percent of its NCAA Tournament competitions;

Whereas the University of North Carolina has participated in 23 of 28 NCAA Tournament Championship games played to date; and

Whereas the University of North Carolina has won 20 of the 28 NCAA Women's Soccer National Championships: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of North Carolina for winning the 2009 National Collegiate Athletic Association Women's Soccer National Championship;

(2) recognizes the achievement of the players, coaches, students, and staff of the University of North Carolina, whose perseverance and dedication to excellence helped propel the women's soccer team to win the championship; and

(3) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) the chancellor of the University of North Carolina, H. Holden Thorp;

(B) the athletic director of the University of North Carolina, Dick Baddour; and

(C) the head coach of the University of North Carolina women's soccer team, Anson Dorrance.

SENATE RESOLUTION 379—TO EXPRESS THE SENSE OF THE SENATE REGARDING THE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS FOR CLEAN ENERGY AND ENVIRONMENTAL TECHNOLOGY

Mrs. GILLIBRAND submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 379

Whereas the development and deployment of innovative clean energy and environmental technology is critical to addressing global climate change;

Whereas intellectual property rights are a key driver of investment and research and development in, and facilitate global deployment of, clean energy and environmental technology;

Whereas efforts to weaken intellectual property rights for clean technology would undermine the environmental objectives of climate change negotiations by reducing incentives for investment, innovation, and clean energy and environmental technology deployment required to meet those objectives;

Whereas weakened intellectual property right protections relating to clean energy and environmental technology could pose a substantial competitive risk to United States businesses and United States workers and inhibit the creation of new green jobs and the transition to a green economy for the 21st century; and

Whereas climate action presents a significant opportunity for international cooperation on clean technology development and deployment, with substantial environmental and economic benefits for all countries.

Now, therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States should pursue opportunities for international cooperation in technology deployment, and should act to ensure that any treaty or other accord resulting from negotiations of the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992 (or a successor agreement) does not weaken or undermine international legal rules and obligations in effect as of the date of enactment of this Act relating to the protection and enforcement of intellectual property rights for energy and environmental technology, including—

(1) wind, solar, biomass, geothermal, hydro, landfill gas, natural gas, marine, trash combustion, fuel cell, hydrogen, microturbine, nuclear, clean coal, electric battery, alternative fuel, alternative refueling infrastructure, advanced vehicle, electric grid, and energy efficiency-related technologies; and

(2) any other technologies covered by such an agreement.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3259. Mr. UDALL, of Colorado submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table.

SA 3260. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3261. Mrs. HAGAN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3262. Mr. WHITEHOUSE submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3263. Mr. BAUCUS (for himself, Ms. SNOWE, Mr. CARPER, Mrs. LINCOLN, and Mr. BENNET) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3264. Mr. WYDEN (for himself, Mr. BROWN, Mr. SPECTER, Mr. KOHL, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2786 proposed

by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3259. Mr. UDALL of Colorado submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 396, between lines 8 and 9, insert the following:

SEC. 1___. STATE COURT INNOVATION PROJECT.

(a) GRANT.—

(1) IN GENERAL.—

(A) GRANT PROGRAM.—The Attorney General shall develop and implement a competitive grant program to improve the efficiency and lessen the costs and burdens of medical malpractice civil litigation for plaintiffs and defendants.

(B) ELEMENTS OF PROGRAM.—The grant program under subparagraph (A) shall be designed—

(i) to give State courts a mechanism for improving court rules and procedures, allowing parties to go to trial in more cost-effective ways and reducing the complexity and cost of litigation; and

(ii) to fund research and objective measurement, evaluation, and reporting of outcomes to identify innovative ways of promoting the resolution of medical malpractice cases in court or tried by jury in a more cost-effective and timely manner pursuant to clause (i).

(C) ELIGIBLE ENTITY.—To be eligible to receive a grant under subparagraph (A), an entity shall—

(i) be a nonprofit State court improvement organization that was incorporated or in existence before December 31, 2009, and which is experienced in developing State court improvement programs; and

(ii) submit to the Attorney General an application at such time, in such manner, and containing such information as the Attorney General may require.

(2) USE OF FUNDS.—A grant recipient under paragraph (1) shall use amounts awarded under the grant to conduct research and evaluations, develop rules and procedures designed to improve the efficiency and lessen the costs of medical malpractice litigation for plaintiffs and defendants, and to award subgrants to eligible entities to carry out activities—

(A) to conduct pilot projects;

(B) to increase the operating efficiency of State courts with respect to medical malpractice litigation;

(C) to conduct research to seek innovative ways to resolve medical malpractice litigation in State courts in a more cost-effective and timely manner; and

(D) to measures and report on outcomes with respect to activities funded under the subgrant.

(3) ELIGIBLE SUBGRANT ENTITY.—To be eligible to receive a subgrant under paragraph (2), an entity shall—

(A)(i) be a State or local governmental entity in a jurisdiction that permits jury trials for civil medical malpractice actions; or

(ii) be an academic institution; and

(B) submit an application at such time, in such manner, and containing such information as required by the recipient of the grant under paragraph (1), in accordance with any rules established by the Attorney General.

(4) REPORTING.—Not later than 2 years after receiving grant funds under this subsection, each grant recipient under paragraph (1) shall submit to the Attorney General a report that describes the activities conducted by the recipient under this section, including the activities of any subgrantees of such grant recipient under paragraph (2).

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out this section.

SA 3260. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 522, between lines 2 and 3, insert the following:

SEC. 2603. PAYMENT FOR ILLEGAL UNAPPROVED DRUGS.

