

My other amendment allows for the inclusion of American land grant colleges and universities and historically Black colleges and universities to participate in programs to increase the technological and teaching capacity of African professional institutions to prepare their students for careers in public health. As the United States further engages the global fight against HIV/AIDS, I believe sustainability and African leadership are imperative to insure a full and respectful partnership and one that will be mutually beneficial to America and the states of Sub-Saharan Africa.

The PRESIDING OFFICER. The Senator from Washington.

I must note that there is a previous order to go to the veto message in 3 minutes.

The Senator from Washington.

Mrs. MURRAY. Mr. President, I yield myself 7 minutes to speak on the vote that will occur at 6 o'clock this evening.

The PRESIDING OFFICER. The Senator will withhold.

#### MEDICARE IMPROVEMENTS FOR PATIENTS AND PROVIDERS ACT OF 2008—VETO

The PRESIDING OFFICER. The Senate having received the veto message from the House of Representatives on H.R. 6331, the Medicare Improvements for Patients and Providers Act of 2008, the message will be considered read, spread upon the Journal, and printed in the RECORD.

The PRESIDING OFFICER laid before the Senate a message from the President of the United States to the House of Representatives, as follows:

#### *To the House of Representatives:*

I am returning herewith without my approval H.R. 6331, the "Medicare Improvements for Patients and Providers Act of 2008." I support the primary objective of this legislation, to forestall reductions in physician payments. Yet taking choices away from seniors to pay physicians is wrong. This bill is objectionable, and I am vetoing it because:

It would harm beneficiaries by taking private health plan options away from them; already more than 9.6 million beneficiaries, many of whom are considered lower-income, have chosen to join a Medicare Advantage (MA) plan, and it is estimated that this bill would decrease MA enrollment by about 2.3 million individuals in 2013 relative to the program's current baseline;

It would undermine the Medicare prescription drug program, which today is effectively providing coverage to 32 million beneficiaries directly through competitive private plans or through Medicare-subsidized retirement plans; and

It is fiscally irresponsible, and it would imperil the long-term fiscal soundness of Medicare by using short-

term budget gimmicks that do not solve the problem; the result would be a steep and unrealistic payment cut for physicians—roughly 20 percent in 2010—likely leading to yet another expensive temporary fix; and the bill would also perpetuate wasteful overpayments to medical equipment suppliers.

In December 2003, when I signed the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) into law, I said that "when seniors have the ability to make choices, health care plans within Medicare will have to compete for their business by offering higher quality service. For the seniors of America, more choices and more control will mean better health care." This is exactly what has happened—with drug coverage and with Medicare Advantage.

Today, as a result of the changes in the MMA, 32 million seniors and Americans with disabilities have drug coverage through Medicare prescription drug plans or a Medicare-subsidized retirement plan, while some 9.6 million Medicare beneficiaries—more than 20 percent of all beneficiaries—have chosen to join a private MA plan. To protect the interests of these beneficiaries, I cannot accept the provisions of this legislation that would undermine Medicare Part D, reduce payments for MA plans, and restructure the MA program in a way that would lead to limited beneficiary access, benefits, and choices and lower-than-expected enrollment in Medicare Advantage.

Medicare beneficiaries need and benefit from having more options than just the one-size-fits-all approach of traditional Medicare fee-for-service. Medicare Advantage plan options include health maintenance organizations, preferred provider organizations, and private fee-for-service (PFFS) plans. Medicare Advantage plans are paid according to a formula established by the Congress in 2003 to ensure that seniors in all parts of the country—including rural areas—have access to private plan options.

This bill would reduce these options for beneficiaries, particularly those in hard-to-serve rural areas. In particular, H.R. 6331 would make fundamental changes to the MA PFFS program. The Congressional Budget Office has estimated that H.R. 6331 would decrease MA enrollment by about 2.3 million individuals in 2013 relative to its current baseline, with the largest effects resulting from these PFFS restrictions.

While the MMA increased the availability of private plan options across the country, it is important to remember that a significant number of beneficiaries who have chosen these options earn lower incomes. The latest data show that 49 percent of beneficiaries enrolled in MA plans report income of \$20,000 or less. These beneficiaries have made a decision to maximize their Medicare and supplemental benefits through the MA program, in part be-

cause of their economic situation. Cuts to MA plan payments required by this legislation would reduce benefits to millions of seniors, including lower-income seniors, who have chosen to join these plans.

