

Order of Police, and the National Conference of State Legislatures. It provides new tools for law enforcement and new help for trafficking victims.

It is time for the Democrats to stop obstructing this legislation and to allow the Senate to pass this bill—a bipartisan achievement and something that is much needed and long overdue. There is a crisis in this country that needs to be addressed. We can do something about it. We ought to do it, and we ought to do it now.

I yield the floor.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

SGR LEGISLATION

Mr. LEE. Mr. President, we are here today because our Medicare status quo is not working and it hasn't been working for a long time.

For decades, Medicare has been on a path to insolvency. In 1997, Congress attempted to impose some fiscal discipline on the program by creating the sustainable growth rate or SGR. This is a budget-enforcing mechanism that calls for annual adjustments to the amounts physicians are reimbursed for treating Medicare patients.

The SGR was originally billed as a permanent solution to Medicare's unsustainable fiscal trajectory. The idea was to restrain Medicare spending by linking physician reimbursements to a target amount based on the general performance of the economy as a whole.

While this may have seemed like a good idea at the time—when the economy was relatively strong and stable and growing—it quickly lost its appeal when we went into the 2001 recession just a few years later.

The plan also suffered from the central planners' fatal conceit that trusts bureaucracies, rather than consumer preferences and real price pressures, to determine the cost of a particular good or service. As it turns out, the actual cost of medical goods and services and the practice patterns of physicians do not necessarily align with the health of the economy or the predictions of government bureaucrats.

So each year since 2003, the SGR formula has called for cuts to physician payments, and each year—often several times each year—Congress has passed legislation to temporarily prevent the reimbursement reductions from kicking in.

While these so-called doc fix bills have yielded some modest savings as new spending has traditionally been offset with cuts elsewhere in the budget, they have not restrained the quick-

ening pace of Medicare spending. While they have successfully avoided cuts to doctors' pay, they have put the Medicare system in a near constant state of uncertainty and instability, leaving Medicare doctors and their patients hanging in the balance.

America's physicians and America's seniors deserve better than this, but they also deserve better than the bill before us today—H.R. 2, the Medicare Access and CHIP Reauthorization Act of 2015.

Congress has long wanted to repeal the SGR—and with good reason—but this is not the way to do it. Not only does the House bill double down on Medicare's broken price control model, but it does so, according to the Congressional Budget Office, while adding \$141 billion to the Federal debt over the next decade.

Let's look first at the policy implications of the underlying bill.

The new payment scheme proposed in this bill is simply more of the same inefficient form of central planning that further embeds Washington bureaucracy into every aspect of our health care system. It continues the role of the Federal Government as price setter, rather than the price taker, in the free market. It also inflates the administration's power as the regulator and compliance officer.

The principal change proposed by H.R. 2 is to move from a Medicare payment system based on volume to one based on bureaucratic measures of quality and value, but we already know this doesn't work because it is the same policy introduced under ObamaCare that requires physicians to comply with established government guidelines and stick to rigid, one-size-fits-all best practices or pay a penalty.

Instead, we should be freeing the health care community from heavy-handed regulation and constant intrusive bureaucratic scrutiny. Doing so is the only way to allow doctors to develop individualized quality treatment plans for each of their patients and to unleash innovation in the delivery of health care.

But with the current doc fix expiring tomorrow and Medicare physicians facing a 21-percent pay cut, there is not enough time to reopen the bill and rewrite it with better policies. But there is—there is—enough time to address the fiscal irresponsibility of this bill.

That is why I am offering an amendment to this bill that would simply require Congress to pay for that \$141 billion under its normal pay-as-you-go budget rules—rules that this bill explicitly exempts itself from in section 525 of the bill. The pay-as-you-go budgeting rules, which share bipartisan support in Congress and the White House, wouldn't force us to offset the new spending immediately. Rather, we would have until the end of the year to find these savings and 10 years in which to achieve them.

My amendment would not delay or change anything else in the bill. Doc-

tors and seniors wouldn't notice any difference. It would just require Congress to budget for the costs, just as we promised we would.

Indeed, just 2 weeks ago, the Senate passed a 10-year balanced budget, stating specifically that any SGR patch or repeal would not add to the deficit. So passing this bill in its current form would not only be irresponsible, it would be dishonest. It would be inconsistent with what we have just said with the budget.

We have known for a long time that Medicare cannot survive without structural changes to its price control system, and we know this bill, H.R. 2, does not contain such reforms. They aren't there. According to a report issued last week by Medicare's actuaries, "Under the new payment system, most doctors will see cuts in 2025."