(a) FINDINGS.—Congress finds that each year, the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) pays millions of dollars in reimbursement for covered outpatient drugs that are not approved by the Food and Drug Administration under a new drug application under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) or an abbreviated new drug application under section 505(j) of such Act, or that such drug is not subject such section 505 or section 512 due to the application of section 201(p) of such Act (21 U.S.C. 321(p)).

(b) LISTING OF DRUGS AND DEVICES.—Section 510 of the Food, Drug and Cosmetic Act (21 U.S.C. 360) is amended—

(1) in subsection (j)(1)(B)—

(A) in clause (i), by inserting ''in the case of a drug, the authority under this Act that does not require such drug to be subject to section 505 and section 512,'' after ''labeling for such drug or device,''; and

(B) in clause (ii), by inserting '', in the case of a drug, the authority under this Act that does not require such drug to be subject to section 505 and section 512,'' after ''for such drug or device''; and

(2) in subsection (f)—

(A) by striking ''(f) The Secretary'' and inserting the following:

''(f) INSPECTION BY PUBLIC OF REGISTRATION.—

''(1) IN GENERAL.—The Secretary''; and

(B) by adding at the end the following:

''(2) LIST OF DRUGS THAT ARE NOT APPROVED UNDER SECTION 505 OR 512.—Not later than January 1, 2011, the Secretary shall make available to the public on the Internet website of the Food and Drug Administration a list that includes, for each drug described in subsection (j)(1)(B)—

''(A) the drug;

''(B) the person who listed such drug; and

''(C) the authority under this Act that does not require such drug to be subject to section 505 and section 512, as provided by such person in such list.''.

(c) PAYMENT FOR COVERED OUTPATIENT DRUGS.—Section 1927 of the Social Security Act (42 U.S.C. 1396r-8) is amended by inserting at the end the following:

''(1) CONDITION.—Beginning January 1, 2011, no State shall make any payment under this section for any covered outpatient drug unless such State first verifies with the Food and Drug Administration that such covered outpatient drug has been approved by the Food and Drug Administration under a new drug application under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) or an abbreviated new drug application under section 505(j) of such Act, or that such drug is not subject such section 505 or section 512 due to the application of section 201(p) of such Act (21 U.S.C. 321(p)). The Secretary shall have the authority to proscribe regulations to create an information sharing protocol to allow States to verify that a covered outpatient drug has been approved by the Food and Drug Administration.''.

SA 3261. Mrs. HAGAN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 722, after line 20, insert the following:

SEC. 3016. CULTURE OF SAFETY HOSPITAL ACCOUNTABILITY STUDY AND DEMONSTRATION PROGRAM.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study that—

(A) examines existing activities and programs in hospitals for quality assurance, patient safety, and performance improvement and provides an analysis regarding best practices with respect to such activities and programs; and

(B) identifies best practices that should be replicated in hospitals to improve patient safety and quality of care, consistent with the provisions included under the quality assessment and performance improvement program, as required under the conditions of participation for hospitals under Medicare.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall prepare a report containing the results of the study conducted under paragraph (1). Such report shall be made available on the Internet website of the Centers for Medicare & Medicaid Services.

(b) DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish the Culture of Safety Hospital Accountability demonstration program to provide support for establishing partnerships and other cooperative approaches between hospitals, State health care agencies, and the Department of Health and Human Services to promote and implement the best practices identified under subsection (a), with the goal of improving the safety and quality of care provided to Medicare beneficiaries and enhance compliance with the conditions of participation for hospitals under Medicare.

(2) DURATION.—The demonstration program shall operate during a period of 3 years, beginning not later than 12 months after completion of the report described in subsection (a)(2).

(3) SCOPE.—

(A) STATES.—The Secretary shall select not less than 4 States, but not more than 6 States, to participate in the demonstration program.

(B) HOSPITALS.—The Secretary shall select not more than 24 hospitals, within the States

selected under subparagraph (A), to participate in the demonstration program. The hospitals selected under this subparagraph shall satisfy criteria, as developed by the Secretary, indicating a need for substantial improvement in quality of care and patient safety.

(4) APPLICATION.—A State or hospital that desires to participate in the demonstration program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(5) IMPLEMENTATION.—

(A) TECHNICAL ASSISTANCE.—The Secretary shall provide participating hospitals with technical assistance in implementation of the best practices identified through the study under subsection (a).

(B) HOSPITAL SURVEYORS.—For each State participating in the demonstration program, the Secretary shall provide training to State surveyors that is designed to—

(i) enhance knowledge of the disciplines of patient safety, quality assessment, and performance improvement;

(ii) increase skill in evaluating compliance with quality assessment and performance improvement programs required under the conditions of participation for hospitals under Medicare; and

(iii) focus investigations of complaints regarding hospital care on the hospital's quality assessment and performance improvement program.

(6) EVALUATION.—For each State and hospital participating in the demonstration program, the Secretary shall evaluate the following:

(A) The level of implementation of the best practices identified under subsection (a) by the participating hospitals and whether adoption of such practices—

(i) improved quality and patient safety (including an analysis of changes in quality measures and other indicators of outcome and performance); and

(ii) resulted in a decrease in the seriousness or number of citations for deficiencies under the conditions of participation for hospitals under Medicare.

(B) The training provided to State surveyors and whether such training resulted in enhanced proficiency in evaluations of hospital quality assessment and performance improvement programs.