The bill would constrain market forces and undermine the success that the Medicare Prescription Drug program has achieved in providing beneficiaries with robust, high-value coverage—including comprehensive formularies and access to network pharmacies—at lower-than-expected costs. In particular, the provisions that would enable the expansion of "protected classes" of drugs would effectively end meaningful price negotiations between Medicare prescription drug plans and pharmaceutical manufacturers for drugs in those classes. If, as is likely, implementation of this provision results in an increase in the number of protected drug classes, it will lead to increased beneficiary premiums and copayments, higher drug prices, and lower drug rebates. These new requirements, together with provisions that interfere with the contractual relationships between Part D plans and pharmacies, are expected to increase Medicare spending and have a negative impact on the value and choices that beneficiaries have come to enjoy in the program.

The bill includes budget gimmicks that do not solve the payment problem for physicians, make the problem worse with an abrupt payment cut for physicians of roughly 20 percent in 2010, and add nearly \$20 billion to the Medicare Improvement Fund, which would unnecessarily increase Medicare spending and contribute to the unsustainable growth in Medicare.

In addition, H.R. 6331 would delay important reforms like the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies competitive bidding program, under which lower payment rates went into effect on July 1, 2008. This program will produce significant savings for Medicare and beneficiaries by obtaining lower prices through competitive bidding. The legislation would leave the Federal Supplementary Medical Insurance Trust Fund vulnerable to litigation because of the revocation of the awarded contracts. Changing policy in mid-stream is also confusing to beneficiaries who are receiving services from quality suppliers at lower prices. In order to slow the growth in Medicare spending, competition within the program should be expanded, not diminished.

For decades, we promised America's seniors we could do better, and we finally did. We should not turn the clock back to the days when our Medicare system offered outdated and inefficient benefits and imposed needless costs on its beneficiaries.

Because this bill would severely damage the Medicare program by undermining the Medicare Part D program and by reducing access, benefits, and choices for all beneficiaries, particularly the approximately 9.6 million

beneficiaries in MA, I must veto this bill.

I urge the Congress to send me a bill that reduces the growth in Medicare spending, increases competition and efficiency, implements principles of value-driven health care, and appropriately offsets increases in physician spending.

GEORGE W. BUSH.

THE WHITE HOUSE, July 15, 2008.

The Senate proceeded to reconsider the bill (H.R. 6331), the Medicare Improvements for Patients and Providers Act of 2008, returned to the House by the President on July 15, 2008, without his approval, and passed by the House of Representatives, on reconsideration, on July 15, 2008.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, 43 years ago, we created Medicare because this country recognized that no American should go without health care, especially once they reach retirement age.

As President Johnson was signing the Medicare bill into law, he praised Congress for its ability to "see beyond words to the people that they touch," to put politics aside, and to create legislation that truly transforms society.

Well, today President Bush failed to heed those words, to see beyond politics and think of the seniors who have spent their lives paying into the Medicare system, and the doctors who treat them. Instead, he told millions of struggling American seniors, and military families as well, that he simply did not care. He vetoed a bill that would make vital improvements to the program that has helped ensure that millions of seniors and the disabled can get the care they need.

One of the most important provisions of that bill would have postponed a 10.6-percent reimbursement payment cut for doctors. That was a cut that would have forced many of our doctors across this country to stop seeing Medicare patients and would severely limit their access to health care. I believe the President was wrong to veto that bill.

Today, we can stand up for Medicare. We did it last week when we came together and voted for this bill by a veto-proof margin, and I believe we can do it today by overriding that veto. So I hope we can come together on the floor of the Senate today and override the President's veto and make sure that 44.1 million seniors who are enrolled in Medicare, as well as all the military families who rely on TRICARE, will continue to have access to health care.

We have spent a lot of time in the Senate debating this. My colleagues have thoroughly explained the improvements this legislation would make, but I wish to speak for a few minutes this evening on some of the provisions that illustrate why it is so important to take this vote tonight and override the veto.

First of all, many of our rural communities in Washington State and

across the country are struggling today to provide health care services. This bill will help them strengthen their health care networks and extend the services that are available.

Importantly, this bill puts an emphasis on preventive care that will help our seniors stay healthy, and it will help to keep costs down by enabling those patients to get care before they get seriously ill. This bill will improve coverage for low-income seniors who need expert help to afford basic care. It will help make sure our seniors get mental health care. Currently, the copays for mental health care are 30 percent higher than those for physical care. The legislation we are about to vote on and override the President's veto, if it is passed, will treat mental and physical health care the same. Also, importantly, as we have talked about, this bill will block the cut in reimbursements for providing Medicare services. It will block that cut and ensure that doctors can afford, again, to take Medicare patients.

All the improvements I talked about are important, but it is critical we take action as soon as possible to ensure that the cut in payments to doctors does not go into effect. No doctor should have to choose between staying in business and taking care of their patients, but if we don't override this veto, that is exactly what will happen; our seniors and disabled will end up paying the price.

