

PLEDGE OF ALLEGIANCE

The Honorable ROLAND W. BURRIS 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 12, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BURRIS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. DURBIN. Mr. President, following leader remarks, the Senate will resume consideration of the conference report to accompany H.R. 3288, the consolidated appropriations bill, with the time until 9:30 a.m. equally divided and controlled between the two leaders or their designees. At 9:30 a.m., the Senate will proceed to vote on the motion to invoke cloture on the conference report. Under an agreement reached last night, the vote on adoption of the conference report will occur tomorrow, Sunday, December 13.

RESERVATION OF LEADER TIME

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

DEPARTMENTS OF TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 3288, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report to accompany H.R. 3288, making appropriations for the Departments of Transportation and Housing and Urban Development, and related agencies for the

fiscal year ending September 30, 2010, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 9:30 will be equally divided and controlled between the leaders or their designees.

The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, this morning I will vote no on the cloture motion to H.R. 3288. I oppose H.R. 3288 and will not be able to be present to vote no on final passage. The reason I will not be here is that tomorrow my wife and I will be celebrating our 50th wedding anniversary with our 20 kids and grandkids.

Mr. DURBIN. Mr. President, let me congratulate my colleague from Oklahoma on 50 years of marriage. Your wife must be a saint.

Mr. INHOFE. Indeed, she is.

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, H.R. 3288 is a consolidated appropriations bill which contains almost all of the remaining spending bills for the fiscal year 2010. This is a process we had not anticipated. We had hoped we could take each bill individually and consider them on the floor and bring them to conclusion. Unfortunately, we ran out of time.

We had over 90 different efforts made to stop debate on the Senate floor on a variety of measures. It took us literally 4 weeks to extend unemployment benefits. This is something usually done routinely on a bipartisan basis, but unfortunately, because of delays and threats of filibusters, it took us 4 weeks to finally come to a vote to extend unemployment benefits in the midst of the worst recession the United States has experienced in over 75 years. It is unthinkable, at a time people were sending us e-mails and letters saying: I can't believe the Senate won't provide a helping hand. It isn't as if the bill itself was controversial. When it finally came to a vote, it passed 97 to nothing. There was no controversy associated with it. The controversy was manufactured on the floor of the Senate to delay consideration of such a very basic bill for 4 weeks.

Those 4 weeks could have been spent calling up these appropriations bills so we could have had what was needed—a healthy, open debate on the bills. Instead, we were forced to wait until toward the end of the session and consolidate the unpassed bills in one measure and bring it to the floor of the Senate today.

I will tell Members of the Senate who wonder if these bills have been carefully reviewed that each and every one of them passed overwhelmingly from the Appropriations Committee. There was one dissenting vote on two or three of these measures, but by and large they passed unanimously. There was little controversy in the Appropriations Committee from either side of the aisle.

The Senate Appropriations Committee, on which I am honored to serve, had been working spring and summer to pass all 12 appropriations bills. Chairman DANNY INOUE is not only a great America hero, he is a great American chairman. As the Senate Appropriations Committee chairman, this man has taken up a responsibility which few would shoulder and has done it with an extraordinary amount of talent and dedication. At his side has been Senator THAD COCHRAN, Republican of Mississippi, who works just as hard to try to make sure what we produce is a great credit to this institution and meets the needs of this great country.

There is one bill remaining after these six pass. It may be one of the most important—the Defense appropriations bill. It was passed by the committee in September and represents the only remaining bill left for us to pass this year, which we certainly want to do before we adjourn at the end of this period before Christmas.

These bills were reported out of committee with overwhelming bipartisan votes. Nine of the 12 were reported unanimously. However, when we moved these bills to the floor, we ran into these obstacles. At one point when we were considering, for example, the question of extending unemployment benefits to millions of Americans who have lost their jobs, exhausted their savings, lost their health insurance, and stand to lose their homes, there was an argument made by one Senator on the other side of the aisle that he didn't want us to call this bill until he had a chance to offer another amendment—another amendment on the ACORN organization. We have had a series of these amendments. We have flogged this group mercilessly for month after weary month. Yet they were going to hold up unemployment benefits for this Senator to have one more chance, one more swing at this organization. That, to me, is not responsible. The responsible thing to do is to recognize all of these families who were counting on us.

Time was lost that could have been used not only to provide unemployment benefits in a more expeditious manner but also to consider these appropriations bills. Appropriations bills in the past, and not too distant past, used to take 1 or 2 days before the Senate. Members would come to the floor, amendments would be offered, debated, end of story. We would have a final vote, and we would move on. Now even routine bills with no controversy take weeks because of amendments to be offered which, frankly, have little or no relevance to the nature of the bill before us.

We brought up the Commerce-Justice-Science appropriations bill on October 6. We didn't finish that bill until November 5. This is a critically important one, one for which most Members would gladly endorse its mission.

These appropriations bills have taken longer because, unfortunately, the minority will not agree to reasonable time limits to consider amendments and finish debate. Instead, we find ourselves consistently sidetracked.

So here we are. We have 21 days before the end of the calendar year, and we need to finish the business of the Congress. To do so, we engaged Republican Members of the Appropriations Committee and worked on reasonable compromises on the differing bills in the House and Senate. I am troubled that some of the very Republican Members of the Senate Appropriations Committee—not all of them; three of them stood up and voted to move this process forward—some of the very Members of the Senate Appropriations Committee who have sat through the subcommittee hearings, the full committee deliberations, have made valuable contributions to the bills themselves, now want to stop the process. It makes no sense. If we are going to do this in an orderly fashion, we should do it in a bipartisan fashion. I hope that is what will happen today.

This package of appropriations bills is a result of a truly bicameral and bipartisan effort. It represents the priorities of our Nation. It invests in students, veterans, and law enforcement, just to name a few. It makes college education more affordable for students by increasing Pell grants to \$5,500 a year. Is there a better time for us to do that, to say to children and families that don't have a lot of money: Now is the time to hone your skills, to create new talents in a more challenging economy. Go to school. If you will go to school, we will help you. This package of bills increases the amount of money available for the children in those families. I hope Members on both sides of the aisle will support it.

The conference report also helps local governments fight crime and put more police on our streets. Take a look at the budgets of cities and towns, of counties, of States, and you will realize they are in a death struggle to provide basic services. We have increased grants for local law enforcement by \$480 million over last year. Many of the critics of our efforts say: You are spending more money. Yes, we are spending more money to keep cops on the street, to keep neighborhoods safe so that families feel secure. I think it is money well spent. Money spent to help our first responders, firefighters, and policemen is a critical investment. This bill makes that investment. That grant program was cut by almost \$2 billion by the previous administration. We are trying to restore that money so we can put more people on the street protecting our citizens. This conference report sets the right priorities by helping States and local police departments fight crime. We also include \$298 million for the COPS Program to put more cops on the beat. This funding will help hire and retain approximately 1,400 police officers. The COPS

Program has helped train nearly 500,000 law enforcement personnel.

The conference report also helps veterans. It is not enough to give speeches on the floor about how much we love our men and women in uniform and honor our veterans. It is not enough to wear a lapel pin and participate in parades and then come to the floor and vote against the bills that provide the money for the Veterans' Administration.

What we provide here is increased funding to the Veterans Affairs Department of \$5.3 billion over last year's level. Those who come and criticize the level of spending in this package of bills are criticizing the additional investment to help our veterans when we need to more than ever. Returning from Iraq and Afghanistan with post-traumatic stress disorder, traumatic brain injuries, amputations, these men and women need our help. This package of bills provides that help. We will provide increased access to quality care for all of our veterans. The conference report increases discretionary spending at the VA by more than \$5 billion to help them care for 6.1 million veterans they expect to see in 2010.

If I understood the unanimous consent order, we were equally dividing time between now and 9:30. I ask how much time I have remaining on the majority side.

The ACTING PRESIDENT pro tempore. There is 3½ minutes.

Mr. DURBIN. I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

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

Mr. McCONNELL. Mr. President, I will proceed under my leader time.

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

Mr. McCONNELL. Mr. President, yesterday may well have been a seminal moment in this debate. We heard from CMS. And for those who do not know what that is, who may be watching C-SPAN 2, that is the Centers for Medicare & Medicaid Services. They did an analysis of the Reid health care bill, a rather detailed analysis. The important part I will summarize. It says: We estimate that total national health expenditures under this bill would increase by an estimated \$234 billion during the calendar years 2010 to 2019. In other words, it will increase the deficit. We know there was a letter to Chairman BAUCUS from six Democrats on September 17, 2009, saying:

There are many, wide-ranging options to address the broad and complicated issue of runaway health care costs, and we pledge our support to you in making the necessary and tough decisions. This is our number one priority. If we pass health [care] reform legislation without addressing the issue of health care spending, we will have failed.

That letter was signed by Senator KOHL of Wisconsin, Senator McCASKILL of Missouri, Senator PRYOR of Arkan-

sas, Senator BEGICH of Alaska, Senator BAYH of Indiana, and Senator KLOBUCHAR of Minnesota to the chairman of the Finance Committee, saying: "If we pass health care reform legislation without addressing the issue of health [care] spending, we will have failed."

We know from CMS, the actuary at the Department of Health and Human Services, that the Reid bill fails the test of Senators KOHL, McCASKILL, PRYOR, BEGICH, BAYH, and KLOBUCHAR. So we know what CMS thinks.

We also know what CNN thinks. We know where the American people are. We have watched the public opinion polls dramatically shift against the Reid proposal. The well-respected Quinnipiac poll a week or so ago had the proposal disapproved by 14 percent; the week before that, Gallup had it disapproved by 9 percent. And now CNN, just yesterday, the latest poll: people oppose the Senate bill 61 to 36.

We have heard from both CMS and CNN. When will our colleagues on the other side of the aisle respond to either cold, hard facts or the American people? They argue: "to make history." It is clear this would be a historical mistake of gargantuan proportions—a historical mistake of gargantuan proportions. The only history we would be making here is a historical mistake.

We know from the experts it will not achieve the goal. We know from the American people they do not want us to pass it. It is time to stop this effort and to start over and go step by step to fix the problems the American people sent us here to fix regarding the American health care system.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

If no one yields time, time will be charged equally.

The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I want to speak for a moment about the vote we are about to take here to proceed with the so-called Omnibus Appropriations Act, H.R. 3288. This is the bill which for those who have not been following closely cleans up a little bit of a mess that the Congress has created because we did not do our work earlier in the year.

We are supposed to pass appropriations bills to run the government, to run the various Departments, and we did not get around to doing that. So right here, at the very end, we have to combine all kinds of those bills together in what is called an omnibus bill—six bills in total.

I find it ironic we are talking about a bill which is nearly \$500 billion—to be exact, it is \$446.8 billion in new spending—at a time when our national deficit is \$1.4 trillion, the health care bill we are debating in its first 10 years of implementation is \$2.5 trillion and, next week, we are going to be asked to raise the debt ceiling in this country by something like \$1.8 trillion.

I saw a bumper sticker that said, "Don't Tell Them What Comes After A Trillion." We used to think in billions. When I first came to Congress, millions were a big deal. Now we are talking trillions, and it is being tossed around as if it is nothing. Now another $\frac{1}{2}$ trillion spending bill.

Well, obviously we need to run the government. But do you suppose the government could be a little bit like families and be a little bit prudent in how much it spends or how much it increases its spending over the previous year?

Let me give you some examples. The bill for Transportation and HUD receives a 23-percent increase over last year—23 percent. The State Foreign Operations bill receives a 33-percent increase over last year. Included in that bill is a 24-percent increase for the State Department's salaries and operations. A lot of Americans would like to see their salaries and operations increased by 24 percent. Commerce, State, and Justice receives a 12-percent increase over last year.

You might say, well, the government is in tough shape. We need, for some reason, to increase our spending by 33 percent. No, not with what is in this bill.

My colleagues have done a little bit of a check to see if there are any earmarks in this bill, for example. And guess what—5,224 earmarks and those earmarks alone are over \$3.8 billion.

I gave some examples of those earmarks, and I do not want to embarrass any of my colleagues by citing them today. But I think it would be appropriate for us to at least have the opportunity to strike some of these earmarks and save a little bit of money. Because the argument is always made: Well, we can't save money. We have to keep spending what we are spending. There is nothing in there to cut.

There is a lot in there to cut. So the point I want to make to my colleagues here today, before we vote to proceed with this legislation, is we could do better. There is no argument that we have to spend 33 percent more on the State Foreign Operations bill or 23 percent more on what we call affectionately around here the THUD bill, when we have this deficit of \$1.4 trillion, when we have to increase the national debt by \$1.8 trillion, when we are talking about spending another \$2.5 trillion, and that is just for the first 10 years of operation on the health care bill. I have not even mentioned the bills earlier this year—bailing out AIG, the insurance companies, General Motors, Chrysler, and the stimulus package, and well over \$1 trillion when you add in the interest.

By the way, I did not mention interest. Part of the problem is we do not have this money. We are borrowing it. We have to borrow this money in order to pay it to these folks, and that means you have to pay interest. I have not even included the interest cost, which for all these bills amounts to several hundreds of billions of dollars.

There is a point at which, if you are talking about your own family and your own credit card, instead of asking the credit card company to expand the limit so you can put even more money on your credit card—which is what we are doing here—you would start paying that credit card down and you would be a little bit more careful about your spending.

All I am asking is: Can't we be a little more careful about our spending so we do not have to increase Departments of government by 23 percent, 33 percent over last year's spending? I do not think that is too much to ask on behalf of our taxpayers.

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

Mr. DURBIN. Mr. President, I want to make a point of pulling out the calendar here and reading the membership on the Senate Appropriations Committee. I thought for sure there were Republicans serving on that committee, and it turns out there are 12 of them. They serve on the committee. They are on the subcommittees. They sat on the full committee deliberations, and they include the Republican minority leader.

Of the six appropriations bills which have come before us today for a vote, they were voted out of the Appropriations Committee by overwhelming votes. In fact, three of the bills were unanimous, meaning that at least the minority leader was counted as voting for the bills which the Senator from Arizona has just criticized, and three of them had a 29-to-1 vote, so I will not suppose what the minority leader's vote was.

But to come before us today and argue that the majority is cramming these votes and bills down the throats of Members without giving them opportunity is to ignore what came before it: the fact that there were subcommittee hearings, the fact that there was a vote in the Appropriations Committee on each of the bills, and they passed overwhelmingly.

So at least at an early stage, an important stage in this process, 11 or 12 Republican Senators signed on and approved the bills. To argue that we are bringing something before the Senate, pushing it through quickly without deliberation, on a partisan basis, does not stand up.

And to listen to the Senator from Arizona, I would tell you, bluntly, the increases in spending in this bill—some of them I hope the Senator from Arizona would not characterize as unwise. I know he feels as I do about veterans in this country. There is a substantial increase in money for veterans for their care. We want to do that. I will be honest with you, we need to pay the real cost of war, and that includes the commitment we have made to men and women who serve our country.

The same thing, I am sure, is true when it comes to law enforcement. I am sure the Senator from Arizona feels as I do.

The ACTING PRESIDENT pro tempore. The majority's time has expired.

Mr. DURBIN. I urge my colleagues—when this comes for a vote in a few moments—to support the cloture motion. Let's move this forward. Thank you.

Mr. KYL. Mr. President, how much time is remaining on our side?

The ACTING PRESIDENT pro tempore. The Senator from Arizona has 5 minutes.

Mr. KYL. Thank you, Mr. President.

Let me respond to my friend, the majority whip now. Two plain points. First of all: that Republicans also serve on the Appropriations Committee. That is true. If the majority whip, however, wants to defend this bill, that is his prerogative. He can do that. I have the right to vote against it.

I do not serve on the Appropriations Committee, and I do not think it is a good bill. There may be some Republicans who do. I did not contend this was strictly a partisan activity, but I said it was wrong. When our constituents, who pay the taxes in this country, ask us to be more frugal, we could be more frugal than this.

Secondly, undoubtedly, in a bill of almost \$500 billion, there are good things. In fact, I know there are some good things in this bill. And I certainly suspect that the increase in veterans spending the majority whip referred to is probably supported by everybody in this body. That is the problem, however. When you do not do these appropriations bills one at a time, so you can vote on each one on its own merits, you are relegated to combining them into one giant bill. That is why it is called an omnibus bill, and you cannot differentiate between the things you support and the things you oppose. So what you have to end up doing is accepting all of the bad stuff in order to be able to support the good things.

That is a time-honored tradition around here. If you cannot get it all passed on its own merits, then bundle it up with a whole bunch of other stuff, and we will have to accept a lot of bad policy and bad spending because we do not want to be accused of not supporting our Nation's veterans.

Some of us are willing to say—and I, in fact, have had this conversation with veterans before: Would you rather have us vote against a bill which includes veterans spending but is way more than we should be spending or vote for that bill simply because it has veterans spending in it? I used to have this conversation with veterans when I was in the House of Representatives because they always combine veterans spending with HUD, and it was hard to pass the HUD bill but easy to pass the veterans bill. That is why they did it that way. My veterans were very understanding when I voted against that bill.

We have to be a little bit more courageous around here and a little bit more honest with our constituents in the way we set these bills up, so we do not argue to them: Oh, you don't want to

vote against veterans, do you? No, nobody wants to vote against veterans. But if you get to the point in the year where you have not done your work, and you have to combine all these bills together—and you have some good spending, for example, for veterans, but you are also raising the State Department by 33 percent—I think a lot of folks would say: That is too much. And we could actually save money by being more discreet in supporting some things and opposing others.

That is why it would have been better if the majority could have gotten these bills to us one at a time rather than combined into one omnibus bill.

So, I do think, at a certain point in time, our constituents can demand of us more fiscal prudence, more responsibility in the way we vote. The only way Republicans have to oppose a process by which all of these things came together at once, and the only way other Democrats who wish to demonstrate their prudence in spending to their constituents can do that, is to vote “no” so we do not proceed to this bill, so we could try to break it apart and vote on veterans, if you want to vote for veterans, but not a 33-percent increase in the State Department bill.

I urge my colleagues to vote “no” and to do this in a more responsible way so we do not have to go home and say to our constituents: Well, we voted for a 33-percent increase in the State Department over last year. I know it is tough for you, but the State Department needed that money. So I hope you will forgive us for doing that.

I do not think we want to do that. I hope my colleagues will vote “no.”

PROJECT ATTRIBUTION CORRECTION

Mrs. MURRAY. Mr. President, I wish to join with my ranking member, Senator BOND, in a colloquy to correct clerical errors in the attribution table accompanying division A of H.R. 3288. Senator MERKLEY and Senator WYDEN are listed as having requested the Oak Street Extension, Schereville, IN, project under surface transportation priorities. My staff has confirmed that this project was not requested by Senator MERKLEY or Senator WYDEN, and, as such, Senator MERKLEY and Senator WYDEN's names should not be listed as requestors.

Mr. BOND. My colleague and chair, Senator MURRAY, is correct. The names were added as a result of a clerical error, and Senators WYDEN and MERKLEY should not be listed as sponsors.

In addition to this project, there are additional projects for which Senate names were inadvertently left off of the attribution table. I have confirmed with my staff that the Senators listed below did request the following projects, which have been properly disclosed and for which they have certified that they have no pecuniary interest. Specifically, the projects, the account in which they are funded, and the additional sponsors are as follows:

I-49 North, LA, interstate maintenance, Senator VITTER;

Interstate 69, LA, interstate maintenance, Senator VITTER;

I-12 Interchange at LA-16, LA, interstate maintenance, Senator VITTER;

I-20 Lincoln Parish, LA, Delta Regional Transportation Development Program, Senator VITTER;

Clearview at Earhart drainage, LA, Delta Regional Transportation Development Program, Senator VITTER;

Rail spur extension—Greater Ouachita Parish, LA, rail line relocation and improvement, Senator VITTER;

Greater Ouachita Port Surface Development Project, LA, Economic Development Initiative, Senator VITTER;

Earthworks Engineering Research Center—EERC, Iowa State University, IA, transportation planning, research, and development, Senator GRASSLEY;

Jet engine technology inspection to support continued airworthiness—JET, Iowa State University, IA, transportation planning, research, and development, Senator GRASSLEY;

Interstate 74 corridor construction, IA, interstate maintenance, Senator GRASSLEY;

Alice's road extension/Ashworth Road to University Avenue, IA, surface transportation priorities, Senator GRASSLEY;

Construct four lane highway 20 West of U.S. 71, IA, surface transportation priorities, Senator GRASSLEY;

Iowa Highway 92 reconstruction, surface transportation priorities, Senator GRASSLEY; Roger Snedden Dr. extension/grade separation—phase 1, IA, surface transportation priorities, Senator GRASSLEY;

University Boulevard widening, Clive, IA, surface transportation priorities, Senator GRASSLEY;

Iowa Highway 100 extension and improvements, Cedar Rapids, IA, surface transportation priorities, Senator GRASSLEY;

I-480/Tiedeman Road interchange modification, OH, interstate maintenance, Senator VOINOVICH;

I-76 Access/Martha Avenue connection, Akron, OH, surface transportation priorities, Senator VOINOVICH; and

Warrensville/Van Aken Transit Oriented, OH, surface transportation priorities, Senator VOINOVICH.

Mrs. MURRAY. Mr. President, Senator BOND, is correct. My staff has confirmed that the changes to the attribution table should be made so that the Senators listed above can be appropriately recognized as having requested the projects cited above.

Mr. BOND. I thank the chair for her assistance in this matter.

Ms. COLLINS. Mr. President, I rise today to discuss the conference report before us, which contains six of the seven remaining appropriations bills. Division D of the conference report contains the Financial Services and General Government appropriations bill. As ranking member of the subcommittee responsible for writing this division, I want to thank Senator DURBIN for his leadership and collegiality throughout the past year. Since joining this subcommittee, I have seen Senator DURBIN demonstrate the kind of bipartisan cooperation that is the hallmark of the Appropriations Committee. He and I worked in a collaborative fashion to produce a bipartisan bill.

The Financial Services and General Government Subcommittee has jurisdiction over a diverse group of agencies, many of which have a profound

impact on the financial stability of our economy and on the lives of most Americans. This appropriations bill is a key part of efforts to restore the stability of, and the public confidence in, America's financial institutions. It makes needed investments to strengthen the Securities and Exchange Commission's ability to enforce rules governing our financial markets and to detect and prosecute fraudulent schemes. It also increases the Federal Trade Commission's capacity to protect consumers from scams and anticompetitive behavior.

Senator DURBIN and I share many of the same concerns about the ability of our financial regulatory institutions to protect small investors and market participants. For years, the SEC's funding and staffing levels had declined, even as its oversight responsibilities rapidly increased. As a result, staffing shortages and an environment of lax oversight and enforcement at the SEC contributed to our current financial crisis. Funding shortfalls have hampered the ability of this agency to fulfill its mission of protecting the public through enforcement of securities laws.