(7) REPORT.—Not later than 12 months after completion of the demonstration project, the Secretary shall submit to Congress a report containing an evaluation of the demonstration program, including—

(A) the findings of the evaluation under paragraph (6); and

(B) recommendations—

(i) in regard to whether the best practices identified under the demonstration program should be adopted by other hospitals, and how the Secretary can best promote adoption of such best practices;

(ii) in regard to whether the training for State surveyors developed under the demonstration program should be provided to all State surveyors; and

(iii) for such legislation and administrative action as the Secretary determines appropriate.

(8) WAIVER AUTHORITY.—The Secretary may waive such requirements under titles XI and XVIII of the Social Security Act as may be necessary to carry out the demonstration program.

(c) FUNDING.—For purposes of carrying out this section, the Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) of $25,000,000, to the Centers for Medicare & Medicaid Services Program Management Account for the period of fiscal years 2010 through 2017. Amounts transferred under the preceding sentence shall remain available until expended.

(d) ALTERNATIVE REMEDIES.—Section 1866(b) of the Social Security Act (42 U.S.C. 1395cc(b)) is amended by adding at the end the following new paragraph:

''(5)(A) The Secretary is authorized to promulgate regulations that establish enforcement remedies that are in addition to, or in lieu of, termination of an agreement under this section for hospitals or critical access hospitals for violations of health and safety requirements under this title. Such remedies may include directed plans of correction that are designed to—

''(i) ensure compliance with requirements under this title (including conditions of participation for hospitals or critical access hospitals);

''(ii) prevent recurrence of non-compliance with such requirements; and

''(iii) improve the internal structures and processes within the hospital or critical access hospital for provision of continuous quality and safety enhancement.

''(B) The regulations described under subparagraph (A) may be promulgated by the Secretary before, during, or after the evaluation described under section 3016(b)(6) of the Patient Protection and Affordable Care Act.''.

(e) NON-APPLICATION OF PAPERWORK REDUCTION ACT.—Chapter 35 of title 44, United States Code (commonly referred to as the 'Paperwork Reduction Act of 1995') shall not apply to this section.

(f) DEFINITIONS.—In this section:

(1) DEMONSTRATION PROGRAM.—The term ''demonstration program'' means the Culture of Safety Hospital Accountability demonstration program conducted under this section.

(2) HOSPITAL.—The term ''hospital'' means—

(A) an institution described under section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e)); or

(B) a critical access hospital (as described under section 1861(mm)(1) of such Act (42 U.S.C. 1395x(mm)(1)).

(3) MEDICARE.—The term ''Medicare'' means the program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SA 3262. Mr. WHITEHOUSE submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 796, between lines 5 and 6, insert the following:

SEC. 3028. VOLUNTARY ACCELERATED SHARED SAVINGS PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall establish the Voluntary Accelerated Shared Savings Program (referred to in this section as the ''shared savings program'') under which health care providers that voluntarily report on quality measures, adopt quality-improving protocols or strategies, and achieve quality benchmarks are eligible for a shared savings payment.

(2) DURATION.—The shared savings program shall be conducted during the following periods:

(A) The hospital readmission reduction program, as described under subsection (d), shall—

(i) begin on such date as determined appropriate by the Secretary for implementation of the program, but not later than 6 months after the date of enactment of this Act; and

(ii) end not later than October 1, 2012.

(B) The hospital-acquired conditions reduction program, as described under subsection (e), shall—

(i) begin on such date as determined appropriate by the Secretary for implementation of the program, but not later than 6 months after the date of enactment of this Act; and

(ii) shall end not later than October 1, 2015.

(b) ELIGIBILITY; PARTICIPATION REQUIREMENTS.—

(1) ELIGIBILITY.—A hospital described in section 1886(q)(5)(C) of the Social Security Act, as added by section 3025, shall be eligible to participate in the shared savings program.

(2) APPLICATION.—A provider seeking to participate in the shared savings program shall submit an application to the Secretary, in such manner and containing such information as the Secretary may require, that includes a detailed description of the methods through which the provider expects to—

(A) reduce readmissions or hospital-acquired condition rates, as applicable;

(B) reduce costs; and

(C) integrate and coordinate such quality improvement efforts with post-acute providers.

(3) PARTICIPATION REQUIREMENTS.—A participating provider shall be required to—

(A) report on quality measures (as determined by the Secretary under subsection (c));

(B) satisfy applicable benchmarks for such quality measures; and

(C) demonstrate savings (as described in subsection (f)).

(c) QUALITY AND OTHER REPORTING REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall determine appropriate measures to assess the quality of care furnished by participating providers, such as measures of—

(A) clinical processes and outcomes;

(B) patient and, where practicable, caregiver experience of care; and

(C) utilization rates.

(2) INCORPORATION OF MEASURES.—For purposes of the measures described under paragraph (1), the Secretary may incorporate measures established—

(A) under sections 1848(k) and 1886(b) of the Social Security Act; and

(B) pursuant to any provision of this Act or amendment made by this Act.

(3) REPORTING REQUIREMENT.—A participating provider shall submit data in a form and manner specified by the Secretary on measures the Secretary determines necessary for the participating provider to report in order to evaluate the quality of care furnished by such provider.

(4) QUALITY PERFORMANCE STANDARDS.—The Secretary shall establish quality performance standards to assess the quality of care furnished by participating providers. The Secretary shall seek to improve the quality of care furnished by participating providers over time by specifying higher standards, new measures, or both for purposes of assessing such quality of care.

(d) HOSPITAL READMISSION REDUCTION PROGRAM.—

(1) HOSPITAL READMISSIONS RATE MEASURES.—For purposes of establishing measures under subsection (c) for the hospital readmission reduction program, the Secretary shall include measures for readmission rates established under 1886(b) of the Social Security Act (42 U.S.C. 1395ww(b)).

