

Mr. COCHRAN. Mr. President, we have heard this described as a historic moment. My friend from Iowa, Mr. HARKIN—we have served together on the Agriculture Committee and have worked closely on appropriations and other issues—he has described this as a “historic moment.” I think we can all agree on that, but that is about all we do agree on in regards to this issue.

I think we just have to come out and say it: This Patient Protection and Affordable Care Act is controversial. It sounds like it is just what the doctor ordered, until you look at it closely. If you look at it closely, doctors are not favorably impressed with it. Neither are the taxpayers, especially those who earn less than \$200,000 a year, they are not impressed with it.

Another issue that is troubling is Senator DORGAN’s amendment on the reimportation of drugs. The Food and Drug Administration has concerns about the safety of the reimportation of drugs.

If the Senate tries to ignore these and other serious concerns about the bill before the Senate, it will be an act of hope over reality. It will be an act which this Senator cannot support.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT AGREEMENT—H.R. 3590

Mr. REID. Mr. President, I ask unanimous consent that immediately after the opening of the Senate tomorrow, Tuesday, December 15, and following the leader time, the Senate resume consideration of H.R. 3590, and there then be a period of 5 hours of debate, with the time divided as follows: 2 hours equally divided between Senators BAUCUS and CRAPO or their designees and 2 hours equally divided between Senators DORGAN and LAUTENBERG or their designees, and 1 hour under the control of the Republican leader or his designee or designees; that during this debate time, it be in order for Senator BAUCUS to offer a side-by-side amendment to the Crapo motion to commit; and Senator LAUTENBERG be recognized to offer amendment No. 3156 as a side-by-side to the Dorgan-McCain amendment No. 2793, as modified; that no further amendments or motions be in order during the pendency of this agreement, except as noted in this agreement; that upon the use or yielding back of all time, the Senate then proceed to vote in relation to the aforementioned amendments and motion in this order: Baucus, Crapo, Lautenberg, and Dorgan, with each subject to an affirmative 60-vote threshold, and that if they achieve that threshold, then they be agreed to and the motion to reconsider be laid upon the table; that if they do not achieve that threshold, they be withdrawn; further, that the cloture motion with respect to the Crapo motion be withdrawn; provided further that upon disposition of the above-referenced amendments and mo-

tion, the next two Senators to be recognized to offer a motion and amendment be Senator HUTCHISON to offer a motion to commit regarding taxes and implementation and Senator SANDERS to offer amendment No. 2837; that no amendments be in order to the Hutchison motion or the Sanders amendment; that upon their disposition, the majority leader be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, reserving the right to object, and I am not going to object, I would just want to confirm with the majority leader our understanding that even though it is not locked in in this consent agreement, we anticipate voting on both the Hutchison amendment and the Sanders amendment.

Mr. REID. Yes. And I say to my friend, either vote on them or have some kind of procedural motion.

Mr. MCCONNELL. Yes.

Mr. REID. Which I have no idea what it would be at this stage. But the answer is yes.

I would also say, I have spoken to the Senator’s floor staff, and, as I indicated to the Republican leader, we have to be at the White House for a while tomorrow afternoon—we will give the Republican leader that time—for which we will probably have to be in recess because the whole caucus is called to go down there. But it is my desire to make sure we finish this tomorrow. I think that is to everyone’s interest. That is what we are doing here, with 5 hours.

Mr. MCCONNELL. Would that include both SANDERS and HUTCHISON?

Mr. REID. No. No. As I explained, again, to floor staff, I would like those to be offered tomorrow, but I think we would have a pretty good day’s work if we have 5 hours of debate and then those four votes we have playing out.

Mr. MCCONNELL. During the time that Democratic Senators are at the White House, would we be in recess or would we be allowed to—

Mr. REID. Yes. I think we should be in recess.

Mr. MCCONNELL. Do you have any idea how long that meeting is going to be?

Mr. REID. The meeting is scheduled for 1 hour and 10 minutes.