We have included a 16-percent increase in funding for the SEC that will help the agency better fulfill its mission by giving it the resources to increase staffing levels and to make information technology upgrades.

The conference report also provides important increases above the President's budget request for the Consumer Product Safety Commission and the Federal Trade Commission. The CPSC protects American consumers from defective and unsafe products, while the FTC protects consumers from unscrupulous marketing scams.

The bill also provides ample funding for the Small Business Administration. Our economic strength and future are tied to the strength of small businesses. The conference report funds important SBA programs like Women's Business Centers, Veterans' Programs, Native American Outreach, and HUBZones above the President's budget request. As a former regional administrator of the SBA, I am particularly supportive of the increase of \$16 million over the President's request for the Small Business Development Center Program. Each year, the SBDC network of over 900 service centers provides management and technical assistance to an estimated 1.2 million small business owners and aspiring entrepreneurs.

The conference agreement includes an important provision that protects the due process rights of auto dealers. The auto dealers are essential to the success of the auto manufacturers because the dealers facilitate distribution, sales, and servicing of hundreds of millions of vehicles annually. It is in the best interest of the public to have a competitive and viable automobile distribution network throughout the country, including in urban, suburban,

and rural areas. It is also in the interest of the local economies, the national economy, and our economic recovery to preserve jobs at successful small businesses.

Senator DURBIN and I share similar views about the funding priorities for most of the agencies within this bill. One of the few areas where he and I disagree is the DC school voucher program. We both respect one another's different positions on this issue, but I am disappointed that this bill effectively ends this successful program.

The DC Opportunity Scholarship Program has provided additional educational options for some of the District's most at-risk, low-income children who had previously attended some of the lowest-performing schools in the country.

Sadly, DC's public schools continue to underperform despite a per-pupil expenditure rate that is the third highest in the Nation. Experts have carefully studied the DC Opportunity Scholarship Program and concluded that the educational success of the program's participants in reading has outpaced those in DC public schools.

Of the \$75.4 million for DC public schools in this bill, \$42.2 million is to improve the District's public schools, \$20 million is to support DC public charter schools, and \$13.2 million is for Opportunity Scholarships. Unfortunately, the conference report contains language that would only allow currently enrolled students to remain in the program. No new students would be permitted, despite the fact that the \$7,500 per student cost for scholarship children is less than one-half the \$15,511 per student cost for DC public schools.

In May, Senator LIEBERMAN and I held a hearing in the Homeland Security and Governmental Affairs Committee during which we heard compelling success stories of current and former participants in the program. Their testimony helped to highlight the real world implications of discontinuing the program. The fear about this program ending was poignantly stated by a little girl wearing a T-shirt asking: "What About Me?"

By all accounts, students are succeeding and thriving in their scholarship schools, and their parents are overwhelmingly satisfied with the education that their children are receiving. So I do not see the wisdom of blocking new students from participating in this successful program.

I am disappointed that the full Senate never had an opportunity to take up, debate, and amend the Financial Services and General Government appropriations bill when it was reported out of committee.

This is unfortunate, especially since Senator DURBIN and I worked hard to write a bipartisan bill which had overwhelming support in the committee. The Senate has had time to consider all 12 Appropriations bills. Chairman INOUE and Vice Chairman COCHRAN

both worked hard to complete and report all 12 bills out of committee by September. For the record, the Financial Services bill was reported out of committee on July 9.

Next year we must return to regular order so that all Senators can have an opportunity to debate these important bills.

I thank the Financial Services and General Government Subcommittee staff: Marianne Upton, Diana Hamilton, Melissa Petersen, and Richard Burkard with the majority; and Mary Dietrich and Rachel Jones with the minority.

Turning to Division A of the conference report, I would like to speak in support of a provision I authored. This provision will increase safety, save energy, and decrease vehicle emissions by creating a 1-year pilot project to allow trucks weighing up to 100,000 pounds to travel on Maine's interstates. This provision also requires an analysis by the U.S. Department of Transportation and the State of Maine of provision's impact on safety, road and bridge durability, energy use, and commerce.

By way of background, let me explain why this pilot project is needed. Under current law, trucks weighing 100,000 pounds are allowed to travel on the portion of Interstate 95 designated as the Maine Turnpike, which runs from Maine's border with New Hampshire to Augusta, our capital city. At Augusta, the Turnpike designation ends, but I-95 proceeds another 200 miles north to Houlton. At Augusta, however, heavy trucks must exit the modern four-lane, limited-access highway and are forced onto smaller, two-lane secondary roads that pass through cities, towns, and villages. The same problem occurs for Maine's other Interstates like I-295 out of Portland and I-395 in the Bangor-Brewer area.

Diverting trucks onto these secondary roads raises critical safety concerns. In fact, there have been several accidents, some of which have tragically resulted in death, which have occurred after these large trucks were diverted onto secondary roads and through smaller communities. For example, In May 2007, a 17-year-old high school student from Hampden, ME, lost her life when her car was struck by a heavy truck on Route 9. The truck driver could not see the car turning onto that two-lane road as he rounded a corner. Interstate 95 runs less than three-quarters of a mile away, but Federal law prevented the truck from using that modern, divided highway, a highway that was designed to provide ample views of the road ahead.

A year earlier, Lena Gray, an 80-year-old resident of Bangor, was struck and killed by a tractor-trailer as she was crossing a downtown street. Again, that accident would not have occurred had that truck been allowed to use I-95, which runs directly through Bangor.

While improving safety is the key objective, a uniform truck weight limit of 100,000 pounds on Maine's interstate

highways also would reduce highway miles, as well as the travel time necessary to transport freight through Maine, resulting in economic and environmental benefits. Moreover, Maine's extensive network of local roads would be better preserved without the wear and tear of heavy truck traffic.

Interstate 95 north of Augusta, ME, where trucks are currently limited at 80,000 pounds, was originally designed and built for military freight movements to Loring Air Force Base at weights much heavier than 100,000 pounds. Raising the truck weight limit would keep heavy trucks on the interstates, which are designed to carry more weight than the rural State roads.

Current Maine law requires that vehicles carrying up to 100,000 pounds on state roads be six-axle combination vehicles. Current Federal law requires that vehicles carrying 80,000 pounds be five-axle. Contrary to erroneous assumptions, six-axle 100,000 pound vehicles are not longer, wider or taller than the five-axle 80,000 pound vehicles. The six-axle 100,000 pound vehicles, which include an additional set of brakes, allow for greater weight distribution thereby not increasing road wear and tear. Further, stopping distances and safety are in no way diminished, and preliminary data from studies conducted by the Maine State Police support this statement. That is why Maine's Commissioner of Public Safety, the Maine State Troopers Association, and the Maine Association of Police all support this pilot project.

A higher weight limit in Maine will not only preserve our rapidly deteriorating roads, but will provide economic relief to an already struggling trucking industry. Trucks weighing up to 100,000 pounds are permitted on interstate highways in New Hampshire, Massachusetts, and New York as well as the Canadian Provinces of New Brunswick and Quebec. Maine truck drivers and the businesses they serve are at a competitive disadvantage.

Last year, I met with Kurt Babineau, a small business owner and second generation logger and trucker from Maine. Like so many of our truckers, Kurt has been struggling with the increasing costs of running his operation. All of the pulpwood his business produces is transported to Verso Paper in Jay, ME, a 165-mile roundtrip. This would be a considerably shorter trip if his trucks were permitted at 100,000 pounds to remain on Interstate 95. Instead, his trucks must travel a less direct route through cities and towns. Kurt estimated that permitting his trucks to travel on all of Interstate 95 would save him 118 gallons of fuel each week. At last year's diesel cost of approximately \$4.50 a gallon, and including savings from his drivers spending less time on the trip, he could have saved more than \$700 a week, and more than \$33,000 and 5,600 gallons of fuel annually. These savings would not only be beneficial to

Kurt's bottom line, but also to his employees, his customers, and to our nation as we look for ways to decrease the overall fuel consumption.

An increase of the Federal truck weight limit in Maine is widely supported by public officials throughout Maine, including the Governor, the Maine Association of Police, and the Maine Department of Public Safety, which includes the State Bureau of Highway Safety, the Maine State Police, and the Bureau of Emergency Communications. The Maine Legislature also has expressed its support for the change having passed resolutions over the past several years calling on Congress to raise the Federal truck weight limit to 100,000 pounds in Maine. I look forward to passage of this important provision, which has been long awaited in my State.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant 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 conference report to accompany H.R. 3288, the Transportation, HUD, Related Agencies Appropriations Act for Fiscal Year 2010.

Daniel K. Inouye, Al Franken, Jon Tester, Paul G. Kirk, Jr., Roland W. Burris, Edward E. Kaufman, Jack Reed, Daniel K. Akaka, Mark Begich, Patty Murray, Jeff Bingaman, Robert P. Casey, Jr., Sherrod Brown, Thomas R. Carper, Byron L. Dorgan, Richard J. Durbin, Harry Reid.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 3288, the Transportation, Housing and Urban Development and Related Agencies Appropriations Act of 2010 shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kentucky (Mr. BUNNING), the Senator from Oklahoma (Mr. COBURN), the Senator from South Carolina (Mr. GRAHAM), the Senator from South Carolina (Mr. DEMINT), and the Senator from Indiana (Mr. LUGAR).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted "nay" and the Senator from Kentucky (Mr. BUNNING) would have voted "nay."

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

The result was announced—yeas 60, nays 34, as follows:

[Rollcall Vote No. 373 Leg.]

YEAS—60

Akaka	Franken	Murray
Baucus	Gillibrand	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Brown	Kaufman	Rockefeller
Burris	Kerry	Sanders
Byrd	Kirk	Schumer
Cantwell	Klobuchar	Shaheen
Cardin	Kohl	Shelby
Carper	Landrieu	Specter
Casey	Lautenberg	Stabenow
Cochran	Leahy	Tester
Collins	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Dodd	Lincoln	Warner
Dorgan	Menendez	Webb
Durbin	Merkley	Whitehouse
Feinstein	Mikulski	Wyden

NAYS—34

Alexander	Feingold	McConnell
Barrasso	Grassley	Murkowski
Bayh	Gregg	Risch
Bennett	Hatch	Roberts
Brownback	Hutchison	Sessions
Burr	Inhofe	Snowe
Chambliss	Isakson	Thune
Corker	Johanns	Vitter
Cornyn	Kyl	Voinovich
Crapo	LeMieux	Wicker
Ensign	McCain	
Enzi	McCaskill	

NOT VOTING—6

Bond	Coburn	Graham
Bunning	DeMint	Lugar

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 34. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Minnesota is recognized.

Mr. FRANKEN. Madam President, I rise today to speak in support of amendment No. 2795, which would repeal the antitrust exemption for health insurance and medical malpractice insurance. I thank my colleague Chairman LEAHY for championing this legislation, which is crucial to health reform and to working families around the country who pay too much in health insurance premiums.

We are on the verge of expanding health insurance to 31 million more Americans—an accomplishment that would be truly historic. But as heartened as I am about the relief this will bring to families, I am deeply concerned that this expansion could be a windfall for insurance companies if we don't include additional checks and balances. We should be putting significant Federal funds towards health insurance—but that money should go towards helping people afford health insurance, not towards lining the pockets of insurance companies and their CEOs.

As a country, we have long understood the profound importance of economic competition. Competition leads to greater entrepreneurship, creativity, and productivity for businesses. It leads to lower prices and higher quality for consumers. Competition is why America has created so many of the most innovative businesses in the world. It is also why we enacted anti-trust laws—because we need to protect this value we hold dear, and we know

that competition won't always happen on its own.

Because I understand the value of competition, I am extremely concerned about the antitrust exemption in current law for health insurance and malpractice insurance. It is indisputable that health insurance premiums have gone through the roof in recent years. From 1999 to 2008, median income rose about 24 percent, but insurance premiums grew by 131 percent. It is no wonder that so many American families are struggling to afford insurance.

These high premiums are directly connected to the lack of competition in statewide health insurance markets. Ninety-four percent of State health insurance markets are considered "highly concentrated," according to the U.S. Department of Justice. In 16 States, the two biggest health care insurance companies controlled 75 percent or more of the market in 2007. In Hawaii, that figure was 98 percent. In Rhode Island and Alaska, it was 95.

But while American families suffer, insurance company profits continue to rise. From 2000 to 2008, the major insurance companies made over \$59½ billion. Their profits rose by 428 percent from 2000 to 2007. And their CEOs are making big bucks themselves—in 2007, the CEO of Aetna took home \$23 million, while the CEO of CIGNA took home \$25.8 million.

The antitrust exemption for health insurance and malpractice insurance may have had a purpose at one point in time—it gave the health insurance companies time to respond to a major change in the law. When Congress passed the McCarran Ferguson Act in 1945, it was responding to a 1944 Supreme Court case that upended the insurance industry as they knew it. The bill passed without any hearings in the Senate and with very little debate in the House.

Most indications suggest that both the House and the Senate expected the antitrust exemption to be temporary. But somehow, through the conference report, this "temporary fix" became permanent—and health insurance markets have become more and more concentrated as a result.

This cannot continue. Senator LEAHY's amendment gives us the opportunity to further the American ideal of competition, and help working people in the process. I urge my colleagues to bring this amendment up for a vote, and to vote to repeal the antitrust exemption. This issue is just too important for us to wait any longer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I rise to speak on the pending bill before us, one of the great porkbarrel, earmark-filled pieces of legislation I have seen come before this body.

I would like to quote from ABC News, by Jonathan Karl and Devin Dwyer, "Tis the Season of 'Pork': Congress Gifts \$4 Billion in Earmarks."

Just weeks before returning to their districts for Christmas, Congress is poised to give the gift of pork—roughly \$4 billion of it.

More than 5,000 earmarks were included in the \$447 billion omnibus spending bill passed yesterday by the House, funding “pet projects” of key members of Congress from both parties and all regions of the country. The Senate will vote on the bill this weekend. . . .

Independent analyses of the bill reveal a whopping 12 percent increase in government spending for 2010 while the inflation rate in the country remains near zero.

Really, isn't that remarkable? A 12-percent increase in spending when people are out of jobs, out of their homes. They cannot afford, basically, what they need to sustain their lives, and we have increased spending by 12 percent and 4,500 earmarks, about \$4 billion of it.

“This Congress has not shown that they are at all serious about the budget deficit in any way,” said Brian Riedl of the Heritage Foundation. “The spending spree is continuing even as the deficit escalates to \$2 trillion.”

The earmarks are all explicitly listed in the bill—right next to the members of Congress who inserted them: \$800,000 for jazz at New York's Lincoln Center, for Rep. Jerold Nadler, D-N.Y., and Sen. Tom Harkin, D-Iowa. Harkin, and Rep. Leonard Boswell, D-Iowa, got \$750,000 for exhibits at the World Food Prize Hall in Iowa. Hawaii Democratic senators Dan Inouye and Daniel Akaka helped get \$3.4 million for a rural bus program in Hawaii.

“The country needs to be tightening its belt, just like the rest of America,” said Steve Ellis of Taxpayers for Common Sense.

Republicans have criticized the spending package, but many Democrats say it funds key priorities.

Two of the biggest earmarks are from Republican senators Thad Cochran and Roger Wicker of Mississippi at a cost of \$8 million for improvements to four rural State airports. One airport serves fewer than 100 passengers a day and another—the Mid-Delta Regional Airport—sees even less.

By the way, I have seen the pork extended to both of those airports over the years.

The new funds would come on top of \$4.4 million the airports just received from the stimulus package.

I am not making this up.

“We obviously have huge aviation and transportation needs in this country and stuffing millions of dollars in small, little-used airports in Mississippi is not a wise use of funds,” said Ellis.

President Obama had promised to curb the inclusion of earmarks in government spending bills but he has yet to issue the threat of a veto.

My friends, do not wait for the threat of a veto.

In March, Obama signed a \$410 billion spending package that contained nearly 8,000 pet projects.

“I am signing an imperfect omnibus bill because it's necessary for the ongoing functions of government,” Obama said at the time. “But I also view this as a departure point for more far-reaching change.”

What has changed? What has changed? Nothing. Nothing has changed.

Senate majority leader HARRY REID said about the last omnibus: We have a

lot of issues we need to get to after we fund the government—something we should have done last year but could not because of the difficulty we had working with President Bush.

Difficulty working with President Bush? Whom did the majority leader have trouble working with this time?

Again, I repeat, a 1,350-page Omnibus appropriations conference report, 6 bills, spends \$450 billion, 4,752 earmarks totaling \$3.7 billion, and a full 409 pages of this conference report are dedicated to listing congressional pork-barrel spending. Spending on domestic programs in this bill is increased 14 percent over the last fiscal year, while spending on military construction and care for veterans has increased by only 5 percent.

Let's look at a little bit of it. Transportation, Housing and Urban Development contains 1,400 earmarks totaling over \$1 billion. Commerce-Justice-Science contains 1,511 earmarks totaling \$715 million. The list goes on and on. Here we are with a deficit of \$1.4 trillion, a debt of \$12 trillion, unemployment at 10 percent, nearly 900,000 families lost their homes in 2008, yet there is every indication that the aggregate numbers for 2009 will be worse. With all this, we continue to spend and spend and spend. Every time we pass an appropriations bill with increased spending and load it up with earmarks, we are robbing future generations of Americans of the ability to obtain the American dream. Forty-three cents out of every dollar spent in this bill is borrowed from our children and our grandchildren and, unfortunately, generations after theirs. This is the greatest act of generational theft committed in the history of this country.

Let me go through a few of these, if I might, and remind people of the context this is in. In my home State of Arizona, 48 percent of the homes are “underwater,” meaning they are worth less than the mortgage payments people have to pay. We have small businesspeople losing credit everywhere. Instead of trying to fix their problems and helping them out, it is business as usual in the Senate of the United States of America and the Congress.

For example: \$200,000 for the Washington National Opera, Washington, DC, for set design, installation and performing arts at libraries and schools; \$13.9 million on fisheries in Hawaii—there is always Hawaii—nine projects throughout the islands ranging from funding bigeye tuna quotas, marine education and training, and coral research; \$2.7 million—one of my favorites—to support surgical operations in outer space at the University of Nebraska. As I have said many times—the common theme—you will always have a location designated for these projects. That is why some of them may be worthwhile, but we will never know because they don't compete them. They earmark them for the particular place they want to help. Unfor-

tunately, that shuts out other people. There may be other places besides the University of Nebraska that can support surgical operations in outer space. I suggest we get Dr. Spock and Bones out there to help at the university. I don't know if they live in Omaha or not. I am sure to them and all the others on “Star Trek,” surgical operations in outer space may be one of their priorities. It certainly isn't a priority of the citizens of my State.

One of the great cultural events that took place in the 20th century was the Woodstock Festival. In order to do a lot more research on that great cultural moment, we are going to spend \$30,000 for the Woodstock Film Festival Youth Initiative; \$200,000 to renovate and construct the Laredo Little Theater in Texas—people from all over America are flocking to the Laredo Little Theater, and they want to invest \$200,000 of their tax dollars into the Laredo Little Theater. The money would be used to replace worn auditorium seating and soundproofing materials. Anybody got a little theater that warrants soundproofing? Maybe they should apply to the Senator from Texas.

Continuing: \$665,000—I am not making this one up—for the Cedars-Sinai Medical Center in Los Angeles for equipment and supplies for the Institute for Irritable Bowel Syndrome Research. I have a lot of comments on that issue, but I think I will pass so as not to violate the rules of the Senate. There is \$500,000 for the Botanical Research Institute of Texas in Fort Worth. I am sure the Botanical Research Institute in Fort Worth is a good one. I would like to see other botanical research institutes able to compete. There is \$600,000 for water storage tower construction in Ada, OK, population 16,008; \$200,000 for a visitor center in Bastrop, TX, the population is 5,340; \$292,200 for elimination of slum and blight in Scranton, PA—that may have been put in by the cast of the office—\$229,000 for elimination of slum and blight in Scranton; \$200,000 for design and construction of the Garapan Public Market in the Northern Mariana Islands; \$500,000 for development of a community center—½ million—in Custer County, ID, population 4,343; \$100,000 for the Cleveland Municipal School District—they just picked one and gave them \$100,000—\$800,000 for jazz at the Lincoln Center; \$300,000 for music programs at Carnegie Hall; \$400,000 for Orchestra Iowa Music Education, Cedar Rapids, IA, to support a music education program; \$2.5 million for the Fayette County Schools in Lexington, KY, for a foreign language program; \$100,000 to the Cleveland Municipal School District in Cleveland, OH, to improve math and language skills through music education; \$700,000 for the National Marine Fisheries Service for the project Shrimp Industry Fishing Effort Research Continuation; \$1.6 million to build a tram between the Huntsville Botanical Garden and the

Marshall Flight Center in Alabama—how many places need \$1.6 million to build a tram, it will probably go out to the statue of Vulcan—\$250,000 for the Monroe County Fiscal Court for the Monroe County Farmers Market in Kentucky; \$750,000 for the design and fabrication of exhibits to be placed in the World Food Prize Hall of Laureates in Iowa; \$500,000 to support creation of a center to honor the contribution of Senator Culver, an Iowa State Senator, at Simpson College; \$400,000 to recruit and train closed captioners and court reporters at the AIB College of Business in Iowa; \$250,000 for renovating the Murphy Theatre Community Center in Ohio.

There is a lot more, and I will go through them briefly. The point is, you will notice several things. One, the preponderance of these pork-barrel and earmark projects is allocated to members of the Appropriations Committee, which is fundamentally unfair. Second, you will find these are designated to a certain place, to make sure none of that money is spent somewhere else where the need may be greater. Third, it breeds corruption. It is a gateway drug. What we are talking about is a gateway drug. It is especially egregious now.

Continuing: \$300,000 to monitor and research herring in Maine; \$200,000 to study Maine lobsters; \$250,000 for a Father's Day rally parade in Philadelphia. I scoff and make fun of a lot of these but \$250,000 for a Father's Day rally parade in Philadelphia. There is \$100,000 for the Kentler International Drawing Space, an art education program in Brooklyn. Here is a deprived area, \$75,000 for art projects in Hollywood Los Angeles Park; \$100,000 for a performing arts training program at the New Freedom Theater in Philadelphia; \$100,000 to teach tennis at the New York junior tennis league in Woodside, NY; \$2.8 million to study the health effects of space radiation on humans at the Loma Linda University, Loma Linda, CA; \$200,000 for the Aquatic Adventures Science Education Foundation in San Diego; \$100,000 to archive newspaper and digital media at the Mississippi Gulf Coast Community College in Perkinston, MS; \$3.9 million on researching weaving and knitting at Clemson University, Raleigh, NC, Philadelphia University, UC Davis in Davis, CA; \$90,000 for a commercial kitchen business incubator at the El Pajaro Community Development Corporation in Watsonville, CA; \$500,000 to study vapor mercury in the atmosphere at Florida State; \$1 million to examine sea scallops fisheries at the Massachusetts Marine Fisheries in Bedford; \$300,000 for seal and stellar sea lion biological research; \$300,000 for Bering Sea crab management; \$500,000 to upgrade the Baldwin County Courthouse security in Fairhope, AL; \$900,000 for the operational costs and capital supporting the Alien Species Action Plan cargo inspection facility in Maui; \$2 million to streetscape the city of Tus-

caloosa, AL; \$100,000 for an engineering feasibility study of a bike connector in Hiran, OH; \$400,000 for a pedestrian overpass in Des Moines; \$300,000 for a bike path in Cuellar, TX; \$900,000 for a river freight development study in Missouri; \$800,000 for a scenic trail in Monterey Bay, CA, another deprived area; \$750,000 for the Philadelphia Museum of Art Transportation Improvement Program, Brady, PA; \$500,000 for park-and-ride lots at Broward County, Meek, FL; \$487,000 to restore walkways in Newport Cliff, RI, another low-income area; \$974,000 for Regional East-West and Bikeway in Albuquerque.