Cuts in payments would mean seniors will face longer drives in order to find doctors, they will see closed doors, and they will see fewer choices, even though they have spent their lives paying into this Medicare system. Out in our rural communities, the problem, I know, would be even worse because out there we already face a shortage of doctors and nurses and health care providers.

Finally, this cut would limit access to health care for our military retirees and our servicemembers at a time when we see many of our troops returning home from war. TRICARE uses the Medicare formula to pay their doctors, too, and doctors have said those lower reimbursements would force them to drop TRICARE patients. I think we can all agree this country cannot afford to jeopardize the health care for our servicemembers, especially during a time of war.

So this country took a huge step forward when we created Medicare back in 1965—when we agreed as a nation that all seniors should have access to health care services. We cannot afford, at this critical time, to let our country take a step backward. We have the opportunity this evening to do the right thing. Let's support our seniors, let's support our military families, let's stand together and override the President's veto and keep our commitment to the people who depend on us.

I yield the floor.

Mr. DURBIN. Mr. President, I ask unanimous consent that the time re-

served for the majority leader be reduced to 3 minutes and that the remainder be returned to the time under control by the majority.

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

Mr. DURBIN. I ask that Senator STABENOW be recognized for 2 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, we have a historic opportunity in a few moments to reaffirm the fact that Medicare is a great American success story and to join with our colleagues from the House—383 Members of the House—who voted to override a Presidential veto and squarely side with our seniors, our military families and our veterans and to side with those in the disability community who use Medicare. We have an opportunity to vote to strengthen Medicare, to add mental health services, prevention, to focus on low-income seniors, to modernize Medicare with e-prescribing and telehealth. This is an opportunity to move Medicare into the future.

I am very proud to have offered the original bill to extend or block the cuts for 18 months into the future that were to be given to our physicians. I am proud of the work of the Finance Committee. I wish to thank Senator MAX BAUCUS for his leadership and our leader, Senator REID, for coming to the floor and bringing this back, over and over, until we got it done.

This is an opportunity for us to join together on a bipartisan basis to do the right thing, to overturn a very misplaced veto, and to say to all the seniors, our military families, and the disabled in this country that we understand what Medicare is all about and we stand with you to strengthen it, to add to the services available, and to modernize it for the future.

I urge a strong bipartisan vote to override this President's veto.

Mr. DURBIN. Mr. President, I ask to be recognized for 2 minutes.

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

Mr. DURBIN. Mr. President, we have an opportunity once every decade—maybe once every generation—to reaffirm our commitment to some of the most fundamental values in this country. The Medicare Program is not just another Government program. The Medicare Program said in the early 1960s that the United States was committed to our senior citizens and that commitment involved making certain they would always have access to affordable, quality health care. There were many at the time who were skeptical and said it was too much Government and socialism; it goes too far. Thank goodness their voices were drowned out by reason, the understanding that without this protection, seniors could lose every penny they had saved to a medical crisis.

Medicare passed and it worked. The proof of its success is the fact that senior citizens now live longer than ever

because of the quality of the health care they have available through Medicare. Skeptics have returned and said: Let's get rid of that system; what we ought to do is bring in private health insurance companies. They call it Medicare Advantage. We let them try. Over the last 10 years or so they have tried, and at considerably more expense they are not offering benefits as good as basic Medicare.

This bill we are going to consider overriding the President's veto on very shortly says some of the money they have taken out of the system and out of the program has to be returned to taxpayers. That is fair. It is fair compensation for doctors, to make certain Medicare is there for the seniors who need it; to make certain TRICARE is kept up to date in reimbursement, but most importantly this vote today on overriding President Bush's ill-fated veto is a reaffirmation of how important Medicare is to America's future.

It was a strong bipartisan vote of 69 who voted a week or so ago in favor of this measure. I hope the vote today in the Senate reflects an even stronger bipartisan commitment to the future of Medicare.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DURBIN. Mr. President, I suggest the absence of a quorum. It is my understanding the time from the quorum call will be taken evenly from both sides.

The PRESIDING OFFICER. It requires unanimous consent.

Mr. DURBIN. I ask unanimous consent for that, unless there is someone on the Republican side who is seeking recognition.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, reserving the right to object, Senator GRASSLEY, on our side, is responsible for this. I am waiting to consult with him. I would ask my colleague to wait a moment on that request, and we will see if we can find Senator GRASSLEY.

Mr. DURBIN. I ask unanimous consent that we go into a quorum call and it not get charged against either side.

Mr. KYL. Mr. President, if we can have the time run—

Mr. DURBIN. Mr. President, I see Senator DORGAN is on the floor, so I withdraw my request and ask that Senator DORGAN be recognized for 2 minutes.