Mr. MCCONNELL. And at what time is it?

Mr. REID. I think it is at 1:30.

So, Mr. President, I am glad we finally got the balancing back and forth, unanimous consent request finally settled on these matters.

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

The Senator from Illinois.

HEALTH CARE REFORM

Mr. BURRIS. Mr. President, I rise, of course, to speak on the health care legislation.

The Senate is the greatest deliberative body this world has ever known.

Since the inception of this body, its Members have practiced and perfected the art of compromise. It has been said that politics is the art of the possible—and this Chamber is teeming with experienced legislators who know how to work with Members of both parties to forge a more perfect bill. This means that individual Senators must inevitably give ground in the interest of achieving legislation that is built on consensus.

As a body of lawmakers—and particularly as a Democratic Party—we have compromised throughout our history to bring about the greatest legislative achievements this Nation has known. In the process, this Senate has made the country better.

Today, we find ourselves debating a measure that could overhaul the entire American health care system. We stand at this point after nearly 100 years of discussion and deliberation, stretching from Teddy Roosevelt to Barack Obama.

What has defined us across that century is our commitment as a party to the fundamental pillars of health care, all of which have been echoed in this recent debate. These values served us well in 1935, when the Senate took up a proposal called Social Security. History recalls that debate was fierce. It was not without struggle and was not without compromise. But in the end, we achieved one of the greatest, most enduring public policy successes in American history.

Thirty years later, these very same values led this party and this Senate to take up a bill known as the Medicare Act. Again, that fight was not easy, and compromise was necessary to realize our vision. But, once again, this body and this party brought historic change to America.

These hard-fought programs have been the valued cornerstone of our domestic policy for generations. They define the way we legislate and underlie the principle that this government’s chief responsibility is to its citizens.

Today, a new generation of Americans and a new Congress find ourselves in the midst of another historic debate.

Earlier this year, a new President was swept into office, full of energy and ideas, and armed with a clear mandate to bring real reform to a health care system that was badly broken. So, once again, we took up the task of fighting for a more perfect health care system.

Americans all over the country, struggling and suffering, many in personal health crises, have looked to us. There is urgency there, and this body needs to act.

Those who need help the most need that help now.

So let’s pass this health care reform legislation, but let’s also do it right. Let’s not pass something just to pass something.

Everyone in this room is a legislator. We approach our responsibilities with the knowledge that our most optimistic ideas must often be tempered

with a pragmatic reality. In the process of this debate, we have all made concessions and we have all compromised.

My own preference was for a single-payer system. Some of my friends on the other side would like to see no reform bill at all. But as a body and at least as a Democratic Party, I hope we will stay true to those fundamental pillars that have determined our course for the last 100 years.

As Mohandas Gandhi once famously said:

All compromise is based on give and take, but there be no give and take on fundamentals. Any compromise on mere fundamentals is a surrender.

It was in the spirit of constructive compromise that 10 of our colleagues met and worked to forge the new compromise deal we have all heard about. I thank them for their hard work. We are all deeply invested in this issue. I applaud their willingness to come together at the table.

At this point, the specifics of this proposal are few. As are many in this Chamber, I am actually awaiting the chance to examine the full details of the proposal. I do have deep reservations, deep concerns, about what you have heard up to this point. Until I see more, I can only say again what I have said from the very first day of this debate so many months ago: I am committed to voting for a bill that achieves the goals of a public option, competition, cost savings, and accountability. I will not be able to vote for lesser legislation that ignores these fundamentals.

I will continue to fight every day to strengthen this legislation until its final moments on this floor. I fully realize how hard my colleagues have worked. I know how difficult it has been to get this far. My colleagues may have forged a compromise bill that can achieve the 60 votes that will be needed for its passage, but until this bill addresses cost, competition, and accountability in a meaningful way, it will not win my vote.