The list goes on and on and on, up to nearly \$4 billion. The problem is, among other problems, in the last campaign, the President campaigned for change, change you can believe in. There is no change here. It is worse. It is worse because of the conditions Americans find themselves in—out of their homes, out of jobs, high unemployment, tough economic conditions. It is business as usual, spending money like a drunken sailor, and the bar is still open.

I tell my colleagues, again, what I keep saying over and over: There is a peaceful revolution going on. They are sick and tired of the way we do business in Washington. They don't think their tax dollars should be spent on these pork-barrel earmarked projects. They are mad about it. We are not getting the message. We are not hearing them. We are not responding to the problems and the enormous challenges the American people have. We are continuing this kind of obscene process, which not only is wrong on its face but breeds corruption in Washington.

I ask unanimous consent that the AP story "Senate Set to Advance \$1.1 trillion Spending Bill" be printed in the RECORD, as well as the ABC News story and the FOX News story "Watchdogs Cry Foul Over Thousands of Earmarks in Spending Bills."

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

SENATE SET TO ADVANCE \$1.1T SPENDING BILL (By Andrew Taylor)

WASHINGTON.—The Senate is poised to clear away a Republican filibuster of a huge end-of-year spending bill rewarding most federal agencies with generous budget boosts.

The \$1.1 trillion measure combines much of the year's unfinished budget work—only a \$626 billion Pentagon spending measure would remain—into a 1,000-plus-page catch-all spending bill that would give Cabinet departments such as Education, Health and Human Services and State increases far exceeding inflation.

After a 60-36 test vote on Friday in which Democrats and a handful of Republicans helped the measure clear another GOP obstacle, the bill was expected to win on Saturday the 60 Senate votes necessary to guarantee passage. A final vote is expected Sunday.

The measure provides spending increases averaging about 10 percent to programs under immediate control of Congress, blending increases for veterans' programs, NASA and the FBI with a pay raise for federal workers and help for car dealers.

It bundles six of the 12 annual spending bills, capping a dysfunctional appropriations process in which House leaders blocked Republicans from debating key issues while Senate Republicans dragged out debates.

Just the \$626 billion defense bill would remain. That's being held back to serve as a vehicle to advance must-pass legislation such as the debt increase.

Saturday's bill would offer an improved binding arbitration process to challenge General Motors' and Chrysler's decisions to close more than 2,000 dealerships, which often anchor fading small town business districts. It also renewed for two more years a federal loan guarantee program for steel companies.

The bill also caps a heated debate over Obama's order to close the military-run prison for terrorist suspects at Guantanamo Bay, Cuba. It would permit detainees held there to be transferred to the United States to stand trial but not to be released.

The bill would also void a long-standing ban on the funding of abortion by the District of Columbia government and overturns a ban on federal money for needle exchange programs in the city. It also phases out a D.C. school voucher program favored by Republicans and opens the door for the city to permit medical marijuana.

It would also lift a nationwide ban on the use of federal funds for needle-exchange programs.

Federal workers would receive pay increases averaging 2 percent, with people in areas with higher living costs receiving slightly higher increases.

Once the bill clears the Senate, it would advance to President Barack Obama's desk.

WATCHDOGS CRY FOUL OVER THOUSANDS OF EARMARKS IN SPENDING BILL

Republicans and taxpayer watchdogs are railing against the thousands of earmarks included in the omnibus spending bill that passed the House Thursday and is awaiting a vote in the Senate.

Republicans and tax watchdog groups are railing against the thousands of earmarks included in the omnibus spending bill that the House passed Thursday and is awaiting a vote in the Senate.

The \$1.1 trillion bill includes \$447 billion in operating budgets for 10 Cabinet departments. Mixed in are more than 5,000 earmarks totaling \$3.9 billion, according to watchdog Taxpayers for Common Sense.

Pork-watchers are only just beginning to sort through the earmarks, which typically are goodies set aside for the districts of members of Congress, as the bill tracks toward a final vote. So far, they've uncovered gems ranging from \$700,000 for a shrimp fishing project in Maryland to \$30,000 for the Woodstock Film Festival Youth Initiative to \$200,000 for a visitor's center in a Texas town with a population of about 8,000.

"Let's stop the madness," House Republican Leader John Boehner said, before the bill passed without any GOP support. Twenty-eight House Democrats also opposed it.

House Minority Whip Eric Cantor, R-Va., wrote to President Obama urging him to veto the bill, and pledging that Republicans would stand by him if he did.

Obama in March waved off controversy over a \$410 billion spending bill that also was riddled with earmarks, arguing that it represented "last year's business." This time around, Boehner said, the president needs to crack down on the pork under his watch.

Republicans, though, have hardly shied away from the earmarks. Sen. Thad Cochran, R-Miss., is pushing \$200,000 for the Washington National Opera. Sen. Judd Gregg, a fiscal hawk, is behind a \$1 million earmark for renovation at the Portsmouth Music Hall.

Taxpayers for Common Sense reports a total of 5,224 earmarks in the 2010 spending bill, which also includes funding for Medicare and Medicaid. Groups like Citizens Against Government Waste, as well as Sen. John McCain's staff, have drawn attention to dozens of items they consider questionable. Here's just a sampling:

—\$150,000 for educational programs and exhibitions at the National Building Museum.

—\$400,000 for renovation of the Brooklyn Botanical Garden.

—\$150,000 for exhibits at the Theodore Roosevelt Inaugural Site Foundation in Buffalo, N.Y.

—\$500,000 for Mississippi River exhibits at the National Mississippi River Museum and Aquarium in Dubuque, Iowa.

—\$200,000 for the Washington National Opera.

—\$30,000 for the Woodstock Film Festival Youth Initiative.

—\$2.7 million for the University of Nebraska Medical Center, to support surgical operations in space.

—\$200,000 for a visitor's center in Bastrop, Texas.

—\$700,000 for a project called, "Shrimp Industry Fishing Effort Research Continuation," at the National Marine Fisheries Service in Silver Spring, Md.

—\$292,200 for the elimination of blight in Scranton, Pa.

—\$750,000 for exhibits at the World Food Prize Hall of Laureates in Iowa.

—\$1.6 million for a tram between the Marshall Flight Center and Huntsville Botanical Garden in Alabama.

—\$655,000 for equipment at the Institute for Irritable Bowel Syndrome Research in Los Angeles.

Republicans have been on a tear over earmarks and excessive spending over the past week, particularly as Congress prepares to take up a new jobs-creation package and raise the debt ceiling by nearly \$2 trillion.

Rep. Mark Kirk, R-Ill., and Rep. Tom Price, R-Ga., on Thursday named what they called the 11 most wasteful spending projects considered by Congress so far this year.

On Wednesday, four Republican lawmakers demanded an audit of the \$787 billion stimulus program following reports of exaggerated or inaccurate accounts of the number of jobs created.

McCain, R-Ariz., and Sen. Tom Coburn, R-Okla., on Tuesday released a report on 100 "questionable" stimulus projects worth nearly \$7 billion.

Mr. MCCAIN. Madam President, I am sorry to be repetitive. I know my colleague is waiting, so I will end with this: This is wrong. We all know it is wrong. The American people know it is wrong. People who vote for this kind of porkbarrel spending are going to be punished by the voters, and we are going to end this obscene process, and we are going to end it soon, as early as the next election.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, we are now considering a bill that represents a dramatic expansion in government spending, as the Senator from Arizona has so eloquently stated. This Omnibus appropriations bill represents a 12-percent increase over last year—a fiscal year that ended with the largest deficit in American history of \$1.4 trillion.

I do not know of any other area in the economy where people are spending

12 percent over what they spent last year. Certainly no family budget in America, no business in America is spending 12 percent more this year than they did last year—while we see 10 percent of our people unemployed.

Millions of families across the country and small businesses are, in fact, tightening their budgets. But the budgets of these Federal agencies and of the Federal Government itself keep expanding. There is a 33-percent increase in spending for foreign operations, a 23-percent increase in Transportation, Housing, and Urban Development.

One of the worst things this spending is doing is creating tremendous uncertainty, both here at home and in other places such as China which are buying our debt, about whether we are ever going to get serious about our fiscal responsibility.

The President asked last week why job creators were not stepping up and creating jobs. Well, the fact is, people are watching what we are doing in Congress, and they do not know what the rules will be 6 months from now or a year from now or whether Congress will ever recover from this binge it has been on when it comes to spending.

But it is clear we cannot spend—we cannot spend—our way out of this recession. Job creators are scared. They are scared, and they are sitting on the sidelines because all of the spending, all of the tax increases, all of the government takeovers coming out of Washington, DC, these days leave them with the sense that they do not know what the rules are going to be. And why in the world would you want to create a job, expand your business, or make an investment when the very premise upon which you did so would change because of all the chaos in Washington?

The facts of our debt crisis are not in dispute. The total public debt stands at about \$12 trillion. We have, in 2009, a \$1.4 trillion fiscal deficit. In other words, we have spent more than \$1.4 trillion than the Treasury brought in in fiscal year 2009. Then we are accumulating debt even faster during this year than we did last year.

According to the Treasury Department, the deficit for the first 2 months—2 months—of the new fiscal year was almost \$300 billion—\$300 billion for 2 months—a total larger than the full-year deficits in 2002, 2006, or 2007. So in 2 months, the deficit was worse than it was for the entire years of 2002, 2006, and 2007.

Our deficits will average nearly \$1 trillion every year for the next decade—\$1 trillion every year for the next decade—according to the administration. This ought to be a shot across our bow.

Moody's Investors Service said its debt rating on U.S. Treasury securities may "test the Triple-A boundaries." The translation of that is they are beginning to doubt whether at some point the U.S. Government will be able to pay its bills or will default on those

bills at some point hopefully not any time soon. But this is the sort of pressure we are putting not only on our ability to create jobs but on our future and particularly on our children's future, if we cause Moody's Investors Service and others to rate U.S. Treasury securities less than a Triple-A rating.

Well, we know soon our colleagues on the other side of the aisle are going to ask Congress to vote to lift the debt ceiling. In other words, this is like the credit limit on your credit card. Once Congress is bumped up against that \$12 trillion debt ceiling, Congress is going to have a vote on whether to ask the American people and people buying our debt whether we can increase the limit of our credit card because we have maxed it out.

Media reports indicate that the majority intends to slip this provision into a bill on funding our troops in Afghanistan because, frankly, they are embarrassed to have a stand-alone vote on raising the debt ceiling, especially because they know there are many of us on both sides of the aisle who will insist on some measure to effect some discipline on this spending binge as a condition to voting on the debt ceiling. But whatever the vehicle the majority leader decides upon, they cannot hide the fact that we are borrowing money so fast that we will have to raise the debt ceiling another 15 percent.

Conveniently, this increase will get the government through the next midterm elections, it is reported according to some experts. Not a coincidence. No one, particularly those in control of the Congress, wants to have another vote on lifting the debt ceiling or asking the American people to raise the credit card limit before the next election because they know the American people are increasingly angry and frightened by the spending binge they see here, and particularly the accumulating debt.

That is not even getting to the financial crisis that entitlement programs are facing, such as Medicare and Social Security. We know Medicare's unfunded liabilities are roughly \$38 trillion. I realize that number is so big that there are perhaps none of us who can fully comprehend how much money that is—but \$38 trillion in unfunded liabilities for Medicare alone. Yet the proposed Medicare "compromise" among 10 Democrats would roughly double the burden of Medicare and not fix it but actually make things worse.

Well, I want to mention one other item of fiscal irresponsibility I have witnessed. I think we need to cancel one of the credit cards that has been used by the administration—not just this administration but the past administration—and Congress for purposes Congress never intended when it authorized this program, the Troubled Asset Relief Program or TARP.

I know the Senator from South Dakota is on the Senate floor. He has been one of the leaders in this effort

because he believes, I think, as I do, that we cannot amend it, so we need to end it. We need to cut out this revolving credit account that is being used for inappropriate purposes known as TARP, the Troubled Asset Relief Program.

Let's go back and look at why TARP was authorized by Congress in October of 2008. It is important to remember what the situation was at that time. Treasury Secretary Henry Paulson and Federal Reserve Chairman Ben Bernanke had many conversations with legislators on both ends of the Capitol on both sides of the aisle, and they said in their public testimony—on September 23, Secretary Paulson said that Congress must act “in order to avoid a continuing series of financial institution failures and frozen credit markets that threaten . . . the very health of our economy.”

In private, their diagnosis was even more dire. We were told “that we're literally maybe days away from a complete [financial] meltdown of our financial system” in the United States unless Congress acts to authorize the Troubled Asset Relief Program.

Many of us, including myself, voted for TARP because we were told by the smartest people on the planet that unless we did this, our economy would suffer an economic meltdown. But I must tell you, I am extremely disappointed that the very nature of the program was changed after Congress authorized it. For example, we were told by Secretary Paulson and others that the money would be used for one purpose, and one purpose only; that is, to purchase toxic assets.

Well, there is a saying that says: “Fool me once, shame on you. Fool me twice, shame on me.” And we were fooled into believing that the TARP would be used to purchase these toxic assets and get them off the books as a way of protecting pensions, savings, and investments of hard-working American taxpayers.

Unfortunately, the very people who promised us and told us what purpose the TARP would be used for misled us because two administrations now—the previous administration and this administration—have used TARP as if it were a big government slush fund. They ignored the clear language of the TARP legislation, and they have repeatedly defied the will of Congress.

Let me briefly mention how the TARP funds have been used in a way that Congress never authorized and never intended.

Only weeks after TARP was enacted, the Bush administration abandoned this stated goal of purchasing toxic assets. Instead, the administration funneled billions of dollars directly into some of the Nation's largest financial institutions, making huge purchases of stock and warrants of some of the Nation's largest financial institutions.

The Federal Government, in other words, began acquiring ownership, stakes in banks, financial institutions,

and, yes, even car manufacturers, with the full support of the Obama administration. In fact, the Obama administration has even gone so far as to use TARP to set executive pay at several companies. During the reorganization of General Motors, the Obama administration has used that leverage to benefit its union allies over the rights of secured bondholders who had loaned their money to these companies. I have been a vocal opponent of this misuse of TARP by both administrations.

In December 2008, I joined my colleagues in voting against the government bailout of the auto industry, a vote ignored by both the previous administration and the current administration.

Earlier this year, I supported a TARP disapproval resolution that would have stopped the program dead in its tracks because of this misrepresentation of the purpose for which these funds would be used. I have also supported several initiatives that would have increased TARP transparency and congressional oversight.

Then, in September, I joined many of our colleagues in sending a letter to Secretary Tim Geithner, at Treasury, asking him not to extend his TARP authority beyond the end of this year, as the law allows him to do. This would have eliminated the need for the government to borrow more money through this program. But, unfortunately, Secretary Geithner notified Congress that he has extended TARP authority until next October.

Now we read that the administration is proposing using repaid TARP funds; that is, money that was loaned to these large financial institutions that is now being repaid—that Treasury anticipates using this for a second stimulus plan. Well, I guess that is because they think the first stimulus plan worked so well.

You will recall, the stated objective was to hold unemployment below 8 percent. Well, it has gone above 10 percent and, frankly, I think we need to learn from our mistakes as well as things we have done right. It would be a mistake to put more money, particularly TARP money, into a new stimulus plan and have it work so ineffectively, as the first stimulus plan did.

Repaid TARP dollars cannot pay for anything. TARP is like a credit card. Every dollar spent is a borrowed dollar, adding up additional deficits, additional debt. Using TARP on new spending would break the promise the President made when he voted for TARP in this very Chamber. At that time, then-Senator Obama said:

[I]f American taxpayers are financing this solution, then they have to be treated like investors. They should get every penny of their tax dollars back once the economy recovers.

That was then-Senator Obama, now President of the United States.

I would just conclude by saying, Congress should help the President keep his promises, even when it seems he

has changed his mind now, by suggesting that we extend TARP and use TARP on a purpose that Congress has never authorized and never intended.

It seems like the bad ideas never end when it comes to spending and debt out of Washington, DC, these days. In addition to all of these other problems I have mentioned, I have not talked about this health care bill, which would exacerbate and make much worse the deficits and debt situation, and not make it better—all the time while not bending the cost curve down but making things worse, raising premiums, raising taxes, cutting Medicare.

We need to end TARP because, frankly, it is being misused in ways that Congress has never authorized and never intended and, indeed, over the very objections of Congress. We need to learn from our mistakes. Frankly, the stimulus spending, which I voted against because I thought it was based on an academic theory which had not been proven, which was that Congress knew better than the American people how to get the economy working again—by direct spending, by spending borrowed money, the \$1.1 trillion in the stimulus plan—we need to end these free-spending ways and show some fiscal responsibility. The best way we could do that, in my opinion, would be to end this program which has been the subject of so much abuse and misuse.

I ask unanimous consent that the following letter, dated January 15, 2009, from then-Director-Designate of the National Economic Council, Lawrence H. Summers, be printed in the RECORD.

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

THE OFFICE OF THE PRESIDENT ELECT,

Washington, DC, January 15, 2009.

Hon. NANCY PELOSI,
Speaker,
House of Representatives.
Hon. JOHN BOEHNER,
Republican Leader,
House of Representatives.
Hon. HARRY REID,
Majority Leader,
U.S. Senate.
Hon. MITCH MCCONNELL,
Republican Leader,
U.S. Senate.

DEAR MADAM SPEAKER, LEADER BOEHNER, LEADER REID AND LEADER MCCONNELL: Thank you for the extraordinary efforts you have made this week to work with President-Elect Obama in implementing the Emergency Economic Stabilization Act of 2008. In addition to the commitments I made in my letter of January 12, 2009, the President-Elect asked me to respond to a number of valuable recommendations made by members of the House and Senate as well as the Congressional Oversight Panel. We completely agree that this program must promote the stability of the financial system and increase lending, preserve home ownership, promote jobs and economic recovery, safeguard taxpayer interests, and have the maximum degree of accountability and transparency possible.

As part of that approach, no substantial new investments will be made under this program unless President elect Obama has reviewed the recommendation and agreed

that it should proceed. If the President elect concludes that a substantial new commitment of funds is necessary to forestall a serious economic dislocation, he will certify that decision to Congress before any final action is taken.

As the Obama Administration carries out the Emergency Economic Stabilization Act, our actions will reflect the Act's original purpose of preventing systemic consequences in the financial and housing markets. The incoming Obama Administration has no intention of using any funds to implement an industrial policy.

The Obama Administration will commit substantial resources of \$50-100B to a sweeping effort to address the foreclosure crisis. We will implement smart, aggressive policies to reduce the number of preventable foreclosures by helping to reduce mortgage payments for economically stressed but responsible homeowners, while also reforming our bankruptcy laws and strengthening existing housing initiatives like Hope for Homeowners. Banks receiving support under the Emergency Economic Stabilization Act will be required to implement mortgage foreclosure mitigation programs. In addition to this action, the Federal Reserve has announced a \$500B program of support, which is already having a significant beneficial impact in reducing the cost of new conforming mortgages. Together these efforts will constitute a major effort to address this critical problem.

In addition to these commitments, I would like to summarize some of the additional reforms we will be implementing.

1. Provide a Clear and Transparent Explanation for Investments:

For each investment, the Treasury will make public the amount of assistance provided, the value of the investment, the quantity and strike price of warrants received, and the schedule of required payments to the government.

For each investment, the Treasury will report on the terms or pricing of that investment compared to recent market transactions.

The above information will be posted as quickly as possible on the Treasury's website so that the American people readily can monitor the status of each investment.

2. Measure, Monitor and Track the Impact on Lending:

As a condition of federal assistance, healthy banks without major capital shortfalls will increase lending above baseline levels.

The Treasury will require detailed and timely information from recipients of government investments on their lending patterns broken down by category. Public companies will report this information quarterly in conjunction with the release of their 10Q reports.

The Treasury will report quarterly on overall lending activity and on the terms and availability of credit in the economy.

3. Impose Clear Conditions on Firms Receiving Government Support:

Require that executive compensation above a specified threshold amount be paid in restricted stock or similar form that cannot be liquidated or sold until the government has been repaid.

Prevent shareholders from being unduly rewarded at taxpayer expense. Payment of dividends by firms receiving support must be approved by their primary federal regulator. For firms receiving exceptional assistance, quarterly dividend payments will be restricted to \$0.01 until the government has been repaid.

Preclude use of government funds to purchase healthy firms rather than to boost lending.

Ensure terms of investments are appropriately designed to promote early repayment and to encourage private capital to replace public investments as soon as economic conditions permit. Public assistance to the financial system will be temporary, not permanent.

4. Focus Support on Increasing the Flow of Credit:

The President will certify to Congress that any substantial new initiative under this program will contribute to forestalling a significant economic dislocation.

Implement a sweeping foreclosure mitigation plan for responsible families including helping to reduce mortgage payment for economically stressed but responsible homeowners, reforming our bankruptcy laws, and strengthening existing housing initiatives like Hope for Homeowners.

Undertake special efforts to restart lending to the small businesses responsible for over two-thirds of recent job creation.

Ensure the soundness of community banks throughout the country.

Limit assistance under the EESA to financial institutions eligible under that Act. Firms in the auto industry, which were provided assistance under the EESA, will only receive additional assistance in the context of a comprehensive restructuring designed to achieve long-term viability.

The incoming Obama Administration is committed to these undertakings. With these safeguards, it should be possible to improve the effectiveness of our financial stabilization efforts. As I stressed in my letter the other day, we must act with urgency to stabilize and repair the financial system and maintain the flow of credit to families and businesses to restore economic growth. While progress will take time, we are confident that, working closely with the Congress, we can secure America's future.

Sincerely,

LAWRENCE H. SUMMERS,
*Director-Designate,
National Economic Council.*

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Madam President, I ask unanimous consent to speak as in morning business.