(2) BENCHMARK.—The Secretary shall establish a benchmark for reduction in the readmission rate for a hospital that is adjusted for geographic area, patient population characteristics, and such other factors as determined appropriate by the Secretary. The Secretary may establish a higher benchmark for hospitals with an annual readmission rate that is above the mean nationwide readmission rate.

(3) SHARED SAVINGS REQUIREMENTS.—A participating provider shall be eligible for a shared savings payment under subsection (f) if such provider—

(A) achieves the applicable benchmark established by the Secretary under paragraph (2); and

(B) has an annual readmission rate that is below the risk adjusted expected readmissions rate as determined under section 1886(q)(4)(C)(i)(II) of the Social Security Act (as added by section 3025).

(4) COMMUNITY-BASED ORGANIZATIONS.—The Secretary may permit a community-based organization, as described in section 3026(b)(1)(B), to receive shared savings payments under the hospital readmission reduction program if such an organization—

(A) satisfies the requirements described under section 3026; and

(B) is associated with a subsection (d) hospital (as described in section 3026(b)(1)(A)) that would be eligible for a shared savings payment under this section.

(e) HOSPITAL-ACQUIRED CONDITIONS REDUCTION PROGRAM.—

(1) HOSPITAL-ACQUIRED CONDITIONS RATE MEASURES.—For purposes of establishing measures under subsection (c) for the hospital-acquired conditions program, the Secretary shall establish measures that accurately determine rates of hospital-acquired conditions (as defined in section 1886(p) of the Social Security Act, as added by section 3008).

(2) REDUCTION IN HOSPITAL-ACQUIRED CONDITIONS BENCHMARK.—The Secretary shall establish a benchmark for reduction in the hospital-acquired conditions rate for a participating provider that is adjusted for geographic area, patient population characteristics, and such other factors as determined appropriate by the Secretary. The Secretary may establish a higher benchmark for hospitals with an annual hospital-acquired conditions rate that is above the mean nationwide hospital-acquired conditions rate.

(3) SHARED SAVINGS REQUIREMENTS.—A participating provider shall eligible for a shared savings payment under subsection (f) if such provider achieves the applicable benchmark established by the Secretary under paragraph (2).

(f) SHARED SAVINGS PAYMENTS.—

(1) IN GENERAL.—Under the shared savings program, payments shall continue to be made to participating providers under the original Medicare fee-for-service program under parts A and B in the same manner as they would otherwise be made except that a participating provider is eligible to receive payment for shared savings under paragraph (3) if—

(A) the provider meets quality performance standards established by the Secretary under subsection (c); and

(B) the provider meets the requirement under paragraph (2)(A).

(2) SAVINGS REQUIREMENT AND BENCHMARK.—

(A) DETERMINING SAVINGS.—Subject to subparagraph (C), in each year of the period under subsection (a)(2), a participating provider shall be eligible to receive payment for shared savings under paragraph (3) only if the estimated average per capita Medicare expenditures for such provider for Medicare fee-for-service beneficiaries for parts A and B services, adjusted for beneficiary characteristics, is at least the percent specified by the Secretary below the applicable benchmark under subparagraph (B).

(B) ESTABLISH AND UPDATE BENCHMARK.—The Secretary shall estimate a benchmark for each period under subsection (a)(2) for each participating provider using the most recent available 3 years of per-beneficiary expenditures for parts A and B services for Medicare fee-for-service beneficiaries served by the provider. Such benchmark shall be adjusted for beneficiary characteristics and such other factors as the Secretary determines appropriate and updated by the projected absolute amount of growth in national per capita expenditures for parts A and B services under the original Medicare fee-for-service program, as estimated by the Secretary.

(C) HIGHER BENCHMARK.—For purposes of subparagraph (A), the Secretary may require a greater percentage in savings below the benchmark established under subparagraph (B) for a participating provider with an annual readmission or hospital-acquired conditions rate, as applicable, that is above the mean nationwide rate (as described in subsections (e)(2) and (f)(2)).

(3) PAYMENTS FOR SHARED SAVINGS.—Subject to performance with respect to the quality performance standards established by the Secretary under subsection (c), if a participating provider meets the requirements under paragraphs (1) and (2), a percent (as determined appropriate by the Secretary) of the difference between such estimated average per capita Medicare expenditures in a year, adjusted for beneficiary characteristics, for the provider and such benchmark for the provider may be paid to the provider as shared savings and the remainder of such difference shall be retained by the Medicare program under title XVIII of the Social Security Act. The Secretary shall establish limits on the total amount of shared savings that may be paid to a participating provider under this paragraph.

(g) EARLY PARTICIPATION IN MEDICARE SHARED SAVINGS PROGRAM AND NATIONAL PILOT PROGRAM ON PAYMENT BUNDLING.—

(1) IN GENERAL.—For purposes of section 1866D of the Social Security Act (as added by section 3023) and section 1899 of such Act (as added by section 3022), the Secretary may establish a program to provide for early participation payments under such sections to eligible providers or groups of providers.

(2) ELIGIBILITY.—

(A) IN GENERAL.—Providers eligible for the early participation program under this subsection shall include—

(i) providers described under section 1866D(a)(2)(G) of the Social Security Act; and

(ii) providers that meet the requirements in section 1899(b) of such Act.