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

Mr. DORGAN. Mr. President, my colleagues have described it well. This is a very important vote. I think the reason we have gotten to this point shows how difficult it is to get anything done in this Chamber. I come from a State that is first in the Nation in the number of people 80 years old or older as a percentage of our population. I think we are in the top five or six, of people 65 years of age or older as a percentage of our population.

Medicare is so unbelievably important to the folks who live in my State. Does anybody think it serves the interests of this Medicare program to say: Well, let's decide on provider cuts—in this case physician cuts—of 10.6 percent? Let's take a big whack, a 10.6-percent whack out of the reimbursements and it would not matter; it would not affect the program. It doesn't make any sense to me at all that we would do that.

What we need to do is strengthen this program, and that is what the underlying bill does. We have had an awful time trying to pull it through the Congress. We finally got it through the Congress, and then we had the President veto the bill. We had a colleague come out of his sick bed and fly to Washington, DC, to cast the 60th vote, after which the other side collapsed and we got 9 other votes. This is very important. This is about who we are as a country, what we decide to invest in.

It is said that 100 years from now we will all be dead. I guess that is not just said; it is a fact. Only historians will take a look at our value system. They can take a look at what we decided to do as a Congress: How did we decide to spend money? What did we invest in? What did we think was important? What were our value systems? Did we believe the Medicare Program—providing health care to America's elderly—was a successful program, or did we decide we wanted to begin to take it apart?

That is what this vote is about. I don't understand at all why the President decided to veto this.

This passed the House of Representatives by a margin of 6 to 1 and got 69 votes in the Senate, and the President decides to exercise his veto.

It is unfathomable to me how much money we shovel out of this building and how much the President recommends when we spend overseas: \$170 billion, \$180 billion this year in emergency funding for Iraq and Afghanistan and all these programs to replenish all these accounts; contractor abuse. Somehow that doesn't matter so much. All of a sudden we want to make an investment in the Medicare Program, and that is not something that is valuable to us, the President suggests. It makes no sense to me.

In this bill, we have also tried to address the problem of disparate reimbursements for the various States. Some of the smallest States in this country—mine included—receive reimbursements under the Medicare program for providing health care that are dramatically different than reimbursements in other areas. Without fixing that, there will be a degradation of medical services and the delivery of services. This bill addresses part of that. That is why this bill is so critically important.

I hope we will have a resounding vote overriding the President's veto this evening at 6 o'clock.

Mr. KYL. Mr. President, if Senator GRASSLEY arrives, I will defer to him,

but let me make some comments. It is distressing that the effect of this bill has been misrepresented to the extent it has. There have been some very wild claims that this has to do with killing Medicare, that it has to do with punishing America's doctors, that it has to do with hurting America's seniors. This is not the language of a reasoned debate of the Senate. The bill has nothing to do with any of those things, and all my colleagues know that.

Let me describe why we are where we are today. I will take a minute to remind everyone of the promise we made to America's seniors 5 years ago. The 2003 Medicare Modernization Act achieved two very important goals. The first was to provide comprehensive drug coverage, prescription drug coverage, a very important benefit for America's seniors.

Secondly, to explain private health plan choices, similar to the options available to Members of Congress and other Federal employees. We wanted America's seniors—the Medicare patients—to have the same kind of private health insurance options for Medicare that all of us have.

Today, as a result of this plan, somewhere in the neighborhood of one-fourth of America's seniors have taken advantage of this private insurance alternative to traditional Medicare. From the beginning, I know a lot of people on the other side of the aisle didn't like that. They wanted a one-size-fits-all program, one program. Republicans said we need more choices. Seniors have been happy with the prescription drug benefit and with those choices.

The problem with this bill is it cuts both the choices for America's seniors and negatively impacts the prescription drug coverage. That is why Members on this side of the aisle have said they would like to see an opportunity to amend the bill, to try to fix the bill, to have a bipartisan bill instead. But, no, we were jammed—not once, twice, but three times: Take it or leave it. It is the partisan approach, despite the fact that the chairman and ranking member negotiated a bipartisan bill in good faith. Nonetheless, we had to revert to a strictly partisan approach.

That is what this was all about. It was never about covering the physicians to make sure they didn't take a pay cut. I doubt that there is any Senator who doesn't support the 1.1-percent increase in physician reimbursement, an increase for physicians who treat Medicare patients. We all support that. It was in the Grassley proposal, it was in the Baucus proposal, and it was in the bipartisan Grassley-Baucus proposal. So this was never about that. None of the Republicans ever opposed providing the physicians their update. It had to do mostly with an attempt that has been undertaken for many years to undercut the private insurance part of Medicare that many on the other side of the aisle have never liked. It is one of the signature

achievements of the Bush administration, and it is no wonder that the President vetoed the bill because of the fact that was hurt.