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

Mr. NELSON of Florida. Madam President, we have in front of us appropriations bills. We have heavy matters of the deficit. We have heavy matters of how we are going to get the U.S. Government to get its fiscal house in order.

I remind the Senate the last time we had a surplus was in 2001. If we had been wise and had not cut the revenue of this country so significantly, we could have been good stewards of that healthy surplus and we could have paid off the national debt over a 12-year period, and we wouldn't be where we are today, but we are. While these matters are weighing heavily on us, it seems our attention is being continuously diverted to other things, such as White House party crashers and the unfortunate circumstance that one of the most famous athletes, Tiger Woods, finds himself in.

We have a debate about the health care bill and it seems that during the course of last summer, the whole health care debate was about one subject and that was the question of the

public option. We now know, because all the experts are telling us, that if we have a public option as a part of this health insurance exchange, the exchange itself will only cover something like 15 to 20 percent max of the people, and the public option would only include something like 4 million or 5 million people, and that we are talking about 1.5 percent of the total folks in the country. Yet the debate raged all summer as if that were the only issue about health reform.

So here we find ourselves trying to pass a health reform bill with so much attention diverted elsewhere, with people pushing and pulling and tugging—all the special interests—how in the world can we bring this together? How do we bring it together so we can get the high threshold of 60 votes in the Senate?

On the one hand, there are the insurance companies. The insurance companies have a huge stake. Now the insurance companies are running TV advertisements all over the country trying to kill this bill because they realize there is going to be a limitation on their ability to do everything they want to do and to charge what they want to charge and to cancel at will, and to have frivolous reasons such as a skin rash as a preexisting condition and therefore we are not going to insure you. That is what has led to us getting to the point of saying, "Enough. We are going to pass a health insurance reform bill."

Then, of course, what comes to light is suddenly, in this package that was not in the package that came out of the Senate Finance Committee but is in this package, there is actually a nod to the insurance industry in the form of a limitation on the amount of payments that could be made on anyone's insurance policy in one year. Well, again, there is a lot of opportunity for mischief and abuse. We have to correct things such as that.

Is there anyone who doubts that we don't need health insurance reform and health care reform, even though we are getting the opposite messages from the insurance companies; that we are getting the opposite messages from anybody who is a special interest that doesn't get entirely what they want? What are some of those? Hospitals, doctors, all kinds of health providers, medical device manufacturers, and the various interests of patients. But if you look at it, you can't get all that you want, Mr. Special Interest, and instead, keep in mind the goal we are trying to achieve, and that is take a system that is near tilt and get it on the road to reform.

There is another part of this reform we have to do and that is that the U.S. Government cannot afford the cost escalation that is going on in its payment of Medicare and Medicaid. So there are reforms we can enact, many of which are in this bill, such as accountable care organizations that will follow the patient; electronic records

that will modernize records so that any doctor or health care provider who sees the patient will have up-to-date access to what has been the care so that records are not lost; emphasis on a primary care physician who can do a lot of preventive care before the emergency ever gets there; then, of course, utilizing a lot of the miracles of modern medicine including pharmaceuticals to hold off conditions so that we don't get to that emergency; so that if you are not insured you end up at the emergency room, or even if you are insured you end up at the emergency room, which is the most expensive place to get care.

Is there a lot we can do? Yes. It is what we must do. With the hurdle in this Senate being so high that we have to get 60 votes to close off debate, we have to be successful. It will not be pretty and it will not be perfect, but it will be a step in the right direction.

There are portions of this proposed law that will take effect not immediately but a year or two or three down the road, and if we have made mistakes, we can correct those mistakes, but we must be successful. For us to turn back now, no matter who is arguing against it, for us to protect a special interest, no matter who is arguing for it, at the expense of the greater good of health care reform, would be a drastic mistake. Not one of us will be happy going home to our families for Christmas if we don't enact this. It is for those reasons that I feel very strongly we will be successful, as difficult and as tortuous as this process is. This Senator will keep pressing forward until we get that final passage.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I understand that maybe I will have my speech interrupted by a unanimous consent request from the leadership, so if that happens, I ask that my remarks be continuous throughout the RECORD.

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

Mr. GRASSLEY. There has been a lot of talk over the past few days about Senator REID's so-called compromise. Although he said he has broad agreement, I have yet to see any specific details. In fact, it sounds as though Members of his very own caucus, the Democratic caucus, aren't aware of these details either.

I find it quite hard to understand how there can be "broad agreement" on something when they don't know what is in it. Of course, I hope we will see details very soon. An issue such as health care reform affecting 306 million Americans and restructuring one-sixth of our economy is something that should not be done in secret. And when the so-called compromises come out, I would expect we would have the same 72 hours on the Internet for the public and the 99 Members of this body other than the leader to review them in the totally transparent way we have al-

ways been promised, and as this 2,074-page bill has been transparent, as well as all of the amendments. Because this is one of the biggest and most important pieces of legislation I have worked on in all of my years in the Congress. So I hope Senator REID is not planning to keep the details of his compromise under wraps and then ask us to vote on it. This piece of legislation is going to touch the lives of every single American, from the cradle to the grave, so we owe it to our constituents to make sure we have sufficient time to study any changes to the underlying bill. We all need to remember that it is their money, the taxpayers' money, that is being spent on this bill, not ours.

As I have said, so far, Senator REID is keeping this "broad agreement" under wraps. So today I can only talk about what I have heard from my colleagues or read in the newspaper, and who knows whether what the newspaper or our colleagues are surmising what this compromise might be actually is.

I have heard the majority leader is planning to expand the already unsustainable Medicare Program. The idea has been met with, of course, strong opposition, as we would expect from hospitals, doctors, and other health care providers, particularly from rural America, because expanding Medicare to people ages 55 to 64 and paying Medicare rates is going to make it even more difficult for our hospitals to survive because the Federal Government only reimburses 80 percent of costs.

Today, with people over 65, with the government not paying more than 80 percent, it can be offset by private sector charges by the hospitals to a greater amount to make it up. But if you load another tens of millions of people on Medicare—and it is just about broke anyway—you can see that this deficit of our hospitals is going to be greater and it is going to be even more difficult to make up because there will be fewer private-paying people to make up the deficit.

I said the hospital, doctors, and health care providers are bringing strong opposition to this idea of expanding the Medicare Program because they fear that the largest expansion of Medicaid in history and an expansion of Medicare to people age 55 to 64 will drive providers out of business. And then what, of course, does that do for our seniors? It makes it even harder for low-income Americans under Medicaid and seniors under Medicare to have access to care. What are the promises of the Federal Government in Medicare worth if you don't have doctors to provide the services to the seniors when they get sick?

I have already spoken over the last few days about why I agree with these providers and why I oppose that part of Senator REID's so-called compromise. Of course, now we have the administration's own Chief Actuary confirming that the Medicare cuts already in this bill—in other words, the 2,074-page bill,

without even considering the so-called Reid compromise, which we don't know what it is—the Chief Actuary confirmed that the Medicare cuts already in the bill are so severe that providers might, even now, end their participation in the program, even before you add on all the people who are 55 to 64. If the compromise expands Medicare even further, then this is going to make this problem even worse.

I also find it curious that some would even consider this a compromise. For instance, Speaker PELOSI could not convince House Democrats to support a government-run plan paying Medicare rates, but that is exactly what Senator REID's compromise is proposing. I have been told. That doesn't sound like much of a compromise to me.

In fact, let me quote another Congressman, ANTHONY WEINER of New York, who doesn't see it as a compromise either. In fact, he sees it as a big step toward their ultimate goal of a single-payer health plan where government is going to run everything. And you will have one choice: the government plan. You won't have choices the way we have in America today.

Congressman WEINER said this:

This exchange would perhaps get us on the path to a single-payer model.

I don't see this as a compromise to a government-run plan. In fact, in some ways, it is worse because this could harm seniors' access to care starting not down the road but on day one.

I don't want to spend too much time today talking about Medicare expansion. I think I have made my feelings on this idea pretty clear. Instead, I would like to focus on another aspect of the supposed new Reid compromise we are hearing about.

This is what we are hearing about—that the newest Reid proposal would have the Office of Personnel Management operate a national health insurance plan. This may sound pretty harmless at first glance, especially since Senator REID has refused to release any details, but there are some very big problems with a proposal like having the Office of Personnel Management take over.

Around here, we use the term "OPM" for the Office of Personnel Management. It is the office in charge of the Federal Government's 2 million-person workforce. One could consider OPM as the human resource agency or department for all of the Federal Government, dealing with everything from salaries to the operation of the Federal Employees Health Benefits Program, which I think is the reason Senator REID thinks this agency would be well equipped to run the largest insurance company in the country.

Unfortunately, a former Director of OPM disagrees. He was asked about giving new responsibilities to the Office of Personnel Management. This former Director, Linda Springer, said this:

I flatout think that OPM doesn't have the capacity to do this type of role.

Federal employees have also expressed concern. People in this body—particularly the other party—ought to be listening to the National Treasury Employees Union or the National Active and Retired Federal Employees Association. They have come out in opposition to this proposal of OPM running a national health insurance company.

In a Washington Post story highlighting union opposition, the author writes that unions raise these concerns:

... legitimate concerns about expanding the size and scope of OPM beyond its capacity.

So there are already concerns from a former Director and more than 5 million Federal workers and retirees and dependents that OPM is not equipped to handle this new responsibility. That alone should make any Member pause before signing on to this so-called broad agreement.

I also think it is important that Members are aware of some of the challenges the Office of Personnel Management faces with its current responsibility, without loading it down with a lot more, because being the human resources department for the Federal Government is, obviously, no easy task. In fact, I would imagine it is a pretty thankless job that entails a lot of long hours.

Please don't misconstrue my comments as an attack on OPM, its Director, or any of its employees. They do the best job they can under difficult circumstances. But they are going to have real problems if Senator REID's compromise does include a government-run insurance plan operated by OPM. If he is going to come out of nowhere with a new proposal to hastily hand the American health insurance system over to this government agency, I think it is important for the American people to know what they are getting into.

We need to be asking some hard questions. Is this expansion of the Federal Government necessary? We are about to vote to raise the debt ceiling by \$1.8 trillion because the national credit card has maxed out. Some Members of the Senate seem intent upon increasing the size of the Federal Government even more.

There is a second question beyond the generic one of, can you afford to expand the Federal Government role and expenditures. It is, should the OPM, a government agency, be handed the key to the largest health insurance plan in the entire country? I don't know that the current OPM Director—and I would imagine he is a very nice person, and since I don't know him, I don't want him to take offense to what I say. But I think it is fair to point out that his position, just prior to taking over at OPM, was running the National Zoo. Does this really mean we should put him in charge of the national health insurance plan?

The Office of Personnel Management has been consistently criticized for

being out of date and being inefficient on everything from processing national security projects to administering Federal benefits. We have all heard about the massive backlog in people waiting for Social Security disability benefits. Some 833,000 Americans are currently on a waiting list to see if they qualify for government disability benefits, and some Members blame OPM for this backlog.

I am going to put a chart up here from a person whom I trust in the House of Representatives, Representative EARL POMEROY. I think he does very excellent work. He heard about this backlog. He made some comments about OPM. Congressman POMEROY is a Democrat from North Dakota and a member of the very powerful House Ways and Means Committee. He said:

The Office of Personnel Management is fiddling around, years go by before they can even get around to all the things they have to get around to. . . .

This seems to reinforce what the government unions and the former Director have expressed about OPM's ability to handle this new responsibility.

I want to continue to quote Congressman POMEROY:

People are being hurt, some of the most vulnerable people in this country are being hurt every day because of bureaucratic bungling at OPM. . . .

Senator REID hasn't provided enough details, but Congressman POMEROY's comments certainly raise concerns.

Undermining the availability of disability benefits is bad enough, but do my colleagues want to also be responsible for setting up an unworkable system that leaves hundreds of thousands of Americans on the waiting list for their health care benefits?

Government agencies, whether it is the Office of Personnel Management or some other agency, do not have an impeccable track record. As President Reagan often said, the nine most terrifying words in the English language are "I'm from the government and I'm here to help." Think of a health care system with the responsiveness of Hurricane Katrina or think of the efficiency of the Internal Revenue Service or the customer service at the department of motor vehicles. That doesn't sound like a recipe for real health reform to me.

The OPM has also taken considerable criticism for its handling of retiree benefits. The agency's own 2008 financial report stated:

[The Office of Personnel Management] had increased difficulty keeping up with retirement claims and had a decrease in the number of customers satisfied with their services.

That is coming directly from the agency, saying how it is coming up short responding to the needs of the American people, and particularly government employees, and that is before we are talking about adding a new government health insurance program to the responsibilities of OPM.

The Hill newspaper wrote this last week:

Watchdogs maintain the program is riddled with inefficiencies that ultimately cost both the agency and the Federal Government money.

So I think there are legitimate concerns about whether this Federal agency is even equipped to take on the additional responsibilities of a whole new government countrywide program that is obviously a massive undertaking.

I also wonder why this proposal is even necessary. The bill already sets up government-run exchanges that would offer a choice of competing for-profit or not-for-profit plans. My colleagues on the other side of the aisle have compared this system to the Federal Employees Health Benefits Program. This bill already has provisions that encourage national health plans. This leads me to ask the question: Why does this bill need another layer of bureaucracy to create a national plan run by a government agency?

Some have suggested this is just another backdoor attempt to end up with a government-run plan. Another detail that has been reported supports this claim. We have been told that if not enough not-for-profit plans agree to contract with the Office of Personnel Management or if they do not meet certain affordability standards, the Office of Personnel Management will have the authority to establish its own government-run plan.

With some of the other provisions that are in this bill, this trigger approach seems to be rigged. There are at least two reasons why this is the case. First, the bill undermines any ability to avoid the first government plan trigger to make health coverage more affordable. The bill puts in place a bunch of new regulatory reforms, a bunch of fees, and a lot of taxes that will drive up premiums, making it impossible for health plans to meet new affordability requirements.

Again, you are going to say you question this Senator's judgment saying that. Do not take my word for it. The nonpartisan Congressional Budget Office, a group of professionals who do not care about politics, predicts premiums will be 10 to 13 percent more expensive as a result of this bill.

Then, of course, we have the second government plan trigger which gives the Office of Personnel Management the authority to create a government-run plan if not enough not-for-profit national plans contract with OPM.

Senator REID failed to mention in announcing his broad agreement that there is not one national plan in existence today, for-profit or not-for-profit—not one national plan—that is offered in all 50 States. It does not exist.

Once again, it sounds to me like this so-called trigger is being rigged to shoot. I can only assume this backdoor attempt to shoehorn in a government-run plan at the last minute happens to be an act of desperation. Senator REID and his colleagues have seen the facts. You have heard them from our distinguished Republican leader. According

to a CNN poll from December 2 and 3, 61 percent of Americans oppose this 2,074-page bill. At a time when the Democratic leadership is pushing a \$1.8 trillion increase in the debt limit, we learn from the White House's own Actuary that this \$2.5 trillion bill, this 2,074-page bill bends the cost curve up by increasing health care spending. If you go back to day one of this year, when we first started talking about health care reform, one of the overriding goals was to bend that cost curve down. After 11 months of activity, we have a bill with that cost curve going up—not one of the major goals we set out to do 11 months ago.

This bill is also under pressure from opposition by the National Federation of Independent Business, speaking for the small businesses of America, the ones that do 70 percent of the net hiring. It is also opposed by the National Association of Manufacturers, the Chamber of Commerce, the National Retail Federation, and almost every other business group across the country.

Because of this last-minute, desperate attempt to appease the far left, this rumored new compromise now is being opposed by hospitals, doctors, and other health care providers. These people were on board through most of these 11 months promising their support, and now they see it going in the wrong direction.

With all those factors, I do not see how anyone, let alone 60 Senators, can vote for this bill, this last-minute, desperate attempt to expand Medicare and hand over private health insurance systems over to a Federal agency, the Office of Personnel Management. This step, if it materializes, has made a bad bill even worse.

I have another part of the bill to which I wish to speak. We have this 2,074-page bill before us, and I wish to refer to just a few words on page 2,034, way at the tail end of the bill, in section 9012 of the Reid bill. It only takes up eight lines, but it could have a major impact on millions of retirees and even on the entire U.S. economy.

Listen to this. The AFL-CIO, the Americans Benefits Council, and the Business Roundtable have all joined in opposition to this provision, section 9012. How often do we have the AFL-CIO, the American Benefits Council, and the Business Roundtable—that roundtable is the big corporations in America—joining in opposition to anything? But they are in opposition to section 9012 of the bill.

This would prohibit businesses from fully deducting a subsidy they receive to maintain retiree drug coverage. The Medicare Modernization Act of 2003 created this subsidy to encourage businesses to keep offering retiree drug coverage once the Part D benefit was established because back in 2003, our goal in passing the prescription drug bill for seniors was not to disturb people who already had drug coverage and they liked what they had and they

wanted to keep it. We did not want these big corporations dumping these people off into something with which they were unfamiliar. So we helped to encourage companies and save the taxpayers money. I will refer to those specific dollar figures in a minute.

In Federal tax policy, it is very unusual to provide a deduction for a business expense, such as retiree health costs, if that expense is subsidized by a Federal program. But in this case, the conferees decided to provide this unusual tax treatment for compelling health policy purposes, some to which I have already referred.

If people are satisfied with what they have, we should not pass a bill pushing people out of a plan they like. But it was also to save taxpayers' dollars because the rationale was, it was cheaper to pay a \$600 subsidy than to have these people forced out of their corporate plan and then to have the taxpayers pay an average of \$1,100 that it will cost if the retiree joined the Part D government plan.

You know what. After 6 years, so far it has worked. Millions of seniors have been able to keep their retiree coverage as a result of this subsidy, and the Part D Program continues to come in under budget and also to receive high marks from our senior citizens.

But the provision tucked away in this 2,074-page bill on page 2034 could change all that and, in fact, have severe consequences and, let me say, unintended consequences not just on those retirees but for the entire U.S. economy.

In an effort to pay for this massive expansion of a government-run health plan, the Reid bill proposes to eliminate the tax deductibility of this provision. This could cause employers all across the country to drop retiree coverage. This will not only break the President's promise by preventing millions of seniors from keeping what they have—remember that promise during the campaign—it will also cause the costs of the Part D Program to go up.

In addition, accounting rules for retiree benefits require that the businesses that do keep offering plans, offering these benefits, will have to report the total revised cost on the day the bill becomes law.

We have an op-ed written in the Wall Street Journal about this point. This could cause businesses to post billions of dollars in losses and significantly impact an already struggling economy.

Is this something we want to do when we still have 10-percent unemployment? I think the majority ought to give second thought to that.

A letter sent on December 11 from the chief financial officers of some of the largest employers in the country stated:

The impact of the proposed Medicare Part D changes would be felt throughout the overall U.S. economy as corporate entities and investors would be forced to react.

Another letter signed by the AFL-CIO stated this provision would “un-

necessarily destabilize employer-sponsored benefits for millions of retirees.”

Once again, how often do we get these large corporations and the AFL-CIO singing off the same song sheet?

This simple provision tucked away on page 2034 is just one more in a long list of policies that could have serious unintended consequences for American businesses and retirees.

At this point, it appears the majority is so determined to get a bill at any cost that they will put in place bad policies and promises to somehow clean up the mess later on. That is not the way to write legislation. That is not what the American people were hoping for when they were told Congress was going to fix the health care system. This provision is just one more reason we need to scrap this product and go back to the drawing board.

In finishing, I will say what I have probably said two or three times before. We are trying to fix the health care system, health care reform. The word “reform” implies all of that. If you were having a coffee klatch in rural New York or rural Iowa this very morning and one of us Senators dropped in on it and they started asking us about a bill because they were already talking about health care reform and any one of us told them it would increase taxes, it would increase health insurance premiums, that it would not do anything about decreasing inflation of health care—in other words, costs are going to go up yet—and we are going to take \$464 billion out of Medicare, a program that is already in distress, to set up a whole new government program, you know what. Every one of those people around the table would say: That doesn't sound like health care reform to me. Let's not denigrate the word “reform.”

I ask unanimous consent to have printed in the RECORD a letter from the AFL-CIO.

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

NOVEMBER 2, 2009.

Re Retiree health coverage

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: We are writing to express our serious concerns regarding two provisions included in H.R. 3200, The Affordable Health Care for America Act, and urge that they not be included in legislation approved by Congress. Section 110 would curtail the ability to change retiree health coverage and Section 534 would change the tax treatment of subsidies provided to employers who provide retiree drug coverage. Both provisions would likely have the unintended effect of discouraging the provision of employer-sponsored retiree health coverage, thereby undermining one of the goals of health reform legislation and placing the cost and burden of providing this vital coverage onto the federal government.

SECTION 110

Retiree health coverage has long been the subject of collective bargaining and is an important part of the overall package of benefits and compensation negotiated between

labor and management. By severely restricting the ability to modify retiree health coverage this provision limits the flexibility that parties have during negotiations. In some situations, existing labor agreements already contain cost sharing arrangements that would be unilaterally overridden by this provision.

This restriction could unintentionally result in employers dropping sponsorship of retiree health coverage altogether to avoid future restrictions. Rising health costs and financial accounting rules have resulted in a steady erosion of employer-sponsored retiree coverage; and no doubt this decline is the motivation for this provision. It would be disastrous for millions of Americans still covered by retiree health plans to see those plans severely limited or eliminated altogether as employers seek to avoid being locked into a particular benefit in perpetuity.

SECTION 534

This provision of the bill would cease the current tax excludability of the 28% subsidy provided to employers who continue to provide prescription drug coverage to their retirees. The \$3 billion in federal tax revenue estimated to be raised from this provision is highly unlikely to be realized. The current tax treatment was included in the Medicare Modernization Act of 2003 precisely to encourage employers to continue sponsoring drug coverage—not only helping to preserve this important benefit, but also resulting in savings to the federal government by avoiding the necessity of many retirees to obtain Medicare Part D coverage. If only the tax revenue to be collected is calculated, but not also the federal outlays to provide the comparable benefit, then the actual cost to the government is not being accurately considered.

Moreover, Congress must consider the impact of this provision in the context of a reformed health system, as opposed to the current system. Other features of H.R. 3200, including the aforementioned limits on the ability to modify retiree health coverage, could well lead to an unintended and precipitous decline in some of the most comprehensive health coverage protection for retirees available today.

Finally, Congress has not considered at all the negative impact, required under Financial Accounting Standard 106, on the financial statements of companies that currently provide retiree health coverage. Regardless of the ultimate effective dates of Sections 110 and 534, accounting rules dictate that immediately upon being signed into law, these provisions would substantially increase the FAS 106 liability for the very companies providing the most comprehensive coverage to current and future retirees. In the current economic environment, this would be particularly ill-advised and disruptive.