(B) WAIVER OF REQUIREMENTS.—Subject to subparagraph (C), for purposes of the early participation program under this subsection, the Secretary may waive—

(i) any requirements under section 1899 of the Social Security Act, except that the Secretary shall not waive—

(I) the requirements under subsection (b) of such section (with the exception of subparagraphs (B) and (D) of subsection (b)(2)); or

(II) the provisions under subsection (d) of such section.

(ii) any requirements under section 1866D of the Social Security Act, provided that the proposal submitted by the provider (as described under subparagraph (C)) adequately provides for—

(I) a plan for quality improvement that is consistent with subsection (c)(4) of such section; and

(II) a valid payment methodology that is consistent with subsection (c)(3) of such section.

(C) APPLICATION.—Providers seeking to participate in the early participation program under this section shall submit a proposal, in such manner and containing such information as the Secretary may require, that includes, for purposes of determining applicable payments under this section, a methodology for calculation of savings or determination of bundled payments.

(3) MEDICARE SHARED SAVINGS PROGRAM.—For purposes of section 1899 of the Social Security Act, a provider seeking to participate in the early participation program under this section shall, as part of the proposal described under paragraph (2)(C), provide a detailed plan for quality improvement that is consistent with the goals described under subsections (a) and (b)(3) of section 1899 of the Social Security Act.

(4) NATIONAL PILOT PROGRAM ON PAYMENT BUNDLING.—For purposes of section 1866D of the Social Security Act, a provider seeking to participate in the early participation program under this section shall, as part of the proposal described under paragraph (2)(C), provide a detailed plan in regard to the methods by which such provider will satisfy the objectives described under subsection (a)(1) of section 1866D of the Social Security Act, which shall include—

(A) a bundled payment methodology;

(B) methods by which quality of care will be improved; and

(C) a description of the conditions and services that are to be covered through the bundled payment.

(5) APPLICABLE PERIOD.—Any payments made to providers pursuant to early participation program under this section shall cease upon establishment of the programs described under sections 1866D and 1899 of the Social Security Act, except to the extent that providers are determined to be eligible for, and continue to participate in, the programs established under such sections.

SA 3263. Mr. BAUCUS (for himself, Ms. SNOWE, Mr. CARPER, Mrs. LINCOLN, and Mr. BENNET) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—ALTERNATIVE TO MEDICAL TORT LITIGATION

SEC. __01. SHORT TITLE.

This title may be cited as the ''Fair and Reliable Medical Justice Act''.

SEC. __02. PURPOSES.

The purposes of this title are—

(1) to restore fairness and reliability to the medical justice system by fostering alternatives to current medical tort litigation that promote disclosure of health care errors and provide prompt, fair, and reasonable compensation to patients who are injured by health care errors;

(2) to promote patient safety through disclosure of health care errors; and

(3) to support and assist States in developing such alternatives.

SEC. __03. STATE DEMONSTRATION PROGRAMS TO EVALUATE ALTERNATIVES TO CURRENT MEDICAL TORT LITIGATION.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.), as amended by this Act, is further amended by adding at the end the following:

"SEC. 399V–2. STATE DEMONSTRATION PROGRAMS TO EVALUATE ALTERNATIVES TO CURRENT MEDICAL TORT LITIGATION.

''(a) IN GENERAL.—The Secretary is authorized to award demonstration grants to States for the development, implementation, and evaluation of alternatives to current tort litigation for resolving disputes over injuries allegedly caused by health care providers or health care organizations. In awarding such grants, the Secretary shall ensure the diversity of the alternatives so funded.

''(b) DURATION.—The Secretary may award grants under subsection (a) for a period not to exceed 5 years.

''(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

''(1) REQUIREMENTS.—Each State desiring a grant under subsection (a) shall develop an alternative to current tort litigation that—

''(A) allows for the resolution of disputes over injuries allegedly caused by health care providers or health care organizations; and

''(B) promotes a reduction of health care errors by encouraging the collection and analysis of patient safety data related to disputes resolved under subparagraph (A) by organizations that engage in efforts to improve patient safety and the quality of health care.

''(2) ALTERNATIVE TO CURRENT TORT LITIGATION.—Each State desiring a grant under subsection (a) shall demonstrate how the proposed alternative described in paragraph (1)(A)—

''(A) makes the medical liability system more reliable by increasing the availability of prompt and fair resolution of disputes;

''(B) encourages the efficient resolution of disputes;

''(C) encourages the disclosure of health care errors;

''(D) enhances patient safety by detecting, analyzing, and helping to reduce medical errors and adverse events;

''(E) improves access to liability insurance;

''(F) fully informs patients about the differences in the alternative and current tort litigation;

''(G) provides patients the ability to opt out of or voluntarily withdraw from participating in the alternative at any time and to pursue other options, including litigation, outside the alternative;

''(H) would not conflict with State law at the time of the application in a way that would prohibit the adoption of an alternative to current tort litigation; and

''(I) would not limit or curtail a patient's existing legal rights, ability to file a claim in or access a State's legal system, or otherwise abrogate a patient's ability to file a medical malpractice claim.

''(3) SOURCES OF COMPENSATION.—Each State desiring a grant under subsection (a) shall identify the sources from and methods by which compensation would be paid for claims resolved under the proposed alternative to current tort litigation, which may include public or private funding sources, or a combination of such sources. Funding methods shall to the extent practicable provide financial incentives for activities that improve patient safety.

''(4) SCOPE.—

''(A) IN GENERAL.—Each State desiring a grant under subsection (a) shall establish a scope of jurisdiction (such as Statewide, designated geographic region, a designated area of health care practice, or a designated group of health care providers or health care organizations) for the proposed alternative to current tort litigation that is sufficient to evaluate the effects of the alternative. No scope of jurisdiction shall be established under this paragraph that is based on a health care payer or patient population.