First of all, according to the non-partisan CBO, as a result of this bill, 2.3 million seniors will be removed from their private coverage option under Medicare. That is one of the effects of this bill. Instead of all the scare tactics you have heard, I can honestly say that voting for this override of the President's veto will result, according to the CBO, in the removal of 2.3 million American seniors from this private health care option. That is not a good result.

Here is what the President's veto message personally said today:

... the provisions that would enable the expansion of protected classes of drugs would effectively end meaningful price negotiations between Medicare prescription drug plans and pharmaceutical manufacturers for drugs in those classes. If, as is likely, implementation of this provision results in an increase of a number of protected classes, it will lead to increased beneficiary premiums and copayments, higher drug prices, and lower drug rebates.

That is the second pernicious effect of the bill. It will undermine the Medicare prescription drug plan's ability to negotiate good drug prices for seniors.

I know some on the other side were always skeptical of the ability to bring down drug prices. In fact, the Medicare Part D has reduced them precisely because of this competition in the market. This bill partially eliminates that competition. That is the reason some of us oppose the bill, and they are good and legitimate reasons. I believe the President was correct to veto the bill because of these provisions.

Five years after the Medicare passage, we are rewinding the clock, chipping away at the very plan choices and prescription drug coverage that seniors asked us to provide.

These are not pro-patient policies. Rather, the bill reduces access, benefits, and choice for Medicare beneficiaries.

In conclusion, it was a very flawed process. As we know, there was an attempt at a bipartisan solution. There are 51 Democrats and 49 Republicans. You would think that Republicans could have a say in writing the legislation. But, no, that was not to be. We were required to deal with the take-it-or-leave-it proposal of the majority.

Twice the majority walked away from these bipartisan negotiations I talked about before. When we tried to suggest, at a minimum, that we should extend existing law so that doctors would not see the reduction in their payments, we were told it was a "phony exercise." It was, in fact, a good-faith effort on our part to ensure that physicians would be protected.

As I stated earlier, I support the need for a positive physician update. We all do. I know physicians in Arizona know I mean that when I say it. I have led the fight for this in past years. However, I am strongly disappointed that

the Senate was blocked from a bipartisan solution, and I regret that seniors, as a result, will suffer if this legislation is adopted.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I yield 1 minute to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, with all due respect to my friend from Arizona, I wanted to make it clear that there are no rate cuts for any provider in this legislation. As it relates to rate increases, the privatization that has been put into place over the last 3 years has actually raised rates, according to the CBO, for the 85 percent of the seniors and the disabled who use traditional Medicare. But there are no rate cuts.

There is a small change, which doesn't even take effect until 2011, to give the opportunity for the private fee-for-service entities to be able to make the changes by 2011. So with all due respect, this is in no way a dramatic change, a cut in services, or rate reductions for any provider, including the private insurance providers.

Mr. KYL. Mr. President, I never said there was a rate reduction. I said all Senators, I suspect, on both sides support not having a 10.6-percent cut in physician fees and that we all support the 1.1-percent positive update. That was never the issue.

The issue had to do with the other items I talked about. The fact that 2.3 million seniors will lose their private coverage option has to do with the way that the Medicare Advantage Program was used as an offset to pay for the additional benefits in the bill as a result of which CBO claims and believes—and I believe they are probably correct—that 2.3 million seniors will lose their private option coverage.

Mr. GRASSLEY. Mr. President, it is a very unfortunate and disappointing set of circumstances that got us to the point we are in today.

I want to make very clear where we stand on the physician fix. There is widespread Republican support to block the 10.6-percent reduction in physician fees and replace it with a 1.1-percent update.

I introduced S. 3118 on June 11 with Senators MCCONNELL and KYL and others to do just that.

In fact, the doctors would not be getting a 1.1-percent update in this bill if it had not been for Republicans who announced support for the higher update.

Everything that I have been trying to do is to get to a bipartisan solution that would avoid a veto and avoid the pay cut from going into effect even for a short time.

But the other side decided to play politics with this issue.

They ran the clock right up to the deadline and then refused to agree to an extension to keep the cut from going into effect. They repeatedly ob-

jected to an extension even though the Senate had passed 28 extensions on other matters just during this session alone.

And, to my absolute amazement, the majority leader said that Republicans had been given months to work out a Medicare bill so that was why no amendments would be allowed.

The fact is that Republicans and Democrats had been working together for months until the Democratic leadership pulled the rug right out from under that effort.

Let's review the facts here. At the end of last year, we agreed to a short-term Medicare extension so that we could complete work on a bipartisan Medicare package this year. We were very close to a deal then and needed time to finish that work.

Both sides agreed we would work quickly to get a bill that could be signed into law.

Unfortunately, that effort has been intentionally derailed by the majority's desire to play politics with Medicare.

The fact is that the majority has twice walked away from good faith bipartisan negotiations.

The fact is that we had been working for months before they pulled the plug.

The fact is that we had actually completed that bipartisan deal 2 weeks ago. It was a deal that would get signed into law, not vetoed.

But the other side thought they saw a political advantage and they have taken it. They scuttled that deal in favor of a bill that would get vetoed.

So it is a bit on the laughable side to blame us for failed negotiations that they seem to have intentionally sabotaged.

The fact is that the other side is more than willing to play politics with this issue. I believe that has been the wrong approach. It was not the approach I took as chairman of the Finance Committee. It was not the approach that Republicans took while we were in the majority.

Playing this kind of brinksmanship politics with Medicare and with people's lives is not what we should be doing around here.

I also warned the White House early on in this debate that their position on private fee for service was not defensible. As Republicans, we should not support the idea of allowing private plans to use government-set payment rates.

The basic premise of Medicare Advantage is that the private sector can do a better job than government in delivering health benefits to seniors. When we allow those private plans to force providers to accept the government rates, we undermine the philosophy behind the Medicare Advantage program. When we do that, we have conceded defeat up front.

There are some serious problems with this bill. I think the bill has some significant flaws that need to be addressed. I am going to be looking for opportunities to fix this bill and look forward to coming to the floor to do so.

As I have said before, I know the other side wants to argue that Republicans are only fighting this fight to protect Medicare Advantage plans. That is a good soundbite, but it is simply not true.

I, for one, could live with some Medicare Advantage reforms.

There would have been more than enough Republicans who would support more reforms, if the Democrats had been willing to make changes in other areas.

So let's talk about some of the problems that would have been fixed if this had been a truly bipartisan process.

First and foremost, if this bill becomes law, it will do serious harm to the Medicare drug benefit that millions of seniors have come to depend on.

It would tie the hands of the Medicare Part D plans resulting in higher drug prices and higher premiums on seniors.

Medicare's Office of the Actuary concluded that it will raise Part D drug costs. And outside analysts have likewise concluded that this provision has the potential to undermine the long-term financial sustainability of the Medicare drug benefit.

This bill also includes entitlement expansions that are well-intentioned but ill-timed with the pending insolvency of the program.

Let's spend a moment on what a truly bipartisan bill would have looked like.

A truly bipartisan bill would have included much-needed assistance for the so-called "tweener hospitals." This is something myself and Senator HARKIN consider a high priority because of the tweener hospitals we have across Iowa.

A truly bipartisan bill would have included hospital value based purchasing in Medicare.

A truly bipartisan bill would have included physician payment sunshine provisions that Senator KOHL and I have worked out together.

A truly bipartisan bill wouldn't undermine the Medicare drug benefit and cause increased premiums on seniors.

The bill is riddled with problems and missed opportunities.

But instead of writing a bipartisan bill, the Democrats twice walked away from the table and now here we are. They scuttled a deal that could have become law right away.

Now I believe I have shown myself willing to join in bipartisan efforts to solve major issues. We have health care reform and more Medicare bills in the future. But this process has called into question whether the other side is willing to start and stick with a truly bipartisan effort.

The process that has been followed on this bill has done a great disservice to the Senate. But more than that, it does a disservice to seniors, doctors and everyone who depends on Medicare.

And I would hope that the other side will not take us down this path again. Bipartisanship is more than lipservice. It requires action and sometimes dif-

ficult choices. Compromise is not easy work. But if you want to tackle the big issues that are ahead of us, then it will require a better process than the one followed to produce this bill.

To my colleagues today, that is the full story on this vote today.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, there is 2 minutes left, right?

The PRESIDING OFFICER. That is correct.

Mr. REID. I will yield that time to Senator BAUCUS. I have a short statement, and I will use leader time. It is maybe 2½ minutes. I yield 2 minutes to Senator BAUCUS.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, sometimes when Senators vote in this Chamber, the real-world results of our actions are unclear.

But tonight, we can make a real-world difference for 44 million American seniors, and for nine million TRICARE users in America's military families.

In less than an hour, the Senate will vote to override the President's veto of the Medicare bill.

Here is the difference that our votes will make: Will doctors' doors stay open to older Americans, and to the children of our fighting men and women?

Our votes tonight will make the difference.

Will seniors living on a shoestring, and those in rural areas, be able to get decent health care when hospitals are few and far between?

Our votes tonight will make that difference.

Will the ambulances keep running? Will the medicines be covered by Medicare prescription drug plans?

Our votes tonight will make all the difference.

The President made his decision. His veto of the Medicare bill would shut the doctor's door to seniors and military families, and all on ideological grounds.

My bill does good things for seniors. It makes Medicare better for every beneficiary, and it's time to enact it into law.

The House has already voted to override the veto. Overwhelmingly—383 to 41.

Folks in my home State of Montana know I am going to do what is right, and vote to make the Medicare bill law—for Montana seniors and for our 32,000 folks in TRICARE.

Today I told a large rally of folks supporting this bill, reversing the cuts that keep our seniors and military families from seeing their doctors will be our finest hour.

I hope—and expect—that the Senate will stand together, just as our colleagues across the Capitol have done.

Senators of all parties have one more chance to make all the difference.

Let's do what is right for seniors.

Let's do what is right for military families.

Let's do what is right for America. Let's do it together and enact the Medicare Improvements for Patients and Providers Act tonight.

Mr. AKAKA. Mr. President, we must override the President's veto of the Medicare Improvements for Patients and Providers Act of 2008.

This bill will ensure that Medicare and TRICARE beneficiaries have continued access to health care. It will also enhance Medicare benefits. Finally, the legislation will provide much needed resources for Hawaii hospitals that care for the uninsured and Medicaid beneficiaries.

This legislation will maintain Medicare physician payment rates for 2008 and provide a slight increase in 2009. If this veto override fails, doctors will be subject to a 10.6-percent cut in Medicare reimbursements for the rest of the year. This severe cut could also restrict access to health care for our troops and their families because TRICARE reimbursement rates are linked to Medicare reimbursement rates. Rising costs and difficulty in recruiting and retaining qualified health professionals make it essential that we improve reimbursements to ensure that Medicare and TRICARE beneficiaries have access to health care services.

The act will make improvements in Medicare benefits. It increases coverage for preventive health care services and makes mental health care more affordable. The legislation will also help low-income seniors to obtain the health care services that they need.

Finally, the legislation will provide vital assistance for Hawaii hospitals. The legislation extends Medicaid disproportionate share DSH, allotments for Hawaii until December 31, 2009. Hawaii hospitals are struggling to meet the increasing demands placed on them by a growing number of uninsured patients and rising costs.

Hawaii and Tennessee are the only two States that do not have permanent DSH allotments. The Balanced Budget Act of 1997 created specific DSH allotments for each State based on their actual DSH expenditures for fiscal year 1995. In 1994, Hawaii implemented the QUEST demonstration program that was designed to reduce the number of uninsured and improve access to health care. The prior Medicaid DSH Program was incorporated into QUEST. As a result of the demonstration program, Hawaii did not have DSH expenditures in 1995 and was not provided a DSH allotment.

The Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 made further changes to the DSH Program, which included the establishment of a floor for DSH allotments. States without allotments were again left out.

The Medicare Prescription Drug, Improvement, and Modernization Act of

2003 made additional changes to the DSH Program. This included an increase in DSH allotments for low DSH states. Again, States lacking allotments were left out.

In the Tax Relief and Health Care Act of 2006, DSH allotments were finally provided for Hawaii and Tennessee for 2007. The act included a \$10 million Medicaid DSH allotment for Hawaii for 2007. The Medicare, Medicaid, and SCHIP Extension Act of 2007 extended the DSH allotments for Hawaii and Tennessee until June 30, 2008. This provided an additional \$7.5 million for a Hawaii DSH allotment.

This additional extension in the Medicare Improvements for Patients and Providers Act of 2008 authorizes the submission by the State of Hawaii of a State plan amendment covering a DSH payment methodology to hospitals which is consistent with the requirements of existing law relating to DSH payments. The purpose of providing a DSH allotment for Hawaii is to provide additional funding to the State of Hawaii to permit a greater contribution toward the uncompensated costs of hospitals that are providing indigent care. It is not meant to alter existing arrangements between the State of Hawaii and the Centers for Medicare and Medicaid Services, CMS, or to reduce in any way the level of Federal funding for Hawaii's QUEST Program. This act will provide \$15 million for Hawaii DSH allotments through December 31, 2009.

All States need to benefit from the DSH Program. This legislation will make sure that Hawaii and Tennessee continue to have Medicaid DSH assistance. I will continue to work with Chairman BAUCUS, Ranking Member GRASSLEY, Senators ALEXANDER, CORKER, and INOUE to permanently restore allotments for Hawaii and Tennessee. However, we must override the veto to help our struggling hospitals.