Health care reform must be about stabilizing and expanding the employer-sponsored health benefits system. These two provisions would unnecessarily destabilize employer sponsored benefits for millions of retirees at a time of unprecedented changes in health coverage. Whatever differences the undersigned organizations may have on other aspects of pending health care reform legislation, on these two matters both labor and management are in full agreement. We respectfully urge that both these provisions be deleted from the legislation under consideration.

Sincerely,

DIANN HOWLAND,
Vice President, Legislative Affairs, American Benefits Council.

WILLIAM SAMUEL,
Director, Department
of Legislation, AFL-CIO.

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH). The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, we had indicated to Senators REID and DURBIN that we wanted to see if there was a way to develop some path forward on the health care bill, and I wish to at this point propound a consent agreement that might well give us a way to move forward on some of the amendments that have been pending for quite some time, some of which are both supported and opposed on each side.

Having said that, I ask unanimous consent that after the vote on the adoption of the pending conference report, the Senate resume consideration of H.R. 3590 under the following order: there be 2 hours of debate equally divided between the two leaders or their designees and following the use or yielding back of that time, the Senate proceed to a series of stacked votes in relation to the following amendments or motions; a Baucus sense-of-the-Senate amendment related to taxes, the pending Crapo motion—which I might add parenthetically has been out there since last Tuesday—the Crapo motion to commit the bill related to taxes, then the Dorgan amendment, which is on the drug importation issue, No. 2793, and then a McCain amendment, No. 3200, on the same subject.

I further ask unanimous consent that the above referenced motion and amendments be subject to an affirmative 60-vote threshold, and if they achieve that threshold, they become agreed to; further, if they do not achieve that threshold, they be withdrawn; finally, I ask that no amendments be in order to any of the mentioned amendments and motion.

Before the Chair rules, I wish to make a quick point. The majority leader has been proposing a series of votes, which regretfully has not held to our pattern of alternating back and forth. We have many people interested in the pending amendments, and under the agreement I put forward, each side would get two votes, as we have tried to operate throughout the health care debate, and then we would move forward.

The PRESIDING OFFICER. Is there objection?

The Senator from Illinois.

Mr. DURBIN. Mr. President, reserving the right to object, I ask unanimous consent to engage in a colloquy with the minority leader. Perhaps there will be a better understanding of his unanimous consent request before I make my final decision.

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

Mr. DURBIN. I wish to ask, as I understand it now, when it comes to—and let's set aside Crapo-Baucus and as-

sume there is commonality in that. As I understand it now, the Dorgan amendment, which would allow for the importation of pharmaceuticals and drugs into the United States, has been offered on our side as well as a Lautenberg amendment, which has some history in the Senate. It was previously offered by Senator COCHRAN of Mississippi and establishes a standard for certification of safety of the drugs coming in.

Could the Senator from Kentucky describe to me what the new McCain amendment No. 3200 does?

Mr. MCCONNELL. Well, fortunately, Senator MCCAIN is on the floor at this time, and I will ask him to describe it.

Mr. MCCAIN. I wish to say to my colleague, first of all, as is well known, side-by-sides have been one side of the aisle and the other side of the aisle. If the Lautenberg amendment were in order on the Dorgan amendment as a side-by-side, that would obviously be a change from what we have been doing.

Basically, what my amendment does is make some perfecting changes to the underlying Dorgan amendment. It has some sense-of-the-Senate provisions and several other provisions which I think would help make it more effective. I have to be very honest with my friend from Illinois, it doesn't undermine the Dorgan amendment. I think it supplements the Dorgan amendment, just as the Bennet amendment to Medicare costs supplemented the position we had that Medicare benefits wouldn't be cut.

So side-by-side amendments aren't necessarily in contrast with each other; sometimes they perfect, and I think my amendment makes it a better amendment—makes the Dorgan amendment a better proposal.

Mr. DURBIN. I ask unanimous consent to expand the colloquy to include Senator MCCAIN.

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

Mr. DURBIN. Does the amendment of the Senator from Arizona, No. 3200, include the existing language of the Dorgan amendment?

Mr. MCCAIN. Yes, plus some perfecting language, as far as the Senate is concerned, about other procedures that would expedite the Dorgan amendment as well.

Mr. DURBIN. Is the Senator from Arizona prepared to offer the Lautenberg language in his amendment?

Mr. MCCAIN. No, obviously not, because I don't agree with the Lautenberg language in my amendment, as you know. But what we are trying to do is, obviously, make the Dorgan amendment better, just as other amendments that are side-by-sides have tried to make amendments better. They do not necessarily cancel them out but make them better.

Mr. DURBIN. Is the Senator from Arizona a cosponsor of the Dorgan amendment?

Mr. MCCAIN. Yes, a proud cosponsor.

Mr. DURBIN. Would the Senator from Arizona consider offering whatever is different in 3200 as a separate amendment to the Dorgan amendment?

Mr. MCCAIN. I guess what I am not sure—if I understand my friend, I am offering an amendment as a side-by-side in order to, in my view, improve the Dorgan amendment; again, in all candor, not to undermine but to make it better.

Mr. DURBIN. Well, Mr. President, I have an obligation to not only my leader but obviously to Senator LAUTENBERG, who is being dealt out of the picture here with this unanimous consent request, and he has been offering an amendment which is well known and has been offered previously by Senator COCHRAN of Mississippi, a Republican. At this point, if Senator LAUTENBERG is offering—I think at this point I am constrained to object based on this new McCain amendment, and we will discuss it with Senate leadership as to whether we can find a path through this.

This is the third day we have been struggling with this. It appears there is a lot of credence put in the belief that we have to have exactly the same number of Republican and Democratic amendments, and I understand that from the minority point of view.

Mr. MCCONNELL. Maybe I have a solution to the problem. It actually involves my side agreeing to a procedure we have not followed throughout this bill, but let me suggest the following, which I think would get us out of this conundrum we seem to be in: that even though we have alternated from side to side, we would agree to both Dorgan and Lautenberg in conjunction, right after Crapo and Baucus; and then we get in the queue our next two—which I believe you are already familiar with, because they have been discussed on the floor—the Hutchison-Thune amendment, and then a Snowe amendment.

Mr. MCCAIN. And I withdraw, with great reluctance and great anger, my amendment, because I think the Lautenberg amendment would be in violation of what we have agreed to.

Mr. MCCONNELL. In other words, Mr. President, putting it another way, we are basically conceding to what the Senator had earlier proffered as a way to get moving on the bill, and then we would get back into our process of going side to side. And we want you to know that our next two—as we have been letting each side know what the other side was going to offer—our next two would be the Snowe amendment and the Hutchison-Thune amendment.

Mr. DURBIN. Let me suggest this. I will formally object to the original unanimous consent request, and I will then take what I consider to be a good-faith offer from your side as to the next two amendments to the majority leader. We will review the amendments, and I hope even today we will be back to Senators and suggest whether that is a path out of this.

Mr. MCCAIN. Could I be clear with the Senator from Illinois that what

this means is we would move forward with the side-by-side Dorgan and Lautenberg—we would agree to that—and then we would also expect agreement on following amendments so that we could lock those in for debate and votes?

Mr. DURBIN. May I ask whether the two amendments the minority leader mentioned, which would be Thune and Hutchison, and the other amendment, Snowe, we would be allowed to have side-by-sides to those?

Mr. MCCONNELL. Of course.

Mr. DURBIN. If you would be kind enough—

Mr. MCCONNELL. If you so chose.

Mr. DURBIN. If you are kind enough to give us time to review that proposal, we will be sure to get back to you.

Mr. MCCONNELL. I understand capitulation when we do it, and we have essentially said to the majority we will go along with what you had earlier requested and we would like for you to take “yes” for an answer and for us to wrap this up and have a sense of where we are going from here.

Mr. DURBIN. I promise we will get back in a timely fashion.

I object to the initial unanimous consent request.

The PRESIDING OFFICER. Objection is noted.

MR. SESSIONS. Mr. President, the vote we had earlier this morning, moving forward onto the omnibus spending bill that is before us, is a stunning statement that we are not listening to the American people; that we are unaware or indifferent to the level of spending that is occurring in this country, which is unlike anything that has occurred before. Many have complained that President Bush overspent, and on some occasions he did. One expert told me recently that they have compared President Bush’s misdemeanors to felony murder when you look at the seriousness of the spending levels that we are now undertaking in the baseline budgets of the various Federal agencies.

This is different from the stimulus package that is already out there—to spend \$800 billion in stimulus funding that has been poured into this economy—on top of the baseline budget spending items. So not only do we have this unprecedented stimulus package from earlier this year—the largest single spending bill in the history of the American Republic—but we are now moving forward with baseline budget items that have increases that are stunning, unjustified, irresponsible, and put us on a pathway to double domestic spending in far less than 10 years. This is unthinkable.

I have to go back to the core threat we are facing, as more and more experts and economists are reminding us of it. This is based on the Congressional Budget Office study; it is based on the budget presented by the President of the United States over 10 years. Earlier this year, he presented us a budget. And what did it show? It

showed our total American debt in 2008 was \$5.8 trillion. That is a tremendous amount of money. That is what the total debt from the founding of the American Republic was—\$5.8 trillion. They project that by 2013 that debt will increase to \$11.8 trillion—doubling in 5 years—and increasing to \$17.3 trillion in the year 10 of the President’s budget—tripling the national debt.

They say: Well, we have an economic recession. Well, we have had recessions before. We have a recession more often than every decade. We had thought that, hopefully, we could maybe figure a way to avoid them, but we haven’t done that yet. I guess blame can go around to a lot of different people. But I would say this does not project another recession in the 10 years we are tripling the debt.

As I have said, we are on an unprecedented course of spending that has never been seen in our country before. The only thing like it was during World War II and we were in a life-and-death struggle, fighting wars on both the Pacific and Atlantic, and Africa—around the world. Virtually every able-bodied person was either in the military or building ships and airplanes and weaponry to send to our soldiers. The whole country was mobilized.

We never did this to our deficit then, and we did it in a way that commenced a pay-down of those debts after it was over. What I wanted to emphasize was—many of my colleagues have heard it stated, people seem to all admit it—we are on an unsustainable path. This is not a sustainable spending schedule. Then how do we get off of it? When do we get off of it, if it is unsustainable?

Is it by producing a bill that we just voted on that increases spending at 12 percent, a rate of spending that would double those six discretionary spending bills’ accounts in 5, 6, or 7 years? It would double it. Is that the way to get spending under control? I don’t think so.

Remember, I am not counting in this 12-percent increase the stimulus package that was passed. I would also note, under the budget the President submitted, the deficits in the outyears are not going down. There is no projection in those 10 years that we would have a recession, but there is also no projection that the deficits would be falling. In fact, the deficit, in 1 year, in 2019, would be over \$1 trillion. So these are stunning numbers.

The highest deficit we have ever had was at \$450 billion. The year before this year—we just concluded in September 30 of this year—\$1.4 trillion. Next year it will be \$1.5 trillion. There should be some dip, we hope, for a few years, and then it is going back up on an unsustainable path. It is just stunning. We cannot do this. That is one of the big things that is occurring in the streets of America with our tea parties and others. People are saying: Congress, what is the matter with you? Don’t you understand you are mortgaging our children’s future; you are

devaluing the dollar; you are placing our economy at risk, as virtually every expert economist you talk to says, including Mr. Bernanke—not very aggressively, in my view, but he said that recently. This is a bad path.

What does that mean when you have a big debt? The debt goes up. How do you get the money? Where does the money come from? You have to borrow it. We put on the market Treasury bills and notes, and we ask people to loan us the money so we can spend, spend, spend more than we take in, year after year.

Some say it is the entitlements that are causing this, and entitlements are growing. That is our Social Security and our Medicare. One reason those are growing is, frankly—it is a very serious reason—we have more seniors and they are living longer. They have been going up 6 or 7 percent a year. We are troubled by that. But the truth is, Social Security and Medicare have been in surplus.

What has happened to the surplus? It has been spent on discretionary spending. We are spending the Social Security surplus and Medicare surplus—but it is going caput. Medicare is fading fast, and by 2017 the trust fund will be exhausted. So we are not going to have a surplus to spend. So you borrow the money; this is what you do.

In 2009, we paid interest on the money that people loaned us—much of it from China and oil-rich States, many of which are not friendly to us. We are paying them huge amounts of interest—\$170 billion. How much is that? That is a lot of money. My State of Alabama is about an average size State. We are a frugal State. We don't have huge government. We have some pretty good economic growth as a result of that. But we have a \$2 billion annual general fund budget—\$2 billion. We paid \$170 billion, the United States of America, in interest alone in 2009.

Look what CBO says, our objective Budget Office. It is under the control, really, of the Democratic majority, but they take pride in giving us numbers that are valid and reliable. I think they do that for the most part.

Look at this. They say by 2019, the interest we will be paying on the debt will not be \$170 billion but \$799 billion because we cannot stop spending. It is just unthinkable.

People say we have to do better. This is unsustainable. We need to do something.

When? We just voted this morning for a bill. I don't have a chart on that, but I will just read the numbers to you. It increases spending on 6 of the 13 appropriations bills. We try to pass them individually, 13 appropriations bills that fund the Federal Government. When we get to the end, it is easier sometimes for the leadership just to cobble all six of them together in a big package and put it out there and say vote up or down. That is what we have done. That is not a good policy. We need to do better than that. We really need 2-year

budgeting, and then we would have time to bring up these bills one by one and give them the scrutiny they deserve. But if we look at the overall spending in these 6 bills, 6 of the 13 that have been put together in a package, it shows that the percentage of growth in spending on the baseline level is 12 percent.

That is a stunning figure, when you think about it. What is the inflation rate today? Zero. We do not have inflation. The last number was .2 percent deflation over the past year. The average family is containing their spending. Ask the average city mayor. Aren't they trying to contain spending and be more efficient and be leaner and more effective? What about our State governments? The same thing. They are facing real problems, and they are trying to contain the growth of spending and we increase it by 12 percent.

What kind of increase did the average working American get in their salary? Probably zero and lucky to hold it. If they had been getting overtime, they are probably not getting overtime today. Maybe in the family two people were working, maybe now only one is working.

What about the State Department and foreign operations, what kind of increase did they get? A 33-percent increase in spending, most of which I assume will be spent around the world somewhere.

What about Transportation and HUD? I have a chart on that. I just have the last 2 years since our colleagues have been in the majority. Last year it was a 12.3-percent increase—a stunning increase. Look at this year, 2010—23-percent increase on HUD, Housing and Urban Development, and Transportation; 23 percent on top of 12. This is the kind of spending that would double the HUD budget in 3 to 4 years. The foreign operations, I just mentioned, at the rate of increase we have, it would double in 2 to 3 years. The whole budget would double in 2 to 3 years.

Let's talk about Transportation/HUD. Did they get any money out of the stimulus package? You are counting that in here, aren't you, Senator SESSIONS, the money that Transportation/HUD got out of it?

No, I am not. This is baseline spending. What did they get? The total Transportation/HUD budget—I hope my colleagues will think about these numbers—is \$68 billion this year. Remember, I just noted interest in 2019 would be \$800 billion. That gives some perspective on the level of spending we have. But, again, that is just the baseline spending, and it does not count the \$62 billion of spending that came out of the stimulus package, according to this chart. Remember, only a small percentage of the stimulus package went to highways. They said it was for bridges and infrastructure and highways, and I think about 4 percent of the overall amount went to highways. Now they are claiming we don't have

enough money for highways and they talk about another stimulus bill of another couple of hundred billion dollars—just another \$100 billion, \$200 billion.

Remember, \$100 billion—the entire Transportation-HUD expenditure this year is \$68 billion.

I don't think this is any kind of exaggeration. I am not an alarmist, but I am alarmed because I am telling the truth about these numbers.

What have we done on previous spending bills that have come through the Senate? Two other bills have already come through the Senate and had stunning increases in them. Look at this. This is Interior and the Environment expenditures—Department of the Interior and the Environment—EPA, basically. Look at that: 16.6 percent increase in 1 year. It had a tight budget last year, but it had a 16-percent increase this year. The EPA, the Environmental Protection Agency, which now is claiming the ability to regulate CO₂, they got a 33-percent increase in spending. EPA got a 33-percent increase in spending. We have never seen those kinds of numbers before.

Look at these expenditure growth items over the last number of years. When President Bush was in, everybody said he was a spendthrift, that President Bush put us in debt.

Democrats say: We are not doing anything. This is a President Bush—it is all his fault. He was a big spender.

I criticized him some for overspending. A lot of Republicans have. But look at his averages for those Interior and Environment appropriations.

It averaged 1 percent from 2001 to 2009, so he was holding the line. He had some 5-percent years, 5.6, but some negative years too. So the average was a modest 1 percent. Remember, 16 percent growth in spending at a time when inflation is zero.

Another example of that—let's take the Agriculture bill. I believe in agriculture. I have tried to support most of these bills. I have worried sometimes that we were spending too much on agriculture. But I can't vote for this. We have already moved this legislation through the Senate, the Agriculture appropriations discretionary spending. Here we had in 2004 a minus 1 percent, zero in 2005, zero in 2006, a 6-percent jump in 2007, 1.1 percent in 2008, now 15 and 14.5 percent increases. How can we say we are responsible when we are doing that? We were having deficits through these years.

We have never seen deficits averaging \$1 trillion a year, which is basically what is going to occur under President Obama's budget. I wish it weren't so. I wish I didn't have to make this speech, because these deficits are dangerous to the American economy.

These numbers remain here are stunning numbers. The only one that got a modest increase was for the men and women in uniform of the Defense Department. But State and Foreign Ops,

32.8–33 percent; Interior, 16.6; Commerce-Justice-Science, 12.3 percent; T-HUD, 23 percent; Agriculture, 14 percent; Defense, 4.1. That should tell us something about maybe where the priorities are around here. It is troubling to me.

What do the American people think about this? I have heard a lot of my colleagues say: We have a recession and we have this war that is going on. We just have to spend more. The American people understand that. It is all right. We just want to do this, and let's do it.

Look at this poll that came out recently. Actually, it was November, last month, a CNN poll. The question was, Which of the following comes close to your view of the budget deficit: The government should run a deficit, if necessary, when the country is in a recession and at war or the government should balance the budget even when the country is in a recession and is at war. Sixty-seven percent say balance the budget. First, they know this isn't World War II. We have a very expensive war. We need to make sure our men and women are well funded. But it is not the driving factor in the deficits we are having today. Only 30 percent said, run a deficit. Four percent had no opinion. Sixty-seven percent said we ought to have a balanced budget, even in a time of war and recession.

There are other problems. There are ramifications that arise from this kind of reckless spending. It has been a catch line for a number of our colleagues who support this health care bill that it would reduce the deficit. Past history with entitlements has shown that is not so. Estimates don't prove to be accurate, No. 1. No. 2, there are gimmicks in this health care bill that hide its true cost. I will mention one of them for the moment.

One of the big ones is that we don't pay the doctors. The doctors are projected, after this next year and for 9 years under this budget scheme, to take a 23-percent cut in their payments for the work they do for Medicare—a 23-percent cut. Many doctors already are leaving Medicare and Medicaid because they are not paid enough. They are paid substantially less by the U.S. Government for Medicare and Medicaid than private insurance companies pay them for the work they do.

That was part of the plan to fix Medicare, to fix permanently the payments for our physicians. When the numbers didn't add up—and if you paid the physicians what you are supposed to pay them, it would cost \$250 billion over 10 years—they attempted to take the doctor fix payment and put it in a separate bill, every penny of it going to the debt, saying: Our health care bill is deficit neutral. The health care bill is deficit neutral. I am voting for a bill that is not going to impact the debt.

Well, when you move a \$250 billion hole out of your bill and put it over here, that is one way to hide what you are doing. If you count that, we have a \$120 billion deficit in the bill by the

scoring of our own colleagues. They just took that out because the numbers wouldn't add up if it were in. It is wrong. It is the kind of gimmicks and manipulation the American people are getting tired of. Some people are going to pay at the ballot box for continuing this kind of thing.

Let me give some examples of how even the estimates of these bills fundamentally turn out to be wrong. In 1967, the estimate for how much Medicare would cost in 1990 was \$12 billion. They projected how much Medicare would cost in 1990. What was the actual cost in 1990? It was \$98 billion, not \$12 billion. That means the estimates were off by a factor of 8. In 1987, Congress estimated that Medicaid payments to hospitals would cost \$1 billion in 1992. That was just 5 years out. The 5-year projection was Medicaid payments to hospitals would be \$1 billion. What was the actual cost? It was \$17 billion, meaning the estimate was off by a factor of 17 in only 5 years.

This kind of recklessness jeopardizes our economy. I don't think this spending is helping our economy because I think what is occurring is that people who invest in the future, hundreds of millions, maybe billions of dollars in big factories, are worried about our recklessness. They are worried about future economic stability. They are not as willing to invest because we are not acting responsibly.

Stanford University economist Michael Boskin stated in a recent editorial in the Wall Street Journal:

The explosion of spending, deficits and debt foreshadows even higher prospective taxes on work, saving, investment and employment. That not only will damage our economic future but is harming jobs and growth now.

There is too much truth in that.

Brian Riedl at the Heritage Foundation, on October 6, in the Washington Times, did an op-ed that said that estimates on the size of the deficits I have just given are likely to be wildly optimistic. When I said the debt triples from \$5.8 to \$17.3 trillion, I am not including health care in those numbers. It hasn't passed. That is not current law. They didn't count that in the numbers when they were scoring it. He notes that the President assumed that spending would only increase at the rate of inflation for 9 years after 2010, after he included an 8-percent increase for spending in 2010.

The President's deficit estimates also assume interest rates lower than those in the 1980s or 1990s. Once all the factors in Mr. Riedl's analysis are added up, he projects a total deficit for the next 10 years to be \$13 trillion—an unsustainable level for sure and well above what CBO has scored. He is projecting higher interest rates on the debt because so much money would be borrowed worldwide. How do you induce people to loan you money? You have to offer them higher interest rates to get them to loan you money. They will not be loaning money at the

low interest rates we have today because of this economic slowdown. Interest rates are going up. CBO acknowledges that in their score. The Heritage scholar said it is going to go up higher than CBO had scored.

An October 14 New York Times article said that the reason we are not pressing China to appreciate its currency, to stop devaluing its currency against ours is because we rely on them to purchase our debt.

Dong Tao, an economist at Credit Suisse, said:

Obama's interest is not to push China to appreciate its currency, but to get them to pay the bills.

In other words, to get them to keep buying our Treasury bills so we can keep borrowing money.

Small manufacturers all over the country, including Alabama, have suffered from China's undervalued currency. They not only have a wage advantage over us to a significant degree, they also don't have the environmental laws we have. They also devalue their currency—all of which makes them more able to undercut American companies' manufacturing and adversely compete against them. I am constantly hearing about it from my State. I know others are hearing the same thing.