''(B) NOTIFICATION OF PATIENTS.—A State shall demonstrate how patients would be notified that they are receiving health care services that fall within such scope, and the process by which they may opt out of or voluntarily withdraw from participating in the alternative. The decision of the patient whether to participate or continue participating in the alternative process shall be made at any time and shall not be limited in any way.

''(5) PREFERENCE IN AWARDING DEMONSTRATION GRANTS.—In awarding grants under subsection (a), the Secretary shall give preference to States—

''(A) that have developed the proposed alternative through substantive consultation with relevant stakeholders, including patient advocates, health care providers and health care organizations, attorneys with expertise in representing patients and health care providers, medical malpractice insurers, and patient safety experts;

''(B) that make proposals that are likely to enhance patient safety by detecting, analyzing, and helping to reduce medical errors and adverse events; and

''(C) that make proposals that are likely to improve access to liability insurance.

''(d) APPLICATION.—

''(1) IN GENERAL.—Each State desiring a grant under subsection (a) shall submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require.

''(2) REVIEW PANEL.—

''(A) IN GENERAL.—In reviewing applications under paragraph (1), the Secretary shall consult with a review panel composed of relevant experts appointed by the Comptroller General.

''(B) COMPOSITION.—

''(i) NOMINATIONS.—The Comptroller General shall solicit nominations from the public for individuals to serve on the review panel.

''(ii) APPOINTMENT.—The Comptroller General shall appoint, at least 9 but not more than 13, highly qualified and knowledgeable individuals to serve on the review panel and shall ensure that the following entities receive fair representation on such panel:

''(I) Patient advocates.

''(II) Health care providers and health care organizations.

''(III) Attorneys with expertise in representing patients and health care providers.

''(IV) Medical malpractice insurers.

''(V) State officials.

''(VI) Patient safety experts.

''(C) CHAIRPERSON.—The Comptroller General, or an individual within the Government Accountability Office designated by the Comptroller General, shall be the chairperson of the review panel.

''(D) AVAILABILITY OF INFORMATION.—The Comptroller General shall make available to the review panel such information, personnel, and administrative services and assistance as the review panel may reasonably require to carry out its duties.

''(E) INFORMATION FROM AGENCIES.—The review panel may request directly from any department or agency of the United States any information that such panel considers necessary to carry out its duties. To the extent consistent with applicable laws and regulations, the head of such department or agency shall furnish the requested information to the review panel.

''(e) REPORTS.—

''(1) BY STATE.—Each State receiving a grant under subsection (a) shall submit to the Secretary an annual report evaluating the effectiveness of activities funded with grants awarded under such subsection. Such report shall, at a minimum, include the impact of the activities funded on patient safety and on the availability and price of medical liability insurance.

''(2) BY SECRETARY.—The Secretary shall submit to Congress an annual compendium of the reports submitted under paragraph (1) and an analysis of the activities funded under subsection (a) that examines any differences that result from such activities in terms of the quality of care, number and nature of medical errors, medical resources used, length of time for dispute resolution, and the availability and price of liability insurance.

''(f) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall provide technical assistance to the States applying for or awarded grants under subsection (a).

''(2) REQUIREMENTS.—Technical assistance under paragraph (1) shall include—

''(A) guidance on non-economic damages, including the consideration of individual facts and circumstances in determining appropriate payment, guidance on identifying avoidable injuries, and guidance on disclosure to patients of health care errors and adverse events; and

''(B) the development, in consultation with States, of common definitions, formats, and data collection infrastructure for States receiving grants under this section to use in reporting to facilitate aggregation and analysis of data both within and between States.

''(3) USE OF COMMON DEFINITIONS, FORMATS, AND DATA COLLECTION INFRASTRUCTURE.—States not receiving grants under this section may also use the common definitions, formats, and data collection infrastructure developed under paragraph (2)(B).

''(g) EVALUATION.—

''(1) IN GENERAL.—The Secretary, in consultation with the review panel established under subsection (d)(2), shall enter into a contract with an appropriate research organization to conduct an overall evaluation of the effectiveness of grants awarded under subsection (a) and to annually prepare and submit a report to Congress. Such an evaluation shall begin not later than 18 months following the date of implementation of the first program funded by a grant under subsection (a).

''(2) CONTENTS.—The evaluation under paragraph (1) shall include—

''(A) an analysis of the effects of the grants awarded under subsection (a) with regard to the measures described in paragraph (3);

''(B) for each State, an analysis of the extent to which the alternative developed under subsection (c)(1) is effective in meeting the elements described in subsection (c)(2);

''(C) a comparison among the States receiving grants under subsection (a) of the effectiveness of the various alternatives developed by such States under subsection (c)(1);

''(D) a comparison, considering the measures described in paragraph (3), of States receiving grants approved under subsection (a) and similar States not receiving such grants; and

''(E) a comparison, with regard to the measures described in paragraph (3), of—

''(i) States receiving grants under subsection (a);

''(ii) States that enacted, prior to the date of enactment of the Patient Protection and Affordable Care Act, any cap on non-economic damages; and

''(iii) States that have enacted, prior to the date of enactment of the Patient Protection and Affordable Care Act, a requirement that the complainant obtain an opinion regarding the merit of the claim, although the substance of such opinion may have no bearing on whether the complainant may proceed with a case.

''(3) MEASURES.—The evaluations under paragraph (2) shall analyze and make comparisons on the basis of—

''(A) the nature and number of disputes over injuries allegedly caused by health care providers or health care organizations;

''(B) the nature and number of claims in which tort litigation was pursued despite the existence of an alternative under subsection (a);

''(C) the disposition of disputes and claims, including the length of time and estimated costs to all parties;

''(D) the medical liability environment;

''(E) health care quality;

''(F) patient safety in terms of detecting, analyzing, and helping to reduce medical errors and adverse events;

''(G) patient and health care provider and organization satisfaction with the alternative under subsection (a) and with the medical liability environment; and

''(H) impact on utilization of medical services, appropriately adjusted for risk.

''(4) FUNDING.—The Secretary shall reserve 5 percent of the amount appropriated in each fiscal year under subsection (k) to carry out this subsection.

''(h) MEDPAC AND MACPAC REPORTS.—

''(1) MEDPAC.—The Medicare Payment Advisory Commission shall conduct an independent review of the alternatives to current tort litigation that are implemented under grants under subsection (a) to determine the impact of such alternatives on the Medicare program under title XVIII of the Social Security Act, and its beneficiaries.

''(2) MACPAC.—The Medicaid and CHIP Payment and Access Commission shall conduct an independent review of the alternatives to current tort litigation that are implemented under grants under subsection (a) to determine the impact of such alternatives on the Medicaid or CHIP programs under titles XIX and XXI of the Social Security Act, and their beneficiaries.

''(3) REPORTS.—Not later than December 31, 2016, the Medicare Payment Advisory Commission and the Medicaid and CHIP Payment and Access Commission shall each submit to Congress a report that includes the findings and recommendations of each respective Commission based on independent reviews conducted under paragraphs (1) and (2), including an analysis of the impact of the alternatives reviewed on the efficiency and effectiveness of the respective programs.

''(i) OPTION TO PROVIDE FOR INITIAL PLANNING GRANTS.—Of the funds appropriated pursuant to subsection (k), the Secretary may use a portion not to exceed $500,000 per State to provide planning grants to such States for the development of demonstration project applications meeting the criteria described in subsection (c). In selecting States to receive such planning grants, the Secretary shall give preference to those States in which State law at the time of the application would not prohibit the adoption of an alternative to current tort litigation.

''(j) DEFINITIONS.—In this section:

''(1) HEALTH CARE SERVICES.—The term 'health care services' means any services provided by a health care provider, or by any individual working under the supervision of a health care provider, that relate to—

''(A) the diagnosis, prevention, or treatment of any human disease or impairment; or

''(B) the assessment of the health of human beings.

''(2) HEALTH CARE ORGANIZATION.—The term 'health care organization' means any individual or entity which is obligated to provide, pay for, or administer health benefits under any health plan.

''(3) HEALTH CARE PROVIDER.—The term 'health care provider' means any individual or entity—

''(A) licensed, registered, or certified under Federal or State laws or regulations to provide health care services; or

''(B) required to be so licensed, registered, or certified but that is exempted by other statute or regulation.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, such sums as may be necessary to carry out this section for each of fiscal years 2011 through 2015.

''(l) CURRENT STATE EFFORTS TO ESTABLISH ALTERNATIVE TO TORT LITIGATION.—Nothing in this section shall be construed to limit any prior, current, or future efforts of any State to establish any alternative to tort litigation.

''(m) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting states' authority over or responsibility for their state justice systems.''.

SA 3264. Mr. WYDEN (for himself, Mr. BROWN, Mr. SPECTER, Mr. KOHL, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 999, between lines 16 and 17, insert the following:

SEC. 3402. LIMITATION ON HOSPICE SPENDING.

Section 1814(i)(1)(C) of the Social Security Act, as amended by sections 3132 and 3401, is further amended—

(1) in each of clauses (ii)(VII) and (iii), by striking ''clause (iv)'' and inserting ''clauses (iv) and (v)'';

(2) in clause (iv)—

(A) in subclause (II)—

(i) by striking ''subject to clause (v),''; and

(ii) by striking ''0.5 percentage point'' and inserting ''0.25 percentage point''; and

(B) by striking the flush sentence following subclause (II); and

(3) by striking clause (v) and inserting the following new clauses:

''(v) After determining the market basket percentage increase under clause (ii)(VII) or (iii), as applicable, with respect to fiscal years 2014 through 2019, if the Secretary determines there is excess hospice spending (as defined in clause (vi)) for the fiscal year, the Secretary shall reduce such percentage by the amount of such excess hospice spending. The application of this clause may not result in the market basket percentage increase under clause (ii)(VII) or (iii), as applicable, being less than 0.0 for a fiscal year.

''(vi) For purposes of clause (v), the term 'excess hospice spending' means—

''(I) for fiscal year 2014, the excess (expressed as a percentage) of—

''(aa) the aggregate amount of payments for hospice care under this title for fiscal year 2011; over

''(bb) the aggregate amount of such payments for fiscal year 2010 increased by the medical care component of the Consumer Price Index for fiscal year 2011, plus 3.0 percentage points; and

''(II) for fiscal year 2015 through 2019, the excess (expressed as a percentage) between—

''(aa) the aggregate amounts of such payments for the fiscal year 3 years prior to the fiscal year involved; over

''(bb) the aggregate amount of such payments for the fiscal year 4 years prior to the fiscal year involved increased by the medical care component of the Consumer Price Index for the fiscal year 3 years prior to the fiscal year involved, plus 3.0 percentage points.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on December 17, 2009, at 9:30 a.m.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on December 17, 2009, in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on December 17, 2009, at 10 a.m., to conduct a hearing entitled ''Safeguarding the American Dream: Prospectus for Our Economic Future and Proposals to Secure It.''