The American people most in need of help know we can do better, and we must do better.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

MR. SESSIONS. Mr. President, I wish to share a few other thoughts in the 5 minutes I believe I have to speak on a different matter than we have been talking about earlier, but it is a very important matter. It is the procurement contract, the request for proposals the Defense Department has put out in order to request proposals for the Defense Department to purchase a new tanker for the U.S. Air Force. It will be perhaps the largest contract purchase in the history of the Defense Department, certainly since World War II. I regret that I must come to the floor today to give this speech, but it is important that we do this right.

Earlier, one of our colleagues, Senator MURRAY, for whom I have great admiration, I understand told NPR:

All things considered, I have stood on the line in Everett, Washington, where we have thousands of workers who go to work every day to build these planes. I would challenge anybody to tell me that they stood on a line in Alabama and seen anybody build anything.

Well, we are prepared, as I will explain, to construct the finest aircraft for a tanker the world has ever known in Alabama, my area of Mobile, AL, at the old Brookley airfield, which was a fabulous, huge airfield. It was closed 40 years ago, but the runway and the capacity and the location and access by water and rail and interstate are all there. It is going to be a fabulous place, and already there is a significant engineering center constructed there, and there are plans to go forward if and when this contract is awarded.

I would note that the people of Alabama get a little bit offended when people suggest they are not able to produce anything of world-class quality. I would remind my colleagues that it was in Alabama that the Saturn V rocket was developed that took a man to the Moon and that virtually everything that goes into space goes through Alabama; that we have some of the finest automobile manufacturing plants in the history of the world, including Mercedes, Honda, Hyundai, Toyota, all producing large amounts of some of the best automobiles in the world. In Mobile, have built a new trimaran ship that can cruise at 40 knots and has fabulous capability for cargo. It is one of the finest new ships of its kind the world has ever known. We have a fabulous workforce second to none of which I am utterly proud.

I would just say one of the complaints I have about the Department of Defense's request for a proposal—I have four I plan to talk about, but one I am going to highlight now in light of the comment of my colleague is that I believe there is an inadequate government assessment of acquisition and performance risk. In other words, the government should assess how well we can believe the bidders are able to produce the product at the price and in the time frame in which they would like to see it produced.

I am so confident the plant in Alabama could be competitive with any other bidder, that I believe the government should give this aspect higher weight. In fact, they did so in the previous bid process, and the aircraft plant in Alabama came out with a better score on risk than the one in my colleague's State.

So there are other matters that are important, but I just wanted to emphasize that point. We are ready, able, willing, and anxious to produce the finest tanker the Air Force has ever seen. This tanker aircraft today is now 50 years old.

I regret we are having the kinds of difficulties we are in this bid process. I

respect so much the men and women of the Department of Defense, but I do have to say this newly configured bid process is dramatically different from before, and I believe it is in the wrong direction. I believe it has failed our warfighters. I have to express my concerns about it, particularly as reflected in the request for proposal that has been sent out to the two bidders.

My intent here is simple. I will point out a few things that I think are significant.

In essence, the Department of Defense abandoned, out of the blue and without serious discussion, so far as I can tell, its decision to provide a transformational and game-changing aerial refueling tanker to the warfighter. Those were their words. And how has that resulted in or was the result of major changes in the request for proposals that have been sent out? The bidders are considering those proposals. In doing so, the result, I have to say, evidences a clear bias toward one aircraft over another. I hate to say that.

Let me provide a snapshot of what this new RFP does. I asked the Secretary of Defense about it at the hearing a few weeks ago. He indicated that this process for altering the RFP is still ongoing, but I am not sure the Air Force has been listening, so I am concerned about it.

Let me provide a snapshot of what our concerns are. Of the six key discriminating features that favored the KC-45 Northrop/EADS aircraft over the Boeing aircraft in the previous competition, five of the six features were either eliminated or changed to a non-mandatory status in the current draft RFP—a bias, I suggest. In contrast, eight features of the Boeing aircraft were upgraded in the new draft RFP, which resulted in seven of those eight areas favoring their aircraft.

So what is the bottom line? The very sad conclusion I have had to reach is that this closely watched competition was altered with a purpose, and that purpose was to favor one bidder over another.

So we are in a comment period now, and I hope the Department of Defense will listen to the concerns I believe are legitimate and to ensure fairness in this. Replacing the tanker is the Air Force's No. 1 procurement priority and has been for quite a number of years. In fact, the Department of Defense has indicated they understand this, and I think they understand their integrity and the whole acquisition process is at stake in this so closely watched and so important bid.

So I will show this chart. I am going to point out something we call a spider chart. It looks a bit like a spider web.

The green lines, the inside circle lines, represent the capability of the existing 50-year-old KC-135 tanker in 11 different category areas, such as passengers, fuel offload at 1,000 nautical miles, fuel offload capacity, boom envelope, operational availability—all of these 11 factors.

The red represents the latest RFP requirements for this new—what used to be considered—transformational aircraft. It follows almost the same as the current capability. This is really unthinkable to me. It follows those capabilities on point after point after point. In some areas, it is less capable than the current aircraft that is 50 years old.

The black line represents the capabilities of the Boeing aircraft. For example, Boeing's offering would carry 190 passengers, whereas the other aircraft, the one that would be built in Alabama if it were to be the winner, would carry 226 passengers.

And so, let me say again that

I love and respect the men and women of our armed services. But, their leadership, at least so far, has failed them on this matter. All I have ever asked for is that the DOD choose fairly the aircraft that provides the best value.

Let me outline my concerns with the disturbing actions taken in the current tanker draft request for proposal, RFP.

My intent here is simple. I will outline, through a series of charts, how the Department of Defense abandoned, out of the blue without serious evaluation, its decision to provide a transformational and game changing aerial refueling tanker to the warfighter. This is clearly evidenced by the major changes in the request for proposal sent to the two potential bidders. Furthermore—and in doing so—the result has been a clear bias towards one aircraft over another.

Let me provide a snapshot of what the RFP does: Of the key discriminating features that favored the KC-45—Northrup/EADS aircraft—over the 767 Boeing aircraft in the previous competition, five of the six features, 83 percent were either eliminated or changed to nonmandatory in the current draft RFP. In other words, these features are less important to the outcome of the competition.

In contrast, eight features of the Boeing aircraft were upgraded in the new draft RFP which resulted in seven of those eight areas, 87.5 percent, favoring the 767—Boeing aircraft—over the KC-45.

What is the bottom line?

The very, very sad conclusion that one must reach is that this closely watched competition was altered with a purpose, and that purpose was to favor one bidder over the other.

The DOD is now in a comment period for this draft RFP for a reason—to listen to concerns and to ensure fairness in the process.

Replacing the tanker is the Air Force's No. 1 acquisition priority and the Department of Defense's most critical acquisition program. In fact, the Department of Defense's integrity in acquisition and contracting are at stake.

This effort has stretched for over a decade and has been consumed by controversy, fraud, illegal activity, and

political posturing. Let me remind my colleagues—both DOD and Boeing employees were prosecuted, punished, and some even went to jail over the failed attempt at a sole source lease arrangement that would have cost the taxpayers billions.

Our national security relies on this critical capability—the men and women in uniform who protect this country deserve the best value, and they deserve a transformational aircraft.

Let me now turn to some specific concerns.

DOD's latest acquisition strategy for the KC-X aerial refueling tanker replacement competition is, unfortunately, deeply flawed. Instead of the modern, multirole, game-changing, transformational aircraft that the Air Force has said it wants and needs for the past 10 years, the Department's draft RFP specifies an aircraft that is essentially the same as the existing 50-plus-year-old KC-135.

This acquisition strategy cannot be justified and the DOD must make changes to ensure fairness.

The draft RFP released by the Department of Defense on September 24 is significantly different than the previous RFP created by the Air Force and released in January of 2007. While the GAO sustained 8 of the 111 complaints Boeing raised regarding the previous source selection process, the Department's initial reaction, as stated to Congress, was to fix those 8 flaws, and release a modified RFP to keep the program on track.