However, China and other countries may not be able to keep financing our debt in the future. Professor Allan Meltzer, a well-known scholar on the Federal Reserve and monetary policy, noted in a column in the Wall Street Journal that our current and projected deficits are too large relative to current and prospective world savings to rely on other countries being able to finance them for the next 10 years. We just can't expect to be able to have that much wealth out there in terms of our own citizens saving money to buy the Treasury bills and debt of the United States. Other countries are not going to have it either.

In a Budget Committee hearing on budget reform, November 10, former Comptroller of the Currency and GAO David Walker testified that by 2040—time flies faster than we like to admit—we will have to double taxes to keep current with our commitments. This is the former Comptroller General of the United States, the head of the GAO, the Government Accountability Office. He knows these numbers, and he has been very concerned about our reckless spending for quite a number of years. He is basically committing himself to trying to get this country on a sound financial track. Mr. Walker stated that in 12 years, interest will be the single biggest line item in the budget, even assuming interest rates don't change from today's low rates. But interest rates are going to go up, at least some. He also said that debt and deficits are the public's largest concern by 20 points in the opinion polls.

That is what I am hearing from my constituents. They want some leadership up here. They want us to say: We would like to be able to provide more

for this, that, and the other. But we simply have to get our house in order. And in the long run, if we hold the line now, we can get this house back into order. I believe we can. But we cannot on the path we are today. In a Financial Times editorial in May of this year, Mr. Walker warned that the United States is in danger of losing its triple-A financial credit rating. Well, is that possible that the United States of America would not have the highest credit rating in the world? Mr. Walker said it is possible. He made that comment in May of this year.

Of course, if you do not have the highest credit rating, you have to pay higher interest rates to get people to buy your debt, to loan you money. So if you want to loan two people money, and one is rock solid, you might loan it to them for 4 percent. But if another person is risky, you may want 5, 6, 7, 8, 9 percent from them.

So Moody's rates people to see how reliable they are in paying their debt back with dollars worth the same as you loan them. Mr. Walker warned that our reckless spending was putting us on a path where we would no longer have our triple-A credit rating.

Well, sure enough, in a report just this week, the big rating service, Moody's, stated that the U.S. is in danger of losing its triple-A credit rating. Pierre Cailleteau, chief international economist at Moody's, stated that unlike several years ago, "now the question of a potential downgrade of the U.S. is not inconceivable."

Well, that would make the interest payment of \$799 billion for 1 year, in 2019, be low. If we get downgraded, that interest payment is going to go up.

So under the most pessimistic scenario put forward by Moody's, the United States would lose its top rating in 2013.

This is a great country. We have such dynamic people and economy. They are willing to work. They are willing to compete. They are willing to save and all. But we need some leadership, and we need some leadership from Congress. We are oblivious to what the American people are telling us, and we are oblivious to the massive debt increases we are putting on the American people.

Therefore, this bill that cloture was invoked on today, should not pass because having a 12-percent increase in spending, which would double that whole bill's financial spending in—what?—5, 6, or 7 years, is unthinkable at this point in time, and I am against it. I hate to be against it. I see a lot of things in there I like. But I do not believe the Republic is going to sink into the ocean if we would have a 1- or 2-percent increase in spending for these six bills. I do not believe everything is going to collapse if we were to have a little frugality around here—give up some of our pork spending, give up some of our special projects and focus on what is the national interest for a change, and try to contain the surging growth of spending.

I do not know when it is going to occur. Everybody says we have to stop. So when? I say now. I say, let's send this bill back. Let's do not pass this bill. Let's send it back to the conferees and the appropriators and say: Come back with a bill that is more responsible. Then we will pass it. We are not going to not pass legislation to fund these things. Don't let anybody say that.

But the question is, What kind of increases can we justify? I am worried about it. The American people are worried about it. Soon Congress needs to get worried about it. If not, we are going to have some new people in Congress, and some new people are going to fix it because it can be fixed if we show determination.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I rise this afternoon to speak about health care and the bill that is on the Senate floor that we have been debating now for a number of days, the Patient Protection and Affordable Care Act. I want to provide, first, a brief overview, but in particular to focus on provisions that relate to our children and then get into some detail about those provisions and the important programs that are contained within those parts of the bill.

First of all, as we all know from the debate, what this side of the aisle has been trying to do is not just to pass legislation, but to do it in a way that meets the goals we set forth many months ago and, as well, what President Obama indicated much earlier this year in terms of some basic goals.

I will just cite a few of those: To make sure when we are enacting legislation that we do not add to the deficit; that we at least break even, so to speak. But the good news is, on the scoring done by the Congressional Budget Office, the Patient Protection and Affordable Care Act will actually lower—lower—the deficit over 10 years by some \$130 billion, and then lower it even further over the course of the next 10 years, by one estimate, over \$600 billion. So that is good news about deficit reduction as it relates to this bill. Even if we broke even, it would be significant.

Also, we are obviously trying to cover tens of millions of Americans who do not have coverage. The foundation of the bill on that issue is that some 94 percent of the American people will be covered, adding some 30 million to 31 million in terms of coverage. That is also a goal. I think we are going to be able to meet that.

Then there are a whole series of things we have talked and talked about for years and have never done. We talk about how we have to enhance health care quality. We have not done much about it, and we are going to be able to make changes in this bill to do that.

Certainly prevention. Everyone knows—the studies on this are, in a

word, irrefutable—that prevention is not only good for a patient and good for his or her own family, and good for the economy long term because you are going to have a healthier worker, but it is also a giant cost saver, sometimes in a way that you cannot quantify or even often get credit for from the Congressional Budget Office.

I have no doubt—and I think I join a lot of other people who know a lot more about prevention than I do—that this will be a huge cost saver in addition to being something that leads to better health outcomes. So in terms of quality and prevention and deficit reduction and coverage, it is a very strong bill.

It is also a strong bill in terms of dealing with what we can call, in two words, consumer protections. That does not even begin to describe what this bill will do in terms of helping at least one category of Americans. We saw a study a couple months ago that indicated over a several-year period of time—if my recollection serves me, 3 years—millions of Americans—not thousands or tens of thousands, but millions of Americans—have been denied coverage because of a preexisting condition. That is because we have allowed insurance companies to do it year after year, and in some cases a lot longer than that.

Well, we do not need to just talk about it and decry it and condemn it, we need to make it illegal. But we also have to make sure we do not just pass legislation—a lot of which has to be implemented down the road—and then say to those with preexisting conditions: We have changed the law, but you have to wait several years.

One of the immediate benefits under the Patient Protection and Affordable Care Act relates to those Americans who have preexisting conditions. The act will provide \$5 billion in immediate Federal support for a new program to provide affordable coverage to uninsured Americans with preexisting conditions. Coverage under the program will continue until the new exchanges are operational. That is good news for millions of Americans who have been denied coverage.

I cannot tell you—I think every Senator in this Chamber on both sides of the aisle, Democrat, Republican, Independent—has received letters from Americans, horrific, tragic stories, in many instances, where they have been denied coverage, sometimes leading to death, sometimes leading to, even if it is not death, the worst of health care outcomes. So that high-risk pool, as it is called, for those with preexisting conditions will mean immediate benefit under the bill.

I will mention a couple of other things that will happen immediately, and then I will move to the provisions on children. We hear a lot about business on this floor and arguments about who is stronger or who is more of an advocate for small business especially. But what we do not say enough is, this

act, the Patient Protection and Affordable Care Act, will offer tax credits to small businesses to make employee coverage more affordable, and those tax credits will go up to 50 percent of premiums, which will be available to firms that choose to offer coverage.

That is another not just good reform—good for the small businesses, good for the employee, and really good for our economy short term and long term—but it is one of those immediate benefits.

I will cite one more, and then I will move on.

This Congress, a couple years ago, passed Medicare Part D, as it is known, adding prescription drug coverage. One of the adverse impacts from that legislation is, an older citizen gets the benefit of that and is able to benefit from the prescription drug coverage, but then they fall into the so-called doughnut hole. That is a very innocent-sounding phrase, “doughnut hole.” It does not sound that bad. It is a nightmare for someone.

Basically, what it means is that an older citizen has to carry the whole freight for a long time and pay a lot of money at a certain period of time when they fall within that category.

The Patient Protection and Affordable Care Act will reduce the size of the so-called doughnut hole by raising the ceiling on the initial coverage period by \$500 in 2010. That is another immediate benefit of the enactment of this bill.

The act will also guarantee 50-percent price discounts on brand-name drugs and biologics purchased by low-income and middle-income beneficiaries up to the coverage cap. That is another immediate benefit.

These are benefits in terms of small business, in terms of covering those with preexisting conditions immediately, as well as helping older citizens deal with and manage the difficult doughnut hole problem so many of them have been suffering from.

Let me do a quick summary. I will start with this chart. As shown on this chart, this is just a summary of some of the challenges of where we are now and what happens if we do nothing. It says: Status Quo is Unacceptable and Unsustainable. That is an understatement.

The first bullet point on there: Every week, 44,230 people are losing their health insurance coverage. So every week that goes by, every day that goes by, we have Americans losing their coverage—bad for the individual and their family, and it is real bad for our economy.

The second bullet point: Between January 2008 and December 2010—roughly you are looking there at a 3-year type period—178,520 individuals in Pennsylvania are projected to lose their health care coverage. There is no way to adequately describe the adverse impact that projection and that data point has on the people of Pennsylvania. You cannot have a growing

economy if people are losing their health coverage. The numbers are spiraling out of control, not only in Pennsylvania but across the country. You cannot sustain any economy that way long term.

The third and final bullet point: Without reform, family coverage will cost \$26,679 in 2016—just 7 years from now—consuming 51.7 percent of projected Pennsylvania family median income. The cite is the New American Foundation.

That same number for the country—in other words, the percentage of median family income going to pay for health care—for health care, something so fundamental and basic in our society—it is 51.7 percent in Pennsylvania in 2016. The good news for the rest of the country is that the national average is only—only—a little more than 45 percent.

I have not met a person in Pennsylvania or anywhere else in this country, but I know I have not met a person in Pennsylvania who says: Do you know what. Don't worry about it. Don't worry about passing any health care reform bill. Don't worry about getting it done because in 2016—I am living in Pennsylvania—I can come up with 51.7 percent of my income for health care. Don't worry about it. I can handle it.

We know no one can afford that. Even a family of tremendous means might have trouble affording more than half their income—half their income—to pay for health care.

What if the projection is wrong? What if it is off by 10 percentage points? That is 40 percent. What if it is wrong even more? What if it is only 30 percent? I do not know of a family who can afford that.

So we have a lot of reasons to get this right and to pass the bill. That projection is one of the most horrific.

Now I will move to the chart on children.

I will give just a quick summary of what the bill does for children, and then we will walk through the Children's Health Insurance Program.

A couple of basic points: pediatric benefit package; that comes with this legislation, including oral and vision coverage for children. Many health plans do not provide that kind of coverage. It is one of those unwritten stories—or if it has been written, it has not been written about enough—where children lose out, sometimes even in a good health care plan for their parents. So it is not good enough to say, well, we have some coverage here and kids will be just OK. Children, as the advocates remind us all the time—these are not my words—are not small adults. They have different health care needs, and they have different health care problems and challenges.

Pediatric benefits, as part of the benefit package, is a dramatic change and a very important change.

This bill will not only require coverage for basic pediatric services under all health plans but also oral and vi-

sion needs, which improve a child's ability to learn and perform in school. So we can't talk about getting better test scores in school and doing all kinds of things that are in our education system if a child is not given the basic health care a child needs, not the health care an adult needs.

The second point under what the bill would do is more pediatric providers. We have to have strategies in place to recruit and incentivize and train more pediatricians. You can't just say you want more coverage for kids and throw more money at it; you need to have the workforce to do it. The Patient Protection and Affordable Care Act will expand the workforce, including pediatricians, pediatric nurse practitioners, specialists in pediatrics, and pediatric oral health professionals to give kids what they should have in this country of ours where we know what works. We know exactly what works when it comes to children's health insurance.

Then, providing greater quality, improving the quality of coverage for children. The preventive health care we are going to provide for children is dramatic.

Finally, let me make a point about children overall. We hear a lot of discussion about where health care—what part of the country benefits the most and who will benefit the most. Well, under this legislation, there is not an American, I believe, who will not be positively impacted one way or another, sometimes directly. But one message came out loudly and clearly during the debate on children's health insurance going back a number of years in the Senate. Often, most people think of children under the benefit of the Children's Health Insurance Program as living in urban areas maybe or in a big city because that is where poverty is highest and, therefore, lower and middle-income families benefit from Medicaid or children's health insurance. That is largely true, for sure. But what came through to me in that debate many years ago—several years ago now—is something I never knew before, which is that one-third of rural children in America are the beneficiaries of either Medicaid or the Children's Health Insurance Program. Not many people heard that until a couple years ago. So this isn't about one specific demographic—or geographic, I should say—location where children are and who need these benefits, where there is Medicaid or the Children's Health Insurance Program. We know this is a problem for rural children, for urban children, for children who live in small towns, and even in suburban communities that are perceived to be a little more secure economically.

When I have been talking about what we have to do for children, I often point to a line from the Scriptures, a very simple line, but I think it holds us accountable in this debate as it relates to children. There is a line in the Scriptures that says, “A faithful friend is a sturdy shelter.” The question we

have to ask when we are debating how we are going to help our children in this legislation is: Will we be a faithful friend to children? It is actually a pretty simple question, with profound, almost incalculable implications. Are we going to be that sturdy shelter for children, children who don't have a voice, who don't have economic power, who don't have a lobbyist showing up on Capitol Hill every day saying: Take care of this child or help this group of children. So the question for the Senate, one of many questions we have to answer by the end of this debate is: Will we be a sturdy shelter for children? Will we be a faithful friend to children?

Let me conclude with a couple remarks about the Children's Health Insurance Program, in particular. My colleagues can see up here, in Pennsylvania—this is typical of a number of States but not every State—through Pennsylvania's Children's Health Insurance Program benefits, children are guaranteed to receive comprehensive insurance coverage, including the following:

Every child should have this. I don't care who they are or where they live or what their economic status is, they should have immunizations. They should have routine checkups, prescription drugs, dental care, maternity care for their mothers, mental health benefits, up to 90 days' hospitalization per year, durable medical equipment, substance abuse treatment, partial hospitalization for mental health services, and, finally, rehabilitation therapies and home health care. That whole menu of benefits for children is not some theory or some hope, in a sense; this is what the Children's Health Insurance Program means to America's children, their parents, their family, and, I would argue, this is about economic development in the long run.

This is about developing a high-skilled workforce. If a child has these benefits in place, they can make it in life, with a couple other breaks and some other incentives. But if they don't have this list and they don't have the best possible health care, they are going to be in a lot of trouble. All of us will be in trouble because our economy will never be as strong as it can be and must be unless we do that.

Let me go to the next chart, which is a subset of that. This chart depicts what is in children's health insurance now: Well-child visits. I have talked about that a lot. It is not a real glitzy subject for people to debate but a critically important part of what children's health insurance means and the benefits mean, a well-child visit. In the course of 1 year, under the Children's Health Insurance Program—under the program we put in place and Congress enacted almost 15 years ago and then we reauthorized it just this year and President Obama signed the legislation—it means, instead of 7 million kids covered—that is a great amount and that is great, but in a couple years,

we are going to be able to expand that to 14 million children. I wish to make sure—and I am sure this view is shared across the aisle as well—that every child should have six of those well-child visits in a year. It is a key time for a parent and physician to communicate. Doctors recommend six visits in the first year. They get a complete physical examination, including height, weight, and other developmental milestones are measured. Hearing and vision are checked. We have all had the experience where a child doesn't get those kinds of basic checks and they have a hearing problem because it wasn't detected early or a vision problem. One of my four daughters had a vision problem. It wasn't caught at an early enough stage and we had some real difficulties making sure she had the right care.

Important topics discussed, including normal development. What does that mean? A doctor should be able to talk to a parent about that, and the program covers that. Nutrition, sleep, safety, infectious diseases, and then general preventive care. Why should there even be a debate about whether children get this? The good news is, we have a program that does that and the good news is also that we have just expanded that program.

Here is where the challenge comes in. In the midst of health care reform, the House of Representatives did a lot of good things in their bill. One thing they did not do well is make sure the Children's Health Insurance Program is as strong as it needs to be and must be, and that is the reason why I received the following letter. I will not read the whole letter, but this letter came from Barbara Ellis. She is in Broomall, PA. I spoke to her a couple days ago about her letter. I will not read all of it, but I think it describes pretty aptly what we are talking about.

Barbara and her husband Ben live in Delaware County, PA, in Broomall. She says:

We are a one income family with two sons, ages 6 and 8. Due to the high price of health insurance my children are currently covered under the free Pennsylvania Children's Health Insurance Program.

That is the good news. But here is the part where she is worried:

We qualify for free Children's Health Insurance coverage in Pennsylvania, but my husband's income is greater than 150 percent of the Federal poverty level which means our children won't qualify for the coverage under the House's proposed plan.

Then she says—probably the most important part of this whole letter: "This has us terrified."

So it would any parent who does not have the peace of mind to know, when they fall asleep at night, they don't have to worry about whether their children have health insurance. But if we don't do the right thing, she will have that sense of terror. She says this as she concludes the letter:

It would help us tremendously if you could support keeping the Children's Health Insurance

provisions intact which would, in turn, support families like ours.

That is what I have done by way of an amendment to our bill to make sure we strengthen what the House did and strengthen even our own bill. Our children's health insurance amendment, which I will not go through today, strengthens and safeguards the program through 2019 and beyond to address any changes health care reform may bring.

We will talk more about it, but this is key to be able to make sure we have not just a set of benefits for children that are directly tied to their care and will help them for decades afterward and help our economy and give their families peace of mind but also that in the process of making sure we keep these kinds of benefits, we keep the program strong, not just until 2013 but at least all the way to 2019. I think we can do that. I think we can do that in the midst of this debate and get it right and give families and especially children that kind of protection.

In a word, what we have to make sure we do is to ensure that the Senate and the Congress and this administration do everything they can to prove and to demonstrate that we are a faithful friend to children, that we will always be their sturdy shelter.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I appreciate the good Senator from Pennsylvania and his discussion and his clear and constant focus on children and children's health. I wish to commend him for his good work and for always reminding us of the importance of our children in so many aspects of our policies. So I thank him for that.

I, too, rise this afternoon to talk about the debate on health care and the debate we seem to have ongoing with the numbers. Whether it is numbers that are coming out from the Congressional Budget Office, the CBO, or from our States or from other noteworthy entities, there is a great deal of back and forth as to whose numbers are right, whose numbers are wrong.

There has been a great deal of discussion in the past day or so about the numbers we have received and the analysis we received from the Office of the Actuary, from CMS, the Centers for Medicare and Medicaid Services. The Chief Actuary is Mr. Richard Foster. A good deal of discussion has been had as to these numbers, and the question that needs to be asked is: Why would the numbers from the CMS Actuary be any more significant than, say, what we have seen coming out of the Congressional Budget Office?

The Chief Actuary of CMS is kind of the independent arbiter, if you will. They look at both the private and public health care expenditures. The Chief Actuary provides actuarial details that I think we recognize can be critically important for certainly my State and

for any of our States' economists to develop individual State estimates of the financial impacts, the effects of the health care reform proposal.

As important as discussion on the broader scale is, the people back in my State want to know: Well, what does it mean for us in Alaska? What does it mean for increased access? What does it mean for us in terms of our premiums? Are they going up? Are they going down? How do we as a State that is very unique in its markets—geographically dislocated, smaller population—how does this health care reform proposal impact us? So the numbers and the assessment we have received from the Office of the Actuary are very important.

I have mentioned we all want to know what this Democratic health care proposal will mean to us as individuals in terms of the increase to premiums, the impact on the long-term sustainability of Medicare, whether it is going to restrict access to care in a State such as Alaska or throughout rural America. And ultimately, will this \$2.5 trillion bill bend this cost curve down on health care expenses that are pricing so many Americans out of the market on health insurance.

I think it is so important that we be focused on the cost side and on the spending side. That is a bipartisan thing. We haven't done a lot that is bipartisan of late, but it is clear we all want to know we are doing all we can effectively to reduce those costs.

I will note a letter that came from six colleagues on the Democratic side. This was sent when the Finance Committee bill was being considered. A letter went out to Chairman BAUCUS that provided that:

There are many wide-ranging options to address the broad and complicated issues of runaway health care costs, and we pledge our support to you in making the necessary and tough decisions.

"This is our No. 1 priority," the letter states. "If we pass health care reform without addressing the issue of health care spending, we have failed."

I couldn't agree more with my Democratic colleagues who signed that letter. We will have failed if we have not addressed the issue of cost, the issue of spending.

Again, this takes me back to the report from CMS, the Actuary's report. I want to highlight some of the very important points that were raised by the Chief Actuary.

First, the Reid bill reduces payment updates to health care providers, which are unlikely to be sustainable on a permanent basis. If you go through the report, on page 9 is a statement that:

As a result, providers could find it difficult to remain profitable, and absent legislative intervention might end their participation in the Medicare Program. The Reid bill is especially likely to result in providers who are unwilling to treat Medicare or Medicaid patients.

On page 18, the statement is:

Providers might tend to accept more patients who have private insurance and fewer

Medicare and Medicaid patients, exacerbating existing access problems for the latter group. Either outcome, or a combination of both, should be considered plausible and even probable.

I can tell you for a fact this is not just some maybe or if, in fact, these things happen; this is happening.

I received a call 1 week ago from a practitioner in Alaska, in Anchorage, a family care practitioner. I was told that this practitioner, who has been practicing for many years in the family care practice—that the decision had been made to opt out of Medicare. In the e-mail we received and the followup conversation that was had with this practitioner, it was specifically cited that it is due to what is—I am reading from the e-mail we received—"due to what is in the Reid bill, as it will collapse my practice."

This is incredibly important to us not only in a State such as Alaska, where we are in a crisis situation when it comes to providers who are willing to take new Medicare individuals. Right now, in our State's largest city, we have 13 providers who will take new Medicare individuals—13. Well, if this individual whom we have communicated with a week ago is making the decision to opt out of Medicare because of the low reimbursement rates, because of what is seen developing here on the floor of the Senate, and the impact that will have on that family care practice—talk about not being able to sustain things—it is not acceptable.

When I read the language in the Actuary report that says that providers might tend to accept more patients or might find it more difficult to remain profitable and might end their participation in the Medicare Program—to me, I am saying it is not "might," it is happening, it is now, and it is impacting Alaskans' access to care in my State.

This is something we should all be concerned about. It is not just this one practitioner. We have heard this has caused a great deal of anxiety within Alaska, primarily because that is where I am checking in with folks. But the anxiety about their ability to sustain a practice, again, with Medicare reimbursement rates as low as they are—in our State, we don't have a medical school, so it is not as if we are growing more practitioners to come in. It is very costly to have a practice in Alaska. We have a lot of strikes against us.