Many of our hospitals in Hawaii desperately need resources. Layoffs have been announced and reductions in services are possible. These DSH resources will strengthen the ability of our providers to meet the increasing health care needs of our communities.

Mr. President, we must enact this legislation. It will protect access to health care for seniors, individuals with disabilities, and members of our armed services and their families. The bill will improve Medicare benefits and provide much needed financial assistance for hospitals in Hawaii that care for the uninsured and Medicaid beneficiaries.

Mr. REID. Mr. President, it may have taken just one flourish of a pen to affix the name "Lyndon Baines Johnson" to the law that created Medicare in 1965.

But that one pen stroke created a program that has come to reflect a bedrock American principle: That all those seniors who have worked hard—and all those who need a helping hand—will find themselves embraced by the care of our compassionate Nation.

And though Medicare was created by a Democratic Congress and a Democratic President, that principle has always been anchored far too deep in our soil for the roots of partisanship to entangle.

When the program has been threatened, Democrats and Republicans have risen to the occasion to protect it.

So it was last month, when the House of Representatives approved the "doctor's fix" by an overwhelming vote of 355–59.

So it was last week, when Senator KENNEDY led a veto-proof majority of all Democrats and 18 Republicans voting yes.

So it was earlier today, when the House voted to override President Bush's veto, 383–41.

So it must be now, as we follow suit to reject the veto and place this legislation into law.

On the July day in 1965 when President Johnson signed the original Medicare bill, he said this:

Just think, because of this decision—and the long years of struggle which so many have put into creating it—in this town, and a thousand other towns like it, there are men and women in pain who will now find ease.

There are those, alone in suffering who will now hear the sound of some approaching footsteps coming to help.

There are those fearing the terrible darkness of despairing poverty—despite their long years of labor and expectation—who will now look up to see the light of hope and realization.

Since the day President Johnson handed the very first Medicare card to President Truman, hundreds of millions of senior citizens and people with disabilities have received their own card.

Each new card issued strengthens our commitment to the health and well-being of our most vulnerable.

Now it is our turn to do our part—to renew the light of hope for those who need our help the most, those people in their golden years, the senior citizens of America who depend on Medicare.

The PRESIDING OFFICER. The question is, shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Arizona (Mr. MCCAIN) and the Senator from Virginia (Mr. WARNER).

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

The result was announced—yeas 70, nays 26, as follows:

[Rollcall Vote No. 177 Leg.]

#### YEAS—70

Akaka	Dorgan	Murray
Alexander	Dubin	Nelson (FL)
Baucus	Feingold	Nelson (NE)
Bayh	Feinstein	Pryor
Biden	Harkin	Reed
Bingaman	Hutchison	Reid
Bond	Inouye	Roberts
Boxer	Isakson	Rockefeller
Brown	Johnson	Salazar
Byrd	Kerry	Sanders
Cantwell	Klobuchar	Schumer
Cardin	Kohl	Smith
Carper	Landrieu	Snowe
Casey	Lautenberg	Specter
Chambliss	Leahy	Stabenow
Clinton	Levin	Stevens
Cochran	Lieberman	Tester
Coleman	Lincoln	Voinovich
Collins	Lugar	Webb
Conrad	Martinez	Whitehouse
Corker	McCaskill	Wicker
Cornyn	Menendez	Wyden
Dodd	Mikulski	
Dole	Murkowski	

#### NAYS—26

Allard	DeMint	Inhofe
Barrasso	Domenici	Kyl
Bennett	Ensign	McConnell
Brownback	Enzi	Sessions
Bunning	Graham	Shelby
Burr	Grassley	Sununu
Coburn	Gregg	Thune
Craig	Hagel	Vitter
Crapo	Hatch	

#### NOT VOTING—4

Kennedy	Obama
McCain	Warner

The bill (H.R. 6331) was passed.

The PRESIDING OFFICER. On this vote, the yeas are 70, the nays are 26. Two-thirds of the Senators voting having voted in the affirmative, the bill on reconsideration is passed, the objections of the President of the United States to the contrary notwithstanding.

Mr. REID. 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.

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

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

The Senate will come to order. Senators will take their conversations off the floor so the Senator from California can be heard.

Mrs. BOXER. Mr. President, I wanted to take some time this early evening to talk a little bit about our energy crisis and gas prices. But I first want to say thank you so much to our leaders, Senator REID in particular, to Senator BAUCUS, to all those who helped score a real victory for the Medicare Program for our senior citizens today. It is not every day that a President has a veto overridden, but this President is just out of touch in so many areas. This was one area. Now I truly think we have saved Medicare for the moment, and that is a good feeling.

#### ENERGY

Mrs. BOXER. Mr. President, I know you care a lot about the way we move toward addressing our energy crisis,