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

COMMITTEE ON INDIAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on December 17, 2009, at 2:15 p.m., in room 628 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on December 17, 2009, at 10 a.m., in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on December 17, 2009, at 1:30 p.m.

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

AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT

Mr. DURBIN. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Contracting Oversight of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on December 17, 2009, at 2 p.m., to conduct a hearing entitled, ''Afghanistan Contracts: An Overview.''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on December 17, 2009, at 2:30 a.m.

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

SUBCOMMITTEE ON CONSUMER PROTECTION, PRODUCT SAFETY, AND INSURANCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Protection, Product Safety, and Insurance of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on December 17, 2009, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate to conduct a hearing on December 17, 2009, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. LEVIN. Mr. President, first, on behalf of Senator DODD, I ask unanimous consent that a military fellow in his office, CPT Joslyn Hemler, be granted floor privileges during the consideration of the 2010 Department of Defense appropriations bill.

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

RECESS UNTIL 12:01 A.M. TOMORROW

Mr. REID. Mr. President, I now move to recess until 12:01 a.m.

Mr. MCCONNELL. Parliamentary inquiry.

The PRESIDING OFFICER (Mr. DURBIN). The Republican leader.

Mr. MCCONNELL. Before we proceed to the vote, I would like to make a parliamentary inquiry: I believe it is the case that a simple motion to recess or adjourn is not amendable; is that correct?

The PRESIDING OFFICER. The Republican leader is correct.

Mr. MCCONNELL. Further inquiry. I also believe that a motion to recess or adjourn to a time certain is amendable with time changes.

The PRESIDING OFFICER. The Republican leader is correct.

Mr. MCCONNELL. I will not offer an amendment to change the time to convene later, but so everybody will know, with regard to their own personal schedules, this vote could occur at any time tomorrow. It wouldn't have to be at 1 a.m. The majority leader has the discretion to do that. We are, of course, prepared to talk around the clock and happy to have a vote at 1 o'clock. I just want everybody to understand it is my understanding that the majority leader does have the ability to set the vote later than 1 a.m.

The PRESIDING OFFICER. The majority leader.

Mr. REID. I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Wyoming (Mr. ENZI) and the Senator from Georgia (Mr. CHAMBLISS).

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

The result was announced—yeas 59, nays 38, as follows:

[Rollcall Vote No. 380 Leg.]

YEAS—59

Akaka	Durbin	Leahy
Baucus	Feingold	Levin
Bayh	Feinstein	Lieberman
Begich	Franken	Lincoln
Bennet	Gillibrand	McCaskill
Bingaman	Hagan	Menendez
Boxer	Harkin	Merkley
Brown	Inouye	Mikulski
Burris	Johnson	Murray
Cantwell	Kaufman	Nelson (NE)
Cardin	Kerry	Nelson (FL)
Carper	Kirk	Pryor
Casey	Klobuchar	Reed
Conrad	Kohl	Reid
Dodd	Landrieu	Rockefeller
Dorgan	Lautenberg	Sanders
Schumer	Tester	Webb
Shaheen	Udall (CO)	Whitehouse
Specter	Udall (NM)	Wyden
Stabenow	Warner	

NAYS—38

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Graham	Murkowski
Bond	Grassley	Risch
Brownback	Gregg	Roberts
Bunning	Hatch	Sessions
Burr	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Isakson	Thune
Collins	Johanns	Vitter
Corker	Kyl	Voinovich
Cornyn	LeMieux	Wicker
Crapo	Lugar	

NOT VOTING—3

Byrd	Chambliss	Enzi

The motion was agreed to.

The PRESIDING OFFICER. The Senate stands in recess until 12:01, a.m., Friday, December 18, 2009.

Thereupon, the Senate, at 6:52 p.m., recessed until Friday, December 18, 2009, at 12:01 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF TRANSPORTATION

DAVID T. MATSUDA, OF THE DISTRICT OF COLUMBIA, TO BE ADMINISTRATOR OF THE MARITIME ADMINISTRATION, VICE SEAN T. CONNAUGHTON, RESIGNED.

NATIONAL COUNCIL ON DISABILITY

GARY BLUMENTHAL, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2010, VICE ANNE RADER, TERM EXPIRED.

CHESTER ALONZO FINN, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2012, VICE KATHLEEN MARTINEZ, TERM EXPIRED.

SARA A. GELSER, OF OREGON, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2011, VICE PATRICIA POUND, TERM EXPIRED.

ARI NE'EMAN, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2012, VICE ROBERT DAVILA, TERM EXPIRED.

DONGWOO JOSEPH PAK, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2012, VICE TONY J. WILLIAMS, TERM EXPIRED.

CAROL JEAN REYNOLDS, OF COLORADO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2010, VICE LISA MATTHEISS, TERM EXPIRED.

FERNANDO TORRES-GILL, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2011, VICE GRAHAM HILL, TERM EXPIRED.

JONATHAN M. YOUNG, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2012, VICE KATHERINE O. MCCARY, TERM EXPIRED.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

GWENDOLYN E. BOYD, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING AUGUST 11, 2014, VICE DONALD J. SUTHERLAND, TERM EXPIRED.

PEGGY GOLDWATER-CLAY, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING JUNE 5, 2012. (REAPPOINTMENT)

SMALL BUSINESS ADMINISTRATION

MARIE COLLINS JOHNS, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION, VICE JOVITA CARRANZA, RESIGNED.