We have to figure out a way we can continue to receive care from these fine professionals. But right now, from a policy perspective, it seems as if we are doing everything possible to drive them out.

I am talking a lot about the situation in Alaska, but don't think for a minute that it is isolated to my State. The statement that is made by the Actuary is devastating news for States that are also facing problems of access, in terms of finding a general care doctor to see them, such as Oregon, Nevada, Colorado, and New Mexico.

There was a GAO report—granted, this is a 2006 GAO report, but it did an assessment of what is happening in locations across the country, and those areas where access is compromised. You look at the statistics coming out of GAO, and their wording is:

This suggests the distinct possibility of a deepening problem in many of our Western States.

So it is not just in a few isolated communities. We have States that are looking at this and calling the crisis for what it is. What we are doing in this health care bill currently before us is we are using Medicare as kind of this guinea pig, if you will, cutting from the Medicare—from the health program, even though we all recognize Medicare is slated to go broke by 2017—and using the Medicare money to expand Medicaid and, if the Medicare reports are true, expanding Medicare as well. So the end result is to harm Medicare patients as we expand Medicaid.

Alaska is a little bit unique. We are one of two States where Medicaid is actually a better payer, or better in terms of the reimbursements, than Medicare. But even still, the economists we have at the University of Alaska's Institute for Social and Economic Research have said that Medicare patients will lose access and, as they have suggested, kind of go to the back of the bus, if we expand Medicare.

I want to use their language specifically. This is from the analyst at ISER. He has stated that:

We can continue to be concerned that the newly enrolled through the Medicaid expansion and the new exchange will create a big surge in demand that could easily create a traffic jam in the health care system and send the Medicare beneficiaries to the back of the line in Alaska due to Medicare's low reimbursement rate. Expanding Medicaid is bad for Alaska.

The Chief Actuary at CMS is saying Medicare and Medicaid patients will both face limited access to care under this bill. While in Alaska Medicaid patients may fare better, what is happening is at the cost, or expense, if you will, of Medicare patients. So you are robbing Peter to pay Paul.

Keep in mind that, as we look at the CMS letter—the Chief Actuary's letter—it doesn't even address the Democratic leader's desire to bring to the floor the provision that would expand Medicare to those 10 years younger than the current threshold age for Medicare. So what we are seeing within this analysis is probably just the floor in terms of what the impact will be if we allow for this expanded Medicare provision, this buy-in, if you will.

Again, my State's seniors are absolutely suffering on Medicare, with virtually no primary doctors who will see them in our State's largest city. Now we have experts saying Medicare's patient access to care is going to suffer.

We simply cannot expand broken health care systems. We have to fix the systems. You don't expand a broken thing and hope it will fix itself.

Yesterday, in our State's largest newspaper, the headline at the bottom of the fold was:

"Health Bills May Hurt Some Alaskans," consultant says.

And it says:

Older residents could have more trouble seeing doctors.

If you don't think that sends chills up and down the seniors in my State, knowing that the difficulty they are facing now could be made worse—a point that I think is important to add to the conversation here. You might think, well, Alaska, you don't typically have a lot of seniors, you are a younger population. We are that, but it should be noted that we are, per capita, the State with the fastest growing senior population in the Nation. We have a situation where, as we have our baby boomers aging in, the numbers are increasing dramatically, as far as those who will require the care. The number of patients who are 65 and older at the health care facilities, Anchorage Neighborhood Health Center, has jumped on the order of 50 percent within a few years. The neighborhood health center saw twice as many Medicare patients in 2007 as in 2001.

The report also found that older Alaskans have been visiting the emergency room in growing numbers. What we are seeing is an expansion of those who will be our Medicare consumers. In 2008, there were 49,455 Alaskans 65 and older; but by 2015, 5 years from now, the number is expected to increase 50 percent. By 2020, 10 years from now, the number is projected to increase to over 86,000 individuals in Anchorage. Yet, we have fewer and fewer primary care doctors who are willing to accept these Medicare patients.

The proposal out there is that we are going to cut \$½ trillion from Medicare to pay for a new government entitlement. That doesn't add up.

Back to the Actuary's report. It goes on to state that:

We estimate that total national health expenditures under this bill would increase by an estimated total of \$234 billion during calendar years 2010 to 2019.

We know that bending down the cost curve, which has been so essential to the health care reform bill, according to our own government's expert, is not going to be achieved in the Democratic leader's health care proposal.

Contrary to what Senator BAUCUS said last week, that Senator McCONNELL's statement that this bill raises costs was "a false statement," this bill does, in fact, raise health care expenditures, and all you need to do is go to the Actuary's statement to determine that.

The Actuary's report goes on to provide:

The new fees for drugs, devices, and insurance plans in the Reid bill will increase prices and health insurance premium costs for consumer. This will increase national health expenditures by approximately \$11 billion per year.

We know this bill is going to raise money on the backs of patient con-

sumers. This is going to happen in my State. It is going to happen in every other State. And it is going to be done by taxing the industries that provide us with the prescription drugs, the medical devices, such as tongue depressors, medical thermometers, blood sugar meters, x-ray machines, and the like.

Whether or not you agree on taxing these industries, what the CMS Actuary is telling us is that these additional taxes are going to be passed on to the patient consumer to the tune of \$11 billion every year. Again, the American people should know that their costs on drugs, thermometers, diabetes test strips, labs, and x rays are all going to go up because new penalties imposed by the Federal Government will be passed on to the patients.

I appreciate the work Mr. Foster, the Chief Actuary, has done in getting us this report. I wrote him a letter on Monday asking if we could get the report so the folks in our respective States could look through it and better assess and understand. They want to know that they are relying on a good, sound assessment. But I will tell you, after reviewing the Actuary's report, I do not know how anyone could come to a different conclusion other than that these proposals, these bills, do not look good for my State, they do not look good for the medically underserved areas of the country, such as urban areas with limited access to care because of their high Medicaid populations or for rural America where general-care doctors just simply are not taking Medicare patients.

This is just a bad bill. It is a bad bill. It hurts our seniors, it does not bend down the cost curve, it spends \$2.5 trillion, and it raises health care costs. We have to figure out a path forward that is reform that does not increase the cost to our constituents around this country, that truly does make a difference when it comes to the delivery of health care costs in this Nation, and that really does provide for expanded access.

I have said numerous times that just by giving an individual a card that says: OK, now you are part of a health care plan but you don't have access to a provider, we really haven't done what we have promised to do to help you receive good health care.

There is a great deal that is floating out there in terms of "he said, she said" type of conversation on the numbers. It is incumbent on us in the Senate to give thorough vetting, thorough assessment. We have to rely on the experts. We hope we rely on those experts who have been able to look at the proposals fairly and evenly and give their best assessment. I have a great deal of confidence in our independent entity in the State of Alaska, the Institute for Social Economic Research at the University of Alaska. I appreciate what they have done to provide more focus on what this national proposal will do to access to care in my State and costs that will be borne by my constituents.

I think the more time we spend understanding what we have in front of us, the more we realize this is a bad deal for America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Utah.

Mr. HATCH. Mr. President, yesterday the administration's own Department of Health and Human Services health analysis warned Americans about the impact of this bill. According to the official scorekeepers at CMS, the Centers for Medicare and Medicaid Services, the Reid health care bill will actually not only increase our national health care costs by \$234 billion over the next 10 years but will also reduce access and cut benefits for our seniors. This non-biased report simply proves what we have been saying all along: You cannot reform a \$2.4 trillion health care system simply by spending another \$2.5 trillion of hard-earned taxpayer money. Despite all the rhetoric from the other side about this historic legislation, the only thing this bill accomplishes, after imposing \$½ trillion in new taxes and \$½ trillion in Medicare cuts, is to simply bend our Nation's health care cost curve up.

As a longtime supporter of the Medicare Advantage Program, I offered an amendment on the Senate floor to strip nearly \$120 billion in cuts to the Medicare Advantage Program that provides comprehensive health benefits, including vision, dental, and reduced cost-sharing, to almost 11 million seniors.

Unfortunately, despite statements from the Congressional Budget Office that these cuts would result in reduced cuts for seniors enrolled in Medicare Advantage, Democrats in the Senate voted to keep the cuts in the package to finance more Federal spending—\$500 billion in cuts in Medicare. Whom are they kidding? Medicare has \$38 trillion in unfunded liabilities.

This report is another reminder of why it was a mistake to not adopt my amendment. The CMS Actuary found that the cuts to the Medicare Advantage Program in the Reid bill would not only result in "less generous benefit packages" for our seniors but, more important, it would decrease enrollment in Medicare Advantage plans by 33 percent.

Clearly, health care spending continues to grow too fast. This year will mark the largest ever 1-year jump in the health care share of our GDP. This jump is a full percentage point to 17.6 percent. You can think of this as a horse race between costs and resources to cover those costs. The sad reality is that costs win year after year.

Growing health care costs translate directly into higher coverage costs. Since the last decade, the cost of health coverage has increased by 120 percent, three times the growth of inflation and four times the growth of wages. Rising costs is the primary driver behind why we continue to see a rising number of uninsured in our country

and why increasing numbers of businesses find it hard to compete in a global market.

Without addressing this central problem, we cannot have a real and sustainable health care reform bill. So what does this \$2.5 trillion tax-and-spend bill do to address health care costs? Absolutely nothing. According to the Congressional Budget Office, the premiums for Americans who buy insurance on their own will actually increase by 10 to 13 percent, while premiums for small and large groups will largely remain unchanged and continue to rise between 5 to 6 percent a year.

Furthermore, according to the CMS report, the new fees on prescription drugs, medical devices, such as wheelchairs and hearing aids, and health care plans will not only increase overall health care prices but also health insurance premiums for millions of Americans.

Let me make this point as clearly as I can. This bill does not address the underlying problem of slowing down the growth of health care costs. It simply spends hundreds of billions of dollars in new subsidies to buy out the cost of these increases for families making up to \$80,000 a year. Instead of fixing the real problems, this bill simply tries to spend its way out of the problems. Does that sound new to you? This administration seems to think that just throwing money at things is going to help.

We have been hearing a lot recently about how Democrats are throwing the government-run plan out of their bill to quickly jam this bill through the Senate before Christmas. The American people need to be careful about believing this propaganda. The Democratic solution to the government plan is a Ponzi scheme that would embarrass even Bernie Madoff himself.

I have to be fair here. I have to rely on news reports to discuss these provisions. You heard me right—news reports. Why is that? Because no one knows what is actually in the bill they have sent to the CBO. Not even my friends on the Democratic side, by and large, know. The Reid bill was put together by very few Democrats with the White House in the back rooms of the Capitol. Nobody really knew what they were doing until they came out with it.

Once we all saw it, we all realized what a mess that is. They found themselves in trouble, so they have gone and done another bill and submitted it to CBO, and hardly anybody on the floor knows exactly what the features are in that bill. No one knows actually what is in the bill. And despite the continuous claims of transparency our friends on the other side are always talking about, the real bill continues to change on a daily basis behind the closed doors of the majority leader's office.

I am really glad to know that it is not just the Republicans who are in the dark about what is actually in this bill. Democratic Members of Congress in this body are also in the same boat. It

is really unbelievable. We are being asked to move forward on legislation that will reform one-sixth of the American economy and impact every American life and business without knowing what is actually in the bill. We have to rely on news reports. I have never seen anything like this in my 33 years of Senate service.

One proposal that has come to the floor in recent days is the idea of expanding Medicare to include coverage for Americans 55 and over. Currently, we all know Medicare is for Americans 65 and over. It is a bankrupt program. It is well intentioned, it does a lot of good, but it is bankrupt. It is a program that can barely pay for the benefits of the 40 million seniors in it today. Medicare is on a path to fiscal meltdown, with Part A facing bankruptcy by 2017. I don't think anybody denies that. It underpays doctors by 20 percent and hospitals by 30 percent compared to the private sector, forcing an increasing number of providers to simply stop seeing our Nation's seniors.

According to the June 2008 MedPAC report, 9 out of 10 Medicare beneficiaries have to get additional benefits beyond their Medicare coverage.

What is Washington's solution to address this problem and crisis? Take up to \$500 billion out of this bankrupt program and at the same time push millions of Americans into it. Does that sound logical to you?

The CMS report states in clear terms that the Medicare cuts in this bill could jeopardize our seniors' access to care. The cuts would result in nearly 20 percent of all Part A providers, such as hospitals and nursing homes, operating in the red within the next 10 years as a result of these cuts. Twenty percent—that is a pretty big number.

It should come as no surprise that this proposal faces strong opposition from a wide variety of provider groups, from doctors and hospitals that are already under tremendous financial pressure due to underpayments from Medicare.

Keep in mind, the AMA here in Washington has backed this monstrosity. Now some people think that AMA represents all the doctors. It does not. The average doctor out there is incensed about this. Adding more lives to this insolvent Medicare Program will only further limit their ability to see all Medicare patients, not just the new ones.

Even more troubling is the impact of this expansion on the premiums of our Medicare seniors from this ill-conceived policy. This expansion would encourage an influx of sick Americans in private coverage into Medicare, which will simply raise premiums for seniors already enrolled in Medicare. So seniors, expect your cost of Medicare to go up.

So why are Democrats pushing this idea? Congressman ANTHONY WEINER said it best. I think he was very honest; very upfront. He said this:

Extending this successful program to those between 55 and 64, a plan I proposed in July, would be the largest expansion of Medicare in 44 years and would perhaps get us on the path to a single-payer model.

Well, the Democratic endgame on health care reform is crystal clear: Make as many Americans as possible dependent on the Federal Government programs. Democrats believe by making millions of Americans dependent on big government programs, on the backs of their grandchildren's future, they are taking a huge leap toward creating a permanent majority for themselves. Why, it would be a natural constituency for them.

Well, let me tell you this—America is built on the spirit of self-reliance, not government handouts. Poll after poll, especially the CNN poll, has said 61 percent of Americans are now opposed to the bill, and study after study is warning us this is the wrong solution for our Nation. This unknown bill, which continues to change by the day behind closed doors, is a direct violation of the President's own pledge to only support a reform that would reduce costs, protect benefits, and not raise taxes.

I sincerely hope the Democrats will step away from their arrogance of power and listen to the will of the American people. It is not too late for us to push the reset button and work on health care reform in a truly bipartisan manner. We are eager and willing, as we have been all year, to work on a responsible solution that every American can be proud of. There are all kinds of things we could agree on, that Republicans would work hand in glove with Democrats to solve, if they were willing to do it.

But keep in mind the HELP Committee bill was totally Democratic. Not one Republican was asked to help write it. The House bill, totally Democratic. Not one Republican was asked to help write it. I admit my friend, the Senator from Montana, MAX BAUCUS, worked hard to try to get a bipartisan bill. But in the end, he did not have enough flexibility to reach a deal. All of a sudden, he finds his bill being put together—between the House bill and the HELP Committee bill—behind closed doors, with very few people involved—all Democrats and the White House and probably two or three or four or five from the Senate but no more than that.

Throughout this debate, I have heard a lot of rhetoric from the other side of the aisle how Republicans are opposed to this \$2.5 trillion tax-and-spend bill because, as the Democrats incorrectly suggest, we want the status quo. Oh, give me a break. We all know this is completely false. We on this side of the aisle have asked the Democrats over and over again to step back and write a new bill with us. But they are so consumed with their arrogance of power that they simply want to push what they have always wanted; that is, more government and more government controls over all our lives. America is a

free nation, the greatest Nation in the history of mankind. What makes us great is not our reliance on the Federal Government but our individual resolve and strength. Americans want the Federal Government to help them, not support them.

Well, let me tell you the other side of this. In a recent Gallup Poll, Independents around this country opposed this bill 53 to 37. These are Independents. So it would be wise for my Democratic friends to realize America is not behind them; not behind this bill. It is time for them to listen to what the majority of Americans want and that is not this bill.

I cannot tell you the kind of opposition I have seen in my State to this bill. It is almost unprecedented. I read it in the letters, hear it in the calls. At airports and grocery store aisles and on the streets people stop me and say: Don't let that thing pass.

Absolute power corrupts, and that is what we are seeing in Washington today. Democrats control the White House, the House, they have a filibuster-proof Senate and they have used this absolute power to rubberstamp this administration's big-government agenda and have tripled our deficit within 1 year—1 year. We will run deficits of at least \$1 trillion a year for the foreseeable future, while our national debt will triple. We are literally mortgaging the future of this country to foreign countries as we speak. Enough is enough. Let us step back and start over on a plan we can all be proud of and all work on.

We hear a lot about how the Republicans are simply standing for big and evil insurance companies and how the Democrats are the defenders of American families. Well, these days, nowhere is this Democratic hypocrisy more clear than the individual, mandated policy that is part of this tax-and-spend legislation.

Let's be very clear about who would benefit the most from this provision, which would, for the first time in our Nation's history, give the Federal Government the power to force Americans to either buy health insurance or face a tax penalty enforced by our friends at the Internal Revenue Service. There are only two clear winners under this policy, and it is not the American families. First, it is the Federal Government, that will now use this authority as a blank checkbook to increase the penalty in the future as a new revenue stream for its out-of-control spending habits; and, second, are the insurance companies, that will now reap the benefits of having Americans being forced to buy coverage at the decree of the Federal Government.

Right now, States are responsible for determining policies that best meet their unique demographic needs and challenges. Massachusetts, for example, has decided to implement an individual mandate, while Utah has decided not to. Under this bill, we are explicitly taking away this State flexi-

bility and authority to give the Federal Government the authority to make this one-size-fits-all decision for all 50 States and every American. This is an unprecedented grab of State power by Washington—a fundamental threat to the very Federalist vision our Founding Fathers used more than 200 years ago to create the greatest Nation in the history of the world, in the history of mankind.

I am gravely concerned about the precedent this policy will set for us as a nation going forward. If the Federal Government can force us to buy health insurance, what else can it force us to do? The possibilities are endless, just like my concerns, which I share with millions of Americans, on Washington's growing role in our private lives and personal decisions. Think about it. Washington has become an unwanted houseguest in our homes and lives who will not leave. If it does not start listening to the families, it will get kicked out, sooner rather than later. Think about it.

A couple of our friends have even said: Well, it is similar to car insurance. The States require you to buy insurance for your car, and it is in the best interest of the community that you do so. Well, the reason they do is because you want to drive. It is an activity you want to participate in, and so they get away with it. Here, if they have an individual mandate, they are forcing you to buy policies that are defined by Washington. If you don't, you are going to be penalized.

This has never happened before in our lives. If they can get away with this, I have to tell you, they can get away with anything. The liberties of all Americans are going to be affected by it. This is not an activity. This is not something we choose to do necessarily. If we choose to do it on our own, that is great. But to have the government come in and say you have to buy this policy—for the first time in history—you have to do this, even though you don't want to buy it, is unprecedented.

Well, let me say, I think it is fair to see I am not very enthused about the health care ideas of our colleagues. But I do wish to end on a positive note. There are some good things we can all do, some of which are in the bill. It is not totally bad. It is only about 90 percent bad, but there is at least 10 percent we could build on; that we could work together on.

I am not just saying that. Look, I have been around here a long time. I can name all kinds of bills I have worked on with some of the most liberal people in the whole Congress to pass. Hatch-Waxman is a perfect illustration. That created the modern generic drug industry. HENRY WAXMAN is as liberal as it gets but he was willing to face up to these realities with me, and we did Hatch-Waxman. I call it Waxman-Hatch when I am around him.

I might add the orphan drug bill. We found there were only maybe two or

three orphan drugs being developed. These are drugs to benefit population groups of less than 200,000. Well, it is clear the drug companies can't afford to do it for 200,000 people because it costs upward of \$1 billion. Biological drugs cost even more than that, and they are not truly drugs. But the fact is, they cost even more than that. We came up with some very small incentives—but they were incentives with prestige—and some tax breaks and all of a sudden it was about a \$14 million or \$15 million bill, as I recall, in the early 1980s, when I was chairman of the Labor and Human Resources Committee. Today, we have well over 300 orphan drugs being developed, many of which have been developed, and from some of them blockbuster drugs have evolved.

Let's take the CHIP bill. That was the Hatch-Kennedy bill. Ted Kennedy, very liberal. He would have preferred to have the Federal Government do it all—just like our colleagues do today with this enormous number of 60 votes on their side—but he was willing to work with me. I went to him and said: Look, I had two families from Provo, UT, come to visit me—husbands and wives. In each family's case, both the husband and the wife work. Neither family's combined joint income is over \$20,000 a year. At that time, it was too much to have their kids qualify for Medicaid and too little for them to be able to buy health insurance. I said: The only kids left out of the health care equation are children of the working poor. Teddy, we have to do something about that. He saw it, and he said yes.

He wasn't happy with the bill, in the end, because it was exactly what I told him it would be. It would basically be block-grants to states, where the States would handle it in accordance with their own demographics. It has worked amazingly well, until now. They are shoving more and more people into CHIP, other than the children of the working poor whom we originally decided to help.

Well, I could go on and on and on, on so many pieces of legislation, but I will just mention those few. I am very concerned because I actually believe that if we get what they are talking about on the other side, it will not only bankrupt the country, it will make more and more people dependent upon the Federal Government. Like I say, a natural constituency for the Democratic Party, but it is a matter of great concern to me.

Are our colleagues bad people? No. They simply believe the Federal Government can do it better. There are some things the Federal Government can do better, such as defending our national security interests, which is what the Constitution expects the Federal Government to do.

But even there, under this administration, we are not doing as well as we should. Although I commend the President for deciding to send the people to

Afghanistan and for standing on these issues. Once he saw the intelligence and the other information, it infused reality into his decision-making process. I give him credit. I am one who believes he deserves great credit for the decision he made. But even in that decision, he had to be very careful how he characterized when we are going to leave. He did leave it flexible. In that alone, he deserves a lot of credit because he knows there may not be enough time to do all we have to do to create the well-trained police and security forces that are necessary to keep Afghanistan free and to keep the world from allowing the Taliban and al-Qaida to obtain nuclear weapons.

Well, that is another subject for another day. I wish to end by saying I don't believe anybody on the other side is an evil person or a person who doesn't believe they are acting in the best interest of the country, but I do not see how—I do not see how they can continue to push what they are trying to push, I think to the detriment of this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBAC. Before my colleague leaves the floor, I wish to ask him a question or two if he wouldn't mind. He has been involved in most of the major health issues that have passed this body in the last 15 years. What was the vote margin in the Senate on some of those bills, on the Hatch-Kennedy, Hatch-Waxman bills? How many votes, roughly? I am not asking you to pull that up from memory, and it may not be fair to do. As I recall, a number of people on both sides of the aisle ended up supporting those bills.

Mr. HATCH. On the CHIP bill I can't remember what the exact number was but I think it was between 70 or 80 votes. It was a bipartisan bill. In fact, on the Finance Committee when I brought it up only two Senators voted against it. It was like 19 to 2.