So how exactly have we arrived at a completely new draft RFP that fundamentally not only changes the acquisition process for the tanker, but is unlike any major procurement in the history of Defense acquisition?

The first change is a paramount focus on cost.

While controlling costs is important, when it becomes the overwhelming discriminator it has a negative impact on the capability that is produced. Holding cost far above capability, as this draft RFP does, will result in an aircraft without the kind of game-changing capability the Air Force has consistently requested.

The new draft RFP has many flaws. While there isn't enough time for me to list every single problem, the RFP's flaws can be summarized in four major themes:

1. The evaluation methodology does not consider best value, but rather lowest cost.
2. This results in a significant bias toward a smaller aircraft.
3. There is an inadequate government assessment of acquisition and performance risk.
4. The wrong contract mechanism is proposed.

Evaluation methodology is not best value.

The fundamental tenet of the RFP is the winner will be the lowest-priced offer that meets a minimum threshold

of specified capabilities. This is a far cry from the "value-based acquisition," as the Department claims and as the warfighter deserves. Additionally, this strategy represents a departure from the normal DOD acquisition process and goes against the generally recognized public policy standards of DOD which seeks the best value and most capability at the best price for the warfighter.

Because the options for the tanker aircraft will be based on existing commercial platforms, the "low cost" approach provides an inherent advantage to the smallest and least-capable aircraft. Because no additional credit is offered for additional capability—beyond the minimum thresholds of the RFP—additional size and capabilities will almost certainly be a negative because they can only come with some higher price.

There is inherent bias in this procurement—beyond the low cost approach—that substantially favors a smaller less capable aircraft. It is extremely troubling that nearly every single key discriminator from the previous competition that would have given additional credit to an aircraft with greater than the minimum capability required has been neutralized or eliminated under this new RFP.

The primary measure of tanker effectiveness—the ability to offload fuel at range—will not even be considered in the evaluation beyond a minimum distance requirement that, incidentally, is equal to the current 50-plus-year-old KC-135 aircraft.

This defies logic.

The very reason for a tanker to exist, and a key discriminator in the previous competition, has now become a "non-mandatory" aspect of the aircraft. This change substantially benefits the less capable aircraft and will result in a fleet of tankers that is no better than what we are currently flying.

I cannot recall a time when the Department of Defense, instead of enhancing capability when purchasing a new weapons system, made a deliberate decision to procure a new system that is no more capable than the system it is meant to replace, in this case a 50-plus-year-old aircraft.

This is especially so where much more capability can be obtained for so little cost.

This RFP change defies previous statements of senior Air Force leaders. For example, on November 30, 2005, following his statement at the Defense Logistics Conference, current Air Force Chief of Staff General Schwartz, who at the time was Commander of the U.S. Transportation Command, told reporters that the next tanker "needs to be multi-mission, it cannot be a single-mission airplane."

On December 1, 2005, Mike Wynne, who was the Secretary of the Air Force, told reporters "Tankers are not only tankers any more. They are going to be multi-mission aircraft."

If 4 years ago the senior leadership of the Air Force recognized the need for

more capable, multi-role tankers, why have we not been able to structure an acquisition that reflects that need?

General Duncan McNabb, Commander, US Transportation Command stated in a press briefing on December 11, 2009:

New KC-X tanker aircraft in the Air Force's inventory today would make the enormous task of surging more US troops into Afghanistan by mid 2010 and then sustaining the entire force there easier. As the Air Force envisions it, it would be "a very efficient cargo and passenger carrier" in the war zone, in addition to its primary aerial refueling tasks, due to its "floors, doors, and defensive systems." Instead of having to fly commercial aircraft, which lack defensive systems, into outlying places like Manas AB, Kyrgyzstan, and then transloading their passengers and palletized cargo onto military transports for delivery into Afghanistan, KC-X aircraft could move them directly there, thereby preserving C-17 transports for moving "rolling stock" military equipment."

The draft RFP does not require any government evaluation of price or schedule risk. Standard acquisition practice allows the government to adjust the proposed pricing and schedules of the offers based on an independent assessment, in order to protect the government's interest against an unreasonable "low-ball" offer.

This lack of a price and schedule risk evaluation in the new RFP is especially troubling considering that one company—Boeing—has its competitors pricing data from the previous competition and can consider Northrop's data when developing a competitive position.

The government should do the prudent thing and evaluate the potential price and schedule risk of each offering. A failure to include this provision, as was done previously without objection, is an abdication of fiduciary duty to the taxpayers, and will undoubtedly result in unreasonable bids that will haunt this program for years.

The business and contracting construct of this competition is simply unacceptable. The contracting mechanism used by the Department—an 18-year firm fixed price contract—will require industry to assume many future risks, including inflation and the risk associated with developing a new tanker.

The new RFP incorrectly assumes that both tankers are fundamentally nondevelopmental items. While it is true that they are derived from commercial platforms, they are far from nondevelopmental.

In fact, this idea is inconsistent with the proposed structure of the program, which includes at least three years and several billion dollars for development. The new RFP will require both companies to make significant changes to the baseline commercial aircraft platforms, including redesigning the cockpits and fire-control equipment.

It sounds to me like the Department needs to make up its mind and either buy an off-the-shelf product at a fixed price or properly structure a develop-

ment contract. Trying to do both will inevitably result in doing neither very well.

The bottom line is I am baffled as to why the Department changed the RFP so substantially.

Why am I baffled? Let me highlight a few quotes from DOD that illustrate my point: On February 29, 2008, at a DOD news briefing following the previous award to the Northrop Grumman/EADS tanker, General Art Lichte, Light-EE, then commander of the Air Force Air Mobility Command, explained why the Northrop tanker was selected:

From a warfighter's perspective, I can sum it up in one word: more. More passengers, more cargo, more fuel to offload, more patients that we can carry, more availability, more flexibility and more dependability.

On September 18, 2008, John Young, the Under Secretary of Defense for Acquisition, was quoted in the Washington Post as saying that the Northrop tanker was selected because it "provided more tanker capability and offload rate and was substantially cheaper to develop."

Since then, little has changed to suggest that the capabilities valued during the last competition are no longer necessary. It is even clearer today that we need an aircraft that is more than a tanker; one with enhanced multirole capabilities to meet global challenges, such as the President's decision to send an additional 30,000 U.S. troops to Afghanistan.

In fact, before the new and radically different RFP was released, very few people associated with the program had any idea that the needs had changed.

During his opening statement in his testimony before the Senate Armed Services Committee on March 17, 2009, General Duncan McNabb, Commander of U.S. Transportation Command, testified before Congress:

The KC-X will be a game changer. Its value as a tanker will be tremendous. Its value as a multi-role platform to the mobility enterprise will be incomparable. . . . It will be an ultimate mobility force multiplier.

In fact, on September 24, 2009, the very same day DOD unveiled the new RFP, the Air Force Air Materiel Command released a white paper that stated the KC-X must be dual mission capable—able to perform airlift and air refueling missions.

Yet the new RFP values multirole capabilities far less than the previous RFP and will undoubtedly result in a less capable aircraft. In fact, Air Force Magazine recently quoted USAF General Duncan McNabb, Commander of the U.S. Transportation Command as he addressed defense reporters on December 9, 2009—just last week. General McNabb stated:

The KC-X, as the Air Force envisions it, would be a very efficient cargo and passenger carrier.

According to General McNabb, the Air Force still wants a game changing aerial refueling tanker. So not allowing additional credit for extra cargo

and passenger capacity in the draft request for proposal, RFP, makes no sense.

During a DOD press conference after the new draft RFP was released on September 24, 2009, the Deputy Secretary of Defense, Bill Lynn assured everyone that the competition would not be a "Low-Price Technically Acceptable approach," and would in fact be a "Best Value competition, with both price and non-price factors taken into account."

Now that sounds good, and while they can argue its technically true, it isn't the whole story. While the RFP does allow for consideration of non-price factors, it is a far second to consideration of price. Most non-price factors, including the ability to deliver additional fuel and cargo, won't even be considered if the price difference in the two bids is less than 1 percent.

Let's think about that for one moment. Under the current RFP structure, if one aircraft costs 1.1 percent more than the other—even if—it delivers 20 times more fuel and cargo at twice the distance, it would not be selected.

This approach turns a blind eye toward providing the most capability to warfighters at the best value for taxpayers. A rational person certainly wouldn't use this approach for buying a family car, so why is it being used to buy one of our most critical national security assets?

Is that the kind of approach we want to use to buy tankers that will be the backbone of our global posture for the next 50 years? The answer should be a resounding "no." Indeed, in the decades to come, the ability of this tanker fleet to transport people and cargo may become even more important than today. And it should prompt us to ask how we got such a bizarre and illogical RFP.

While the reasons for the dramatic changes have no rational explanation, their impact on the RFP is clear. The changes favor one company. Following its loss in the previous competition, Boeing filed 111 complaints about the selection process.

Although the GAO only upheld eight of these complaints, the Department addressed many more of their complaints in the new RFP to the disadvantage of the Northrop Grumman offering. These include:

Boeing complained the methodology used to estimate the refueling capability of each aircraft was flawed. The new RFP has adjusted that methodology to favor its smaller aircraft.

Boeing complained fuel costs should be considered over a 40-year time period, not the 25-year time period used in the previous competition. The new RFP has adjusted the time-period used to evaluate fuel costs to 40 years, again to favor its smaller aircraft.

Boeing complained about the schedule risk assessment. The new RFP does not include a schedule risk assessment.

Boeing complained that the bidders' past performance was too heavily

weighted. The new RFP significantly diminishes past performance.

Boeing complained that additional credit was given for an aircraft that had much higher capability. The new RFP offers no real additional credit for exceeding minimum capability thresholds.

Finally, the price competition has been tainted by the Air Force releasing the Northrop Grumman team's pricing data to Boeing following the previous competition and now refusing to release Boeing's pricing data to Northrop Grumman.

For these reasons, I am deeply troubled by the Departments' approach for selecting the next tanker. If the Department continues down the path that it is currently on, warfighters and taxpayers will be done a great disservice.

Mr. President, in closing, I would like to return to my initial comment.

It is clear to me that the draft RFP abandons the Air Force's need to provide a transformational and game changing aerial refueling tanker to the warfighter.

And, furthermore, I must reluctantly conclude, it did so with a bias towards one aircraft over another. If we continue down the path of this draft RFP—without competition—we are moving headlong towards a sole source contract where the warfighter and the taxpayer ultimately pay the price.

This will be a stain on the integrity of DOD's procurement process that will not be removed for decades. It is not too late. Secretary Gates has said the purpose for the RFP comment period is to allow for the DOD to correct flaws. The DOD must listen and take action.

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

Mr. SESSIONS. This is a matter of such importance that I will need to speak about it again in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

HEALTH CARE REFORM

Mr. UDALL of New Mexico. Mr. President, this effort to reform our Nation's health care system is finding ways to make quality health coverage affordable and accessible to all Americans. I believe the bill we are considering in this Chamber as it currently stands goes a long way toward making that vision a reality. But even with this solid legislation, there is still a large group of Americans who continue to be left behind. I am talking about our country's first Americans, the 1.9 million American Indian and Alaska Natives who are suffering because the Federal Government isn't living up to its propositions.

The law that provides the framework under which the health care programs for Native Americans are delivered hasn't been reauthorized for more than 10 years.

This means that the Indian Health Services' delivery system is chron-

ically underfunded and, given the rapid advance of health care technology, outdated. As a result, too many Native Americans are struggling to receive quality, timely health care.

This agency is supposed to be the principal health care provider and health advocate for Indian people. Yet every day, because we fail to act, the health care situation in Indian Country grows more urgent. Native Americans are diagnosed with diabetes at almost three times the rate of any other ethnic group. They often don't have access to preventive care. And Native American youth are attempting and committing suicide at devastating and alarming rates. Just 2 months ago, in New Mexico, a 14-year-old girl from the Mescalero Apache Reservation became the fourth young person from that tribe to take her own life—in a little more than 1 month. That is four young people in 1 month on one reservation. Tell me this doesn't cry out for action.

The Senate Indian Affairs Committee has reported the reauthorization bill. The House has put in its health care package the same kind of reauthorization bill. Both of these bills would bring us much-needed reform to the Indian health care system.

This legislation, the Senate must act upon it. We can no longer delay. For the past several years, Congress has failed to get this legislation across the finish line. It has passed both bodies in the last several years—the House at one point and the Senate at one point—but it is still not law. Now is the time to put this in the health care bill and get the job done.

I know my colleagues on both sides of the aisle are in agreement that our Nation's health care system needs reform. We know health care reform is needed now. We know the status quo is unacceptable. But what is missing is the same sense of urgency for our Native American community, this despite the alarming statistics from the Civil Rights Commission several years ago that the United States spent more than twice the amount on a Federal prisoner's health care than that of a Native American man, woman, or child; that is, \$3,800 per year per Federal inmate, versus \$1,900 per year per Native American. That is right, our inmates have better health care than the population with whom we signed treaties and made a promise to provide health services. American Indian and Alaskan Natives are three times as likely as Whites to be uninsured, and almost half of our low-income American Indians and Alaskan Natives lack health coverage.

The longer we wait, the more Native Americans suffer needlessly. The longer we wait, the more Native Americans go without treatment for chronic conditions such as diabetes and heart disease. The longer we wait, the more Native American teens who may take their own lives because they are not getting the help they need.

America has an obligation to provide quality, accessible health care for our

country's first Americans. So I say again, it is time to act on this important piece of legislation. It is time to reform the Indian health care system and permanently reauthorize the Indian Health Care Improvement Act.

Mr. President, I yield the floor.

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

Mrs. SHAHEEN. Mr. President, I rise today to support the health care reform legislation that is before us. I want to talk a little bit, specifically, about what the bill does to reform our health care delivery system. That is really health care jargon for the way we provide health care to people who need it.

I heard a lot of debate earlier this afternoon about the fact that the health care bill doesn't do anything to address costs. I think that is just wrong. The fact is, this health care bill does begin to address costs in our system. That is one of the reasons we have to pass it. In fact, we know that over the next 10 years it is going to reduce our deficit by \$130 billion.

But more important than that are the changes that I believe this is going to begin to make in how we provide health care for the people of this country. The fact is—we all know it, even our colleagues on the other side of the aisle—our current health care system is not working; it costs too much; and for too many families quality health care is simply out of reach. One of the problems is that 30 percent of the \$2.5 trillion we spend right now each year on health care goes to unnecessary, inappropriate care and administrative functions that do little to improve our health.

Our health care system didn't get this way overnight. Years of perverse incentives have encouraged health care professionals to practice more medicine rather than better medicine. They struggle to see more patients and do more procedures to keep up. Hospitals race to build new wings and state-of-the-art units. As patients, we too often live unhealthy lifestyles, and we expect the newest high-tech services to fix it. In the meantime, we have undervalued things such as primary care, preventive care, and mental health services. Despite all of our spending, we are not any healthier.

Over the past few months, I have joined, as the Presiding Officer has, with all of our freshman colleagues on the floor to discuss why we can't continue this current system. It is too costly and too inefficient.

Last week, the freshman Senators introduced a package of amendments that emphasizes cost containment. The provisions contained in our package may not be those that are currently grabbing headlines, but I believe they really go to the crux of our reform efforts. They are the delivery system reforms that will improve quality and control costs over the long run. How are these going to work? Well, our delivery system reforms build upon the