The only way to put Medicare on a sound fiscal footing is to make it work for America's doctors and for America's seniors. To do that, we need to work toward replacing the centralized price-fixing system of the status quo with a functional consumer market that empowers seniors' access to the high-quality, individualized health care they deserve, and that enables doctors to do what they do best, which is provide the very best medical treatment in the entire world.

This is my goal. I believe this is a goal widely shared within this Chamber. But we can't deceive ourselves: To get there, we must be responsible with the public trust and we must be honest with ourselves. To that end, I implore my colleagues to support this amendment.

To put it very simply, paying for this new spending is the right thing to do, and we just passed a budget promising that we would do it. My amendment does nothing more than hold us to that very promise.

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

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

RECESS

Mr. LEE. Mr. President, I ask unanimous consent that the Senate stand in recess as under the previous order.

There being no objection, the Senate, at 12:28 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. PORTMAN).

The PRESIDING OFFICER. The Senator from Texas is recognized.

SGR LEGISLATION

Mr. CORNYN. Mr. President, hopefully this afternoon we will take up a

very important piece of legislation coming over from the House of Representatives that received an overwhelming vote of Republicans and Democrats alike—a package negotiated at the highest levels of the House leadership between Speaker BOEHNER and his staff and NANCY PELOSI and her staff.

What could it be that brings the political parties and the leaders of the parties in the House together to try to build a consensus and come up with a solution? Well, it is really to right a wrong or remedy a mistake Congress made back in 1997. Basically, at that time, Congress decided, in order to save money on health care costs, it would begin periodically to cut the amount of money that was reimbursed to health care providers—primarily doctors and hospitals. That is how Congress thought way back then we were going to save money.

What has happened in 17 of the 18 times these cuts will have been implemented? Well, Congress has realized it was a mistake. Here is the problem. When you tell doctors in rural parts of Texas “You are going to earn 20 percent less to treat a Medicare patient tomorrow than you did today,” well, what they are going to decide is “Can I afford to keep my doors open? Can I afford to pay the bills? And maybe I can’t afford to see any more Medicare patients.” When doctors simply refuse or are unable to afford to see Medicare patients, then our seniors lack access to health care they need and they deserve.

So in very difficult, contentious times politically, I think this so-called sustainable growth rate—or doc fix—bill I am alluding to which is over here from the House and which I hope we will vote on this afternoon actually represents a commonsense solution to one of our big challenges and certainly will get Congress out of this embarrassing position of every 6 months to a year or so having to come back and backfill and fix a problem we ourselves created back in 1997.

Hopefully, we will be able to pass this legislation and get it done and give physicians and health care providers the certainty they need about the reimbursement rates under Medicare and thus will allow more of them to see more seniors and provide them health care benefits under Medicare.

Now, some people may say: Well, this bill is not perfect. They would be right. It is not perfect. But actually there is no such thing as a perfect piece of legislation, particularly when it is the product of bipartisan negotiations where both sides had to give in a little in order to get to an agreement. But I do commend Speaker BOEHNER and Leader PELOSI for working in a bipartisan way and producing something that has received resounding support from the House of Representatives.

As I said, this legislation provides our health care professionals with a predictable expectation for reimburse-

ment rates—an idea that has, sadly, only been a dream for many physicians in Texas and across the country and one that Congress can now and should make a reality.

But this legislation also does something else very significant. It not only addresses the reimbursement rate of doctors, it also introduces other changes to Medicare that will help reduce the deficit over the long term—not just for the next 10 years but 20 years out and beyond.

Now some people might say: Well, if Congress passes this legislation now, can’t they come back and undo it next year? The pattern has actually been when there have been negotiated bipartisan agreements on things as important as Medicare and Social Security that they tend to stick and they tend to stay in place. So I believe that while this negotiation certainly was no easy task and while it is a modest first step, the good news is it does represent real meaningful entitlement reform—something the President of the United States said he supports and something now that both parties here in Washington and Congress have been able to support.

This bill does make important strides on a difficult issue. When I said a moment ago it is not perfect, let me explain exactly what I mean by that. Not all of this bill is paid for. Today I plan on offering an amendment that would keep our country from growing into greater debt by offering a pay-for for this piece of legislation.

How would we do that? Well, my amendment—which I hope, again, we will vote on this afternoon in a series of as many as eight votes and final passage of the bill—would repeal the individual mandate from ObamaCare. That would, according to the Congressional Budget Office, free up literally close to \$400 billion that could then be used to satisfy the deficit for this so-called doc fix.

Many have rightly demanded an offset for the bill. I am very sympathetic to that, and my amendment is designed to address it, because—as the Presiding Officer knows, given his long service not only in the Bush administration, at OMB, and in the Congress as well as the Senate—we have to do something about the long-term debt and unfunded liabilities of the Federal Government. I am amazed almost daily about the lack of urgency. Perhaps that is because interest rates are relatively low and we are not feeling the drain of debt service payments to our country’s creditors because they buy our debt and they demand to be paid interest or debt service on that debt. When interest rates begin to creep back up again, as they invariably will, that is going to put a real dent in everything from national security to the safety net programs that we all believe are important. So my amendment will repeal the individual mandate in ObamaCare and help pay for this appropriate fix in doctor reimbursement rates in Medicare.

You may ask, well, isn’t that a pretty dramatic or controversial thing to do, to repeal the individual mandate in ObamaCare? I asked my staff to go back and get some quotes from a candidate running for President in 2008, who happens to be the current occupant of the White House. Here is what then-Senator Obama said on February 28, 2008, on one TV show:

Here’s the concern. If you haven’t made it affordable, how are you going to enforce a mandate. I mean, if a mandate was the solution, we can try that to solve homelessness by mandating everybody to buy a house.

Well, as the Presiding Officer knows, the President actually said when we passed ObamaCare—frankly, without my support and the support of this side of the aisle—the President claimed it would lower health care premiums by \$2,500 a year for a family of four. That has proven not to be the case. But quite clearly, the President himself, when he was running for office in 2008, opposed the individual mandate.

Here is another quote from CNN in 2008. This is Senator Obama running for President. He said:

In some cases there are people who are paying fines and they still can’t afford it, so now they are worse off than they were. They don’t have health insurance and they are paying a fine.

That is what the individual mandate is all about, as you know. I will go on with the quote. “And in order for you to force people to get health insurance, you’ve got to have a very harsh, stiff penalty.”

So President Obama, back when he was candidate Obama, back when he was Senator Obama, opposed the individual mandate. All my amendment would do would be to repeal the individual mandate and allow us to obtain a savings to pay for this legislation.

I will read one more quote, because I find the irony pretty rich. Senator Obama said—and this was when he was running against then-Senator Clinton, who apparently is now again running for President. Senator Obama said in 2008:

She believes that we have to force people who don’t have health insurance to buy it, otherwise there will be a lot of people who don’t get it. I don’t see those folks, and I think that it is important for us to recognize that if you’re going to mandate the purchase of insurance and it’s not affordable, then there’s going to have to be some enforcement mechanism that government uses. And they may charge people who already don’t have healthcare fines or have to take it out of their paychecks. And that I don’t think is helping those without health insurance.

So my amendment that would offer to pay for this bill would repeal the mandate that then-Senator Obama, candidate for President, was so critical of. It would repeal a tax on the American people that coerces our citizens into purchasing health care they apparently don’t want or they wouldn’t otherwise buy but for the threat of government coercion.

The better way to do it, in my view, is to make health care more affordable,

not to make it more expensive and say if you don't buy the government-approved care—even if you don't want what it provides—then we are going to coerce you to do it. We are going to penalize you for it. This is bad for America and hurts people instead of giving them the helping hand they need when it comes to health care.

We are going to have a lot more to say about how we need to repeal and replace ObamaCare with more affordable health insurance that gives people access to the doctors and services they want and need. But on the present bill, no one denies the need for a long-term permanent solution to the way we pay health care providers under Medicare. So for the benefit of physicians, our seniors, and the American people, we need to do this, but we also need to find a way to pay for it.

I am hoping we pass this legislation today. I believe the current provision expires at midnight tonight. It is important that we stop kicking the can down the road and we allow our family doctors to do what we want them to do most, which is to focus on what they do best and what our families need the most. At the same time, it will ensure seniors access to the care they need. Such a meaningful solution is long overdue.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Michigan.

LYNCH NOMINATION

Ms. STABENOW. Mr. President, I think the American people deserve to see the contrast between how nominees were treated in the last decade, during the Bush administration, versus how they are treated in this decade, during the Obama administration.

When former President Bush nominated John Ashcroft to be U.S. Attorney General, it was controversial. I was one of 42 Democrats who opposed the nomination. Yet it only took 42 days for John Ashcroft to get a vote on confirming his appointment because neither I nor other Democrats stood in the way and blocked actually having a vote.

Now, I agree that was a different time, where filibusters were not used every single day on every single issue, unfortunately. But I remember that at that time our Republican colleagues came to the floor and said: Elections have consequences. When a President is elected, he or she has the opportunity to put forward their nominees and have a vote. Day after day people came to the floor and said: Just let us vote.

Just let us vote. And we did let the vote happen.

As of today, President Obama's nominee for Attorney General, Loretta Lynch, has waited 157 days and counting, and we intend to count the days. In fact, since the Judiciary Committee reported Loretta Lynch's nomination out of committee, she has now waited longer for a vote on the Senate floor than the last seven attorneys general combined—seven attorneys general combined. She has waited longer than seven attorneys general combined.

The U.S. Senate has the constitutional responsibility to provide advice and consent to the President as it relates to his appointments. That is a serious responsibility and we are not asking that someone vote yes if they want to vote no. They have a right to vote no. We have had enough Members now come forward that it is clear she actually has the votes. We have had enough Members indicate they would support her that we know we could get a vote on the floor and that she would, in fact, be confirmed as the Attorney General. But everyone has the right to state their piece, to vote as their conscience would have them vote. Unfortunately, our Republican colleagues have so far withheld the respect given to other Presidents—to President Bush. They have withheld that from this President.

If this is frustrating to me, I can only imagine how frustrating it is to Loretta Lynch, who I know is eager to get on with the work of our Nation's top law enforcement official. I had the opportunity to meet with Ms. Lynch in early December. She impressed me with her passion for upholding the rule of law and her belief that law enforcement could be a partner in building stronger and more cohesive communities. I talked to her about how the Justice Department could play a role in supporting ethnic diversity in communities such as Detroit and Flint and other communities across Michigan.

Loretta Lynch understands the devastating effect racial profiling has had on the relationship between the police and the public, which is why I am pleased to learn of her support for police body cameras and so many other policies that would help in that regard. In addition, she understands the threat posed by those who would intimidate Americans from participating in elections.

I regret Loretta Lynch has not yet been granted the opportunity to play her role in promoting access to the polls and preventing groups from being disenfranchised. I regret our FBI, with all it must do for the safety and security of Americans, does not have a permanent Attorney General to direct it. I regret there is not a permanent Attorney General to advise prosecutors about actions to take against banks that commit fraud against homeowners. I regret our Republican colleagues are continuing to perform the same stunts in the majority as they did

in the minority: to govern by holding government functions hostage.

Those who oppose the nomination have every right to vote no, every right to fight to defeat this nomination, but if they continue to refuse to give the advice and counsel and perform the duty they are sworn to uphold under the Constitution and continue to block a simple vote on a nomination from the President of the United States for Attorney General of this country, they are doing a disservice, I believe, to our country.

We have heard so often from people they are so tired of Congress obstructing and not acting. I would urge colleagues to get on about the business of a nomination that has been held on this floor for too long—too long—and 157 days is too long. It does a disservice to all of us to see this continue. We need Loretta Lynch as our Attorney General.

We have a lot of business to conduct in the Senate and a lot of very important topics coming up. We need to get about the business of allowing this vote. However it goes is how it goes. We have indicated, we have the votes if we are allowed to vote, but everyone has a right to express themselves. Let us put in place a competent, strong Attorney General for the country and then move on to other serious issues that we have to address in the Senate. It is time to vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

SGR LEGISLATION

Mr. SESSIONS. Mr. President, I have been a strong advocate and a believer that it is time for us to fix the physicians' payment method for Medicare and Medicaid—for the providing of health care by doctors—and put it on a permanent basis right now.

We have 17 times passed last-minute legislation to avoid what now would be a 21-percent cut in doctors' reimbursement rates for doing Medicare work. That is not acceptable. We need to end that. They do not need to be worried every year whether or not Congress is going to cut their pay. In fact, they cannot do the work with a 20-percent cut. They will not do it, they can't do it financially, and it would be devastating to Medicare. I believe that, and I think all of us believe in that.

The 17 different times when this issue has come up since 2003 we have paid for it. Republicans in particular have insisted that we will find the money through some sort of other reduction in government spending and move that over to pay for this critical need, without which Medicare would collapse.

I thought now that we want to do it permanently, it should be done in a way that is financially sound and does not add to the debt and has good policy in it.

Some of my colleagues have already talked about the policy that would be