Mr. BROWNBAC. In the Finance Committee?

Mr. HATCH. Every Republican except two, and every Democrat voted for it.

Mr. BROWNBAC. And Hatch-Waxman? It is longer back.

Mr. HATCH. That was unanimous. If I recall correctly, I think it was done through a unanimous consent.

Mr. BROWNBAC. I believe you did a major health care bill with Senator DODD from Connecticut.

Mr. HATCH. Yes.

Mr. BROWNBAC. Do you recall the split?

Mr. HATCH. They were all bipartisan. That is what gets me, because people know—people such as myself, such as the senior Senator from Kansas—we are willing to work on it with them. We know we can't get everything we want. Our colleagues have different viewpoints than we do. But tell me that I am wrong—I know you can't—that the HELP Committee bill was

done solely between a few people at the White House and the Kennedy staff, and basically a few Democrats. That was it. No Republicans.

The House bill, I wish to ask the Senator, does he know of any Republican who was asked to participate in helping to develop that monstrosity they call the House bill?

Mr. BROWNBAC. If I could respond to my colleague, I do not know of any. I don't know of any who were even asked. I know of some who were told you can join this bill, or asked that—OK, can you join our bill but you don't have any input.

Mr. HATCH. After they came up with it, but how about the Reid bill? Does the Senator know if any Republicans were involved, able to participate in that bill, after the discussion between the White House and Senator REID and a few Democrats?

Mr. BROWNBAC. None. I know of none.

Mr. HATCH. None were involved. After they get it they say we want to work with you. After they get it done in the ways that I don't think any Republican can support, then they will say, yes, we would like it to be bipartisan. Has the Senator seen any acceptance of amendments here on the floor?

Mr. BROWNBAC. I haven't seen any at all, and particularly when we tried to work in a bipartisan fashion to add Hyde language into the bill that was defeated, not accepted.

My point is something I have seen the Senator say in a quote, that a good health care bill should have 70 votes because it is major legislation that affects everybody in the United States. It has huge costs associated with it. So it is not something you do on a single-party basis, it is something you work extensively on over a long period of time.

I ask my colleague again, over how many years he worked with Senator Kennedy on getting the Hatch-Kennedy bill, or Waxman—my guess is those are lengthy pieces of negotiations that take a period of time to get something that has bipartisan support.

Mr. HATCH. That is right. One thing I appreciated very much about Senator Kennedy, as liberal as he was—he was the leading liberal lion in the Senate, in the whole Congress, in my opinion—he knew unless we could get together in a bipartisan way we could not get the job done. This involves one-sixth of the American economy; one-sixth. We are being told take it or leave it. That is what I call an arrogance of power.

I don't want to be mean to my colleagues, I think many of them are very sincere, but it is an arrogance of power to not deal with the other side and to not even talk to us about it until after you have done what you want to do. I have to say, this is the worst I have seen it in the whole 33 years I have been in the Senate.

Mr. BROWNBAC. If I could ask one more question before my colleague leaves—and also a comment that I like

the Senator's tie, nice bright colors on a Saturday session.

Mr. HATCH. It is a western tie. I thought I would wear it out of loudness today.

Mr. BROWNBAC. What does the Senator think of getting—how many total votes could you get for a bipartisan health care bill along the lines of which a number of people on our side have discussed, where you expand access, you try to bend the cost curve down, you try to get more access to low-income individuals? Does the Senator think he could craft a bipartisan bill that could get well over 60 votes on health care reform?

Mr. HATCH. I believe we could craft a bill that would get almost 100 votes. I think we would at least get between 70 and 80 votes and probably more if we worked together to do it. I don't think there is any question we could do that.

Look, we all want prevention, we want maintenance, we all want to cover as many people as we possibly can, we all want to correct some of the deficiencies that are in these bills, we all want to take care of people with preexisting illnesses. I could go on and on. Those are things we could build upon in ways that would work.

This bill is not going to work very well. But we could build upon that, bipartisan-wise, and build a complete bill. We Republicans would not get everything we want. But I think there are Democrats who believe we ought to use the principles of federalism, have 50 State laboratories out there, let them work on their own problems in accordance with their own demographics. I know Kansas is not New Jersey. Neither is Utah. And New Jersey is not Kansas or Utah, to pick three States. You can do that with any three States. But we know one thing, if we follow the principles of federalism—that is what we did in CHIP, and CHIP worked well by anybody's measure—if we follow the principles of federalism we would be able to look and pick and choose from the various States what works and what does not.

You would have the usually big Democratic States that probably wouldn't function no matter what you do. But even they would benefit. Even they would benefit from looking at the other States and saying will that work in our State. Frankly, that is what made this country great.

There are friends on the other side who do not agree with me on that but there are friends over there who do agree with me on that, as you can see, getting 70 or 80 votes on the CHIP bill. There were other bills we put through by unanimous consent, because people recognized they were well intentioned, well written, had bipartisan support and nobody wanted to vote against them.

Mr. BROWNBAC. I said I would only ask the Senator one more question, but I have one more. My question is you didn't do those bills on the fly where you were amending them, saying

OK, we can't quite find 60, let's go back to a closed room and let's rebuild the bill. You built them over a long period of time. You did a good job of working the problems out together, and then you built it as it went along. You didn't say OK, let's do it on the fly, let's change this, let's change that. You build a solid piece of legislation and move it forward, not changing it at the 11th hour as we are seeing take place now.

Mr. HATCH. That is right. When Senator Kennedy and I did the CHIP bill, as an illustration, we had to go up and down this country giving speeches everywhere, building constituencies, working very hard together. It is no secret, in the end it was not everything he wanted. It wasn't everything I wanted either. He wanted the Federal Government in control of it. I wanted the States to be in control of it. But in the end I happen to know, as one of the dearest friends of Senator Kennedy, with all the differences we had—and we had plenty, we fought each other most of the time, but in the end he was as proud of that bill as any bill he passed or he worked on—even though it was put together in a way that brought a great number of Republicans on board.

Frankly, that can be done here. I have no doubt it could be done here. I look at the distinguished Senator in the chair. He is one of the brightest guys in the Senate. He has a lot of experience in this area. I personally believe the people such as the Senator from Rhode Island, the Senator from Kansas, myself—if we got together we could do things that our respective States would be proud of and would be pleased to work on—even though there would be some give and take, and that is what we need to do.

Look, I point out one more time, the HELP bill is totally Democratic, not one Republican, until they brought the bill to the committee. The House bill—totally Democratic, not one Republican was even asked to give input. And this bill, not one Republican. In fact, not many Democrats.

I made the point here a few minutes ago, most of the Democrats do not know what is in the bill that was submitted to the Congressional Budget Office. You heard the very competent minority—majority whip, the Senator from Illinois, say he did not know what was in the bill either. When the minority—excuse me, the majority; I have that in my mind, I think. If the majority whip didn't know, how in the world are we Republicans going to know? And how in the world are the rest of the Democrats going to know? These are things that worry me and bother me.

I believe they believed with President Obama's aura, with his strength in politics, with all of us wanting to help him and with their distinctive 60-person majority, that they could put over whatever they wanted to. This was their opportunity to go to a single-payer system—or at least to move the whole system much farther toward a

single-payer system than it even is today.

These things bother me a great deal. Frankly, I hope we can get our colleagues to sit down and work with us. I think both sides would have to give. Both sides would have to get together. But at least one-sixth of the American economy would be treated with respect rather than one side saying take it or leave it.

Mr. BROWNBACK. I thank my colleague from Utah for that explanation and also for the years of service he has given, and particularly a lot of focus on health care issues. I haven't always agreed with my colleague from Utah. I have always found him, though, very sound in his thinking, very knowledgeable in his ways, in knowing how you do this, and particularly when you are talking about health care these are bipartisan issues in and of themselves and they need to be in this body.

He also talked about the principles of federalism, which I think we have deviated from in what we see from this bill. I wish to read from the Constitution, article I, section 8. That is the piece I wish to focus on here for a minute about the constitutional question involved in this health care bill. Article I, section 8 reads simply this way, that the Congress shall have—and then it lists a series of enumerated powers: power to “regulate Commerce with foreign Nations, and among the several States, and with the Indian tribes.”

That is our ability to regulate commerce, with the foreign nations, among the several States, and with the Indian tribes. There are a number of people raising the question about whether you can constitutionally require everybody in the United States, by virtue of their citizenship or status in the United States, to have health insurance. I think it is highly questionable.

It appears to me from several legal scholars that this is unconstitutional for us to do. It is a major plank in the health care legislation that has been brought forward by the Democratic majority and I do not believe it is going to stand constitutional challenge. I want to develop that for my colleagues here today.

The Congressional Budget Office said this about the constitutional question here. They said forcing individuals to buy insurance would be “. . . an unprecedented form of federal action.” Those are big words in a time when we are seeing a lot of what I think are unprecedented Federal actions. Then going on to say, “The Government has never required people to buy any good or service as a condition of lawful residence in the United States.”

You would be requiring, as a condition for lawful residence in the United States, the purchasing of a good or a service—in this case health insurance. As laudable as some people may look at that or say that is, that would be what is being required. The Congressional Budget Office does not know of any time where a person in the United

States has been required to buy any good or service as a condition simply of lawful residence in the United States. I think it raises significant constitutional questions.

You have to remember, as everybody does, but I think we have to remind ourselves because too often we act as if we don't remember that the Federal Government is a constitutional government of limited powers.

From James Madison in the *Federalist Papers*, quoted often but it bears repeating because it is a foundational issue:

[I]n the first place it is to be remembered that the general government is not to be charged with the whole power of making and administering laws. Its jurisdiction is limited to certain enumerated objects.

Which is what I just read from in article I, section 8.

Chief Justice John Marshall, in the famous *Marbury v. Madison* case, stated:

The powers of the legislature are defined and limited; and that those limits may not be mistaken or forgotten, the Constitution is written.

We can't violate that. The Federal Government is limited to enumerated powers granted by the Constitution. The Founding Fathers who drafted and ratified the Constitution were unwavering in their desire to restrict the powers of States and limit the powers of Congress. To achieve their goal they created a system that splits State and Federal authority so that one government, Federal or State, does not maintain too much power over the liberty of the American people. Therefore, the Framers created a system with a legislature of limited and enumerated powers, the Congress, to enact laws which shall be necessary and proper for the execution of powers. One of those is the commerce clause I just read which grants Congress the authority to regulate commerce with foreign nations, among the several States, interstate commerce, and with Indian tribes.

Many have used the commerce clause to justify the implementation of this unconstitutional mandate. Those individuals often cite the case of *Wicker v. Filburn*, a 1942 case. The U.S. Supreme Court decision found that a law prohibiting a commercial farmer growing an additional acre of wheat to feed chickens beyond the limits imposed on wheat production mandated by the Federal Government was constitutional and fell under the enumerated powers granted by the commerce clause. *Filburn* was ordered to destroy his crops and pay a fine to the government for being too productive.

The Supreme Court, interpreting the Constitution's commerce clause, decided that *Filburn's* wheat growing activities reduced the amount of wheat he would buy for chicken feed on the open market and affected interstate commerce and, thus, could be regulated by the Federal Government. However, that Supreme Court decision, agree with it or not, still does not expand the

powers of this body under the commerce clause to impose a monetary fine or penalty upon a citizen who fails to purchase or enter into a private contract for health insurance. That doesn't expand our authority under the commerce clause. It doesn't change the commerce clause. For us to require somebody to do something simply as a status of citizenship, the Congressional Research Service says:

Despite the breadth of powers exercised under the Commerce Clause, it is unclear whether the clause would provide a solid constitutional foundation for legislation containing a requirement to have health insurance. Whether such a requirement would be constitutional under the Commerce Clause is perhaps the most challenging question posed by such a proposal, as it is a novel issue whether Congress may use this clause to require an individual to purchase a good or a service.

To think that the Federal Government can compel any individual to purchase a commodity because that individual is alive and breathing is unconstitutional and is at least a novel issue that this \$2.5 trillion proposal is built around. Should we be doing this major change in health care, \$2.5 trillion in spending, ½ trillion in reduction in Medicare, ½ trillion raising in taxes off of a novel constitutional question involved in the inherent piece of it, that being the requirement for everybody to have health insurance? I think not. Along with all the other problems with it, I think it has an enormous constitutional question right in the middle of it. And what if you pull that out and the Supreme Court says, ultimately, you can't require that. Then you have done \$2.5 trillion, \$½ trillion in Medicare cuts, \$½ trillion in tax increases, and your core piece is pulled out; it is unconstitutional. Then the whole house of cards falls apart.

Another popular argument for forcing citizens to purchase health insurance under penalty of law is that States require people to buy car insurance. This argument is not only constitutionally flawed but also an underwhelming argument that in many respects hardly deserves comment and adds little to the debate. It is recognized that States maintain inherent police powers to regulate behavior and enforce order within their borders to promote public welfare, security, health, and safety. This is a fundamental difference between the power of States and the enumerated powers of the national government, such as commerce between States and Indian tribes. This is a much broader granting of jurisdiction to the States.

State vehicle insurance laws are exactly that, laws implemented by States, and are generally derived from State constitutions and not the Federal Constitution under which this body operates. Furthermore, these laws require an individual who voluntarily participates in the use of an automobile to insure that vehicle. It is not a right of citizenship as a Kansan that you have to buy auto insurance. But if

you want to operate a car on our roads, you have to have auto insurance. It isn't a requirement of citizenship.

We are requiring this as an article of citizenship. You have to have health insurance, a novel and enormously expansive role of the Federal Government.

The Federal mandate for the purchase of health insurance forces individuals to purchase a commodity not because they choose to participate in an economic or commercial activity such as what one would think would be covered under the commerce clause but forces an individual to purchase a product simply because that person exists. This mandate is an abuse of the power granted to this Congress by the Constitution.

Last night I spent some time developing another thought that I think is an important one for us to consider. It is one this body has spent some time over the last decade dealing with; that is, the removal of the marriage penalty from our Tax Code, which we haven't gotten very far in doing, but getting the marriage penalty out, the thought being that marriage is a good institution. It is a fabulous institution for the formation of family. It is something that has an enormous role in our culture and society and should be rewarded and should not be taxed.

The fundamental principle exists, if you want less of something, tax it; if you want more of something, subsidize it. In the Democratic health care bill there are marriage penalties on both low-income and upper income individuals that will reduce the incidence of marriage in this society, under the principle that if you are going to tax something, you will get less of it.

This bill has marriage penalty taxes in it. I want to go through a series of these, starting with the high cost plan tax, the Cadillac insurance plan. Married couples under this bill are hit hardest by the high cost plans tax. The number of single and married tax filers is equal, but married taxpayers pay more than twice as much as singles as a percent of new tax revenue in this bill.

So if you are married filing jointly, you will pay 62 percent—single filers, 25 percent—in this bill. Is that something we want to do? Do we want to say, if you are married, you will pay more of the tax? Most people would say: We want to encourage marriage and the formation of family around marriage. We should have these at least equal or maybe do a higher tax on the other end. But most would say let's have these be equal.

Instead, in this we have a huge increase in the amount of money married filers will have to pay as compared to taxes paid by single filers. Consequently, you encourage people to say: Let's not get married because we don't want to pay the increase in taxes.

The high cost plans tax, the Cadillac plans tax, will hit married couples' households far more severely than sin-

gle filers. Even though the number of married filers and single filers is roughly equal, the high cost plans tax will impact the total tax bill of married couples much more severely: 25 percent of the revenue will be from single filers, 62 percent of the bill will go to married filers. One thing is certain, 62 percent of married couples' households don't make more than \$250,000. So not only is this unfair to married households, it is a direct contradiction of the President's promise that you wouldn't pay more taxes if you were making below \$250,000. In this case you do under the Cadillac insurance plan proposal or piece in this proposal.

I want to look at another chart on this subject. If we wanted to talk about factors that impact an individual's decision to enter the workforce or to invest in a business, an important factor is the marginal tax rate they will face on the next dollar they earn. Basically, it is a question of whether it is worth the effort and risk to work. What is my marginal tax? If I work longer and make another \$100, how much do I get to keep? The marginal tax rate.

This is an especially important factor for low-income households, people who don't have much marginal income to work off of. They need every dollar they can get. So if you are going to tax their marginal rate, they are looking at this saying: I don't want to get in that category. I need to hold back from getting in that category.

We have tried to help the less economically fortunate with various types of support programs: TANF, food stamps, the earned-income tax credit, the additional child tax credit, to name a few. Low-income families already face high marginal tax rates as a result of the phaseout of their benefits and tax rates that mean the loss of benefits they get under TANF, food stamps, the earned-income tax credit, housing assistance, the welfare package we put together for low-income individuals. Low-income families already face high marginal tax rates as a result of the phaseout of their benefits. These phaseouts already impose significant barriers to marriage.

In other words, whenever you get a combined income of a low-income couple, you lose more benefits. Consequently, people don't get married because they look and say: I will lose my health benefits if I get married. I will lose my medical benefits, my housing benefits. I may lose food stamps. I will not get married.

Yet you look at the chances for children in that situation to get out of poverty, their best chance is to have a stable mom and dad and a stable marriage environment, providing for the comfort and support of those children. Our incentives are disincentives toward marriage in this way, and they are built even more significantly into this health care bill.

As an example, let's take two individuals at 150 percent of the poverty level. After the new subsidies proposed

in this legislation are taken into account, these two individuals would pay \$1,478 for their health insurance. But if they get married, their bill will increase to \$2,308, a marriage penalty of \$830, if you are at the 150 percent of poverty level or below. If you are at 150 percent of poverty or below, you don't have marginal income to mess around with. You need everything you have just to provide the basics. So if you are looking at this increase in the marriage penalty of \$830, you are saying: We can't afford to get married.

Is that the signal we want to send from the Federal Government? No. Everybody in this body would say that.

Let's take a pair of individuals earning 250 percent of the poverty level. One has no children; the other has two children. Unmarried they will, after subsidies, pay \$5,865 for their health coverage. If they decide to marry, they will face a penalty of \$2,050.

Let's turn to the new Medicare tax that will go into effect in 2013. The tax will apply to wage and salary income as well as certain business income for individuals. The tax will apply to income of that type for above \$200,000 for individuals and \$250,000 for joint filers.

The penalty is obvious on its face. Let's take an example. Two unmarried individuals earn \$200,000 each, and their total Medicare taxes would be \$11,600. But if they get married, the penalty is \$750. Or take two individuals, one making \$150,000 and the other \$200,000. Single, their Medicare taxes total \$10,150; if they get married, they will pay an additional \$500. This is on top of the marriage penalties that two earners face under current law. The marriage penalty is there. I don't think it is as significant as for the low-income individuals, but it is here as well.

My point is, why on Earth would that even be built into the base of the bill, particularly on the low-income couples? Why on Earth would you build in a marriage penalty on people who can't afford it? If combined income is over \$250,000, you can afford another \$500. I am willing to agree with that. But not this couple that is making at 150 percent of poverty or 250 percent of poverty, one with two kids. They can't afford that. Why on Earth would you build it into this? This is ridiculous that it be placed in the proposal. It makes no sense.

Creating and expanding on the penalties for marriage makes zero sense. Families are a critical determinant of the well-being of our society. Family structure also has a significant impact on economic well-being, on education, and the effect on the social fabric of this Nation is positive.

It is a fundamental law of economics that when you tax something, you get less of it. Why would we tax marriage, particularly for low-income individuals, when it is the best chance for those children involved with this couple to have a stable environment, if they will form a solid marriage unit? And we are going to tax it and discour-

age it. That is wrong. That is wrong as a policy matter.

There is a number of other problems I have had with this overall bill. This piece of it absolutely makes no sense to me, why we would do something like this. I urge my colleagues to vote against this bill, to take these sorts of things out, to take them out of the base law. Unfortunately, in the United States today, this is kind of repeating what already takes place in food stamps, what takes place in health benefits for low-income individuals right now. They cannot afford to get married or they lose their benefits. It is ridiculous. We ought to give people bonuses for getting married, not penalties for getting married. Now we are going to add to it by putting it in this health insurance bill. It is wrong and it is bad policy.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

MORNING BUSINESS

Mr. BEGICH. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

NOMINATION OF ALAN D. SOLOMONT

Mr. GRASSLEY. Mr. President, on September 21, 2009, I announced my intention to object to proceeding to the nomination of Alan D. Solomont to be the Ambassador to Spain because of the incomplete responses that the Corporation for National and Community Service, CNCS, had provided to my document requests regarding the removal of its Inspector General, Gerald Walpin. Mr. Solomont was the chairman of the board of CNCS at the time that my requests went unanswered, and he began the process that led to Mr. Walpin's removal by contacting the White House Counsel's Office on May 20, 2009.

Since September 21, the White House produced approximately 1,900 additional pages of previously withheld documents. During that time, my staff conducted a series of negotiations with CNCS and the White House Counsel's Office over the hundreds of pages of remaining documents that were being withheld or had been redacted. As a result of these negotiations, this week the White House authorized and CNCS provided: 1. descriptions of the information redacted from several CNCS documents, 2. 37-previously produced documents with substantive redactions removed, and 3. 370 pages of previously withheld documents. In addition, the White House made Mr. Solomont available for a follow-up interview on December 8, 2009, so that he could be questioned about new information that had been learned from these documents

and other sources since his initial interview on July 15, 2009.

In order to obtain this additional information, I agreed to no longer object to proceeding to Mr. Solomont's nomination if the White House took these steps. I have kept my word and informed leadership that I no longer intend to object. However, I remain concerned about the accuracy and completeness of Mr. Solomont's answers to questions during both his July 15 and December 8, 2009 interviews. I understand Congressman ISSA of the House Committee on Oversight and Government Reform shares those concerns and has sent a letter to Mr. Solomont to that effect.

Although CNCS has produced a total of approximately 3,000 pages of material responsive to my request, the record should also be clear that the White House continues to withhold 46 documents, on grounds of deliberative process and attorney work product privileges. The White House did not provide a detailed log of the documents being withheld despite my requests. I will continue to seek answers to the remaining questions in this matter.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3199. Mr. CORKER 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 3200. Mr. MCCAIN 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 3199. Mr. CORKER 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:

Beginning on page 399, strike line 10 and all that follows through page 403, line 17, and insert the following:

“(y) INCREASED FMAP FOR MEDICAL ASSISTANCE FOR NEWLY ELIGIBLE MANDATORY INDIVIDUALS.—

“(1) 100 PERCENT FMAP.—Notwithstanding subsection (b), the Federal medical assistance percentage determined for a State that is one of the 50 States or the District of Columbia with respect to amounts expended for medical assistance for newly eligible individuals described in subclause (VIII) or (IX) of section 1902(a)(10)(A)(i) shall be equal to 100 percent.

“(2) DEFINITIONS.—In this subsection: