Mr. CORKER. Mr. President, I suggest the absence of a quorum.

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

The assistant bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2847, which the clerk will report.

The assistant bill clerk read as follows:

A bill (H.R. 2847) making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

Ms. MIKULSKI. Mr. President, I am very pleased to be joined today by my distinguished colleague from Alabama, Senator RICHARD SHELBY. We wish to present the Commerce-Justice appropriations bill to the Senate. What I wish to say to my colleagues is that as we do this, everyone should know this bill is a product of bipartisan cooperation. At times, when one views the Senate through the lens of the media, one would think that everything we do here is very prickly and very partisan. But that is not true, certainly of the Commerce-Justice-Science appropriations.

Senator SHELBY and I worked together on this bill. Yes, I do chair it, but it has been with maximum consultation with others on the other side of the aisle. It was the same way when Senator SHELBY chaired this committee.

We are pleased to present to the Senate the fiscal year 2010 bill to fund the Departments of Commerce and Justice and air science agencies. I thank Majority Leader REID and Minority Leader MCCONNELL for allowing to us to bring the CJS bill to the floor.

The CJS bill is a product of cooperation between Senator SHELBY and me and our excellent staff. We have worked hand in hand. I thank Senators INOUYE and Ranking Member COCHRAN for their allocation.

We were able to write a very good bill, but the stringent budget environment required the subcommittee to make difficult decisions. The CJS bill totals $64.9 billion in discretionary spending, consistent with the subcommittee's 302(b) allocation. So any amendments to the bill will need to be offset.

The purpose of the CJS bill is to fund the Department of Commerce and its bureaus and administration. Many people do not know what the Department of Commerce truly does. It is an array of complex agencies that is important to our economy: The Bureau of Industry and Security gives licenses for exports; the Economic Development Administration creates economic growth in our communities, particularly midsized to small towns; the Census Bureau, preparing now, somewhat unevenly, for the 2010 census; the Patent and Trade Office which protects our intellectual property; along with the International Trade Administration which enforces our trade laws.

We are particularly proud of the Commerce Department, of the National Institutes for Standards and Technology. It sets the standards for technology which allows our country and our companies to be able to compete in the global marketplace.

This subcommittee also funds the Department of Justice which keeps us safe from violent crime and terrorism. It prosecutes criminals of all kind—white collar, blue collar or no collar. It also has a vigorous approach to the despicable practice of being a sexual predator.

This subcommittee through the Department of Justice funds our State and local police departments which are so important as well from not only the enforcement end but the prosecution end through the U.S. Attorney's Office.

NASA is also funded through this subcommittee. It explores our planets and our universe and inspires our Nation and next generation to be scientists and engineers.

We also fund the National Oceanic and Atmospheric Administration, protecting our marine resources and the jobs that depend on them.

It also protects our weather to save lives. Many people don't realize that the wonderful weather reports they get in their communities comes because of the NOAA weather administration. They think it comes from the Weather Channel. We all love the Weather Channel, but the Weather Channel depends on NOAA.

The National Science Foundation is also funded, providing basic research at our universities to advance science and support teacher training and development.

We also fund several independent commissions and agencies, including the Commission on Civil Rights, the EEOC, the Legal Services Commission, the International Trade Commission, and the U.S. Trade Representative.

Senator SHELBY's and my No. 1 priority is making sure that 300 million Americans who work hard and play by the rules are safe from terrorism and violent crime. We also want to protect jobs in our country. So we are the basic investors in innovation through education and through promoting an innovation-friendly government, making strategic investments in research and education in science and technology, keeping America No. 1 in science and also No. 1 in the space exploration program.

We want to create jobs in America that will stay in America. However, we, too, are fiscal stewards of the public purse and, therefore, accountability has been a hallmark of our bipartisan relationship. We do stand sentry against waste, fraud, and abuse with strong fiscal accountability and stewardship of hard-earned taxpayers' dollars.

I wish to take a few minutes to talk about keeping America safe. The CJS bill provides $27.4 billion for the Justice Department. We actually went above the President's request by $300 million because we wanted to make an extra effort to protect our homeland and protect our hometowns.

This bill is one of the most important sources of Federal funds for State and local law enforcement, for our frontline men and women of our State and local police forces. It is the cops on the beat who protect our families and at the same time they are asked to do more.

We are providing $3.2 billion to support that thin blue line to make sure the police are safe with equipment they need, such as bulletproof vests and also new technologies.

''CSI'' is not only a great TV show, but we think CSI should be funded in the Federal budget to use the best of science to catch the worst of the criminals.

We also fund Byrne formula grants, and this bill will provide $510 million for State and local police operations to do their job.

We are funding important programs in juvenile justice, which are very key programs of intervention and mentoring, but also very strong programs for antigang efforts—$407 million.

We also want to prevent, protect, and prosecute when it comes to violence against women, whether it is domestic violence, sexual assault, rape, or stalking—over $435 million—the highest level of funding ever.

We also have very important Federal law enforcement. All of us know and love the FBI. This bill will provide $7.9 billion to keep us safe from violent crime and also white collar crime, investigating financial and mortgage fraud.

I want to acknowledge the role of Senator SHELBY, who is an authorizer on the Banking Committee and a member of this Appropriations Committee. He has taken on the issue of mortgage fraud and wanted it to be thoroughly investigated. We have done that through the FBI.

Many people don't realize, though, that after 9/11, when everyone was clamoring for something like the MI–5, such as the British have, we said: Three cheers for the British way, but we want a USA way, so we created an agency within an agency where the FBI is part of our most significant fight against terrorism.

We also fund the Drug Enforcement Agency to fight international narcoterrorists and drug kingpins. This bill provides $2 billion to do it.

I am very proud of the FBI because in the last few weeks their work has led to the arrest of two terrorism suspects who planned to blow up buildings in Texas and in Illinois. While they were working hard, the efforts of the DEA led to the arrest of drug kingpins who were shipping 95 kilograms into New York City.

We also have the Bureau of Alcohol, Tobacco, and Firearms and the Marshals Service, each of which has been funded at $1 billion-plus.

Our U.S. attorneys, who are the prosecutors of Federal crimes, have been provided $1.9 billion, a significant increase.

Once we catch and prosecute these criminals, there has to be Federal prisons, and we want to make sure our communities are secure and our prison guards are safe. This is one of the tattered areas of neglect, and we are very concerned about the safety of our prison guards. This bill provides $6.1 billion to upgrade, where necessary, the protective devices to ensure criminals are held securely—acknowledging their rights, but also the rights of those who guard them need to be kept too. Their first right is the right to security, guaranteed by their own government.

We look to protecting our children and our communities, and when it comes to protecting our children, crimes have gotten more sophisticated in terms of the Internet and other things that are used to lure children into terrible criminal situations. We have provided over $265 billion to deal with the issue of sexual predators, and we will continue that fight.

While we are busy fighting crime and protecting our children, we also need to protect America's jobs, and this is where science and innovation come in with an amazing race to keep America competitive.

This bill provides $880 million for the National Institute of Standards and Technology and, particularly, $70 million for the new Technology Innovation Program and $125 million for the Manufacturing Extension Partnership, so that we can keep manufacturing in our country. We also want to do the basic research that is needed for the new ideas that will come up with the new products for the new jobs.

This bill provides $6.9 billion for the National Science Foundation, and for NOAA we provide $4.7 billion, including $980 million for our weather service and $870 million for our fisheries.

This bill also funds our space program: $18.7 billion for NASA. In the space program, we don't agree with the House strategy; we agree with the White House strategy. The House strategy includes $500 million for the NASA exploration program. We believe we need to meet our obligations to fully fund the space shuttle and the space station. For the space shuttle, we need to make sure we keep our astronauts safe and our space station is able to continue the work we have begun. We also need to invest in the next generation of space vehicles at $3.6 billion.

It is very important we meet our obligations, our international obligations, as well as our obligations to our astronauts and to our Earth-bound scientists. However, if you meet those scientists, they are not bound by Earth very much. They are continually breaking barriers.

We know the House withheld money while waiting for the Augustine report. Well, we have the Augustine report. We know where the President wants to go. We know what the key advisers in the astronaut community have recommended to us—the gallant leaders from the past, such as Buzz Aldrin and John Glenn, to the most contemporary right now. I might add we have a space Senator in Senator BILL NELSON, one of our authorizers. So we have worked hand-in-hand with our authorizers.

We are also working very hard in terms of protecting our intellectual property. We have been concerned through the Bush administration—well, the Clinton administration, the Bush administration, and now we want to deal with this during the Barack Obama administration—that we have too many backlogs at our Patent and Trademark Office. We want to reduce those. American ingenuity should not have to stand in long lines to get their patents to protect their intellectual property and to come up with the products that will go into the global marketplace and at the same time create jobs here.

We are also very proud of what we do to protect our planet, and what we have done through NASA Earth science—$1.4 billion—and also what we are doing in weather satellites—$1.2 billion—which are very important global warming tools. If we can better protect and warn, we can save lives and save money.

The CJS bill ensures our constitutional obligation to do the 2010 census. We provide $7 billion to the Census. We are working hand-in-glove with Secretary Locke to make sure the Census Bureau is well organized to be able to do this very important job.

There are many more things we can talk about, but I know my colleague, Senator SHELBY, wants to discuss the bill, and our good friend from Arizona has an amendment. So, Mr. President, I will amplify these other parts of the bill as we move forward.

I know Senator SHELBY will return in a moment or two, so with deference and the usual courtesy and comity, if the Senator from Arizona wishes to offer his amendment, and then when Senator SHELBY returns he can make his statement, we will just keep the business of the Senate moving as promptly and as well as we can.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 2629

Mr. MCCAIN. Mr. President, I have an amendment at the desk and ask for its immediate consideration—amendment No. 2629.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 2629.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit the use of funds appropriated under this Act for the purpose of preventing individuals, wholesalers, or pharmacists from importing certain prescription drugs)

On page 202, between lines 15 and 16, insert the following:

SEC. 530A. None of the funds made available in this Act for the Department of Justice may be used to investigate or enforce Federal laws related to the importation of prescription drugs by individuals for personal use, by pharmacists, or by wholesalers or to bring an action against such individuals, pharmacists, or wholesalers related to such importation: *Provided*, That the Department of Justice or its subagencies do not have a reasonable belief that the prescription drug at issue violates the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.): *Provided further*, That the prescription drug at issue is not a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), or a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

Mr. MCCAIN. Mr. President, I say to the distinguished manager, the Senator from Maryland, that I will be glad to interrupt my amendment upon the return of the Senator from Alabama, if he wishes to speak, and then I will continue after that. I thank the Senator from Maryland for her hard work and excellent explanation of the legislation before the Senate.

This amendment would lower health care costs for Americans immediately. It would provide access to safe, less expensive imported prescription drugs. For far too long, powerful lobbyists from the pharmaceutical industry have stood in the way of Americans' access to affordable imported drugs. Their enormous political campaign contributions made in return for political support of their agenda and their secret unsavory deal with the White House in exchange for their support of the health care reform have further contributed to the American people being prevented from accessing cheaper prescription drugs.

Instead, Americans continue to pay 60 percent or higher for the same prescription drugs that are sold in Canada. This amendment is necessary because Americans need access to lower cost drugs now. They need it now due to these difficult economic times. We all know about unemployment. Americans' salaries are being cut, household budgets are slim, and millions of Americans are struggling to make their

monthly mortgage payments. For these reasons, and so many more, Americans should not be forced to wait another day to purchase safe and affordable prescription drugs from outside the United States. While Americans all over the country are having to choose between their next meal and their necessary prescriptions, the large pharmaceutical companies continue to pressure Congress to delay consideration of any legislation to allow the importation of safe and lower priced prescription drugs.

I would like to also point out this is legislation on an appropriations bill, something I have long opposed, and still oppose. But there has been an unusual process taking place, and that process is one which has forced me to come to this situation. On two separate occasions the majority leader of the Senate assured me that legislation would be taken up before the Senate, and both times he has changed his mind. The majority leader resisted consideration of an amendment to allow for the importation of prescription drugs during debate on the Family Smoking Prevention and Tobacco Control Act.

At the time, the majority leader said on the Senate floor:

> This is something that should have been done, I am sorry to say, years ago, not weeks ago.

This issue is important legislation. If it should have been done years ago, then why wasn't it brought up for consideration immediately after the tobacco bill in June? While the standalone bill to allow importation—S. 1232—was placed on the Senate's calendar on June 11, 2009, there has been no further effort by the majority leader to call it up for consideration. Instead, he sent me a letter stating:

> I committed to take up legislation that would permit the safe importation of lower-cost prescription drugs as soon as practicable.

The practicable time was back in June. There is no practical reason to prevent the majority leader from calling up this bill for a vote at any time.

I was told verbally by the majority leader as short a time as 3 weeks ago that upon the completion of consideration of the Defense appropriations bill that this legislation would be brought to the floor of the Senate. Then a week later I was told, no; that is not going to be the case. So I have been waiting for ''as soon as practicable,'' and so have millions of Americans who are looking for cheaper alternatives to the high-priced prescription drugs.

The majority leader also stated in his letter:

> If this issue is not addressed during the full Senate's consideration of comprehensive health reform, I guarantee that I will move to proceed to S. 1232 before the end of the year.

The majority leader of the Senate assured me it would be taken up after completion of the Department of Defense appropriations bill, which we have completed. Given the fact that it is possible that the health care reform bill will be brought up under a truncated pressure timeline, I have little faith that real, in-depth consideration of prescription drug import legislation will come about; therefore, I have no choice but to bring this issue up today as an amendment to this appropriations bill.

In the 2008 election cycle, pharmaceutical companies gave almost $30 million in campaign contributions to Members of Congress. Just this year, according to an article published in The Hill, the prescription drug industry has given more than $1 million to Republicans and Democrats, and the companies whip up their protector in Congress each time we bring forward legislation to help Americans get the imported prescription drugs they need.

Earlier this year, I read an e-mail sent by the top lobbyist for Pharmaceutical Research and Manufacturers of America, known as PhRMA—this was back in June—which stated:

> The Senate is on the bill today. Unless we get some significant movement, the full blown Dorgan or Vitter bill will pass. We are trying to get Senator DORGAN to back down, calling the White House, and Senator REID. Our understanding is that Senator MCCAIN has said he will offer regardless. Please make sure your staff is fully engaged in this process. This is real.

That was an e-mail from a lobbyist of PhRMA, which has given millions and millions in campaign contributions.

Guess what. In the immortal words of Jack Nicholson: I'm back. I am back on the Senate floor, trying to help millions of Americans who have lost their jobs, struggling to put food on the table, by giving them the opportunity to save on their prescription drugs immediately.

Recently, the White House struck a deal with a pharmaceutical company to further protect its profits. The deal was bragged about by the head of the company's trade association, who cashed in for millions of dollars once he wrote the Medicare prescription drug benefit legislation as a Congressman. He was quoted in an article in the New York Times, published August 6, 2009, stating that the White House ''wanted a big player to come in and set the bar for everybody else.''

The same article stated:

> Mr. Tauzin said the White House had tracked the negotiations throughout, assenting to decisions to move away from ideas like the government negotiation of prices or the importation of cheaper drugs from Canada. The $80 billion in savings would be over a 10-year period.

Analyze that comment by the head lobbyist of one of the most powerful lobbies in Washington. He is saying the White House agreed to move away from—in other words, not support—ideas such as government negotiation of prices. Government negotiation of prices is absolutely necessary. We did it in the prescription drug bill, and it has reduced costs. In other words, the pharmaceutical companies would have to compete for Medicare contracts. One would think that is an obvious solution to bringing down costs.

The second, of course, is the importation of cheaper drugs from Canada. Here everybody is talking about reducing health care costs. We know that importation of less expensive drugs would save health care costs for the American consumer. But the White House apparently, according to Mr. Tauzin, agreed they would not support importation of less expensive drugs from Canada—a remarkable comment. You know, people wonder why the tea parties are going on, why the approval rating of Congress is so low—amazing. The Fraser Institute found in 2008 that Canadians paid on average 53 percent less than Americans for identical brand-name drugs. Specifically, the institute found that the most commonly prescribed brand-name drug, Lipitor, is 40 percent less in Canada, Crestor is 57 percent less in Canada, and the popular arthritis drug Celebrex is 62 percent less expense in Canada. Americans would love a 60-percent-off coupon for prescription drugs and deserve such a discount now more than ever.

I have been working on this issue for many years, and I will continue to do so. Americans should not have to wait a day longer for relief from higher prices for drugs. Inexplicably, the majority leader keeps delaying consideration of this needed legislation, which has now forced me to offer an amendment on the current appropriations bill. However, I believe it is necessary to protect all Americans' interests in obtaining affordable prescription drugs. The amendment states that no funds can be used to prosecute those who seek to import prescription drugs that have been approved by the FDA. If the big drug companies are getting an $80 billion savings, shouldn't we give a savings to American consumers? Why not now?

Again, I want to say there is going to be a point of order raised on this bill, and with righteous indignation people will say it doesn't belong on an appropriations bill. We just finished a Defense appropriations bill loaded—and I will have a list of them—with unauthorized appropriations on that bill. Every appropriations bill we take up has unauthorized appropriations, ranging from $300,000 for a museum in Nebraska to the addition of C–17s for $2.5 billion. The argument that somehow we should not be taking up this legislation on this bill flies in the face of what has been common practice around here, even though I do not agree with it.

Let me say this, too. If I had full and complete confidence that this amendment would get a full and complete airing as an amendment on the health care bill, I would be glad to withdraw this amendment. I will be glad to withdraw this amendment if we have assurance this amendment will be taken up on the health care bill. There are all kinds of things that are going to be

done in passage of the health care reform legislation—so-called—on the floor of the Senate.

I see my friend from North Dakota here. I have appreciated his efforts for a long time. He and I have been working on this for a long time. It is a fact that I received the word of the majority leader that this bill would be taken up and that has not happened. That has happened twice. I must say it has never happened to me before in the years I have been a Member of the Senate.

I ask unanimous consent to have printed in the RECORD the New York Times article of August 6, 2009, ''White House Affirms Deal on Drug Costs.''

I also ask unanimous consent to have printed in the RECORD the letter from Senator REID to Senator SNOWE, Senator DORGAN, and to me.

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

[From the New York Times, Aug. 6, 2009]

WHITE HOUSE AFFIRMS DEAL ON DRUG COST

(By David Kirkpatrick)

WASHINGTON.—Pressed by industry lobbyists, White House officials on Wednesday assured drug makers that the administration stood by a behind-the-scenes deal to block any Congressional effort to extract cost savings from them beyond an agreed-upon $8o billion.

Drug industry lobbyists reacted with alarm this week to a House health care overhaul measure that would allow the government to negotiate drug prices and demand additional rebates from drug manufacturers.

In response, the industry successfully demanded that the White House explicitly acknowledge for the first time that it had committed to protect drug makers from bearing further costs in the overhaul. The Obama administration had never spelled out the details of the agreement.

''We were assured: 'We need somebody to come in first. If you come in first, you will have a rock-solid deal,''' Billy Tauzin, the former Republican House member from Louisiana who now leads the pharmaceutical trade group, said Wednesday. ''Who is ever going to go into a deal with the White House again if they don't keep their word? You are just going to duke it out instead.''

A deputy White House chief of staff, Jim Messina, confirmed Mr. Tauzin's account of the deal in an e-mail message on Wednesday night.

''The president encouraged this approach,'' Mr. Messina wrote. ''He wanted to bring all the parties to the table to discuss health insurance reform.''

The new attention to the agreement could prove embarrassing to the White House, which has sought to keep lobbyists at a distance, including by refusing to hire them to work in the administration.

The White House commitment to the deal with the drug industry may also irk some of the administration's Congressional allies who have an eye on drug companies' profits as they search for ways to pay for the $i trillion cost of the health legislation.

But failing to publicly confirm Mr. Tauzin's descriptions of the deal risked alienating a powerful industry ally currently helping to bankroll millions in television commercials in favor of Mr. Obama's reforms.

The pressure from Mr. Tauzin to affirm the deal offers a window on the secretive and potentially risky game the Obama administration has played as it tries to line up support from industry groups typically hostile to government health care initiatives, even as their lobbyists pushed to influence the health measure for their benefit.

In an interview on Wednesday, Representative Raúl M. Grijalva, the Arizona Democrat who is co-chairman of the House progressive caucus, called Mr. Tauzin's comments ''disturbing.''

''We have all been focused on the debate in Congress, but perhaps the deal has already been cut,'' Mr. Grijalva said. ''That would put us in the untenable position of trying to scuttle it.''

He added: ''It is a pivotal issue not just about health care. Are industry groups going to be the ones at the table who get the first big piece of the pie and we just fight over the crust?''

The Obama administration has hailed its agreements with health care groups as evidence of broad support for the overhaul among industry ''stakeholders,'' including doctors, hospitals and insurers as well as drug companies.

But as the debate has heated up over the last two weeks, Mr. Obama and Congressional Democrats have signaled that they value some of its industry enemies-turned-friends more than others. Drug makers have been elevated to a seat of honor at the negotiating table, while insurers have been pushed away.

''To their credit, the pharmaceutical companies have already agreed to put up $80 billion'' in pledged cost reductions, Mr. Obama reminded his listeners at a recent town-hall-style meeting in Bristol, Va. But the health insurance companies ''need to be held accountable,'' he said.

''We have a system that works well for the insurance industry, but it doesn't always work for its customers,'' he added, repeating a new refrain.

Administration officials and Democratic lawmakers say the growing divergence in tone toward the two groups reflects a combination of policy priorities and political calculus.

With polls showing that public doubts about the overhaul are mounting, Democrats are pointedly reminding voters what they may not like about their existing health coverage to help convince skeptics that they have something to gain.

''You don't need a poll to tell you that people are paying more and more out of pocket and, if they have some serious illness, more than they can afford,'' said David Axelrod, Mr. Obama's senior adviser.

The insurers, however, have also stopped short of the drug makers in their willingness to cut a firm deal. The health insurers shook hands with Mr. Obama at the White House in March over their own package of concessions, including ending the exclusion of coverage for pre-existing ailments.

But unlike the drug companies, the insurers have not pledged specific cost cuts. And insurers have also steadfastly vowed to block Mr. Obama's proposed government-sponsored insurance plan—the biggest sticking point in the Congressional negotiations.

The drug industry trade group, the Pharmaceutical Research and Manufacturers of America, also opposes a public insurance plan. But its lobbyists acknowledge privately that they have no intention of fighting it, in part because their agreement with the White House provides them other safeguards.

Mr. Tauzin said the administration had approached him to negotiate. ''They wanted a big player to come in and set the bar for everybody else,'' he said. He said the White House had directed him to negotiate with Senator Max Baucus, the business-friendly Montana Democrat who leads the Senate Finance Committee.

Mr. Tauzin said the White House had tracked the negotiations throughout, assenting to decisions to move away from ideas like the government negotiation of prices or the importation of cheaper drugs from Canada. The $80 billion in savings would be over a 10-year period. ''80 billion is the max, no more or less,'' he said. ''Adding other stuff changes the deal.''

After reaching an agreement with Mr. Baucus, Mr. Tauzin said, he met twice at the White House with Rahm Emanuel, the White House chief of staff; Mr. Messina, his deputy; and Nancy-Ann DeParle, the aide overseeing the health care overhaul, to confirm the administration's support for the terms.

''They blessed the deal,'' Mr. Tauzin said. Speaker Nancy Pelosi said the House was not bound by any industry deals with the Senate or the White House.

But, Mr. Tauzin said, ''as far as we are concerned, that is a done deal.'' He said, ''It's up to the White House and Senator Baucus to follow through.''

As for the administration's recent break with the insurance industry, Mr. Tauzin said, ''The insurers never made any deal.''

U.S. SENATE,
Washington, DC, September 22, 2009.

Senator OLYMPIA J. SNOWE,
Russell Senate Office Building,
Washington, DC.

Senator BYRON L. DORGAN,
Hart Senate Office Building,
Washington, DC.

Senator JOHN MCCAIN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATORS: During consideration of H.R. 1256, the Family Smoking Prevention and Tobacco Control Act, I committed to take up legislation that would permit the safe importation of lower-cost prescription drugs as soon as practicable. Shortly after making that commitment, Senator Dorgan and I began the Rule XIV process on S. 1232, the Pharmaceutical Market Access and Drug Safety Act of 2009.

Unfortunately since taking that step, the Senate has experienced an extremely full legislative agenda that has not permitted me to turn to this important legislation as quickly as I would have liked. In light of the approaching new fiscal year, we have dedicated considerable time to appropriations matters. (On March 24, I received a letter signed by all Senate Republicans telling me it was critical that the Senate dedicate an ''appropriate amount of time'' to pass the twelve appropriations bills.) We have also completed action on the FY2010 National Defense Authorization Act, a bill to extend the solvency of the Highway Trust Fund and the unemployment insurance program, as well as a number of executive nominations.

Passing S. 1232 in the Senate will not be easy. Senate action on many legislative items has taken significantly longer than one would expect, even for measures that ultimately pass by a broad bipartisan vote. Numerous objections by Senate Republicans have forced the Senate to jump through procedural hoops that accomplish little more than delaying Senate action. Actions that have been taken by consent with little or no debate now take many days. Further complicating passage of this legislation is the fact that during its markup of comprehensive health reform the HELP Committee considered and defeated an effort to attach importation language to the underlying bill.

Notwithstanding these obstacles, I stand by my earlier commitment to make sure the Senate considers S. 1232 as soon as practicable. If this issue is not addressed during the full Senate's consideration of comprehensive health reform, I guarantee that I

will move to proceed to S. 1232 before the end of the year.

Sincerely,

HARRY REID,
Majority Leader.

Mr. MCCAIN. Mr. President, I wish to say again that we have been told time after time that this legislation would come before the Senate. It has not. I do not know what process the majority leader will use—reconciliation, fill up the tree, vote on cloture, make this amendment nongermane. I have no confidence. If I had the confidence that this amendment would be taken up in a regular order fashion and that the full Senate would vote on it on the health reform bill, I would have some confidence we could get it done. In the absence of that, I will seek a vote on this amendment.

If there is a budget point of order on this amendment, let no one be fooled: It is not because they do not want to violate the budget rules of the Senate, because they violated them in every possible way in previous appropriations bills, to the tune of billions of dollars.

I yield the floor.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, let me spend a few moments talking about this issue of reimportation of prescription drugs and the history of it and the work many of us have done together, a large group of Members of the Senate, including Senator MCCAIN, working on this issue.

Senator MCCAIN has offered an amendment, No. 2629, which he has just finished discussing. As I understand the amendment, it would prohibit the use of funds appropriated under the act for preventing individuals, wholesalers, or pharmacists from importing certain prescription drugs. That is in the title. It does have, as I think Senator MCCAIN suggested, perhaps a point of order against it. I do not know whether it is because it would be legislating on an appropriations bill. In any event, whatever the circumstances with this amendment, I was a bit surprised to see this amendment on this bill, but everybody has a right to offer amendments.

Let me say that Senator MCCAIN is a part of a group of us who have worked together. We have worked on a piece of legislation called the Dorgan-Snowe legislation. Senator SNOWE, as the major cosponsor, and many others, including Senator MCCAIN as a cosponsor, have worked on this issue for a long time. The fact is, the appropriate place to address this, in my judgment, is in the health care bill that is going to come to the floor in the next couple of weeks. I have said previously that I fully intend to offer this bipartisan bill as an amendment. We have over 30 cosponsors in the Senate, Republicans and Democrats. It ranges from the late Senator Ted Kennedy, to JOHN MCCAIN and a wide range of Senators on both sides of the political aisle. That has been the support for legislation that I think addresses a very important issue.

Let me describe the issue, if I might. I have in my desk in the Senate two bottles that contain medicine. Actually, these are empty bottles. This is Lipitor. The medicine that would be contained in these bottles is made in Ireland by a company that produces Lipitor. It is the most popular cholesterol-lowering drug in America by far. It is made in Ireland, in a plant that is inspected by the FDA, and the medicine is then sent all around the world. These two bottles, as you can see, are identical. These two bottles contained identical tablets, 20 milligrams of Lipitor made in the same place, so it is the same manufacturing, the same pill, put in the same bottle, made by the same company. The difference? One is shipped to Canada, one is shipped to the United States. Difference? Price. Here is the one that was shipped to Canada; this is $1.83 per tablet. This was sent to the United States, $4.48 per tablet. The only difference is price. Why is that the case? Because the American people are charged the highest prices for brand-name prescription drugs in the world, the highest prices in the world for brand-name drugs. In this case, we paid $4.48 per tablet; someone else paid $1.83. It doesn't matter whether it is Canada. It could be England, Italy, France, Germany, Spain—we pay the highest prices in the world, and it is unfair.

The question is not, Is there a problem? Of course there is a problem. We have a whole lot of folks in this country who cannot figure out how they are going to afford to pay for their groceries and their medicine, so they go get their medicine first at the pharmacy in the grocery store and figure out how much they can eat later. Of course this is a problem.

I have described the guy who sat on a straw bale once at a farm a while back, 80 years old, who told me in a little meeting we had in a farmyard: My wife has fought breast cancer for 3 years. She is in her seventies. And we have spent all of those 3 years driving to Canada to try to buy Tamoxifen where it is sold for 80 percent less—an 80 percent lower price in Canada for the identical prescription drug. So my wife and I are trying to drive up and get Tamoxifen in Canada.

The reason they can do that is, apparently at the border, a small amount of personal use, up to 30 days or 60 or 90 days personal use of prescription drugs will be allowed to be brought over without a hassle.

But the question is what about the rest of the American people who cannot drive to the border or go to another country and access the same prescription drugs, same pill put in the same bottle by the same company who decided to charge the American people the highest prices in the world? What about those people?

My point is this: We are going to have a big health care bill on the floor of the Senate sometime in the next few weeks. Oh, it has been through this committee and that committee. It has been on a long, tortured trail. Lord knows every single day in the press we read the next little news item about who said what about this.

One way or another we are going to have some kind of health care reform on the floor of the Senate. Will it pass? Will it be omnibus? Will it be comprehensive? I do not know any of those things. I do know this: that the Gang of 6 and the gang in the Finance Committee or the gang in the HELP Committee are going to become a Gang of 100 or 100 gangs of 1 when it gets to the floor of the Senate. Everybody is going to have their amendments because most Members of the Senate have not had an opportunity to weigh in on health care at this point with their own views and their own amendments. They are not on the committee, not part of a small gang. Let me say, on behalf of myself and I think Senator SNOWE, it is the Snowe-Dorgan legislation with respect to prescription drug reimportation, which includes Senator MCCAIN as a cosponsor, that when health care comes to the floor of this Senate, you can count on it, that there is going to be an amendment and there is going to be a vote on the issue of the prices of prescription drugs.

Perhaps there are some people who do not want it. I understand they do not want to have a vote on it. But in my judgment, there cannot be credible efforts to address health care if you do not address the issue of health care costs, the relentless rising cost of health care.

Part of that, not an insignificant part, relates to the question of the relentless runup of prescription drug costs every single year. Take a look at the increased prices for prescription drugs every year and then think about the people out there who are trying to figure out: How do I pay for this?

I understand senior citizens have the opportunity, under Part D of Medicare, to have some drug coverage. I understand there is a problem with that, there is what is called a doughnut hole in the Washington lexicon. I also understand that someone made a deal with the pharmaceutical industry for $80 billion over 10 years, which is a relatively small part of their gross revenues, in order to fill part of the doughnut hole with 50 percent off on brand-name drugs.

I understand all that. I was not a part of it, nor was anybody I know of in this Chamber. The question is, What about all the rest of the American people and the fact that they are now charged the highest prices in the world for brand-name prescription drugs? Is it fair? I say no.

We will offer an amendment. My colleague says he was promised and he was concerned about that. I understand all that. All I am saying is, we are going to have this debate, this amendment, and this vote. It is going to be on health care. That is where it ought to be. It ought to be on the health care bill.

I know that when we have this discussion, we are going to have people say: If you do not allow the prescription drug folks, the pharmaceutical industry, to charge these prices in our country, they will do less research into finding cures for these deadly diseases.

You know what, the fact is they spend more money on promotion, marketing, and advertising than they do on research. That is a fact. I mean you get up in the morning and turn the television set on, perhaps while you are brushing your teeth or something, and then listen to the ads. The ads push at you every single day: Go ask your doctor today. It is Wednesday. Ask your doctor, is the purple pill right for you?

I do not know what the purple pill is, but it makes you feel like you should go ask somebody if I should be taking the purple pill.

Go ask your doctor whether you might need Flomax. Go ask your doctor what you ought to be getting, what you ought to be taking that you now do not know about or are not taking.

All these things are pushed at consumers in circumstances where the only person who can prescribe that prescription drug is a doctor who has decided you need it for your health. Yet every single day, relentlessly across this country on television, in the journals and newspapers and publications it says: Go check with your doctor. Ask your doctor if you should be taking this medicine.

What about cutting back on some of that and reducing the price of prescription drugs? What about that? Let me make one other point, if I might. My colleague indicated he has offered this, which is a funding limitation on prescription drugs. The fact is, this has been a long and difficult trail to pass legislation.

I understand. Were I working for the pharmaceutical industry, I would understand why you want to retain this little piece in Federal law that says: The only entity that can reimport or import drugs into this country is the company that manufacturers them. I understand why they want that to be the case. Because it allows them to price, in this country, however they want to price.

But we are told constantly this is a new economy, a global economy. If it is a global economy, then what about allowing the American people the freedom to access that global economy to find the identical FDA-approved prescription drug where it is sold for half the price?

They say: Yes, but you know what, if we do that, we are going to open it up to counterfeit drugs and so on. Guess what. Europe has been doing this for 20 years. It is something called parallel trading. In Europe, if you are in Germany and want to buy a prescription drug from France, if you are in Spain and want to buy a prescription drug from England, that is not a problem. They have a plan that is called parallel trading. It has been going on for 20 years, and there are no counterfeit issues of any significance at all.

Europe can do it and we cannot? We cannot keep track of this? The legislation that I and Senator SNOWE and many others, including Senator MCCAIN, have put together carefully has all kinds of safety measures that will dramatically improve the safety of the prescription drugs that are now sold.

It requires pedigrees be established on batch lots so you can track everything back. Everything. The only proposal we are suggesting the American people be given the freedom to do is to access that FDA-approved drug—yes, only FDA-approved drugs—only from countries in which the chain of custody is identical to ours and as safe as ours is. That is all we are talking about.

But that does it the right way. That says: Here is a plan. It funds the FDA to make certain that the drug supplies are safe and so on. This is the right way to do this. That is why we have taken a long time to put this together. It is a piece of legislation that has all the elements you would want to have that gives the American people the freedom to get lower priced drugs, FDA-approved drugs where they are sold and, at the same time, because they would have that freedom, would put downward pressure on drug prices in this country because the pharmaceutical industry would be required to reprice their drugs in the United States.

Let me say, as I always have to say, I do not have a grief against the pharmaceutical industry. I think it is a great industry. I think it produces wonderful, miracle prescription drugs that if taken can keep you out of an acute care hospital bed, which would be far more expensive. Prescription drugs, if taken, in many cases, can manage a disease that otherwise would have you in a debilitated condition.

I appreciate the research they do. I appreciate the new drugs they develop. Let me say this, that a substantial amount of work, with respect to the development of new drugs, is done with public funding, taxpayer dollars, through the National Institutes of Health, the knowledge from which then goes to the pharmaceutical industry to be able to use to create these drugs. That is a part of it.

Another part of it is the research they do themselves. Good for you, I say. My grief is not against an industry. I do not want to tarnish this industry. All I want to say is: We deserve fair prices. This country and the consumers in this country deserve fair prices.

We have been trying for 10 years to get this done. If we bring health care reform to the floor of the Senate and say: We are going to do something about health care costs and prices and fail to do something about prescription drug costs, in which the American people are required to pay the highest prices for brand-name drugs, then, in my judgment, we will have failed miserably.

It is my full intention that when we have health care on the floor, which I expect to be within a week or 2 weeks or whenever it comes, but it is coming for sure, I will be here, and I will fully expect and demand the opportunity to offer this amendment because there are 30 Members of the Senate, Republicans and Democrats alike, who have done the work to put together the bill that has all the safeguards and, finally, at long last, will give the American people what they deserve; that is, fair pricing on prescription drugs.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. DORGAN. Of course, I will yield.

Mr. MCCAIN. I am very grateful for the leadership Senator DORGAN has shown on this issue for many years and it has been a pleasure and an honor to work with him on that and many other issues.

I ask my colleague, does the letter that was sent by the majority leader to you and to me and to the Senator from Maine, Ms. SNOWE—I know you have read it—does it concern you that the last paragraph of the letter says:

> Not withstanding these obstacles, I stand by my earlier commitment to make sure the Senate considers S. 1232 as soon as practicable.

And then this is the question I have for the Senator from North Dakota.

> If this issue is not addressed during the full Senate's consideration of comprehensive health reform, I guarantee that I will move to proceed to S. 1232 before the end of the year.

My question to the Senator from North Dakota is: Why would there be any question in the majority leader's mind that you or I and Senator SNOWE would let a health reform bill go to the floor and be voted on without it being passed? It seems to me, and may I say, because I have been told twice by the majority leader we would take it up—and those commitments have been reversed—would it not concern you a little bit when it says: '' . . . if this issue is not addressed during the full Senate's consideration of comprehensive health reform . . .''

That is my question. That is what I am concerned about, that parliamentary procedures would be used. You and I have seen it before. The tree filled up. Cloture invoked, et cetera, where there have not been amendments that were clearly important to that legislation, not allowed to be considered.

That is my question to my friend from North Dakota.

Mr. DORGAN. Let me say to Senator MCCAIN that I expect the job of majority leader is a pretty tough job. I have watched from Bob Dole on, Tom Daschle, and so many majority leaders and minority leaders try to run this place. It is pretty hard to run. Trying to figure out a schedule is pretty difficult. So I respect the difficulties of juggling all these things.

With respect to the specific letter Senator MCCAIN referred to, Senator MCCAIN, I, and Senator SNOWE all talked to the majority leader about this issue when the tobacco bill was on the floor of the Senate because we were fully intending to offer our prescription drug reimportation bill.

The majority leader did say to us, and then put it in writing, did say to us: I will guarantee you that you will get that up on the floor of the Senate. So that was a commitment by the majority leader. And he understands that commitment.

When I saw the letter he wrote, I went to him immediately, and he and I talked about that. Because I indicated to the majority leader: You have indicated that as soon as practicable, or perhaps at the end of the year.

I said to the majority leader: You should understand that if it is not up before health care, it has to be offered on health care. Because that is exactly where it fits. Nobody can come to the floor and say: We have to do health care. We have to try and control costs and put some downward pressure on prices. But, by the way, you cannot offer a piece of legislation that would put downward pressure on prescription drug prices. I said: That cannot be the case.

He understood and said: I understand that. That is going to be at the front end of this debate on health care. Based on that representation, I feel confident, I would say to Senator MCCAIN, I understand the confusion in the reading of the letter, the writing of the letter, but I feel confident, having talked to Senator REID, that we are going to have ample opportunity, right at the front end of this debate about health care, to have a full debate, to have a vote up or down, which is what we need to do, obviously. I think everyone in this Chamber, every Republican, every Democrat, needs to be on record: How do they feel about their consumers paying the highest prices for prescription drugs in the world? How do they feel about a bill we put together that has pedigrees and batch lots, all the safety so our consumers can have the freedom to access these lower priced drugs?

I think we can do that.

Mr. MCCAIN. Would you not feel better if the letter said—I know I would feel better if the letter said: I expect this issue to be brought up in the health reform bill.

Instead, there is a loophole, with all due respect, that if it isn't addressed during the full Senate's consideration, ''I guarantee I will move to it before the end of the year.'' Each day going by, seniors and, in fact, all citizens are paying a higher price for prescription drugs. Frankly, we should never have made that agreement when the tobacco bill was taken up because we could have passed it. Today seniors could be paying as much as 60 percent less for their prescription drugs. But we know what happened. The pharmaceutical companies weighed in with all of their clout. I urge the Senator from North Dakota to go back and get this language changed. The majority leader looked me in the eye and said: We will take this up after we finish the Department of Defense appropriations bill. And then decided not to do it. Maybe the Senator from North Dakota understands why I am skeptical about the interpretation of a letter that could be interpreted so that we don't take it up in the health care reform bill.

Mr. DORGAN. Mr. President, I understand the anxious state of all of us to do what we have worked on for so long. I understand. I also understand that the letter probably could have been more artfully drawn. I understand from my conversations with Senator REID, the majority leader, that he fully understands and expects us to be planted on the floor when health care comes here and to offer our amendment and have a full debate and vote. If there is an attempt when we debate health care to decide that 30 of us Republicans and Democrats somehow don't have the opportunity we have been promised on the issue of prescription drug prices, in my judgment they are going to have an awful time getting any health care bill through this place. Because you can't say to me or to anybody else: We will do the bill we want to do and, by the way, prescription drug prices that are going up by double digits, we are not going to give you a shot at that.

Let me make one final representation. I said when I started, it is hard to schedule this place. I understand that. The Senator from Arizona knows we have had noncontroversial bills where we couldn't even get past a motion to proceed without having a filibuster to something that is noncontroversial. If I am majority leader, I am thinking this is not easy to do. I am sympathetic to the job he has to try to do all these things. I am convinced Senator REID will keep the commitment he made to us. I am convinced that commitment will be kept when we get health care on the floor. I don't want it to be in the middle or toward the end. I want to be here front and center at the front end because the bill we have put together is a strong bill dealing with a very important issue.

Mr. MCCAIN. If the Senator will yield further for one final question.

Mr. DORGAN. I am happy to yield.

Mr. MCCAIN. I have great sympathy for attempting to schedule legislation in this body. I think our friend Trent Lott maybe didn't invent it, but he used to say that it is like herding cats, conducting business in the Senate. I agree with that.

I know the Senator from North Dakota is aware that no matter what the problems are, if the majority leader says: I will take up this bill, then you have to take his word. My question to the Senator from North Dakota is, can we get a commitment from the majority leader that parliamentary procedures will not be used to block consideration of the issue of importation of pharmaceutical drugs?

Mr. DORGAN. Mr. President, I believe that commitment has already been made by the majority leader.

Mr. MCCAIN. The letter is ambivalent.

Mr. DORGAN. I understand that. That is why I said I think the letter perhaps is not artfully drafted with respect to that last paragraph. I believe that commitment has been made to me because I went to the majority leader following the release of that letter. I have found over a long period that when the majority leader gives me a commitment, I believe he will keep the commitment.

Mr. MCCAIN. I have not had that experience.

Mr. DORGAN. I understand, but I believe the Senator will have that experience when health care comes to the floor and he and I are on the floor with our colleague Senator SNOWE and others pushing for a solid piece of legislation that has broad bipartisan support. The Senator then will understand the commitment was made and the commitment was kept. I believe that will be the case.

Mr. MCCAIN. All I can say to my friend is, if we can get a commitment that parliamentary procedures will not be used to block consideration of an amendment concerning importation of prescription drugs, I will withdraw this amendment from this bill.

Mr. DORGAN. I believe that commitment has been made to me. In any event, we are here on the floor on a Wednesday talking about something I believe is very important, and we have worked on this for a long time. We have spent a lot of time working on it. I don't intend to decide: OK, somebody is going to put up some barriers and that is OK with me. That is all right. And I don't think Senator REID is going to do that. He has made a commitment to me that will not be the case. I am convinced that Senator MCCAIN and I and others who have put this legislation together will have our day, and everybody else will have to stand up and say yes or no. I hope when the roll is called, we have sufficient numbers, finally, at long last, to pass legislation that should have been passed 8 years ago. Again, I appreciate the comments Senator MCCAIN has made this morning. I will have further visits with him.

I know Senator MIKULSKI has a bill on the floor she wishes to manage, and we don't want to be in the way of that.

My view is that we are going to have our bill on this floor with a full debate and an up-or-down vote, and that will come as a result of Senator REID keeping his commitment. I am convinced of that.

I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from Arizona.

Mr. MCCAIN. Very briefly, I say to Senator DORGAN, I appreciate his efforts, his leadership. I appreciate everything he has done. We have had the privilege of working together on many issues over the years. I wish to be sure that when the health reform bill comes up, there will not be parliamentary obstacles from that happening. I have seen the will of the majority thwarted on the floor of the Senate by certain parliamentary maneuvers—filling up the tree, for example. The Senator from North Dakota is as familiar as I am with some parliamentary procedures which can be employed by the majority and have been employed when both parties have been in the majority to thwart the ability of Senators to have their issues considered. That is what I want to see, is to make sure that when the health reform bill is before us, we will take it up.

But the sentence reads:

If this issue is not addressed during the full Senate's consideration of comprehensive reform . . .

My question is, why wouldn't it? Why is that sentence necessary? All I can say is that I hope we can get that assurance. If we do, I will withdraw the amendment and allow this appropriations bill to receive full consideration and be passed by the Senate.

Mr. DORGAN. Mr. President, I intend to offer several amendments to the health care bill. I have not had a chance. I am not part of a gang of anything. I wasn't part of the Gang of 6. I am not part of the Finance or HELP Committees. This is my first opportunity. I have some things I think can improve it. If a bill comes to the floor with procedures—and it will not happen—that lock this up and we can't offer amendments, I wouldn't stand for that. I am not going to be a part of that process. My expectation and the representation made to me with respect to this amendment is when that bill comes to the floor, we will have an opportunity to offer amendments. I don't know how you would get health care through the Senate if the proposition would be that somebody says: The Gang of 6, they had their 6 months or 3 months, whatever they did. And the two committees had their opportunity. But the rest of you, sorry, can't do that. In that circumstance, health care would not be passed through the Senate. Perhaps we have tortured this subject to death.

Mr. MCCAIN. We have probably tortured it to death. Considering the fact that reconciliation continues to be held out there as an option by the majority is also a factor about which I have been concerned. All we need is a clarification to make sure there will be no parliamentary obstacles to consideration of the amendment of the Senator from North Dakota, an effort joined by me and Senator SNOWE and others, to allow prescription drugs to be imported into the United States.

I yield the floor.

Mr. DORGAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BURRIS. Mr. President, I ask unanimous consent to speak as in morning business.

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

HEALTH CARE REFORM

Mr. BURRIS. Mr. President, my brief remarks this morning are going to be on the cost of our broken health care system.

There have been times throughout our Nation's history when the American people have called upon our elected leaders to make very difficult decisions. This is one of those moments.

The debate over health reform has taken hold of this country and this Congress. We need a public option as part of any reform legislation, and we need it now. But the debate goes on. In House and Senate committee hearings, in townhall meetings, and at dining room tables across America, people are talking about the cost of health care reform. But they are not just talking about dollars and cents. Sometimes Washington forgets that. We worry about taxes, the deficit, and the need to keep Federal spending in check. We are right to debate these issues. But in the swirl of numbers and the cold analysis of insurance profits, we must not forget the extraordinary human cost of our broken health care system.

Nearly 45,000 Americans die every year because they do not have insurance coverage and cannot get quality care. That is one death every 12 minutes. This simply cannot stand in the United States of America. As Members of the Senate, as Americans, and as human beings, we cannot allow this to continue. It is time to take bold action. We must not delay any longer. The American people are waiting—people such as Deborah, a mother from Illinois, who works for a social service agency. Her employer had to cancel health care benefits and cut salaries more than a year ago because the expenses were too high. Deborah had a heart attack in April. Her resulting hospital bills total almost $16,000. She cannot afford the medicine her doctors have prescribed for her. And now she is having trouble paying bills. Her gas and electricity have already been cut off in her home. Next it is going to be the water.

Thankfully, Deborah's children and foster children have health insurance provided under an Illinois program called All Kids. But what if she suffers further complications or another heart attack? What if she loses her home or her job? What will happen to Deborah and her family?

If this Congress does not pass meaningful health care reform, their future is uncertain at best. But if we do act, we can bring Deborah and her family back from the brink of ruin. If we pass health care reform with a public option, Deborah and millions like her will be able to get the quality care they need at a price they can afford.

Under a public plan, health care costs will come down. Perhaps Deborah's employer will be able to restore her insurance coverage. But if not, she will be able to get individual coverage by choosing between an affordable private or public plan. Competition will drive premiums down across the board, making insurance more affordable for every single American. This means even with a preexisting condition, Deborah will not have to worry about finding good coverage at a fair price. She will be able to pay her bills again. In case she needs further treatment down the road, she will not be forced to choose between keeping food on the table or seeking the quality care she deserves. That is what health care reform is with a public option, and that is what could help Deborah.

These reforms would also help working folks such as Scott and Cindy, a self-employed couple from Oak Park, IL. Scott is a carpenter, and Cindy is a freelance writer and editor. They have a combined income that ranges from $50,000 to $120,000 per year, depending on the economy. But Scott has a preexisting condition.

Unlike many people in similar situations, they were fortunate enough to find an insurance company that would cover them. But the costs are extremely high. Premiums run more than $500 a month. Scott is covered by one plan, and Cindy and the kids are on a separate plan, and each one has a deductible of about $5,200 a year. That is the deductible.

That is why Scott and Cindy were so worried when their son broke his arm last summer. It was a bad break, but it is the kind of injury that is common to an active 15-year-old kid. It was not catastrophic, it was not unusual, and no one's life was at stake. But the medical bills totaled about $4,000. Even though Scott and Cindy have insurance, they had to pay every cent of this out of their pockets.

They are underinsured, and they know it. That is why they ration their own health care. I will repeat that: That is why they ration their own health care. Whenever they can skip a doctor's visit, or a checkup, or a minor procedure, they will do so in the interest of saving money. Of course, when their kids need treatment, they make it a priority.

But Scott and Cindy know they will not be able to afford it if either of them gets sick. What will happen to this family if they experience a catastrophic illness? What will happen if their coverage gets dropped, or if the costs continue to go up?

With health care reform, private insurers could no longer discriminate

against Scott's family because of his condition. If they are unhappy with the private insurance, they will have the choice to purchase high-quality public insurance for the whole family. Regardless, their deductible and monthly premiums will be much lower. For the first time, they will not have to worry about Scott's preexisting condition, and they can stop rationing their health care. They will be able to take advantage of preventive care so they can catch potential problems earlier and minimize their chances of getting really sick.

This is what reform with a public option would mean for Scott and Cindy, and for millions of Americans just like them in Illinois and across the country. That is why I will not compromise on the public option. I will repeat that: I will not compromise on the public option because Deborah, Scott, and Cindy need our help. That is why I will not settle for anything less than the real reform the American people deserve. The human cost is too high.

As we move forward, it is important to consider all sides of this contentious debate. But this debate has been going on for nearly a century. Since the days of Teddy Roosevelt, we have been trying to come together and solve this problem. The time for debate is drawing to a close. The time for bold action is upon us now, and our path is clear. The only way to achieve meaningful health care reform and bring costs down is through a public option that creates real competition in the system.

Let me be clear on this—I will be very clear—I will not vote for any health care bill that does not include a public option. I urge my colleagues to join with me, to stand on the side of the American people, and to fight for ordinary folks such as Deborah, Scott, and Cindy, and their families.

We must not delay. We must not let them down.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. KAUFMAN. I ask unanimous consent to speak as in morning business.

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

AFGHANISTAN POLICY

Mr. KAUFMAN. Mr. President, I rise today to support the comprehensive review of our Afghanistan policy being conducted by the Obama administration. This is the right time for such a review because conditions have changed since the President's strategy was announced on March 27. I have traveled to the region twice since then—first in April and again last month—and can confirm the recent observations of General McChrystal that the Taliban has made inroads in Afghanistan and the situation is deteriorating and serious. At the same time, political dynamics have changed in the region. There have been flawed elections in Afghanistan, and an emboldened Pakistani military has taken actions against elements in the Taliban in Pakistan. In light of these developments, we must give the President the time he needs to review the strategy and reevaluate the mission.

Today marks 8 years since the U.S. military entered Afghanistan, but if there is one message I hope to convey to the American people today, it is that we have not been there in earnest since 2003. After launching a successful NATO campaign against al-Qaida and the Taliban-led government that sheltered it, resources were diverted to Iraq in 2003 before the job was finished. We essentially left Afghanistan to invade Iraq, and the result in Afghanistan was a resurgent Taliban and failure to capture Osama bin Laden.

This was not the first time we left Afghanistan. After resourcing the Afghans throughout the 1980s in their efforts to beat the Soviets, we abruptly ended our support in 1989 after Soviet troops withdrew. We were then absent for 12 years until 9/11.

Historically, and especially since 2003, our commitment to Afghanistan has been wavering and halfhearted. This has created a deficit of trust in the minds of the Afghans, especially among those who have allied with us and faced the prospect of life or death in our absence. I wish to repeat that. This has created a deficit of trust in the minds of Afghans, especially among those who have allied with us and faced the prospect of life or death in our absence.

As we enter the ninth year of the war, it is critical to reassess our strategy so we can get it right. This is why the President's review must be complete and must be comprehensive. It is not just about combat troops or the McChrystal report. Troops are just one part of the puzzle and the report submitted by General McChrystal is just one input. The President must consider multiple perspectives on the political and regional situation from U.S. Ambassador to Afghanistan Karl Eikenberry, U.S. Ambassador to Pakistan Anne Patterson, and the Special Representative for Afghanistan and Pakistan, Richard Holbrooke. He must also weigh broader concerns from the Department of Defense, including overall force structure and other global military requirements. The review will take time. There are many complex issues to deal with in Afghanistan which closely relate to our policy in Pakistan.

The President will present his plan to the American people when he has made his decision. At that time, Congress will be an important part of the process and will hold hearings on the President's plan, as it did with the President's plans in Iraq. Then each Member of Congress will cast the most important vote for any Member of this body: whether to send additional troops abroad and how to protect them. That debate should not be about politics.

I believe we must look at this challenge as a sum of the parts, and I wish to raise two primary questions. The first is about our mission and our objectives, which have been complicated by changes on the ground since March. The second is about waging an effective counterinsurgency strategy and what it would take to meet those requirements in Afghanistan. After we review our mission strategy in Afghanistan, we must also review how it correlates to our strategy in Pakistan. I will take each one of these questions in turn, both to give an indication of the complexity of the decisionmaking process and to share my observations on each subsidiary question.

First, the President must ask: What are our missions and objectives? In March, he presented his mission statement:

> To dismantle, disrupt, and defeat al-Qaida and its safe havens in Pakistan, and to prevent the return to Pakistan or Afghanistan.

He also laid out key objectives: promoting a more capable, accountable, and effective government in Afghanistan, developing increasingly self-reliant Afghan security forces that can take the lead in counterinsurgency and counterterrorism, and assisting efforts to enhance civilian control and stable government in Pakistan.

As I have said, since March there have been at least three specific changes to the situation.

First, there were flawed Presidential elections in August which have further eroded confidence between the Afghan people and the government.

When I was in Afghanistan in April, there was hope—real hope—that these elections would lead to real change and progress. Unfortunately, the outcome has been a worst-case scenario, validating the fears of those who view the Afghan Government as plagued by corruption. As each day passes, the steady stream of election fraud revealed in the media further undermines trust in the Karzai government. This is especially harmful to our overall counterinsurgency strategy because the goal is to build support among the Afghan people for their government. Remember, this is not—not—between us and the Taliban, it is between the Afghans and the Taliban, and the perception of government corruption only strengthens the Taliban.

Second, we must review the challenges of training the Afghan national security forces.

While the Afghan National Army has demonstrated an ability to fight, there are serious questions about its size and effectiveness, and problems are even

worse among the Afghan National Police. Recruitment has been slow, attrition has been high, there are no noncommissioned officers, and many among the ranks are illiterate.

To build the ANA and ANP, we need to overcome limiting factors in the dearth of leadership development, qualified recruits, infrastructure, trainers, and equipment. During my trip to Helmand Province last month, I was struck by the side-by-side image of the Afghan Army troops in Toyota pickup trucks and U.S. troops in Mine Resistant Ambush Protected Vehicles, or MRAPS.

There is widespread recognition that there is a long way to go before the Afghan security forces can be self-sufficient and that the training plan requires adjustments.

We are now embedding American trainers with Afghan battalions to enhance leadership development, but we continue to do this better, which is why I strongly support Senator LEVIN's plan to prioritize and focus on training the Afghan Army and police. Specifically, I agree that we must expedite the training, equipping, and support for the army and police so they can double in size to 240,000 for the army and 160,000 for the police, not by 2013 but by 2012, and hopefully by the end of 2011. Based on my September trip to Afghanistan with Senators LEVIN and REED, I believe this training can be expedited with the necessary focus and resources. This must—I say, must—be a top priority because our overall goal is not nation building in Afghanistan; it is self-sufficiency for the Afghans so they can provide for their own security, much like what has happened in Iraq.

The third changed condition we must consider is recent developments in Pakistan. When I traveled there in April, the situation was grave. The tension between the Pakistani Government and the Taliban was mounting. The deal that was cut with the Taliban to relinquish control over Swat Valley was unraveling, the Frontier Corps did not have the capacity to ''clear and hold'' in the tribal areas and border region, and I walked away very concerned about the overall political situation.

Immediately after the trip, the Pakistani military took decisive action against the Taliban in Swat Valley and has since regained control of the area. With our help, the Frontier Corps is building its capacity, and we just passed the Kerry-Lugar legislation, which would triple economic aid to Pakistan.

On my most recent trip in September, it was clear the political security environment had improved, but I still remain concerned about al-Qaida and its allies continuing to use Pakistan as a safe haven.

As we review our mission—taking into account these three developments and changing conditions—we must also consider the strategy used to meet our objectives. In March, the President announced ''an integrated civilian-military counterinsurgency strategy'' for Afghanistan. Partnering with the population and training local security forces has proven to be the best way to defeat insurgencies over time. Let me repeat: Partnering with the population and training local security forces has proven to be the best way to defeat insurgencies over time. Therefore, the second principal question we must ask is, Do we have the requirements necessary for waging an effective counterinsurgency strategy in Afghanistan?

Before I address these questions, let me say that I am struck—truly struck—by how quickly the military has adapted to counterinsurgency and how, from the bottom up, it has been adopted. Since General Petraeus wrote the U.S. Army/Marine Corps Counterinsurgency Manual in 2006, counterinsurgency has become fundamental to our military doctrine.

As long as we maintain the strength of our conventional forces, it is increasingly unlikely anyone will take on the U.S. military through conventional means. Let me repeat that. As long as we maintain the strength of our conventional forces, it is increasingly unlikely anyone will take on the U.S. military through conventional means. We must, therefore, prepare to fight future wars against insurgencies, nonstate actors, and asymmetrical forces. As such, the military, under the leadership of Secretary Gates, is rebalancing its budget and making other fundamental changes.

This is remarkable to me because any large organization, especially one as large as the U.S. military, is like a supertanker: it just does not turn easily. Through an incredible organizational effort, however, this supertanker has changed course, and I am truly impressed by the extent to which DOD and the U.S. military have accomplished this and have embraced counterinsurgency, from the privates to the four-star generals.

Counterinsurgency is a four-step process: First, shape a strategy; second, clear the area of insurgents; third, hold the area; and fourth, build through governance, essential services, and economic ability. It is important to note that troops are just one part of a counterinsurgency strategy. Equally important is training the indigenous security forces, providing essential services, promoting economic development, and strengthening systems of governance.

General McChrystal has recommended a full counterinsurgency approach in Afghanistan. As he mentions in his report, we should not resource the mission without reconsidering the strategy, and focusing on troop levels or resources alone ''misses the point entirely.'' Therefore, I ask again, do we have the requirements for an effective counterinsurgency strategy in Afghanistan? In order to explore this question, we must look at three key areas—governance, training, and the civilian role—and ask the following questions: First, can the Afghan Government offer a winning alternative to the Taliban? Second, can we train enough Afghan troops and police to meet the required number of counterinsurgents? Third, do we have enough civilians? Finally, we must also consider how to develop an effective strategy for reintegrating low-level insurgents.

Counterinsurgency is about trust building between the local population, the security forces, and the government. Without trust, we cannot expect sustainable progress, and that is why I am particularly concerned about allegations of fraud in the Afghan elections.

If this were a political campaign, there would be no need to run negative ads against the Taliban. According to the polls, the Taliban has only 6 percent support among the Afghan population. This is the good news. The bad news is that in the absence of jobs, credible governance, and essential services, this does not translate into support for the Afghan Government by the Afghan people. This is why we cannot just target the Taliban or insurgents. We must help the government develop a capacity to provide for its people so it can be viewed as credible and effective.

This is why the outcome of the recent election must be resolved in a clear manner so that whatever trust remains between the Afghan people and the government is not further diminished. We must ask—can we succeed in a counterinsurgency with a Karzai government tainted by allegations of fraud and corruption? How do we recalibrate our strategy in light of the recent flawed elections?

The second question I would like to raise is about the amount of counterinsurgents we need to succeed. Counterinsurgency doctrine tells us that troop size is not determined by the size of the enemy, but rather, by the size of the population. As such, we need a ratio of one counterinsurgent for every 50 citizens. The latest CIA World Factbook estimates the population of Afghanistan at 28 million, which means that we need roughly 560,000 ''boots on the ground'' which includes Afghans, NATO troops, and Americans.

During our visit, we learned that there have been 94,000 Afghan National Army and 82,000 Afghan National Police trained as of August. This brings the total number of trained Afghans to slightly less than 200,000. Combine this with 68,000 U.S. troops by the end of the year, and 38,000 NATO forces, and we have reached nearly 300,000. This is slightly more than half of the requisite number of troops, and is overly-generous in assuming that all trained Afghan security forces are combat ready and effective. Just by comparison, in Iraq, a country of two-thirds the size, there are already more than 600,000 trained security forces.

No one is suggesting we fill this enormous vacuum with American troops,

which is why we must focus on expediting training for the Afghans. And this is what Senators LEVIN, REED, and I heard was wanted and needed by the Afghans themselves during our recent visit.

In the Garmsir District of Helmand Province, we met with more than one hundred local Afghans and tribal elders who insisted they want to independently secure their own population. They realize the need for U.S. troops to help to train and equip the Afghan National Security Forces, and recognized that American assistance is needed to accomplish this mission. But once the Afghans are able to provide security for themselves, they will be ready for us to end our military presence. In the words of the elders—once the Afghan security forces are trained, we will be welcome simply as ''guests.'' In the meantime, we have to find a way to prioritize training, so Afghans can eventually fill the security vacuums with minimal American assistance.

The third question regarding an effective counterinsurgency strategy is: do we have enough civilians to implement counterinsurgency in Afghanistan, and how can we expedite the deployment and training of civilians?

According to counterinsurgency strategy, once the troops have cleared and held an area with the support of Afghan Security Forces, civilians must partner with Afghans to build. And we need hundreds of additional civilians on the ground to fulfill a wide range of non-military requirements including improvements in agriculture, economic development, essential services, and governance.

We have heard lots of talk in Washington about the need for a ''civilian surge'' to complement the additional troops President Obama has pledged for Afghanistan this year. Many of those civilians have been hired, and the State Department expects to have nearly 1,000 civilians on the ground in Afghanistan by the end of this year. I support these efforts, but still believe that more must be done to build a stronger civilian capacity in Afghanistan.

During a visit to Camp Atterbury in Indiana last week, I met with 38 civilians deploying to Afghanistan. At Atterbury, civilians train with the military to cultivate an integrated approach and greater unity of mission. Like our soldiers, these civilians volunteer to leave their families behind and put themselves in harm's way to better the future of Afghanistan. We owe them and their families a debt of gratitude for their service, and we must ensure they have the tools, support, and training they need to succeed.

Civilians serving in Afghanistan from across the interagency are sharing trir expertise in everything from agriculture to governance, counternarcotics, accounting, energy, development, and education. The role of the military and civilians are complementary—one cannot succeed without the other. This is why military officials including Secretary Gates and General McChrystal are some of the strongest advocates for a deepened civilian commitment to Afghanistan. To succeed in counterinsurgency, we must do everything we can to expedite and increase the recruitment and deployment of qualified civilians.

Finally, when formulating an effective counterinsurgency strategy, we must ask if we have developed a plan for reintegrating low- and mid-level Taliban. I am not suggesting we speak with Mullah Omar or other members of the Taliban leadership, but we must recognize there are many Afghans working with the Taliban for purely economic reasons. One of the striking observations on my two trips was the fact that a primary concern of Afghans is jobs, just like Americans. And if we can offer economic incentives and alternative sources of livelihood—especially with regard to the drug trade—I am hopeful that we can reintegrate some insurgents ready to disavow violence. This will not be quick or easy, but the good news is that reintegration is possible, based largely on the model we successfully used for the Sons of Iraq.

You can see the complexities of determining our mission and objectives are great, and multiple questions remain in developing an effective counterinsurgency strategy for Afghanistan. But these considerations are only half the story.

Once we have reviewed the strategy and mission, we must also consider how our policy in Afghanistan impacts Pakistan. As the President announced on March 27, ''the ability of extremists in Pakistan to undermine Afghanistan is proven, while insurgency in Afghanistan feeds instability in Pakistan.'' The relationship is clear and U.S. interests are inextricably linked, which is why the President adopted the regional approach coined ''Af-Pak.''

In my view, there are four primary challenges in Pakistan that we must consider when formulating our strategy in Afghanistan.

First, Pakistan is a vital security interest because it has become a safe haven for al-Qaida, which has continued to train there and plan for future attacks on Americans. We know this based on the arrest less than three weeks ago of Najibullah Zazi, an Afghan planning a large-scale attack in New York, who is believed to have trained with al-Qaida in Pakistan.

Second, Pakistan has nuclear weapons and the delivery vehicles to use them. Therefore, political instability in Pakistan is not only a regional threat, but a larger global security interest. If Pakistan was destabilized or if control over its nuclear arsenal was compromised, it would pose severe security repercussions. It would be a nightmare scenario to have Pakistan ruled by fundamentalist religious fanatics with ''loose nukes'' in the hands of al-Qaida or other extremists.

Third, Pakistan's ongoing tension with India has limited its ability to respond fully to internal threats, such as the Taliban. The Pakistani military continues to see India as its number one threat, and has therefore hesitated to shift its focus from its eastern border to the west. This has improved in recent months since the Pakistani military went into Swat, but any U.S. policy must take into account Pakistani concerns about India.

Fourth, elements of the Pakistani intelligence service, or ISI, have at times allied with the Afghan Taliban. On the one hand, they want to hedge against a total U.S. total withdrawal from Afghanistan, as we did in 1989, or a limited withdrawal as we did in 2003. On the other hand, many in Pakistan worry that an increase of U.S. forces in Afghanistan may push extremists further into Pakistan.

This view was expressed today by the Pakistani Foreign Minister in the Washington Post. Quoted in an editorial, Foreign Minister Qureshi stated, ''If the likes of Mullah Omar take over in Afghanistan, it will have serious repercussions for Pakistan . . .'' He went on to say that the Taliban's actions in Afghanistan ''. . . will have implications on Pakistan and it will have implications on the region.''

All of these considerations indicate the need for a sustained U.S. commitment to Pakistan, which is why Congress just passed the Kerry-Lugar bill and economic assistance package. This is a $7.5 billion vote of confidence in the Pakistani people, meant to demonstrate that our commitment to Pakistan is strong and enduring. It is also meant to demonstrate that our interests are not just limited to the border with Afghanistan.

In conclusion, as one can see in the detail and number of questions that I have raised, this reassessment of our Af-Pak strategy is about much more than sending additional U.S. combat troops into Afghanistan. As Senator LEVIN has pointed out, talking about troop levels in Afghanistan is similar to talking about the public option in health care reform. Just as the public option is only one element of the health care debate, U.S. troop levels are just one element of a much broader set of issues in Afghanistan.

The White House is now engaged in the necessary process of evaluating realities on the ground and questioning underlying assumptions. I fully support this process. The questions I raise today are intended to contribute to this ongoing review, so that we may find the right solution.

The stakes are too high for us to carry on business as usual or to ignore the changing dynamics in Afghanistan and Pakistan. This is why the President should weigh all perspectives about conditions on the ground and the region, our counterinsurgency strategy, and the way forward in our mission. I fully support the President's comprehensive approach, and I agree it

is needed because we have to get this right. We owe it to ourselves, we owe it to the American people, and we owe it to the brave men and women who continue to serve with great courage, honor and sacrifice in Afghanistan.

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

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2629 WITHDRAWN

Mr. MCCAIN. Mr. President, I have received assurances that there will be no blocks or impediments to consideration of the prescription drug importation issue, which I and a number of us have been seeking a vote on for a number of years. I have been given assurances that there will be no impediments to bringing that issue up when health reform is before the Senate. Therefore, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. MCCAIN. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2644

Mr. VITTER. Mr. President, I ask unanimous consent to set aside the pending amendment and to call up Vitter amendment No. 2644.

The PRESIDING OFFICER. There is no amendment currently pending, so the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER], for himself and Mr. BENNETT, proposes an amendment numbered 2644.

Mr. VITTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide that none of the funds made available in this Act may be used for collection of census data that does not include a question regarding status of United States citizenship)

On page 110, line 7, strike ''activities.'' and insert ''activities: *Provided further*, That none of the funds provided in this Act or any other act for any fiscal year may be used for collection of census data that does not include questions regarding United States citizenship and immigration status.''

Mr. VITTER. Mr. President, I present this amendment on behalf of myself and my distinguished colleague from Utah, Mr. BENNETT, who will speak after me. It is a very simple but, I believe, a very important amendment. It says we are not going to do a census that doesn't ask some basic questions about citizenship and immigration status.

Specifically, the amendment reads:

None of the funds provided in this act or any other act for any fiscal year may be used for collection of census data that does not include questions regarding United States citizenship and immigration status.

I believe this is a vital amendment for two reasons. If we don't adopt this amendment or other legislation, the census will move forward and will not distinguish in any way between citizens and folks in this country legally and noncitizens. That, in my opinion, is absolutely crazy, again, for two reasons.

No. 1, the census is done every 10 years to give Congress an important tool in terms of many things that Congress and other bodies of government do: funding, public policy, different programs. Clearly, we need accurate, specific information about the illegal alien question in this country. I assume we will all agree, however we come down on the issue, that illegal immigration is a big issue and a big problem. We debate that issue, we try to solve that issue in different ways all the time in this body. Yet we would do a census, we would spend tens of billions of dollars on a census, and we wouldn't ask the question: Are you a citizen and, if not, are you in this country legally or illegally? That is absolutely crazy. The census does ask those questions in the long form. They are able to get the long form completed. They are able to compile information, but that is not the full census; that is a tiny percentage of the full population.

So if we are going to spend tens of billions of dollars every 10 years to do a major census, it seems absolutely a no-brainer that we would get full and accurate information about the number of illegals in this country.

Secondly, and perhaps even more importantly, the single most important thing we use the decennial census for is to reapportion the House of Representatives, to decide how many House Members each State gets. Under the Federal plan, the way the census is designed, the House would be reapportioned counting illegal aliens. States that have large populations of illegals would be rewarded for that. Other States, including my home State of Louisiana, would be penalized.

I believe it is very clear that when the Founders set up our representative democracy, they didn't think of the basic fundamental institutions of our government as representing folks who come into the country breaking the law, staying here illegally. I think it is shocking to most Americans when they hear we would even consider reapportioning the House of Representatives counting illegals, but that is exactly the plan now. Of course, we would have no opportunity to debate that or to adopt a new plan unless the census distinguishes between citizens and legals and illegals, which my amendment would demand we do.

This isn't some theoretical issue. This is a very concrete issue, a very meaningful issue about how much representation each State has in the House of Representatives. There are many States that will lose representation from what they would otherwise have if illegal aliens are counted in congressional reapportionment. Specifically, the States of Indiana, Iowa, Louisiana, Michigan, Mississippi, North Carolina, Oregon, Pennsylvania, and South Carolina would lose out. So I wish to specifically speak to my colleagues in this body—Republicans and Democrats alike—from those States: Please support the Vitter and Bennett amendment No. 2644. It has a direct impact on whether you are going to have less representation in the House of Representatives or more. Let me be even more blunt. If you vote against this amendment, you are voting against the interests of your State. If you vote against this amendment, you are voting for your State having less representation in the House of Representatives than they would if illegals are not counted in reapportionment. Again, with that in mind, I wish to repeat the list: Indiana, Iowa, Louisiana, Michigan, Mississippi, North Carolina, Oregon, Pennsylvania, and South Carolina. For Senators from those States, it is a vote directly about their State's own interests and their State's representation in the House of Representatives.

More broadly speaking, I think the huge majority of Americans would certainly take the view I am suggesting, which is we should not apportion Members of the House based, in part, on illegals. We should not reward States for having large illegal populations and penalize States that do not. I think that is on a different planet from where our Founding Fathers were in setting up the basic Democratic institutions of our country, and there is no more basic and no more Democratic institution than the House of Representatives.

With that, I urge all my colleagues, Democrats and Republicans, to support this amendment.

I yield time to my distinguished colleague from Utah, Mr. BENNETT.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I thank Senator VITTER for proposing this amendment. It follows the idea of the bill I introduced a few weeks ago that is now S. 1688, the Fairness in Representation Act.

My bill, obviously, will not pass before we get so far down the road to deal with this issue. So it is appropriate for the amendment to be offered, and we can accomplish the same thing with the amendment that would happen if my bill were to pass.

Since my bill was introduced, I have had three primary objections to it. I

wish to deal with each of those, because they would probably be raised with respect to this amendment as well.

No. 1, you cannot ask somebody who is an illegal alien to identify himself or admit that he is here illegally when you are doing the census calculation. Well, it may surprise some people to know that the Census Bureau already asks for this information. It collects it on the ongoing American community survey. That is not as comprehensive as the entire census. If it were, we wouldn't need to do it here. But the Census Bureau already has a track record of asking this question without running into that particular difficulty. The information collected by the census is 100 percent confidential under penalty of law, and the census takers can make that clear to any individual who might be concerned about that. So that is not a major problem.

No. 2, people say, well, since the census data is used to determine funding levels for a variety of programs, and since the illegal aliens get involved in the funding, if you do this, you will be cutting funding for State programs that service the illegal aliens, and that is not fair. The reality is that this amendment, and my bill, do not cut funding. There is nothing in the bill that would say that funding formulas would change. This is an attempt to find out how many illegal aliens we have in this country and where they live—the statistical information, which we do not fully have now, as a result of the American community survey. We have a hint at it in the American community survey, but we are extrapolating for that and making a guess.

Since the census is a once-every-10-year attempt to discover what America is like, who the Americans are, and where they live, it seems to me very logical that the census should add this particular piece of information to it.

Well, after these two arguments have been made and dismissed, the third argument—and we get this most strongly from the people at the Census Bureau—is that it is too late, too bad; you should have brought it up earlier, Senator BENNETT, but we started to print our surveys already and we cannot reprint them; it is too late.

I wonder if they have ever thought of printing an extra sheet or extra card. You don't have to reprint the whole survey if you have one additional question you want answered. I have seen books where there have been errors in the book that have come out after the book is published with an errata sheet—that on page so-and-so this particular entry is not correct. It is not that big a deal for the Census Bureau to do some kind of addendum that could be printed and made available so we could solve this particular problem.

All right. Aside from knowing, what do we intend to do with this data if we get it? Senator VITTER made reference to this in his discussion of the amendment. I want to use it today to deal with the question of the apportionment of the voting powers in the House of Representatives. If we go back in history, we find there was no more controversial issue in the writing of the Constitution than the question of representation in Congress. Small States wanted it by State. Large States wanted it by population. The great compromise came along that created this body and said that membership in the Senate would come by State, and membership in the House of Representatives would come by population. But it was left up to the State legislatures to determine how that population would be apportioned. Each State was given a number of representatives based on the population. But the State legislatures could determine where the lines were drawn and how the districts would be created. We had a situation develop over time where States would draw a line and simply leave it. People would move from one congressional district to the other, but the line would not be changed. There was a situation where there were many congressional districts whose representation, numerically, was substantially less than that of some other congressional districts in the same State.

This brought about a lawsuit that went before the U.S. Supreme Court. In the decision in the case of Reynolds v. Symms, issued in 1964, the Supreme Court gave us the one man, one vote rule, which said that the districts should be close enough in population that, in effect, every voter had the same weight of representation in the House of Representatives.

If we have this tremendous number of illegal aliens concentrated in a few States, we have an impact of changing the one man, one vote dictum of the Supreme Court; that is, a State with a large number of illegal immigrants will see to it that its voters have greater representation than voters where the illegal immigrants are not.

All we ask in this amendment and in the bill I proposed is that the Census Bureau be instructed to ignore the presence of illegal aliens when allocating the number of representatives in a State. As I say, it has nothing to do with the funding of programs, because the programs have to be funded where the people are, and we understand that. I believe it is entirely constitutional that the allocation of the congressional seats can be done on the basis of those who are here in a legal circumstance.

As the Senator from Louisiana has pointed out, this is not a trivial matter. There will be eight States that will lose representation to four States if this is not done. Four States' voters will be overrepresented in the House of Representatives because of the large population of illegal immigrants in those four States, and nine States will be underrepresented because of the fact that their voters do not happen to live in a State where there is a large population of illegal aliens.

I am happy to join my colleague from Louisiana in cosponsoring this amendment. I hope our colleagues in the Senate will see fit to support it.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Ms. MIKULSKI. Mr. President, this is a new amendment for us. We had not anticipated that this amendment—that a debate on immigration and the value of one person over another was going to become a subject of discussion in an appropriations bill. We would hope this type of conversation would be taken up on comprehensive immigration. I know my colleague from Utah, who is on the Appropriations Committee—and both are important to me, that he is from Utah and that he is on the Appropriations Committee—has thought this through greatly. He raises some very important points. I have discussed this amendment with my leadership. I know they want to take a more careful look at this and also consult on its full ramifications.

We are now talking about questions being asked through the census and the objective to be accomplished for that, which the census was originally for counting people for tax purposes, ironically. This is an apportionment question. So what we would like to do is go into a quorum while we look at how we may proceed on this amendment.

Having said that, I want to reiterate the importance of the census being taken every 10 years. The census must be taken for the reasons that our colleague from Utah outlined. No. 1, it determines the use of Federal funds, and that is why we count persons, because regardless of your status, you are a user of services—in some instances, maybe even more than a user of services. The second thing is with apportionment. I think that is a delicate matter that the Senator from Utah is raising. This gets us into constitutional questions. I am apprehensive about it. Again, we are going to consult with the leadership.

Also, as we move forward on the issue of the census, we have to make sure we do have a head count. The Census Department itself, right now, is under very serious duress. They were late getting started on some of their issues. There has been an enormous technological boondoggle with the hand-held technology, the enumerator, with which I believe the Senator from Utah is familiar. We have been working with the previous administration, this administration, and the Secretary of Commerce to get the census straightened out. My colleague said: Why don't they just print one more piece of paper? One more piece of paper sounds

simple. But everything we do that affects the census at this point presents a logistical and financial challenge that borders on a challenge to a nightmare. Again, we have calls in to the census that say, what will it take to do it?

I have reservations about adding this question, because I believe it will add to the logistics and costs. And No. 2, it could be a deterrent to people answering those questions because of who else is in their household. The other thing is that we have many people in our country who are green card people, who are here absolutely legally and justifiably. Some are in our own community at some of our community hospitals and are working as nurses. And asking this question and that question—I don't want to raise the issue of a deterrence and the ability to cooperate.

I want to take a closer look at this amendment. While we do that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I know we are debating here the nature of the questions that should be asked on the census. Our colleague, Senator CARPER of Delaware, in a matter of minutes is holding a hearing on the census. At that hearing, he is going to seek some clarification on this and report back to us.

As we continue the debate on that amendment, I also want to bring to the attention of the Senate some of the very important things that are in this bill. We want to move this bill forward. I want to move this bill forward. We will dispose of, in an orderly, civil, rational way, the pending amendment of Senators VITTER and BENNETT on the census. But we also want to move this bill forward. We want to do everything we can so that this bill passes by the end of this week so we can go to conference and be ready to move very important funding forward, particularly in the area of law enforcement.

This is absolutely a very compelling need. When we think about law enforcement, yes, we can think about law enforcement with illegal aliens. Yes, we can also think about law enforcement with violent criminals. We do deal with that in our bill. But we are also very much focused on white-collar crime. One of the areas on which we have worked on a bipartisan basis on this bill is the issue of mortgage and financial fraud. So, as we are debating amendments that are controversial, I want the people of America to know we are on their side and we can do it on a bipartisan basis.

One of the great pleasures of being on the committee is my ranking member—or the vice chairman, some people might call him—Senator SHELBY is the ranking member on the Banking Committee. We put our heads together on how we can fight mortgage and financial fraud. He brought great expertise from his work on the Banking Committee. We now are looking at what we can do, by putting the money in the Federal checkbook, to go after those engaged in predatory practices, deceptive marketing and lending schemes.

Mr. President, you know from your background as a legislator and community leader that where there is need, there is often greed and often scams and scum doing it. We see it in the mortgage business. There are so many unsuspecting people who want just a piece of the American dream who were lured into some of the most deceptive practices that we have not seen in our country for several decades. They do have names. They are antiseptic names, but they mean a lot: predatory practices, deceptive marketing, lending schemes, flipping. The consequences have been enormous. During the past year, financial institutions have written off $500 billion in losses because of fraud in the subprime mortgage industry—$500 billion in losses. That is a lot when you think about what we have had to do to try to stabilize housing, to try to stabilize our mortgage industry. Numerous publicly traded financial institutions have declared bankruptcy or have been taken over by the Federal Government. I don't mean to imply that being taken over by the Feds was all due to the fact that they had been involved in fraudulent schemes, but it is time to say: No more.

What we want to be able to do is to go after the scammers who caused Americans to lose their homes, their life savings, and their dignity. Yes, I worry about the financial institutions, but I worry about people who put their money in the bank or took these loans that caused them, through balloon payments, excessive interest rates, two, three, four, five mortgages, all of which were unable to be sustained, to lose their homes. We on this committee say and we want our Senate colleagues to say: No more scamming and scheming. No more preying on hard-working American families.

What did the Commerce, Justice, Science Subcommittee do? Senator MIKULSKI, you don't have to use a lot of rhetoric, but will it take a lot of money? We are going to do it. We are going to put $437 million in the Justice Department to combat financial fraud and be able to do what we need to do. This is a $63 million increase over fiscal year 2009. We are going to hire new agents, new attorneys, and new special support staff—people who will be skilled in an exciting new field called forensic accounting.

Our FBI is going to play a major role in this. I talked personally with Director Miller about it, as has Senator SHELBY. We have gotten the FBI's commitment to really beef this up. In our own hometown of Baltimore, the U.S. attorney has put together a special task force to be able to deal with this.

What does it mean? First of all, in the Federal checkbook, we put in $75 million. This is going to increase the number of these mortgage fraud task forces around the country. We have a very excellent one under Rod Rosenstein, working in Baltimore, in our State, right this minute. But we also wanted to be able to go into States with large rural populations and others that right now do not have them.

Specifically, the funding will be used for the FBI to hire, as I said, new agents and forensic accountants. This is highly specialized, but there are people with backgrounds in accounting with special training in forensics. It is like the CSI not only says ''hi'' to a test tube but says ''hi'' to the kind of accounting that will go after these crooks. It is amazing how they can look at the books and know how people have been cheating.

We want the agents to be able to detect and investigate and capture these white-collar criminals, but we also want our U.S. attorneys to prosecute complex financial fraud. We want to be able to increase prosecutions by adding U.S. attorneys. We are adding several U.S. attorneys and support staff around the country to be able to establish the task force and work in the task force. We are very proud of our U.S. attorneys, and I believe our Attorney General, Eric Holder, is helping to restore the integrity of our U.S. attorneys around the country.

We believe in Maryland we have a very high-value functioning U.S. Attorney's Office, but they are swamped. They are going after everything from drug dealers to other violent criminals, and we also want them to have the resources to go after the white-collar crime. This is a crime. It is not as if just because it is white collar we often don't equate it as a crime, but for the Criminal Division at Justice, we are also encouraging them to step up their activity. Again, we are adding attorneys and support staff and putting the money behind it to be able to do it.

We are also doing increased work in the Civil Division to fund initiatives and to also litigate these cases and make sure we not only detect them, we not only prosecute them, but we have the lawyers and the support staff to do it. Support staff are paralegals, clerical people. But again, it is a unique kind of crime. You have to come with multiple skills. You have to come being a great lawyer or a great person who is part of the legal team. You have to have strong litigating skills, but you also have to be well versed in financial services and accounting practices. So we want to be able to bring them on and be able to keep them as we go through many of these other cases.

These are the kinds of skills we need to not only go after white-collar crime but also violent crime. Remember, we got Al Capone, not in the act of robbing a bank but cheating on his taxes.

It was that brilliant FBI generation where you had to be either a lawyer or accountant to work for the FBI. Now, again, lawyers and accountants are welcome at the FBI. But they caught Al Capone cheating on his income tax. It was one of the ways we could nail him.

I am not saying we are going to be nailing people for cheating on their income tax, but we are going to nail people who cheated and schemed and gouged against innocent people who wanted to buy a home—through acting like loan sharks, having phony ads, having fine print so that you bought a home in the large print and you lost it in the fine print. We want to make sure those people know how to read the fine print and know what it means.

While we are debating this bill and we are looking at those things that are going to focus on topics outside the scope of this bill, we want people to know we are on their side. For everybody who is stretched very thin financially, trying to keep their head above water, and trying to buy their home, we want them, at least when they go to get a loan or to refinance it, to be dealing with honest, reputable dealers. Let's foreclose on the bad guys and stop the foreclosure on homes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

HEALTH INSURANCE

Mr. BROWN. I appreciate the comments of the senior Senator from Maryland—the junior Senator from Maryland is presiding—and especially their work jointly on housing issues and how important that is.

I come to the floor pretty regularly to share letters from people in my State, in Ohio, letters about health care. These are typically people who had health insurance with which they were satisfied and who thought they had good health insurance policies, were maybe concerned about job loss—certainly because that is too common in our country now—but were generally satisfied with their health insurance until someone in their family got very sick and they lost their insurance or it got so expensive that they declared bankruptcy or all kinds of problems that happen too often in our health care system. I would like to read four or five letters, if a could for a moment.

I ask unanimous consent to address the Chamber as in morning business.

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

Mr. BROWN. David from Cuyhoga County, Cleveland, northeast Ohio:

My family's health care costs have tripled in five years. I have a generous employer-provided plan and my employer has done what it can to use its purchasing power to buy competitive coverage. But the co-pays and deductibles go up astronomically each year while covering fewer services. We need to cover everyone and find ways to reduce costs across the system to promote a sustainable health care system in America.

One of the things this legislation will do is bring more competition into the system. One of the choices, according to the Health, Education, Labor, and Pensions Committee bill and three bills that have passed the House of Representatives, until we come forward in final passage, and passed the committee in the House of Representatives, includes—the menu of choices people have for insurance will include a public option. So people will be able to choose Aetna or CIGNA or, if they are in Ohio, Medical Mutual, a not-for-profit medical mutual insurance company, or they will be able to choose the public option.

Having the public option there will, No. 1, keep the insurance industry honest and make sure some of the gaming of the system and throwing people off insurance and disqualification because of preexisting condition or discrimination based on age or gender—those things won't happen because the public option will be an option and will give people more choice in competing with the insurance industry to keep costs down.

Mike from Richland County, where I grew up, the Mansfield area:

My mother-in-law has worked hard all her life. But today, she can't afford her medication, which she takes only when she can afford them. She cuts them in half and takes them every other day. I have coworkers and friends with their own stories. They have worked hard all their lives and paid their taxes, but are worried what happens when they get sick or if they'll have enough savings to retire.

As we have discussed, the whole point of the public option is to keep prices down. The whole point of the public option is to compete so that insurance companies no longer game the system.

We know that the insurance system without the public option doesn't have the kind of competitiveness it needs to keep the insurance companies honest, to give people full choice, and to keep prices in check and keep quality of the insurance coverage better.

I hear people all over—not just from Mansfield, but I hear people all over our State—complaining and asking for the public option because it gives people that ability to compete. It makes the insurance companies better, it keeps prices in check, and it will mean more competition in those parts of Ohio. In Cincinnati, only 2 companies have 85 percent of the market. I know those same kinds of things happen in the State of the Presiding Officer, in Oregon, where the public option will mean more competition, better choice, keeping prices down. That will matter for all of us whether we choose the public option or whether we choose to go into a private insurance plan.

Betsy from Lake County writes:

I never thought in a million years that health care reform was necessary for me. Our family was covered and thought that was enough. But recently my 5-year-old daughter got sick with cancer. Over two years, she was hospitalized 37 times and treated with chemotherapy and countless medications.

At the time, my husband worked at a small, struggling business. He was essentially tied to a job that didn't pay our bills, but we needed [his] insurance.

After each hospital visit, the insurance company would send us a letter denying a portion of the stay unless a doctor could justify the hospitalization.

In addition, at the end of every quarter, the insurance company raised the premium for each worker in my husband's business.

Finally, my husband took what little savings we had and started his own business—only to be told my daughter was uninsurable because of her preexisting conditions. She finally got insurance through the State.

I am guessing it was the SCHIP plan we passed 2 years ago that President Bush vetoed; then we passed it again this year, and it was signed into law by President Obama.

She finally got insurance through the State. But Betsy from Lake County is asking: How is it possible in America that a now 8-year-old girl is branded as uninsurable. This speaks to all the problems that have happened in your health care system. Some 3 or 4 years ago, Betsy thought she had no problems with health insurance. Her husband was employed in a decent job that sounded like he had health care insurance. They were covered. They had a small child.

But when their child got sick, they found out their insurance was not nearly as good as they thought it was. It is an old story and a way too common story in our great country that the fine print of an insurance policy so often ends up denying people care. So often they have to take huge expenses out of pocket. Betsy did. So often they raised the premium every quarter for everyone else in the small business.

If you are in a small business and you have 20 employees and one of those employees gets sick, as Betsy's daughter did, then everybody's premium goes up to the point that the company can no longer afford insurance or sometimes the insurance is actually canceled for all the employees.

Then last, this little girl, this 8-year-old, was uninsurable when Betsy's husband changed jobs and became self-employed. She could not get insurance. The family could not get insurance because of the daughter's preexisting condition. That is what this health care bill is all about. That is what the public option is all about.

The health care bill will simply allow small businesses to go into the health insurance exchange so they can spread out in a much larger insurance pool, so one person, very sick and getting a very costly illness, will not blow a hole in the insurance coverage.

Our legislation will eliminate the denial of care for preexisting conditions. No more raising premiums indiscriminately the way they do. Having the public option will exert that discipline on the private insurance companies that they are going to have to compete. They cannot indiscriminately raise premiums on worker after worker, on employer after employer, on small business after small business after small business.

In Betsy's case, as sad as it is, as tragic as it is, although she is now getting insurance through the State health insurance program, it sounds like, as much anxiety as she must have faced in the last 3 years as her daughter got so sick as a 5-year-old, and at the same time, while combatting her daughter's illnesses and going into the hospital 37 times, as she points out, she had the anxiety, this family always had the anxiety in back of their minds that they were going to lose their insurance and what were they going to do to take care of their daughter.

That is why the public option is so important to people; that security and that understanding that they are, in fact, protected, that their insurance cannot be taken away from them, that their insurance company cannot deny this little girl the care and coverage because she has this ''preexisting condition,'' a term I hope will not be in the American vocabulary, in the English vocabulary, come this time next year.

Marti, from Franklin County, central Ohio, Columbus area, writes:

I am writing to urge you to support health care reform that would reduce costs, would offer choice, including a public option, and would provide quality care. My wife and I have coverage, but our daughter is one of the millions of uninsured. After college she could not find a job with health benefits. She incurred considerable debt paying for out-of-pocket doctors visits and prescriptions. We need health reform that will benefit American families.

Marti, from Franklin County, asks for choice, including a public option. She understands, as the majority of Ohioans do and a majority of people in this body understand, that the public option gives people one more choice: Do they want to go with CIGNA? Do they want to go with Aetna? Do they want to go with Blue Cross? Do they want to go with Medical Mutual Ohio? Do they want to go with the public option? Give them that additional choice.

That is what Marti is asking for herself, for her daughter, and for her neighbors. But Marti also pointed out that her college graduate daughter lost her insurance. One of the things our legislation does is it says to an insurance company: You cannot drop a college student after college. They can stay in the plan until they are 26.

So we understood, as we wrote this bill, that the junior Senator from Oregon helped write in the HELP Committee, that there are an awful lot of young people, the pages sitting in front of us may face this—they are not going to face it because we are going to fix it. But they would have faced that, their older brothers and sisters might, when they join the Army, leave home or finish college. At 22 or 23 or 24 years old, so many people lose their insurance, sons and daughters of people who have insurance.

Under our bill, the company must keep you on the policy, if you so choose and if your parents so choose, until your 26th birthday. As I said, Marti understands the importance of a public option there. So when their daughter does, under our bill, when their daughter does turn 26, she will then be faced with, if she does not have employer insurance, she will then be faced with does she want to go into a private plan or does she want to look at the public option. She will have the choice.

The choices will be much better because we have changed the rules. No more preexisting condition denial of care, no more annual caps on benefits. So if you get sick, and it is expensive, you will lose your insurance. No more of that. No more discrimination based on disability or age or gender or geography. The public option will make sure the insurance companies do not game the system.

The last letter comes from Jason from Cuyahoga County. Jason says:

I sand and refinish hardwood floors for a living. I work for a small business with only four employees. Unfortunately, my boss cannot get a group discount for health insurance because there is not enough of us to qualify for one. I am 24. I make $1,500 a month depending on how much work we have. I live on my own. I cannot afford health insurance on my income. I am in good health, but that can change in the blink of an eye with the work I do. If or when I get hurt while at work, I will not be able to make any more money and will have to drain my savings to get well enough to work again. Please vote yes on health care reform with a public option.

Jason, in the Cleveland area, sums it up here. A young man who is working hard, four of them starting a business. They have jobs. They are creating jobs. They are the kind of people we want to help. People working hard, playing by the rules, saving some money. Even at his relatively low income, he is saving some money. But he is praying every day he does not get hurt in a job that workplace injuries are not all that unusual.

Are we going to turn our back on someone such as Jason in Cuyahoga County or are we going to say: Well, tough luck. We hope you do not get hurt. If you do, then we hope you get well soon.

But a guy such as Jason, he loses his job, he gets sick or he gets injured on the job, he is out of work. He may be able to get disability for a little bit. He might be able to get unemployment benefits for a little bit, maybe. But probably not if it is an injury on the job or if he is sick.

But what do we have for him to help him get through the day? He cannot afford insurance because there are only four of them. They pay exorbitantly high rates. What our legislation would do is give Jason several choices.

It would mean Jason could, with his small business of four people, go into a public option or get private insurance but go into a larger pool of workers so the costs would be shared and the price would be much less. We know insurance for one person or five people is much more expensive per person than insurance at a big corporation, where they can spread the cost around among dozens or hundreds or thousands or tens of thousands of people.

Second, our bill will provide a tax credit for small businesses to insure their employees, so they will get some help that way.

Third, where Jason can decide instead to go directly into the insurance exchange we set up in the HELP Committee in our legislation. The insurance exchange will give him the opportunity, give him a choice, a full choice: Do you want a private plan? Do you want Aetna? CIGNA? Medical Mutual? Or do you want the public option? We know that choice will be less expensive. We know that choice, because of the public option, will stop the insurance companies from denying Jason or one of his coworkers coverage because of a preexisting condition. We know the public option will stop the insurance companies from discriminating against people based on gender, disability or geography or age.

We know the public option will enforce all these rules on the insurance companies and help to keep prices down because of the competition. The whole idea of the public option is about choice. It is about keeping prices down. It is about making this insurance bill cost significantly less because people will have that choice and that competition we inject into the system.

Last, as I have said, the public option will help to make sure that even though we have passed these new rules to keep the insurance companies from gaming the system, the public option will help us enforce those rules so the company cannot game the system the way they have too many times in the past.

As we move forward in the next few weeks, we know that four committees in the Congress, three in the House of Representatives, the Education and Labor Committee, the Ways and Means Committee, and the Energy and Commerce Committee, plus the HELP Committee in the Senate on which the Presiding Officer sits, that those four committee have all passed a good health care bill, very important assistance to small business, wellness and prevention programs, and a strong public option.

Only one of the five committees has not passed the public option. We know that. We know, second, the public option will help us keep costs in check. That is what is so important about it. We also know an overwhelming majority of the public, something like 2 to 1, support the public option and would like to see the public option as part of this legislation.

We know in a recent doctors' survey, a Robert Wood Johnson survey, that more than 70 percent of this Nation's doctors support the public option. Why? Because they have been used to dealing with insurance companies that deny care, that pay them late, that hassle them on bill after bill after bill. The doctors in this country, the real

frontline doctors and nurses and physical therapists and speech and hearing therapists, they understand that in overwhelming numbers a public option will be good for them and more importantly good for their patients and good for this country.

It is pretty clear an overwhelming number of people in this country, an overwhelming number of people in both Houses support the public option. I am confident it will be part of the bill. It is important that it is, because it will make this health care legislation, already a pretty good bill, significantly better.

I yield the floor.

Ms. MIKULSKI. Sorry I cannot stand. As the Senator from Ohio knows, of course, from the chair I am sitting in I have become an expert on health care from the wheelchair up. I broke my ankle coming out of church a couple weeks ago.

But I would like to ask the Senator from Ohio to yield for a few questions. I was taken by the three vignettes he just told. They are fairly representative of what I get from Maryland. I would like to talk about the young girl who had graduated and was deluged now with the debt of medical bills and the public option.

Is the Senator familiar with the fact that there are 47 million uninsured in our country? Does the Senator from Ohio know how many of those are between the ages of 18 and 30?

Mr. BROWN. I do not know the precise number. But I know it is millions of them are that age who lose their insurance and do not get insurance and hope they do not get sick.

Ms. MIKULSKI. Well, again, for background in continuing the discussion. That is 35 percent of the uninsured. So is the Senator aware that if we followed through with the HELP Committee bill and the public option and also private sector competing with the public option offer, a reasonably no frills, reasonable cost health insurance bill for young people, especially young people's benefit, that we would cover 35 percent of the uninsured?

Mr. BROWN. I think that is right. As the Senator knows as a senior member of the HELP Committee who wrote some major part of this bill, we are not only going help those 25-, 28-year-olds buy insurance through the public option or through private insurance, as the Senator suggests, we also, if they are low or moderate income, give them assistance to be able to afford these plans.

We are not going to say: Go out and buy insurance. We are going to keep the cost down through competition but also help them with some kind of subsidies to help them buy that insurance.

Ms. MIKULSKI. Can I go to the man who sands floors for a living, the small businessperson whom we worry about who is a self-employed person. Under the Senator's concept of a public option, is it true then that whether it is he or a florist, maybe a real estate agent, that one of the reasons they could afford it is they could go into the health exchange or the public option—would the public option not only offer insurance but offer bargaining power for better prices on insurance? They could bargain for better prices from hospitals, doctors, and pharmaceuticals?

Mr. BROWN. That is exactly right.

Ms. MIKULSKI. In other words, why would a little guy or gal not only want to be able to buy in, not only would the price be exorbitant, or is it that it would be an Uncle Sam's club that is buying things at bulk rate that enables them to afford the services?

Mr. BROWN. The Senator makes a terrific point. The man she talked about, Jason from Cleveland, who sands and refinishes hardwood floors, he was only in a group of four. You can't get good prices in a group of four. He would be joining a group of millions, whether he chooses a private company or especially the public option. The Senator knows, from her work with the number of Federal employees she has in the Washington, DC, area and the suburbs of Maryland that the Veterans' Administration is able to negotiate for prescription drugs. The VA pays probably no more than half as much for prescription drugs as any of us going to the drugstore would pay. The public option will work the same way. They will use the size. The larger pool of employees will be able to get much less expensive hospital, doctor, and prescription drug costs.

Ms. MIKULSKI. I thank the Senator.

Mr. BROWN. I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

USA PATRIOT ACT SUNSET EXTENSION ACT

Mr. HATCH. Mr. President, today I rise to express my concerns about the PATRIOT Act Sunset Extension Act. This bill, which is currently before the Senate Judiciary Committee, could have dire consequences on intelligence collection and investigations. While I have several concerns about the provisions in this bill and how they will adversely affect the intelligence community, particular attention should be given to what our intelligence professionals have said about this bill.

Stakeholders in the intelligence community and the FBI have expressed concern that this bill will have serious consequences on the tools those agencies rely on to carry out intelligence investigations, identify operatives, and prevent future attacks. These tools are critical for detecting and disrupting terrorist plots in the United States before they become imminent threats to our safety.

As we have seen in the past few weeks, investigations in Texas, Illinois, Colorado, and New York confirm what we already know: there are people in this country who want to and intend to harm us. The only way to stop these terrorist operatives is to give our counterterrorism specialists the tools they depend on to detect these plots, thwart attacks, and, if possible, arrest the persons planning these operations.

I am troubled by the fact that we are rushing this bill through committee without taking the time to consider the concerns of those charged with detecting terrorist plots. I urge my colleagues who are ready to stand up and say this bill will not adversely affect current and future investigations to stop for a moment and listen to the professionals who use and need these tools on a daily basis. Do not just hear their concerns, really listen to them. Many of these professionals were around before September 11, and they remember how difficult it was to act quickly to collect basic information about terrorists.

Three provisions of the PATRIOT Act are set to expire on December 31, 2009. These are roving wiretaps; business records access, also referred to as section 215 business records; and the lone wolf provision. At this time, the lone wolf provision has yet to be used. It was created in response to the Moussaoui case. The provision amended FISA's definition of an ''agent of a foreign power'' to include any person, other than a U.S. person, who ''engages in international terrorism or activities in preparation therefore.''

The expanded definition allows the government to obtain a FISA, Foreign Intelligence Surveillance Act, court order to surveil a non-U.S. person who has no known ties to a group or entity. Congress passed this lone wolf provision because it was concerned that previous FISA definitions did not cover unaffiliated individuals—or those for whom no affiliation can be established—who, nonetheless, engage or are preparing to engage in international terrorism.

FBI Director Mueller has asked specifically that this authority be extended so if the FBI comes across another ''Moussaoui,'' there will be no doubt that the FBI can intercept that target's communications. This seems reasonable to me. We would not tell a police officer he had to give up his gun simply because he has not used it yet, would we?

The other two provisions set to expire are roving wiretaps and business records searches. These tools are extremely important in the FBI's investigative work, and the FBI has a solid track record of using them too. From 2004 through 2008, the FBI has obtained 236 orders from the FISA court to produce business records. The business records authority has been exceptionally useful in many types of national security investigations. It routinely gives the intelligence community important information that can be used

to build the case for FISA searches or surveillances of terror suspects.

Roving wiretap authority has similarly increased the FBI's efficiency in critical investigations. The FBI has obtained roving wiretap authority an average of 22 times per year. During the Senate Judiciary Committee's oversight hearing of the FBI, I asked Director Mueller if he supported the reauthorization of these tools. He told me these tools are extremely important to investigations, and he hoped the tools would be extended. Director Mueller has repeatedly expressed his support of these tools to other Senators and committees.

In September, Director Mueller appeared before the Senate Homeland Security and Governmental Affairs Committee. Chairman LIEBERMAN asked the Director if there was one thing that the Bureau needed that would assist in its counterterrorism mission. Director Mueller responded by saying:

I'll leap into the fray and say yes, the PATRIOT Act is going to be debated. I know these provisions are essential to us, particularly the first two which relate to business records and secondly the roving wiretaps. And third, while it has not been used, the lone wolf will be and is important if we get a similar situation that we had with Moussaoui in 2001. So I would urge the reenactment of those provisions.

In his response to Chairman LIEBERMAN, Director Mueller also endorsed National Security Letters as a vital tool in gathering information. He further stated that NSLs contribute to the success of investigations through ''information we can gather, not of substantive conversations but of tag data or the telephone toll data that we can obtain by reason of National Security Letters. So it is retaining these capabilities that is important.

National Security Letters have come under fire from some on the left, and the substitute takes aim at them as well. Currently, NSLs cannot be used to wiretap citizens, scan e-mails, or conduct any kind of intrusive surveillance. NSLs simply allow the government to retrieve the sort of transactional records that are extremely useful in uncovering terrorist activities.

NSLs are the most effective method of obtaining this routine data that is critical to detecting, monitoring, and undermining terrorist activities. They are also regularly used to rule out individuals as terror suspects. Intelligence investigations are a mosaic. Each bit of information is laid out and compared to other data. When these records are compared to other facts or information, they become the tiles that compose the picture and provide investigators with the identities of confederates and operatives.

The Supreme Court has clearly stated the fourth amendment is not implicated when these types of records, held by third parties, are shared with the government. The High Court has reasoned that citizens hold no expectation of privacy when such records are created through business transactions or otherwise.

The same records and data are just as easily obtained by investigators in criminal cases when they seek this information through an administrative or grand jury subpoena. This information is routinely obtained with little oversight in criminal investigations. NSLs are narrow in scope and already have multiple layers of oversight and built in protections for privacy.

Some on the left have maligned NSLs as a sinister and baleful device from George Orwell's ''1984.'' The source of this accusation is clear: these critics have misread the findings outlined in the DOJ inspector general reviews of the FBI's use of National Security Letters.

In March 2007, the inspector general released its first report in which it criticized aspects of the FBI's use and record keeping of NSLs. I have reviewed the full report and it is clear to me that the errors identified by the IG with respect to NSLs are largely administrative in nature. Some critics have been quick to point to the IG's criticism of the FBI's use of what are called ''exigent letters'' as a reason to clamp down on the use of NSLs. But this is simply not supported by the evidence. Exigent letters are not—I repeat not—national security letters and the IG's findings should have no impact on whether current NSL authorities remain intact.

In March 2008, the IG issued a second report that reviewed the corrective measures as a result of the first report. The IG found that the FBI and DOJ were committed to correcting and improving the earlier identified administrative problems with NSLs. The report also stated that the FBI has made significant progress in addressing compliance issues and implementing recommendations.

Under the leadership of Director Mueller, the FBI has made great strides in correcting previous errors associated with NSLs. For example, they have revised and clarified policies and increased training on the proper issuance and handling of NSLs. They created the Office of Integrity and Compliance to ensure that the FBI continues to comply with applicable statutes, guidelines, and policies.

Most significantly, the FBI mandated the use of a Web-based, automated NSL creation system that prompts the drafter to enter all information necessary to create an NSL. This system supplies the appropriate statutory language and ensures that the NSL and the supporting memorandum are internally consistent. An NSL can be issued from this system only after all the required officials have approved it within the system. This system will go a long way toward curing the administrative errors identified by the IG.

Although both reports show that the FBI has sometimes struggled to measure up to its own internal standards in using NSLs, they also reveal that incidents of misuse were infrequent and unintentional. In short, there were no abuses of NSLs as we have so often been led to believe. It is my opinion—and many in the FBI and Congress share this opinion—that the administrative errors identified by the IG could be solved easily if the FBI had a national security administrative subpoena—one type of subpoena for all national security records—just as the FBI, DEA, postal inspector, and a host of other agencies have in other types of criminal and administrative matters.

Those on the left who would prefer that the FBI not have NSL authority ignore the many investigative successes attributed to this basic tool outlined in the IG reports. For example, NSLs have provided information identifying terrorist financiers, revealed key information regarding pre-attack behavior, and detected an attempted espionage plot by a government contractor. The reports are unequivocal: NSLs are indispensable tools to national security investigations. Unfortunately, certain provisions in the S. 1692 substitute will undoubtedly have a negative effect on their operational efficaciousness.

But NSLs aren't the only tool that will suffer under this substitute. New and, frankly, unprecedented minimization requirements would wreak havoc on ordinary pen registers; unreasonable and confusing standards of proof will delay, and even prevent, usage of basic tools; new reporting requirements could compromise sources and methods; and sneak-and-peek search warrants have been rendered useless. My greatest fear is that this bill will reduce our terrorist detention capability to the standard we possessed in the days preceding the horrific attacks of September 11, 2001.

I have a profound respect for the fine men and women who serve our country in our law enforcement and intelligence communities. Their focus, vigilance, and attention to detail are critical in intelligence collection, analysis, and detection of terrorist plots. Only occasionally, as in the past few weeks, does the American public hear about the successes that their tireless efforts and these basic tools bring about. But here in Congress, we know the truth and we should do all in our power to help these professionals do their jobs. I am reminded of the quote attributed to British Prime Minister Winston Churchill, who said:

We sleep sound in our beds because rough men stand ready in the night to visit violence on those who would do us harm.

We should never lose sight of the fact that we are at war. One of our greatest assets in this war is the ability to detect, investigate, and disrupt terrorist plots, the purpose of which is to harm our citizens on our own soil.

Neither this substitute nor its original bill is an improvement to the PATRIOT Act. I believe firmly that this bill could reduce our intelligence collection capability to the level that existed before the attacks of 9/11. I urge

my colleagues to take careful notice of the operational disadvantages in this substitute. The best path forward is clear. Congress should simply vote to extend the sunsets on the three expiring PATRIOT Act provisions and reject any measure that would tie the hands of those charged with safekeeping and safeguarding our great Nation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. Mr. President, I thank Chairman MIKULSKI and Ranking Member SHELBY for their work on this bill. I rise today to speak about the importance of strengthening the Federal Government's ability to investigate and prosecute the kinds of financial crimes that have contributed to our financial crisis. I am pleased this appropriations bill adds significant resources for fraud enforcement, thanks to Chairwoman MIKULSKI and her committee and their attention to this critical issue.

In May, Congress passed the Fraud Enforcement and Recovery Act or FERA. In the aftermath of September 11, Federal law enforcement resources were shifted dramatically, and understandably, to counterterrorism.

One of the central features of FERA was to authorize the appropriation of substantial resources to rebuild our capacity to attack mortgage fraud and other white-collar crime. FERA was passed with overwhelming bipartisan support. The vote was 92 to 4 in the Senate, demonstrating our shared commitment to this effort.

Today's economic crisis has many causes, from serious regulatory failures to recklessness and greed. While we still have much to learn about what happened, one thing is absolutely certain: We need law enforcement investigators and prosecutors with ample resources and training to drill down now. Only a targeted and thorough investigation can find out the extent to which financial fraud contributed to the crisis and identify the individuals involved who should be held responsible.

We need to look at the mortgage brokers who engaged in systemic fraud. But we must also examine the financial institutions that pooled subprime mortgages and sold them with knowledge that they were toxic, the credit rating agencies that failed due to conflicts of interest to grade the assets properly, and the investment banks that failed to disclose the fair value of the toxic assets on their books.

In order to restore the public's faith in our financial markets and in the rule of law, we must identify, prosecute, and send to prison those individuals who broke the law. If we do less than that, we will fail to serve the American public and we will risk history repeating itself. But these cases are extremely complex. In this area, the bad guys have substantial resources at their disposal to fend off investigations. We need to remain vigilant in ensuring that our investigators and prosecutors are not overmatched.

That is why I am pleased to see the substantial resources devoted to fraud enforcement in this bill. The bill appropriates over $500 million for fraud enforcement, a 10-percent increase over last year. At the FBI, it adds funding for 50 new agents, 61 new forensic accountants, and 32 professional support staff, all devoted to investigating financial fraud. As a result of this increase and other resource allocation decisions by the FBI, we now will have investigative resources approaching those devoted to the savings and loan crisis. The bill also adds funding for 155 new lawyers and 49 support staff in the Department of Justice and U.S. Attorneys offices, all dedicated to financial fraud enforcement.

I was proud to join with Chairman LEAHY and Senator GRASSLEY in sponsoring the Fraud Enforcement and Recovery Act. I look forward to working with them and our colleagues on the Judiciary Committee to make sure these significant new resources are used wisely and effectively.

In closing, I thank Chairman INOUYE as well as, again, Chairwoman MIKULSKI and Ranking Member SHELBY for making funding for financial fraud enforcement a high priority of this bill. I look forward to working together going forward to make sure that as the economy recovers, we do not lose sight of the importance of fully funding enforcement efforts, not only to uncover and prosecute financial crimes that have already been committed but also to defer future crimes. Prosecuting bad people won't put an end to bad behavior, but it will have an impact on those people in the mortgage industry, on the trading desks, and in the boardrooms who might be tempted to put greed ahead of the law.

Thank you, Mr. President. I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Georgia.

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

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

Mr. CHAMBLISS. I ask unanimous consent to speak as in morning business.

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

RECOGNIZING EARL AND WANDA BARRS

Mr. CHAMBLISS. Mr. President, I rise today to recognize two of my constituents, Earl and Wanda Barrs from Cochran, GA. Last Wednesday, the American Tree Farm System named Earl and Wanda as its 2009 National Outstanding Tree Farmers of the Year. This award is presented by the American Forest Foundation through its ATFS program and recognizes outstanding sustainable forest management on family-owned woodlands.

I have known Earl and Wanda since my early days in the House and have always valued their advice and friendship. They have been involved in forestry for over 30 years and have owned and operated Gully Branch Farm since 1987 when they purchased the initial acreage.

This land is very special to the Barrs and they have a long family history connected to it. Earl's great-grandfather and grandfather sharecropped the land for years and, as a teenager, he spent countless hours hunting and fishing there.

Wanda has used her background in education to create an outdoor environmental classroom at the farm. Students, teachers, and forestry professionals from all over Georgia visit their farm to learn about the benefits and science of sustainable forestry. They are then able to take that knowledge back to their respective communities and teach others about the importance of forest stewardship. Every April, the Bleckley County Schools bring thousands of students to Gulley Branch farm to have fun and participate in educational activities. Students enjoy wagon rides and learn about the different aspects of sustainable forest management.

This is not the first time Earl and Wanda have been recognized for their achievements in forestry. They were named the 2008 Georgia Tree Farmers of the Year and the 2009 Southern Regional Tree Farmers of the Year. In 2006, they received the Outstanding Achievements in Sustainable Forestry Award, and Wanda has been named the Georgia Project Learning Tree Educator of the Year in both 1990 and 1995, as well as the National Outstanding Educator of the Year in 1996.

I am proud to see the National Tree Farm of the Year award brought to Georgia and look forward to continuing to work with Earl and Wanda to develop policies that will promote sustainable forestry management for generations to come.

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

The PRESIDING OFFICER (Ms. STABENOW). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. INHOFE. Madam President, I ask unanimous consent to be recognized as in morning business.

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

TRIBUTE TO SENATOR EDWARD M. KENNEDY

Mr. INHOFE. Madam President, it was called to my attention a few minutes ago that our deadline for comments about Ted Kennedy is coming up tomorrow. I wanted to beat the deadline. I always wait until the last minute, it seems. One of the reasons I did is because there are so many things

people are not aware of, so I took the time to send to places such as Western Sahara and elsewhere to get documents that better explained a little bit more about who Ted Kennedy was than has already been stated on the floor of the Senate.

I have a good friend whose name is Mouloud Said. He is the Ambassador at Large of Western Sahara. He and I worked together for many years trying to bring some sanity into what has happened over the last 35 years in Western Sahara.

For the record, since people are not aware of this conflict that took place, back in 1975, the Moroccans invaded what was then called Spanish Sahara, later called Western Sahara. There were a lot of people chased out at that time. They fled. War ensued between 1975 and 1991. It continued during that time. When Morocco invaded that area that was later called Western Sahara, the refugees, the people who were living there who rightfully should be in that area, who should be living there today, were chased into Algeria. Tindouf is an area I have been to a couple times. The refugee camps there are so large. There are actually 175,000 refugees who were chased out of Western Sahara and have been wanting to be repatriated ever since then.

One of the former Secretaries of State, James Baker, was a hero in this area. He did the best he could to see that repatriation would take place. It seemed like every time they got close to working out something with Morocco, they would get right up to the altar and then they would cut it off. They would agree something should be done, but as they would come to agreement and get together, Morocco would back down. That took place for a long period of time.

You cannot be empathetic with the people who are there until you have walked through the little alleys and the stucco houses in Tindouf and see how these people are living, hearing their chants, their cries for freedom. Three generations now have been trying to escape, to be repatriated, and it hasn't worked.

I have a letter—I will read part of it—that ties Senator Kennedy and me to this issue. This is from Mouloud Said, who is Ambassador at Large of Western Sahara:

> Indeed, this was precisely the case when Senator James Inhofe and the late Senator Edward Kennedy reached across the political aisle to jointly promote the cause of justice and freedom in the Western Sahara, and respect for human rights of the Sahrawi people. As recognized by the United Nations Charter, the African Union, and the American Constitution, all people have the inalienable right to freedom and self-determination, and the Sahrawi people will be forever indebted to these great Senators for their principled and bipartisan stand on behalf of the Sahrawi's fundamental rights.

That is what it is all about. We would see these people out there, and they had no one to take care of them. The Moroccans, they have friends. I have to say this: I testified probably 2 or 3 years ago at a House committee hearing. At that time, we made a list of all the lobbyists Morocco had hired. They had everybody. The money was all on one side, and only the Lord and a few people who were sympathetic to them were on the side of those people who have been living on the Algerian border for the last 35 years. That is what they are going through at this time. It is very sad.

I want to mention, talking about Ted Kennedy, how persistent he was. This goes all the way back to his involvement, back to the time when the war was still taking place. I have statements I am going to enter into the RECORD. They are not long. One goes back to October 1, 1992, a ''Statement by Senator Edward M. Kennedy at Senate Foreign Relations Africa Subcommittee Hearing on the Western Sahara.'' He goes through and tells the story of what he has attempted to do, and he had not been able to successfully get it done. The same as with James Baker and myself.

January of 1994, ''Statement by Edward M. Kennedy in Support of Amendment Promoting Implementation of Peace Plan in Western Sahara.'' January of 1994, we thought at that time we had it done. Again, an arrangement was made. It was agreed to by all parties until they got together.

June 23, 1999, ''Senator Kennedy Calls for Greater Progress in the Western Sahara Referendum.'' A referendum is all they want. They want self-determination. They want to be able to vote as to whether they want to be repatriated, which is something we in America would assume everybody has that right. But that is not the situation.

Senator Kennedy, again, went to battle to help them in June 23, 1999, and was not able to get it done.

Then, again, in 2000, he actually offered amendments for holding referendums in Western Sahara.

Later in that same year, he appealed to King Mohammed VI of Morocco to give these people a chance, at least, of self-determination. He was unable to get that done.

I ask unanimous consent to have printed in the RECORD these documents.

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

STATEMENT BY SENATOR EDWARD M. KENNEDY AT SENATE FOREIGN RELATIONS AFRICA SUBCOMMITTEE HEARING ON THE WESTERN SAHARA

I want to thank Senator Simon, the Subcommittee Chairman, for holding this important hearing today.

The ongoing crisis in the Western Sahara raises serious questions regarding the Government of Morocco's willingness to honor its international commitment to a free and fair referendum in that territory. It also brings into question the credibility of the United Nations in administering the Western Saharan peace plan, and our own government's commitment to the principles of sovereignty and self-determination.

Barring immediate and dramatic progress, the peace plan for the Western Sahara is destined to fail. If the peace plan is to succeed, the United States must do more to make clear—through deed as well as word—its commitment to a free and fair referendum for the indigenous Saharawi people.

The Western Sahara is the last vestige of colonialism in Africa. The U.N. Decolonization Committee called for decolonization in 1966, while it was still under Spanish rule. In 1973, the General Assembly called for a referendum on self-determination by the Saharawi, Spain agreed to hold a referendum and took a census to provide a voting list.

Shortly thereafter, Morocco and Mauritania, seeking access to the territory's valuable natural resources, laid claim to the Western Sahara. In an effort to strengthen its claim to the territory, Morocco requested an advisory opinion from the International Court of Justice on its legal status. The Court found that neither Morocco nor Mauritania had ties to the Western Sahara sufficient for claims of territorial sovereignty. Like the United Nations, The Court supported ''self-determination and genuine expression of the will of the peoples'' to determine the territory's legal status.

Rather than accept that decision, King Hassan II sent Moroccan troops into the Western Sahara. Clashes ensued between Moroccan forces and the Polisario, the armed resistance of the Saharawi. Invading troops ''disappeared'' thousands of Saharawi civilians, most of whom were killed. Hundreds of others were detained without charge—and remain imprisoned today.

The Moroccan invasion touched off an exodus of refugees from the Western Sahara into Algeria. Seventeen years later, tens of thousands of these refugees continue to subsist in emergency relief tents with minimal food and water under extremely oppressive desert conditions including violent sandstorms and blistering heat exceeding 160 degrees.

In what became known as the ''Green March,'' King Hassan then sent 350,000 Moroccan civilians into the territory to strengthen his claim. Within months of the Moroccan influx Spain withdrew, granting Morocco and Mauritania ''temporary authority'' to administer the territory until a referendum could be held.

Neither Morocco nor Mauritania granted the Saharawi the right to self-determination, and their war against the Polisario steadily escalated. The Polisario's use of land rovers and quick strike tactics, however, achieved surprising successes against Moroccan and Mauritanian forces, and in 1979 Mauritania renounced its claims to the territory.

Finally, after over a decade of war, the Government of Morocco agreed to a U.N.-sponsored peace plan leading to a referendum, under which the Saharawi would vote for independence or integration with Morocco. In 1990, the Security Council adopted resolutions approving the plan and establishing the United Nations Mission for the Referendum in Western Sahara (MINURSO).

Under the plan, a cease-fire was to go into effect on September 6, 1991, and the referendum was to be held in early 1992. The parties agreed to use the 1974 Spanish census, which recorded approximately 74,000 Saharawis, to establish a voting list for the referendum.

Yet, only days before the cease-fire was to go into effect, Morocco bombed a compound that the Saharawi had constructed to house MINURSO personnel.

Inexplicably, the United States was the sole country on the U.N. Security Council which failed to condemn this outrageous action.

After the cease-fire went into effect, King Hassan changed his position on the voting list. After vmg agreed to base the list upon the 1974 census, he presented the U.N. with a list of 120,000 additional voters from Morocco whom he claimed were Saharawi and should also be permitted to vote. These individuals were transported into the Western Sahara in violation of the peace plan, which forbids the unilateral transfer of populations into the territory without identification at the border by U.N. personnel.

Under the peace plan, MINURSO observers are to implement and monitor the cease-fire, oversee the release of POWs, identify and register voters, and organize the referendum. Fully employed, MINURSO was to consist of 1,695 military and civilian personnel.

Yet as of today, nine months after the referendum was to have been held, fewer than 400 MINURSO personnel are in the Western Sahara. With severely limited equipment and personnel, these observers have been forced to restrict their focus to monitoring the cease-fire. Due to serious violations of the peace plan by the Government of Morocco, the observers have been prevented from fostering an atmosphere of confidence and stability conducive to holding a free and fair referendum.

These violations include preventing critical supplies for U.N. personnel from reaching the field; denying U.N. observers access to military areas; threatening to shoot U.N. personnel; intercepting and blocking U.N. patrols and sideswiping U.N. vehicles; refusing to identify land mines to U.N. observers, resulting in the loss of three U.N. vehicles and serious injury to U.N. personnel; banning access to the territory by international observers, reporters, and human rights organizations; refusing to withdraw any of its 130,000 troops; and declining to provide figures on the strength and deployment of its armed forces, despite written instructions to do so from the U.N. Secretary General.

Last month, in the most serious violation of the peace process, King Hassan announced his intention to hold his own elections in the territory, independently of the United Nations—thereby wholly undermining the U.N. effort.

Ironically, U.N. observers have also been severely hampered by lack of material and political support from the U.N. in New York, which has routinely ignored Moroccan violations of the peace plan. The Secretary General has failed to respond politically to MINURSO's reports of cease-fire violations—including 178 confirmed violations of the cease-fire, the transfer of thousands of Moroccan citizens to the territory prior to their identification by the U.N., and continuous misbehavior with respect to MINURSO.

Accordingly, MINURSO personnel in the field today are attempting to carry out their duties without the cooperation of the Government of Morocco and without the political backing of the U.N.

Despite Morocco's flagrant violations of the peace plan, the Bush Administration has failed to press King Hassan in any significant manner with respect to the Western Sahara. To the contrary, the Administration has requested that $40 million in military aid and $12 million in Economic Support Funds be earmarked for Morocco for FY '93. This is particularly perplexing, inasmuch as no funds were earmarked for Morocco during FY '92.

I hope that the witnesses for the Administration will make clear today why the U.S. is not condemning Morocco for its violations of the peace plan. The Administration should also explain why it is unwilling to urge the United Nations to do more to defend this important peace initiative.

Failure of the U.N. peace plan will have serious consequences for the stability of North Africa. Unless the Administration makes clear to the Government of Morocco its commitment to a free and fair referendum for the Saharawi, fighting in the Western Sahara may soon be renewed. That is a result none of us wants, and now is the time to prevent it from happening.

STATEMENT BY SENATOR EDWARD M. KENNEDY IN SUPPORT OF AMENDMENT PROMOTING IMPLEMENTATION OF PEACE PLAN IN THE WESTERN SAHARA

I am introducing today, on behalf of myself and Senators Pell, Kassebaum, and Simon an amendment to support the indigenous people of the Western Sahara in their long and arduous struggle for self-determination.

As U.S. citizens, we are fortunate to live in a country founded on human rights principles and the right to a government of our own choosing. Our democratic ideals have inspired peoples in all hemispheres around the world. Elections during the past twelve months in Russia, Burundi, Cambodia, Paraguay, and Yemen are examples of the worldwide trend away from authoritarianism and toward representative government.

Sadly, this trend has not yet reached all regions of the world. The indigenous Saharawi people in the Western Sahara have waited more than 18 years to regain their right to self-determination. Hopefully, that right will soon be restored to them.

Since Morocco's invasion of the Western Sahara in 1975, King Hassan II has staged a long and costly war against the Saharawi people to obtain permanent access to that territory's valuable natural resources.

For years, Morocco ignored proposals by the U.N. General Assembly calling for a referendum on self-determination by the Saharawi. When Morocco took its claim over the territory before the International Court of Justice, the Court found that Morocco did not have ties sufficient for claims of territorial sovereignty. Like the United Nations, the Court supported ''self-determination and genuine expression of the will of the peoples'' to determine the territory's legal status.

Rather than accept that decision, King Hassan sent Moroccan troops into the territory who killed and ''disappeared'' thousands of Saharawi who were unwilling to recognize Moroccan sovereignty. Then, in what became known as the ''Green March,'' King Hassan sent 350,000 Moroccan citizens into the Western Sahara to strengthen his claim to it.

Finally, after over a decade of war, the Government of Morocco agreed to a U.N.-sponsored peace plan leading up to a referendum under which the Saharawi would vote for independence or integration with Morocco. Under this plan, a ceasefire was to go into effect on September 6, 1991, and the referendum was to be held in early 1992. The parties agreed to use a 1974 census, which recorded approximately 74,000 Saharawis, to establish a voting list for the referendum.

Yet, only days before the cease-fire was to go into effect, Morocco bombed a compound the Saharawi had constructed to house U.N. personnel. In addition, King Hassan changed his position on the voter list.

After having previously agreed to base the list upon the 1974 census, he presented the U.N. with a list of 170,000 Moroccans whom he claimed should also be permitted to vote. These individuals were moved into the Western Sahara in violation of the peace plan, which forbids the unilateral transfer of population into the territory without prior identification by U.N. personnel.

U.N. observers have also expressed concern regarding other violations of the peace plan by the Government of Morocco. These violations have prevented the observers from fostering an atmosphere of confidence and stability conducive to holding a free and fair referendum.

The violations include preventing critical supplies for U.N. personnel from reaching the field; denying U.N. observers access to military areas; threatening to shoot U.N. personnel; intercepting and blocking U.N. patrols and sideswiping U.N. vehicles; refusing to identify land mines to U.N. observers, resulting in the loss of three U.N. vehicles and serious injury to U.N. personnel; banning access to the territory by international observers, reporters, and human rights organizations; refusing to withdraw its troops; and declining to provide figures on the strength and deployment of its armed forces, despite written instructions to do so from the U.N. Secretary General.

In one of the most serious violations of the peace process, King Hassan held his own elections in the territory in June—thereby directly undermining the U.N. effort.

U.N. officials nonetheless remain hopeful of holding the referendum this year. For the referendum to be free and fair, the U.N. must disqualify Moroccan settlers from eligibility to vote in the referendum.

Failure of the U.N. peace plan is likely to have serious consequences for the stability of North Africa. If the Government of Morocco continues to obstruct the peace process, fighting in the Western Sahara may well be renewed.

At this critical stage in the peace process the United States must do more to make clear—through deed as well as word—our commitment to a free and fair referendum for the Saharawi people.

The amendment we are introducing today:

(1) Commends the President for his commitment within the United Nations and in bilateral relations to a free and fair referendum on self-determination in the Western Sahara;

(2) Supports the United Nations' commitment to holding a free and fair referendum, and commends the Secretary General for intensifying his efforts towards that end;

(3) Commends the Administration for undertaking new policy initiatives with regard to the Western Sahara, including the opening of contacts with the Polisario Front at the Saharawi refugee camp in Tindouf, Algeria;

(4) Calls upon Morocco and the Polisario Front to comply strictly with the terms of the peace plan as accepted by the parties and approved by the United Nations Security Council;

(5) Calls upon Morocco to put an end to the transfer of population not properly identified by the United Nations as eligible voters in the referendum from Morocco into the Western Sahara, and to return to Morocco all such individuals currently in the Western Sahara;

(6) Calls upon Morocco and the Polisario Front to continue the direct dialogue they begun under the auspices of the United Nations in July 1993 with the goal of furthering the peace process;

(7) Calls upon Morocco and the Polisario Front to allow international human rights organizations to enter Morocco, the Western Sahara, and refugee camps under their control to assess the human rights situation; and

(8) Calls upon the President to:

Strongly advocate within the United Nations and in bilateral relations the implementation of the peace plan as accepted by the Polisario Front and Morocco and approved by the U.N. Security Council;

Urge all parties concerned to take all steps necessary to begin voter registration, starting with the updated lists of the 1974 Spanish census, and to overcome their differences regarding the interpretation and application of the criteria for voter eligibility;

Institute regular contact at all levels in Washington with representatives of the Polisario Front, in order to strengthen the United States' evenhanded position with respect to the Western Sahara; and

Encourage the parties to allow independent international observers, including human rights organizations, to monitor the situation in the territory and observe the referendum process.

The ongoing crisis in the Western Sahara raises serious questions regarding the Government of Morocco's willingness to honor its international commitment to a free and fair referendum in the Western Sahara. This amendment would make clear our government's support for the U.N. peace process and America's commitment to the principles of sovereignty and self-determination.

I urge my colleagues to join us in enacting this timely and important measure.

SENATOR KENNEDY CALLS FOR GREATER PROGRESS ON WESTERN SAHARA REFERENDUM

Senator Edward M. Kennedy today praised the Senate for calling for greater progress on a long-stalled referendum on self-determination for the people of the Western Sahara.

Since 1988, the United Nations has sought to organize a free, fair, and open referendum in the Western Sahara, the former Spanish colony that Morocco has illegally occupied since 1975.

Kennedy said, ''A solution to the conflict over the Western Sahara will enhance security and stability in Northern Africa. After more than ten years of delay, the people of the Western Sahara should be permitted to determine for themselves who will govern them.''

Kennedy, Republican Senator Gordon Smith, and Democratic Senator Patrick Leahy sponsored an amendment accepted by the Senate on the State Department Reauthorization Bill to require the State Department to report on progress on the referendum. The bill, including the Western Sahara amendment, was passed by the Senate yesterday.

The International Court of Justice, the Organization of African Unity, the United States, and many other nations throughout the world have not recognized Morocco's claim to the Western Sahara, but Morocco's occupation continues. Tens of thousands of the Sahrawi people languish in refugee camps in southern Algeria and have been denied the opportunity to determine their own future.

A UN referendum was originally scheduled for 1992. It has since been delayed many times, primarily due to the resistance of the Government of Morocco. The referendum is now scheduled for July 2000.

In the 1997 Houston Accords, achieved under the leadership of former Secretary of State James Baker, and in a UN plan last December, the international community called for the conclusion of the voter registration process and a referendum. Morocco subsequently agreed to allow the referendum to occur by July 2000.

Senator Kennedy praised the Administration's efforts to resolve this longstanding dispute. He urged the State Department to make it clear to both parties to this dispute that the United States expects the people of the Western Sahara to be allowed to exercise their right to self-determination in a free, fair, and open referendum by July 2,000.

''Morocco has been a faithful ally of the United States for more than 200 years,'' said Kennedy, ''but its refusal to allow the people of the Western Sahara to determine their own political future undercuts America's efforts to promote democracy worldwide.''

The Kennedy-Smith-Leahy amendment requires the State Department to report on January 1, 2000 and again on June 1—2000 on specific steps being taken by the Government of Morocco and by the Popular Front for the Liberation of Saguia el-Hamra and Rio de Oro (POLISARIO) to ensure a free, fair, and open referendum by July 2000 for the people of the Western Sahara to choose between independence and integration with Morocco.

The State Department reports will include a description of preparations for the referendum and the extent to which free access to the territory will be guaranteed for independent and international organizations, including election observers and international media. Human rights organizations and other international organizations must also be permitted to observe the referendum.

In addition, the reports will include a description of current efforts by the Department of State to ensure that the referendum will be held, and an assessment of the likelihood that the July 2000 date will be met.

The reports will also include a description of obstacles, if any, to the voter registration process and other preparations for the referendum and efforts being made: by the parties and the United States Government to overcome those obstacles. Finally, the reports will include an assessment of progress being made in the repatriation process.

(Purpose: To require reports with respect to the holding of a referendum on Western Sahara)

On page 115; after line 18, add the following new section:

SEC. __. REPORTS WITH RESPECT TO A REFERENDUM ON WESTERN SAHARA.

(a) REPORTS REQUIRED.—

(1) IN GENERAL.—Not later than each of the dates specified in paragraph (2)1 the Secretary of State shall submit a report to the appropriate Congressional committees describing specific steps being taken by the Government of Morocco and by the Popular Front for the Liberation of Saguia el-Hamra and Rio de Oro (POLIS—RIO) to ensure that a referendum in which the people of the Western Sahara will choose between independence and integration with Morocco will be held by March 2000.

(2) DEADLINES FOR SUBMISSION OF REPORTS.—The dates referred to in paragraph (1) are November 1, 1999, and February 1, 2000.

(b) REPORT ELEMENTS.—The report shall include—

(1) a description of preparations for the referendum,

(2) a description of current efforts by the Department of State to ensure that a referendum will be held by March 2000;

(3) an assessment of the likelihood that the March 2000 date will be met,

(4) a description of obstacles, if any, to the voter-registration process and other preparations for the referendum, and efforts being made by the parties and the United States Government to overcome those obstacles;

(5) an assessment of progress being made in the repatriation process; and

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STATEMENT OF SENATOR EDWARD M. KENNEDY ON IDS MEETING WITH KING MOHAMMED VI OF MOROCCO

I welcome this opportunity to meet with the King. I have great respect for his leadership, and I wished him well in his important responsibilities, and in maintaining close ties between our nations.

A particular issue I discussed with the King was the United Nations referendum on the Western Sahara.

Morocco gained the respect of the international community when it agreed in 1991 and again in 1997 to allow a referendum on the future of the Western Sahara. These actions demonstrated an impressive commitment to the right of self-determination for the people of the Western Sahara.

The referendum is an important part of the peace process, and I hope that it will take place as soon as possible.

Mr. INHOFE. Madam President, let me conclude by saying that other things were happening too. When you think about countries, I often said Africa is the forgotten continent. I can remember so well back when they were talking about taking our troops into Bosnia and then later Kosovo, the excuse they were using—this is back in the Clinton administration—they were saying it was ethnic cleansing taking place there. I said on the Senate floor standing at this podium—this is way back in the late nineties—I said for every person who has been ethnically cleansed in Bosnia, there are hundreds on any given day in any Western Africa country. But people did not care about it. Senator Kennedy did.

I know this is a little bit sensitive subject, but even to this day, right now, every other week, there is a group of people, staff people, who get together. They have nothing in common except a heart for Africa. There are liberal Democrats and conservative Republicans. They meet every other week, in Senator Kennedy's office and then in my office, and they pray for Africa. This is something about Senator Kennedy people did not know. That is something that takes place even to this date.

I have a letter written recently by Lindsey Gilchrist of Senator Kennedy's office:

I know Senator Kennedy and Senator Inhofe had always been thought of as the bipartisan leaders on this issue. The Africa prayer group was not something Senator Kennedy was directly involved in [or Senator Inhofe]—

But they have stimulated and motivated us to do this very thing. That was one of the things that occupied 20 years of Senator Kennedy's time. I feel committed to continuing to work with the people of Western Sahara to try to make that a reality. When that happens, we are going to be able to say—he will be watching down: All right, we finally did it.

Let me share a couple personal experiences I had with Senator Kennedy. One is a little bit humorous. In 2005, the Republicans were in the majority. I was chairman of the Environment and Public Works Committee. We did the 2005 transportation reauthorization bill. It was a huge thing. I am a conservative, but this is something we need to be doing in this country, something about infrastructure.

As is always the custom of the Senate, as the Chair is well aware, when we pass a big bill, we stand on the floor and thank all the staff people and talk about the significance of it and how important it is.

We had just passed the bill when I was getting ready to make my speech about what a great job we did when the

bells went off. They said: Bomb threat, bomb threat; evacuate, evacuate. Everybody started running. I had not made my speech yet, so I stood up. It is kind of eerie when you are the only person in the Capitol and giving a speech. Of course, there was nobody here, and the cameras were still going.

I remember, after finishing my speech, I looked down at the bottom of the stairs and saw a very large man walking out. I went down and I said: Ted, we better get out; this place might blow up.

He said: Well, JIM, these old legs don't work like they used to.

I said: Let me help you. It happened, by the way, this was right after the American Conservative Union came out with the ratings where I was the No. 1 most conservative Member of the Senate and he was the second from the most liberal Member of the Senate. I said: Let me help you. I put my arm around his waist and he put his arm around my arm. Someone took a picture. It ended up on the front page of a magazine. The caption was: ''Who Says Conservatives are Not Compassionate?'' That is the kind of relationship we had. I will always remember this.

He did things that people are not expected to do. There was a show—they don't have it on television anymore—called ''Crossfire.'' Some might remember that. It was an aggressive program, where you get two people debating each other on an issue. The issue that particular day—this was back in 2000—was Vieques. Vieques is an island off Puerto Rico. They were trying to shut it down. They were successful. I don't blame it on the Democrats or Republicans. President Bush went along with Al Gore and closed down the live range at Vieques, which was the only place the Navy and marines could do integrated training.

I was actually debating Bobby Kennedy—he was his nephew—on the ''Crossfire'' show. It was one of these things where I really knew the issue. I knew I had him on this debate. It came down to the end, and I could have put the knife in at that time. I didn't have the heart to do it.

I was sitting, Madam President, where you are sitting the next day, presiding over the Senate, and Ted Kennedy came up. He said: Well, JIM, I came up to say thank you.

Thank you for what?

He said: I was watching this debate you had last night, and I knew what you were thinking and I knew that you had won this thing and right at the last you could have inflicted great harm to Bobby. You elected not to do it. I want to tell you I appreciate it very much.

That was Senator Kennedy.

There are things still going on today to which he committed his life. We are going to win some of those, and we are going to rejoice when that happens. He will be right here with us.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CBO SCORES

Mr. BAUCUS. Madam President, the Congressional Budget Office has issued its report on the Finance Committee legislation. That bill was sent over to the Congressional Budget Office a couple days ago. The report is quite promising. The report is good news.

Our balanced approach in the Finance Committee to health reform has paid off once again. Today, the Congressional Budget Office confirmed that America's Healthy Future Act—that is the legislation in the Finance Committee—remains fully paid for and reduces the Federal deficit. In fact, it reduces the deficit by $81 billion in the first 10 years.

CBO also says in its report that the legislation continues to reduce the deficit in the second 10 years; that is, it bends the cost curve in the second 10 years as well.

More important, it improves and expands health care coverage for tens of millions of American families. That is done by raising the coverage rate of 83 percent to 94 percent. In fact, that might be a slight increase from what we earlier anticipated in the committee bill.

This legislation, I believe, is a smart investment on the Federal balance sheet. It is an even smarter investment for American families, businesses, and our economy. Health reform will modernize the health care system for America for the 21st century. It is about time we got to that point.

The bill also reduces inefficiencies and focuses on quality and ensures we are getting the best bang for our health care buck.

Health care reform should be fiscally responsible as it expands and improves coverage. CBO confirms the legislation does that.

I am very pleased with that report. It will help us move toward the next steps in merging the bill with the HELP Committee bill.

Madam President, I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. COBURN. Madam President, may I ask the Chair what is the pending amendment?

The PRESIDING OFFICER. The pending amendment is the amendment offered by Senator VITTER, No. 2644.

Mr. COBURN. I thank the Chair.

Madam President, I just walked out of a hearing on the census, and the Vitter amendment applies to that. It is interesting. We send a million forms out a year called the American Community Survey, and in that survey we ask people whether they are citizens of the United States. And you know what, they answer it. They give an answer to that. And that is a million of those we send out every year.

We are about to conduct a census that ignores the Constitution and will, in fact, disrupt the true allocation of apportionment in this country because the census we are getting ready to ask will ignore whether you are a true citizen of this country. Legal or otherwise, it will ignore that. It will ignore whether you have voting rights, whether you are here properly, whether you have broken our laws and are here improperly, and we will see a maldistribution to the tune of 10 seats in States that shouldn't have them and States that should have 10 more seats won't have them. And that is based on the Census data this year.

So what Senator VITTER is offering is a response to following the Constitution and also recognizing that we are getting ready to do a census next year that is going to get it wrong. My hope is that my colleagues will consider very carefully that they took an oath to defend the Constitution, and that Constitution speaks very clearly—in this little book—about what the enumeration is supposed to be. It is about citizens of the United States, not residents of the United States. If, in fact, we do this the way it looks like we are going to, what we will be doing is changing our Constitution. What we are actually going to do is we are just going to throw our Constitution down and step on it.

So he is not asking anything from a racial standpoint or anything other than for a fair enumeration by which the Census agrees that if they were to do it properly, they would need to ask that question. They have printed 100 million forms already, and the question is, Do we want to waste that money and throw those forms out? Well, there is an answer to that. All you have to do is put in an insert, and here is question No. 11. That will cost very little money and then we will actually have a true census based on what the Constitution says, not on what we think might politically benefit one State over another.

Madam President, I know the chairman of the Finance Committee is here and would like to make a unanimous consent request, and I will yield to him at this time.

The PRESIDING OFFICER. The Senator from Montana.

UNANIMOUS CONSENT REQUEST—H.R. 3631

Mr. BAUCUS. Madam President, unless the Senate acts soon, millions of seniors and disabled individuals will face sharply higher Medicare premiums next year. In this great recession, we

must act quickly to ensure we do not allow a formulated quirk to punish our seniors on fixed incomes in our financially strapped States.

Many seniors have their Medicare Part B premiums deducted from their monthly Social Security checks. Normally, the Social Security cost-of-living adjustment is greater than the increase in the Part B premium for that year. As a result, the beneficiaries' monthly checks in the new year are greater than their monthly checks were in the last year. But next year there is not likely to be an upward cost-of-living adjustment in Social Security checks. When that happens, most Medicare beneficiaries are held harmless against reductions in their Social Security checks. The Part B premium is reduced so that their monthly Social Security checks in the new year are not less than they were in the prior year.

However, 27 percent of Medicare enrollees do not benefit from hold harmless. The absence of a cost-of-living adjustment will expose these seniors to big premium increases next year. Under current law, these enrollees not only have to pay their own premiums, but they must make up the premiums by the 73 percent of beneficiaries we hold harmless. These 27 percent of Medicare recipients will be forced to shoulder the full load of next year's premium increases. This will mean an increase in premiums up from $96 to $120 a month next year. Who are these recipients? They include low-income beneficiaries who participate in both Medicare and Medicaid. They include new enrollees in Medicare Part B. They also include Medicare Part B enrollees who don't receive Social Security, such as some Federal retirees. They include higher income enrollees who already pay higher premiums.

This burden will hit Medicare beneficiaries hard, but financially strapped States will also feel the effect because State Medicaid Programs pick up the cost of Part B premiums for Medicare beneficiaries who are also eligible for Medicaid. The premium hike would also hit State budgets because of that reason. States all across the Nation are facing huge deficits and difficult choices, and we should not allow this quirk in the law to add to their burden.

The Medicare Premium Fairness Act would correct this. It would ensure that these 27 percent of Medicare beneficiaries would not have to shoulder any additional burden. No Medicare Part B enrollee would face a higher premium next year over this year. The bill would provide security to seniors on fixed incomes. To prevent Federal cost shift to States, the bill would pay for and would tap into the Medicare Improvement Fund, which was created to solve problems such as this.

Inaction on this bill is not an option for seniors and States, and I hope the bill will have broad bipartisan support.

Madam President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 3631, the Medicare Premium Fairness Act, and the Senate proceed to its immediate consideration; further, that the bill be read a third time and passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. Reserving the right to object, I ask unanimous consent to be recognized for 3 or 4 minutes as I respond to this, if the Senator from Montana does not have any objection.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. None.

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

Mr. COBURN. Madam President, America has to ask itself a question right now. This bill costs $2.8 billion, and 95 percent of the people will not feel anything if we don't do this. But 5 percent will, and I readily admit that. We are going to take $2.8 billion from our kids or from future Medicare payments—one way or the other, we are going to steal it from our kids—to fix a problem for 5 percent of the people who are on Medicare or will be on Medicare.

This is exactly the kind of problem that the Congress ducks. We are ducking it. We are kicking the can down the road because we are afraid to do the right best thing for America.

Let me give a breakdown. First, I will just say I appreciate the leadership of the Senator from Montana on the Finance Committee.

The Social Security Act holds three-quarters of the beneficiaries harmless for increases in the Medicare Part B premium during the years in which there is no COLA, as the chairman just stated. But for the other one-fourth of the beneficiaries not held harmless, little impact will be felt. According to the Congressional Research Service, the majority of this group is comprised of Medicaid, as the chairman just stated, the vast majority of them, which covers their premiums anyway. So if there is a cost transfer, it will be cost-transferred back to the Federal Government anyway because we pay 67 percent of all the Medicaid costs anyway. Finally, the remainder of those not held harmless—high-income individuals making over $85,000 a year as an individual or $170,000 as a couple and new beneficiaries during their first year, for which they will receive Medicare, Social Security, or Medicare Part B benefits—the vast majority of all these people have a supplemental policy, so they won't feel anything.

So what are we doing? We are taking $2.8 billion—and we may be taking it from the Medicare Improvement Fund, which ultimately takes it out of Medicare, or we are going to take it from our grandkids, and we are not going to say that we can't do this. There was no inflation except in health care. And when you look at it, there is actually a negative number, negative inflation. There was actually deflation. Things roughly cost six-tenths of 1 percent less this year than last, and those are the basic necessities of life. And because we don't have the courage to face the situations in front of us, we are just going to kick it down the road. That is what is wrong. That is why we find ourselves with $12 trillion worth of debt, almost now $100 trillion in unfunded liabilities. That is why we find that a child born today has $400,000 in unfunded liabilities, and by the time they are 20 years of age they will be responsible for $800,000 worth of debt on them that they incurred for us.

So I will make two final points. The heritage of this country is for one generation to sacrifice for the next. This generation in this body has turned that upside down, and we are saying to the next two generations: You sacrifice for us because we don't have the courage to make the hard choices. And the hard choices have to be made. We are on an absolutely unsustainable course in this country financially. Read the papers. The dollar is under assault. We are dependent on foreign countries to finance our debt. Our debt will double in the next 5 years and triple in the next 10. And now we are playing the political game of not having a small percentage of seniors having an increase in cost, and mainly those who can afford it.

So the question is, take $2.8 billion from our grandkids, one way or the other, and protect that 5 percent of the seniors, including Bill Gates and every other very rich person in this country, or do as the Honorable STENY HOYER said, the majority leader for the Democrats in the House:

> I don't know how many of you can go to sleep at night worried about whether Ross Perot can pay his premium, but this will freeze Ross Perot's basic premium from going up. I think that as well meaning as this legislation is, it's not about poor seniors, it's about politics.

I recognize this can come back and we will do it, but at this time, for the good of our country, to restore the heritage of our country, Madam President, I have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAUCUS. Madam President, I regret that the Senator from Oklahoma feels constrained to object. I will continue to work to see that Medicare beneficiaries are not unfairly harmed. I must also say that this is not for the Ross Perots of the world. There are due eligibles—there are many people who are very poor who will be harmed unless this legislation is passed. I might also say that this bill is paid for, despite the implications to the contrary. It is paid for with funds already set aside at an earlier date in the Medicare Improvement Fund—a fund that was set up for just such purposes. So despite the implications about the future children and grandchildren, the fact is, this is already paid for in funds previously set aside.

Madam President, I ask unanimous consent to speak as in morning business.

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

Mr. BAUCUS. Madam President, Hippocrates once said: ''A wise man should consider that health is the greatest of human blessings.''

Every day we see the real-world consequences for Americans who have been deprived of that blessing. A Harvard study found that every year in America, lack of health coverage leads to 45,000 deaths. People without health insurance have a 40 percent higher risk of death than those with private health insurance. No one should die because they cannot afford health care.

Every 30 seconds another American files for bankruptcy after a serious health problem—every 30 seconds. Every year, about 1.5 million families lose their homes to foreclosure. Why? Because of unaffordable medical costs. No one should go bankrupt because they get sick. A Kaiser Family Foundation survey found that health care coverage for the average family now costs more than $13,000 a year. If current trends continue, by the year 2019, 10 years from now, the average family plan will cost more than $30,000 a year.

No one should have to live in fear of financial ruin from crushing insurance premiums. Americans are looking for commonsense solutions to these problems. Americans want a balanced plan that takes the best ideas from both sides. Americans want their leaders to work together to craft a health care package that will get 60 votes it needs to pass.

The Congressional Budget Office has just given us their analysis of legislation we put together in the Finance Committee and it shows that our bill reduces the deficit by $81 billion over 10 years. That is a reduction in the Federal deficit of $81 billion. CBO also says the legislation out of the Finance Committee continues to reduce the deficit in the outyears; that is, the years after 10 years, the second 10 years, and the legislation increases coverage from 83 percent to 94 percent, so 94 percent of Americans will have health insurance.

For 2 years now, that is exactly what we have been doing in the Finance Committee—working to get that result. Over the last 2 years, the Finance Committee has held 20 hearings on health care reform. Last June we held a health care summit at the Library of Congress. The committee held three roundtable discussions with experts on each side of the area, especially on the three major areas of reform. We held roundtables on how health care is delivered, on coverage—that is insurance coverage—and on how to pay for health care. In connection with each roundtable—we had experts around the table, asked lots of questions, the experts just balanced—experts were not chosen for a certain point of view but just to get the facts. The committee put out a detailed option paper after those roundtables and we then held three walk-throughs to hash out those options—walk-throughs to see what might make sense after those walk-throughs.

Six members of the Finance Committee—three Republicans and three Democrats—then had meetings. They held 31 meetings to try to come to a consensus. We held exhaustive meetings and met for more than 61 hours. We went the extra mile.

I might say if a fly on the wall were to watch those six meet, three Republicans and three Democrats, I think Americans would be very proud. This was hard work. It was not ideologically driven. It was based on the facts. We asked questions of experts, actuaries were objective—of the Congressional Budget Office, the Joint Committee on Tax—a very solid effort to try to find out how the various parts would be put together in a balanced and fair way.

I can say the Finance Committee has held the most open and exhaustive consideration of this health care proposal. I put out the starting point and posted it on the Web on September 16. That was nearly a week before we started our markups, a full week notice before we started our markup.

In a first for the committee, we posted every amendment, all 564 of them, on the Web. We had never done that before, all posted, all available to the world. The committee has held a thorough markup, and I know the present occupant of the chair can attest to that. When the committee reconvenes to report the bill, the committee will have met for 8 days. Many of those were long days, often running past 10 o'clock at night. In fact, last Thursday we worked until 2 o'clock in the morning. It has been more than 22 years since the Finance Committee met for 8 days on a single bill. In the committee's consideration, Senators offered and the committee considered about 135 amendments. The committee conducted 79 rollcall votes and the committee adopted 41 amendments.

The result is a balanced, commonsense plan that takes the best ideas from both sides. It is a plan that essentially implements President Obama's vision to improve America's health care and it is a plan designed to get the 60 votes it needs to pass. We have just received from the Congressional Budget Office the numbers that we need to have to proceed to the next step. The CBO says we reduce the deficit by $81 billion in the first 10 years and the legislation that will be reported out of the committee soon will reduce the deficit further in the next 10 years, and it increases coverage to 94 percent.

I am confident that after Senators have had a opportunity to review the CBO numbers the Finance Committee will report the bill. Then we on the Finance Committee expect to work together with the HELP Committee to meld our two bills together. Our colleagues on the HELP Committee have done some wonderful things, especially in the area of prevention, workforce, and quality. We look forward to bringing together the best of both bills.

Then the majority leader will offer the combined bill as an amendment on the floor and I expect we will have a full and vigorous debate here in the Senate. I am proud of our work.

All Americans should have access to affordable, quality health care coverage. Our bill would raise the share of Americans with insurance coverage from about 83 percent currently to 94 percent, and our bill would deliver coverage to millions through new insurance exchanges and to millions more through Medicaid—that is the Finance Committee bill I am discussing.

Our bill would dramatically increase prevention and wellness, will begin shifting health care delivery to the quality of care provided—not the quantity of services rendered but the quality of care provided. It is so important. This is transformative. This is game changing. When we look back several years from now we are going to see this is probably one of the more important items in this legislation because it will begin American health care to focus on where it should be, on quality and teamwork and the patient, more than today, where it is focused on quantity under the fee-for-service system. This is clearly the major, most important part, I think, when we look back at this bill 5, 6, 8, 10 years from now.

The bill also will lower prescription drug costs dramatically for seniors—no small point.

Our bill would reform the insurance market. It would protect those with preexisting conditions. It would prevent insurance companies from discriminating and capping coverage. And it would require insurance companies to renew policies as long as policyholders pay their premiums. No longer would insurance companies be able to drop coverage when people get sick. These reforms would give Americans real savings.

Under the Finance Committee bill, everyone making less than 133 percent of poverty would receive health coverage through Medicaid. Our plan will provide tax credits to help low-and middle-income families buy private insurance coverage. These tax credits would mean that our bill would deliver tax cuts for those whom it affects. Overall taxes would go down for people affected by this bill. These tax credits would help make insurance more affordable.

Some have made some pretty outrageous claims about our bill. Some folks frankly have said some whoppers. Let me take a few minutes to bust some of those myths.

Myth No. 1. Some say our bill cuts benefits for seniors. That is false. Nobody cares more about maintaining Medicare than I do. Medicare benefits will not be reduced under our bill. Seniors will get the same level of benefits they receive today. In fact, seniors have a lot to gain from health care reform by lower prescription drug costs

and more free preventive care such as mammograms and colonoscopies. Plus our bill takes the long view to help preserve the life of the Medicare Program. Our bill puts the Medicare Program on sounder financial footing. Our bill will remove from a system that pays for volume to one that pays for value. It would improve Medicare solvency by reforming the way Medicare delivers health care.

Don't just take my word for it. Don't just take President Obama's word for it. Go to the AARP Web site and see what they say. AARP is probably one of the greatest advocates for seniors. This is what AARP says:

Myth: Health care reform will hurt Medicare.

Fact: None of the health care reform proposals being considered by Congress would cut Medicare benefits or increase your out-of-pocket costs for Medicare services.

That is the conclusion of AARP in their letter to seniors.

Myth No. 2. Some say our bill will lead to rationing because we encourage comparative research. That, too, is false. The Institute of Medicine—MedPAC, that is the bipartisan group, nonpartisan group that advises Congress on Medicare payments—and former CMS administrators have all recommended that Congress invest in research to compare what works and what doesn't work in medicine. Groups such as the American Medical Association and the American Health Association support this idea.

Our bill would set up a nonprofit institute to provide for this ''comparative effectiveness research.'' The goal is better evidence, unbiased information that doctors and patients can use to make better health care decisions. Comparative effectiveness research is about giving doctors and patients the best information available on what works so they can decide, the doctors can decide in consultation with their patients, as to what procedure, what drug, makes most sense and what doesn't.

If one treatment works far better than another, then doctors and patients have a right to know. That is what our bill tries to do, it tries to foster the kind of commonsense research that can get better information in the hands of doctors and patients.

Nothing in our bill would ration care—nothing. The new institute could not make coverage decisions or issue medical guidelines. And our bill would prevent the HHS Secretary from using the research to ration care in any way. The Secretary could never use the evidence to discriminate against individuals based on age, disability, terminal illness, or their preferences between length of life and quality of life.

Calling this rationing only supports a delivery system that is pro-waste and antipatient education. That is what opponents will end up doing. That is the effect of it. That is not the type of care people deserve. They deserve the information that comparative effectiveness research produces to help them make informed health care decisions.

Myth No. 3. Some say our bill will cause premiums to go up. That, too, is false. There are a lot of things in our bill that would cause premiums to go down. Our bill would cut out fraud, waste, and abuse in our health care system. That is going to help. Our bill would spread insurance risk through a much broader population, including younger, healthier people. That would clearly help. And our bill would help to eliminate the cost of uncompensated care, which results in more than $1,000 in additional premium costs each year for American families. The effects of open competition in our new insurance exchange should bring premiums down as well.

CBO has said there are a lot of factors in whether premiums go up or down and, frankly, they punted on a lot of those factors. But in the one part of premium costs about which they did make a projection, CBO said that premiums would go down. In a September 22 letter CBO said:

CBO currently estimates that about 23 percent of premiums for policies that are purchased in nongroup market under current law go toward administrative costs and overhead.

About 23 percent of premiums for policies goes toward administrative costs and overhead. CBO goes on to say:

Under the proposal, that share would be reduced to 4 or 5 percentage points.

So if 23 percent of costs are administrative overhead under the legislation the committee reported out, that should be reduced by 4 or 5 percentage points. That is lower costs, administrative costs, which should result in lower premiums.

Myth No. 4. Some say you will not be able to keep your insurance. That, too, is false. Nothing in our bill would take people's insurance away from them. No one would be forced into a particular plan. This is the central feature of the way we have gone about health care reform. We have not tried to change the employer-based system, a system Americans know and understand. We improve upon it, make it work a lot better. We have not tried to fix something that is not broken. We have an employer-based system and it is very important we improve upon it, not eliminate it.

Some who do not share our best interests assert that cuts to Medicare Advantage will cause some plans no longer to be offered. We do bring the government's subsidies to Medicare Advantage more in line with the government's own commitment to Medicare, but our bill would not cut benefits under Medicare Advantage. Rather, it would cut out waste in the system to ensure that Medicare is sustainable for years to come.

Even after the cost of marketing and delivering benefits and after making a profit, insurance companies are paid about 14 percent more, on average, under Medicare Advantage than under traditional Medicare. Insurance companies pad their pocket with those subsidies. Our bill would end those subsidies for insurance companies.

If insurance plans want to pass cuts along to seniors instead of reducing their huge profits, that is up to them. In a competitive market, it will be hard for plans that do that to keep their customers.

Yes, under our bill Medicare Advantage plans will have to compete in the free market. But that has been true of insurance companies generally for as long as there has been insurance. It is true that we in our bill do not guarantee that the government will keep each and every insurance company in business. We should not and we do not, in our bill, guarantee that each and every insurance plan will continue to be offered. Those are business decisions. Those are decisions for the private sector. And that is where we leave it.

It is absurd to say that people will not be able to keep their insurance because the government is going to trim back wasteful subsidies. That is a pretty absurd statement.

Myth No. 5. Some stated our bill will raise taxes. That is false. In fact, our bill is a tax cut. Our bill will cut taxes for millions of Americans. When fully phased in, our bill will cut taxes by tens of billions of dollars every year. Let me restate that. When fully phased in, our bill will cut taxes by tens of billions of dollars every year. And millions of Americans will be able to use those tax cuts to buy health insurance coverage.

Myth No. 6. Some say that a high-cost premium excise tax will raise taxes on working families. That too is false. The bill levies the high-cost premium excise tax on the insurance companies. It will put downward pressure on insurance company profits. And it will put pressure on insurance companies to offer more efficient insurance plans.

In fact, the Joint Committee on Taxation tells us that much of the revenue that the high-cost premium excise tax brings in is because employers will give workers raises. People will avoid insurance plans with high-cost premiums, and as a result employers will raise workers' salaries with the money they save. That is what the Joint Committee on Taxation predicts will happen. That is what they say over and over again in publicly given testimony.

Finally, the biggest myth of all, myth No. 7. Some say our bill is a government takeover of health care. That is so false. We have built our plan on the exchange marketplace that allows choice among private health insurance company products, choice among private health insurance products.

People will be able to choose their own plan. They can choose their own plans among private options. Our bill does not include a public option. We did not include an employer mandate.

And we pay for every cent. This is a uniquely American solution. We are not Canada. We are not Britain. We are America. This is a balance. We have a tradition of balance between public and private. This legislation accomplished that.

We do not buy into government-only solutions in America, but we do believe in rules of the road. Our bill provides a balanced solution. And CBO says we do so in a balanced way.

Soon it will come down to the Senate. My colleagues, this will be our opportunity to make history. Think of it. Our actions here will determine whether we will extend the blessings of better health care to more Americans.

Ours is a balanced plan that can pass the Senate. Our bill should win the support of Republicans and Democrats alike. Now the choice is up to Senators.

Hippocrates said that ''health is the greatest of human blessings.'' But too many Americans are being deprived of that blessing. Let us enact this balanced, commonsense plan to improve health care. Let us reform the health care system to control costs and premiums. And let us extend the blessings of health care coverage to all Americans.

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

The PRESIDING OFFICER (Mr. NELSON of Florida.) The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2393

Mr. JOHANNS. Mr. President, I ask unanimous consent that the pending amendment be set aside and that we call up amendment No. 2393.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. JOHANNS] proposes an amendment numbered 2393.

Mr. JOHANNS. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: Prohibiting use of funds to fund the Association of Community Organizations for Reform Now (ACORN))

On page 203, between lines 23 and 24, insert the following:

SEC. 5____. None of the funds made available under this Act may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

Mr. JOHANNS. I rise to talk about an amendment that should come as no surprise to my colleagues. The amendment is simple and straightforward. It is an amendment I have offered on a number of occasions that has been approved by this body. It prohibits any Federal funds from going to ACORN or any of its subsidiaries.

This amendment I have offered today was offered on three prior appropriations bills. Each time my amendment has gained significant bipartisan support: 83 votes the first time, 85 votes the second time, and by voice vote a third time. It is important we continue to take this action to prohibit funding in each of the remaining appropriations bills because ACORN is still eligible to receive Federal dollars from many other sources.

For any of my colleagues who might put forward the argument that ACORN typically does not get funding from the CJS appropriations bill, we can't be so sure. The fact is, ACORN has the opportunity to get money from various Federal pots that we could never have envisioned. For example, a public notice was sent out by the Department of Homeland Security on October 2 of this year announcing that ACORN was the recipient of an almost $1 million grant for funds typically reserved for fire departments. Remarkable. Who knew that ACORN specialized in firefighting? I never would have thought ACORN could win a grant designed for fire safety and prevention. But, lo and behold, that is what happened only a few days ago. This happened after the Senate took several stands against providing Federal funds to this group and after House action.

Until a full government investigation is launched and completed into ACORN, no taxpayer money should be used to fund their activities. I urge all colleagues to once again support my amendment. The identical amendment has passed twice on strong bipartisan votes with over 80 Senators voting in favor, and the third time it passed by a voice vote. Where Senators stand on this issue is now well known.

For the record, I respectfully suggest that we can agree upon this amendment by voice vote at the appropriate time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2630

Mr. VITTER. I ask unanimous consent to set aside the pending amendment and call up Vitter amendment No. 2630.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 2630.

Mr. VITTER. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit funds from being used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996)

At the appropriate place, insert the following:

SEC. ____. None of the amounts made available in this title under the heading ''COMMUNITY ORIENTED POLICING SERVICES'' may be used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

Mr. VITTER. Mr. President, I will read the amendment to explain what it is about:

None of the amounts made available in this title under the heading ''COMMUNITY ORIENTED POLICING SERVICES'' may be used in contravention of section 6429(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

That is the entire amendment. What does that mean? That Illegal Immigration Reform Act is about the mandate that local government has to fully cooperate with Federal immigration officials with regard to immigration enforcement. It doesn't mean that local governments become immigration agents, that they have the affirmative responsibility to do all of that work for the proper Federal authorities. It does mean that when they come across illegal immigrants and arrest them, for instance, for local law violations, they are dutybound under Federal law to properly inform Federal authorities.

The problem is, in several select jurisdictions, so-called sanctuary cities, they have made the affirmative public statement and decision that they are not going to do that. They will not comply with Federal law. They are going to ignore Federal immigration law, and they are not going to cooperate in any way with Federal immigration enforcement authorities.

We can debate whether that is good policy or bad, but we don't really need to get to that level of debate because it is present Federal law that cooperation must be extended by local police agencies and local governments. These sanctuary cities—it is beyond debate—are violating current Federal law. They are taking Federal law and saying: Too bad. We are not going to have anything to do with it. We will violate Federal law. We will not cooperate in any way with Federal immigration enforcement.

My amendment says if you violate Federal law, you will have to live by some consequences. Specifically, you will lose COPS funding for your specific jurisdiction. If you want to do that, if you want to flaunt the law, there is going to be a meaningful consequence. You will lose community policing grants.

I believe this is reasonable and necessary because there are a number of sanctuary cities that have made the affirmative decision that they are going

to flaunt and ignore and violate Federal law, have nothing to do with proper enforcement of Federal immigration law and the necessary cooperation between those Federal agencies and local law enforcement.

Nobody wants to make local law enforcement immigration enforcement. Nobody wants to place on them some affirmative duty to do the work of Federal immigration offices, which is significant. We are not trying to place that additional burden or some unfunded mandate on them. But existing Federal law does say they need to cooperate with Federal immigration enforcement. They can't have an affirmative policy that when they arrest, for a local charge, somebody who is in the country illegally, they forget about that, turn their eye to it, and never notify Federal authorities.

Tragically, this bad sanctuary city policy has had tragic results. I will mention one such instance. This involved an illegal alien, Edwin Ramos, who is currently being charged with three counts of murder in San Francisco. That is because he shot and killed Tony Bologna, 48, and his two sons—Michael, 20, and Matthew, 16—after they were driving home from a family picnic last June. Apparently, this dispute started after Tony Bologna blocked the gunman's car from completing a left turn. That was enough to merit getting out of the car and unloading a semiautomatic weapon on Bologna's vehicle, killing him and both of his sons.

Ramos is a native of El Salvador. He was in the country illegally. He is a reputed member of the gang MS–13, and had previously been found guilty of two felonies as a juvenile; not exactly misdemeanors either, a gang-related assault and the attempted robbery of a pregnant woman. Ramos had been arrested at least three times before this triple murder. He was living illegally in the United States. There was no documentation of legal status, no temporary visa status.

So why wasn't he deported when he was arrested, particularly on violent charges? Because San Francisco is a sanctuary city. They have made the affirmative determination that established a policy of breaking Federal law and not having anything to do with immigration enforcement. That led directly to a triple murder of three innocent American citizens. This is one tragic story. There are others.

The bottom line is, we have a Federal law that should prevent that. We need that law enforced and lived by, by all local jurisdictions. The Vitter amendment will put some reasonable teeth behind enforcement and some meaningful consequence when local authorities choose to completely ignore and violate Federal law.

I urge my colleagues to support this commonsense, reasonable amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2653

Mr. BUNNING. Mr. President, I ask unanimous consent to set aside the pending amendment and call up my amendment No. 2653.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING], for himself, Mr. JOHANNS, Mr. CORNYN, Mr. DEMINT, Mr. ROBERTS, Mr. WICKER, Mr. ENSIGN, and Mr. BARRASSO, proposes an amendment numbered 2653.

Mr. BUNNING. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require that all legislative matters be available and fully scored by CBO 72 hours before consideration by any subcommittee or committee of the Senate or on the floor of the Senate)

At the appropriate place, insert the following:

SEC. _____. (a) COMMITTEES.—Rule XXVI of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

''14. (a) It shall not be in order in a subcommittee or committee to proceed to any legislative matter unless the legislative matter and a final budget scoring by the Congressional Budget Office for the legislative matter has been publically available on the Internet as provided in subparagraph (b) in searchable form 72 hours (excluding Saturdays, Sundays and holidays except when the Senate is in session on such a day) prior to proceeding.

''(b) With respect to the requirements of subparagraph (a)—

''(1) the legislative matter shall be available on the official website of the committee; and

''(2) the final score shall be available on the official website of the Congressional Budget Office.

''(c) This paragraph may be waived or suspended in the subcommittee or committee only by an affirmative vote of ⅗ of the Members of the subcommittee or committee. An affirmative vote of ⅗ of the Members of the subcommittee or committee shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

''(d)(1) It shall not be in order in the Senate to proceed to a legislative matter if the legislative matter was proceeded to in a subcommittee or committee in violation of this paragraph.

''(2) This subparagraph may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this subparagraph.

''(e) In this paragraph, the term 'legislative matter' means any bill, joint resolution, concurrent resolution, conference report, or substitute amendment but does not include perfecting amendments.''.

(b) SENATE.—Rule XVII of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

''6. (a) It shall not be in order in the Senate to proceed to any legislative matter unless the legislative matter and a final budget scoring by the Congressional Budget Office for the legislative matter has been publically available on the Internet as provided in subparagraph (b) in searchable form 72 hours (excluding Saturdays, Sundays and holidays except when the Senate is in session on such a day) prior to proceeding.

''(b) With respect to the requirements of subparagraph (a)—

''(1) the legislative matter shall be available on the official website of the committee with jurisdiction over the subject matter of the legislative matter; and

''(2) the final score shall be available on the official website of the Congressional Budget Office.

''(c) This paragraph may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

''(d) In this paragraph, the term 'legislative matter' means any bill, joint resolution, concurrent resolution, conference report, or substitute amendment but does not include perfecting amendments.''.

(c) PROTECTION OF CLASSIFIED INFORMATION.—Nothing in this section or any amendment made by it shall be interpreted to require or permit the declassification or posting on the Internet of classified information in the custody of the Senate. Such classified information shall be made available to Members in a timely manner as appropriate under existing laws and rules.

Mr. BUNNING. Mr. President, I will speak more on this amendment at a later time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BENNETT. Mr. President, NASA is at a very difficult crossroads right now in determining the future of human space flight, and I would like to talk about that.

NASA is in the process of deciding where to put its full support and funds—whether it should be behind the current Constellation Program or whether it should change course and go in another direction.

The Augustine Commission has announced some recommendations and described them both but leaves it up to NASA to make the decision as to where it will go. I am very concerned NASA will agree with those recommendations that will relate to access to the International Space Station and will affect low-Earth orbit in these difficult budgetary times.

We have just finished the space station. So the time comes now to decide how to use it to its greatest advantage. The space station was built with the shuttle program, and it has always

been understood that the space shuttle will be retired next year. After that happens, we will be relying upon Russia to get our astronauts into space.

The original plan was that once the shuttle was retired, the next vehicle to get us into space would be the Ares I. That is the pivotal point where the decision has to be made: Shall we go ahead with Ares I?

I am very concerned that NASA may want to divert precious resources from the Ares I program in the hope that the commercial space industry can fill the void. Well, it is disconcerting to me because we have a successful track record of the Ares program but a less than desirable record of the commercial space industry. We have invested over 4 years and $6 billion in the Ares I and Orion programs, and it is on track.

Just last month, we had a successful ground test of the new Ares I rocket in Utah. Later this month, NASA will conduct the first flight test—on track to deliver a safe, reliable rocket.

Changes in NASA's plan should only be made if alternatives are available to provide significant advantages in cost, schedule, performance, and safety. The program that is working should not be dropped unless those advantages are very clear, and as of now there are no credible alternatives. To me, it makes sense to stay committed to a program we have already invested billions of dollars in and which has met its significant benchmarks.

Right now, the Ares I is the only credible solution we have for getting crew and cargo services into space once the shuttle is retired. The Ares I system came out of the Gehman report that followed the Columbia accident, recommending that the shuttle be replaced with a launch system that would maximize crew safety. Aries will achieve those standards.

The system builds on an existing manufacturing infrastructure that builds on our strengths. We already have the industrial base to go ahead with Ares. We do not have to invent anything new. We paid for the research. Why would we forego years of successful research and billions of dollars in the promise of an untested method of getting into space? Why would we take the gamble? If it turns out the hope that the commercial people could fill the void is wrong, we will have lost the industrial base that preserves our existing alternative to the commercial system.

What will NASA do then, if that which they might place their hopes in turns out to fail, and they have dismantled the program we now know works? How much money would we save if we were confronted with that situation a few years down the road? We risk losing the industrial base that is paramount to American competitiveness.

I know I will be accused of being parochial because a good portion of that industrial base is in my home State of Utah, but that does not lessen its significance or its competence.

The Ares program takes advantage of facilities and an already-trained workforce that has made the most reliable rockets in the world, having flown and tested over 200 of these solid rocket motors. We are already seeing reductions in our manufacturing base in this circumstance in Utah. Just this last week, 550 more people who would be critical to NASA in maintaining that base have lost their jobs, and if we abandon the Ares program, we could lose thousands more. Yes, I am interested because it is important to my State, but I am equally, if not more, interested because I think it is important to the Nation not to take this kind of gamble.

I seriously urge the administration to take a look at the bird they have in their hand, the bird that has flown over 200 times successfully, and not be too excited about the bird that may lie waiting for them somewhere in the bush.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I wish to thank the Senator from Utah for his remarks. We have essentially three space Senators on the floor—the distinguished Senator from Florida, our Presiding Officer, who has actually been an astronaut, and you can ask him if he wants to go into space with the lowest bidder. I think there are certain things that one can't pick who the lowest bidder will be.

I think there is much to be debated. We have the Augustine report, on which there has been a hearing, and our bill, the CJS bill, we fully fund the reliable transportation system that would be developed by our government. If the President were to change that, that would be a new direction and a new appropriation on which there would be tremendous debate and discussion.

So I wish to assure the Senator from Utah and the Presiding Officer, who often speaks for the brave men and women who go into space, that what the CJS bill does is fully fund, No. 1, what we need now to make sure our space shuttle is safe and fit for duty as it comes to the end in this decade of its usable service. Our No. 1 priority will always be the safety of the astronauts, not the bottom line.

The second thing is that in our appropriations we disagreed with the House. We actually put money in the Federal checkbook to develop the new programs, the new technologies for the next generation of reliable space transportation vehicles, and it follows very much the framework that the Senator from Utah has outlined.

So we look forward, once again, to working on our space program in a bipartisan way. One of the joys of chairing this committee is that when it comes to our National Space and Aeronautics Agency, we work on a bipartisan basis.

The Senator from Utah might be interested to know, when I first came to the Senate and went on the then VA-HUD Committee that funded NASA, the ranking member was Jake Garn, your colleague. As we all recall with fondness, Senator Garn was himself also a Senator astronaut. I must say it was Senator Garn who—I was a Goddard gal; Goddard is in Maryland. But space is about space, not about an individual State. Through his excellent workmanship, his patience, his guidance, I came to know the space program. Within 2 years, I happened to, with the retirement of Senator Proxmire, take over the committee. I could not have been an effective Senator had it not been for the wise guidance I received from Jake Garn. We did it because we worked together.

So this Senator has a real fondness for the Senator from Utah speaking about the space program. But I only want to reiterate how, when we work together, it is bipartisan, it is in the interests of our country, it is about the stars and the galaxies and the planets, but it is also about developing that new technology that creates the new jobs.

I am here sitting in a wheelchair wearing a space boot. I look like I am Sally Ride's advance woman. But it is a special device. Many materials were developed through our space program. It is an innovative technology, where you go beyond the outdated casts that neither expanded nor contracted during the day that this one can do. So this technology externally protects me from, quite frankly, anybody treading on me, if you can believe it, but it protects me. Internally, it has the genius devices that can deal with either the contraction or the expansion of your leg in the course of a day. All of that came out of our space program. So it is not only about Senator BARBARA MIKULSKI and her space boot but all over we have been able to develop new medical devices because of our space program: digital mammography, saving the lives of women; a space boot that makes sure that after you have had the services of a talented and gifted surgeon, your leg is also protected. So you better believe I am going to protect the space program as much as the space program helped protect my leg today. So I wanted to let the Senator know that.

We are going to be voting in about 5 minutes on a Vitter amendment. I know there is another one that the Senator from Utah has cosponsored, which is going to be tomorrow. Right now, we are going to vote in a few minutes on sanctuary cities. I am going to yield the floor to the Senator from New Jersey, who is very knowledgeable on this topic.

I yield to Senator MENENDEZ.

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

Mr. MENENDEZ. Mr. President, I thank the distinguished Senator from Maryland for yielding.

AMENDMENT NO. 2630

Mr. President, I ask unanimous consent that the time until 5:55 p.m. be for

debate prior to a vote in relation to the Vitter amendment No. 2630, with the time equally divided and controlled in the usual form, and that at 5:55 p.m. the Senate proceed to vote in relation to the Vitter amendment No. 2630, with no amendment in order to the amendment prior to the vote.

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

The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, I rise to speak against the Vitter amendment. This amendment is downright dangerous. It is dangerous to threaten policing funds to cities such as New York, San Francisco, Los Angeles, Chicago, Washington, DC, and smaller towns across America that have chosen to encourage their community members to report crime.

The Senate tabled this same amendment last year. The reason this body was wise enough to defeat it last year was because we understood that some of the toughest law enforcement officials in our country, from sheriffs to prosecutors, and a whole host of law enforcement officials in between, understand the cooperation of the communities essential in fighting crime. Senator VITTER's amendment would deny moneys to at least 50 cities in a whole host of States represented by Members on both sides of the aisle.

I want to solve the crime. I want to get the perpetrator. I want to convict the person and put them in jail. I don't want the opportunity to go to waste because of some political statement having nothing to do with the core issue of security in our communities. Do we want witnesses to be able to come forward and provide essential, crucial eye witness testimony about the crime or do we want them to hide in the darkness and not talk to police because they are afraid of their immigration status? I want to make sure a witness comes forth and testifies against a perpetrator and has no fear to do so. That is why local police oppose this amendment.

The unwillingness of that person to come forward because of a fear may lead to other crimes being committed by that same individual in the same community; perhaps to a child who might be molested, to a person who might be assaulted, to a family who might get robbed.

So instead of catching the perpetrator, we prefer to deny moneys to communities that have a view that community policing is in their best interests and that means bringing the community in as part of that effort. These cities have made decisions across the landscape of this country—urban, suburban, and rural—to say we care more about prosecuting the crime and finding the criminal and having the witness come forward to tell us all about that crime so we can stop that person from continuing to perpetrate crimes against other people in our communities than we care about the person's status. These cities have decided they do not want a chilling effect to prevent people from reporting crime.

That is what tough law enforcement will tell you. Sheriffs will tell you, prosecutors will tell you, police chiefs will tell you, and they will tell you they want the community to participate in fighting crime. That is why we should vote to table the Vitter amendment.

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

Under the previous order, the question is on agreeing to amendment No. 2630.

Mr. MENENDEZ. Mr. President, I move to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

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

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The result was announced—yeas 61, nays 38, as follows:

[Rollcall Vote No. 316 Leg.]

YEAS—61

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

NAYS—38

Alexander	Crapo	Landrieu
Barrasso	DeMint	LeMieux
Bennett	Ensign	Lugar
Bond	Enzi	McCain
Brownback	Graham	McConnell
Bunning	Grassley	Risch
Burr	Gregg	Roberts
Chambliss	Hatch	Sessions
Coburn	Hutchison	Shelby
Cochran	Inhofe	Thune
Collins	Isakson	Vitter
Corker	Johanns	Wicker
Cornyn	Kyl	

NOT VOTING—1

Byrd

The motion was agreed to.

Mr. MENENDEZ. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 2627

Mr. LEVIN. Mr. President, I ask unanimous consent that the pending amendment be laid aside so that I may call up, on behalf of myself and Senator COBURN, amendment No. 2627.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Mr. COBURN, proposes an amendment numbered 2627.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To ensure adequate resources for resolving thousands of offshore tax cases involving hidden accounts at offshore financial institutions)

At the appropriate place, insert the following:

SEC. _____. (a) IN GENERAL.—The Attorney General shall direct sufficient funds to the Tax Division, including for hiring additional personnel, to ensure that the thousands of civil and criminal cases pending or referred during the 2010 fiscal year to the Tax Division or to an Office of a United States Attorney related to a United States person who owes taxes, interest, or penalties in connection with a foreign financial account at an offshore financial institution or who assisted in the establishment or administration of such an account are—

(1) acted on in a prompt fashion by a Federal prosecutor or attorney;

(2) resolved within a reasonable time period; and

(3) not allowed to accumulate into a backlog of inactive cases due to insufficient resources.

(b) REPROGRAMMING.—If necessary to carry out this section, the Attorney General shall submit a request during the fiscal year 2010 to reprogram funds necessary for the processing of such civil and criminal cases.

Mr. LEVIN. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2647, AS MODIFIED

Mr. DURBIN. Mr. President, I ask unanimous consent that the pending amendment be set aside and I be allowed to offer an amendment to the pending legislation.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I send an amendment to the desk and ask the clerk report the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 2647, as modified.

Mr. DURBIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment, as modified, is as follows:

(Purpose: To require the Comptroller General to review and audit Federal funds received by ACORN)

On page 203, between lines 23 and 24, insert the following:

SEC. 533. REVIEW AND AUDIT OF ACORN FEDERAL FUNDING.

(a) REVIEW AND AUDIT.—The Comptroller General of the United States shall conduct a review and audit of Federal funds received by the Association of Community Organizations for Reform Now (referred to in this section as ''ACORN'') or any subsidiary or affiliate of ACORN to determine—

(1) whether any Federal funds were misused and, if so, the total amount of Federal funds involved and how such funds were misused;

(2) what steps, if any, have been taken to recover any Federal funds that were misused;

(3) what steps should be taken to prevent the misuse of any Federal funds; and

(4) whether all necessary steps have been taken to prevent the misuse of any Federal funds.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the audit required under subsection (a), along with recommendations for Federal agency reforms.

Mr. DURBIN. Mr. President, this amendment relates to an organization that is controversial—an organization known as ACORN. We have seen videos in which the employees of ACORN were alleged to have said despicable things, and in fact, on those tapes, did say despicable things. The employees in question have been fired by their organization, and ACORN is being investigated by several State and Federal agencies because of their misconduct and potential misuse of government funds.

I am also troubled by the discoveries of voter registration fraud, and I am glad that ACORN reported those incidents to authorities. The employees involved have also been fired by ACORN. The actions by those employees were not tolerated, and should not be tolerated. They were inexcusable. Anyone who has broken the law should be held accountable and, if necessary, prosecuted.

ACORN deserves much of the criticism it has received for allowing this type of behavior to happen. However, although ACORN was clearly wrong, we are seeing in Congress an effort to punish ACORN that goes beyond any experience I can recall in the time I have been on Capitol Hill. We have put ourselves—with some of the pending amendments—in the position of prosecutor, judge, and jury.

Mr. President, I went to one of these old-fashioned law schools. We believed that first you have the trial, then you have the hanging. But, unfortunately, when it comes to this organization, there has been a summary execution order issued before the trial. I think that is wrong. In America, you have a trial before a hanging, no matter how guilty the party may appear. And you don't necessarily penalize an entire organization because of the sins or crimes of a limited number of employees. First, we should find out the facts.

I know ACORN is unpopular right now, and much of that scorn they deserve, but ACORN has a number of affiliated organizations. Incidentally, they are not in Illinois. They do not operate in my State. It is my understanding they have been gone for several years. But they have a number of affiliated organizations that would be affected by the approach which has been suggested, by an amendment which is pending on this legislation.

To my knowledge, we have not yet seen any review or analysis of whether the misconduct was the work of a few employees or whether the entire organization and all of its affiliates should be held responsible. There may well be entities affiliated with ACORN that are not at fault and that provide essential services to low-income communities.

Let's get to the bottom line. Why has this organization been treated differently than others? Why has it been the focus of attention? This organization focuses on poor people in America. They have registered over 1 million voters, and I am sure most people believe those voters are going to vote in a certain political way. Folks on the other side of the political equation don't care for that—1 million voters voting against them. So they have been inspiring this effort against ACORN.

Also, over the years, ACORN has been involved in many different States to improve minimum wages for poor employees—poor people who are trying to get enough money to keep their families together. That doesn't sit well with a number of businesses, and I am sure they have increased the anger of a lot of people over their conduct. They have also been involved in counseling people who are about to lose their homes to foreclosures, how to avoid predatory lenders—banks that are unscrupulous. I am sure those banks don't care for ACORN either.

So they have made their share of enemies working with and standing up for poor people across America. They have certainly made their share of mistakes. We saw that in videotapes, and we have seen it in other disclosures. But Congress should not, without careful consideration, permanently deny assistance to the thousands of people and families who have been receiving ACORN's legitimate legal help to avoid predatory lending and foreclosure because of the misconduct of a handful of employees who have been terminated by ACORN.

That is why I am proposing that we get to the bottom of this by having a thorough investigation; that Congress direct the Government Accountability Office to review and report back to us within 180 days on whether any Federal funds have been misused by ACORN or its affiliates; and, if so, in what amounts and in what ways.

This doesn't stop this administration from deciding not to use the services of this organization when it comes to taking the census. The Obama administration announced they were not going to use this organization. That is within their right to do. I am not questioning that decision. But the efforts by Members on the Senate floor have gone far beyond any agency's single decision. They have tried to blackball this organization and say it shouldn't do any work of any kind in any capacity before we have thoroughly investigated the charges that have been raised against it.

The report I have called for should also identify the steps necessary to correct any deficiencies, along with an assessment of whether all necessary steps have been taken to prevent any future misuse of Federal funds. The GAO will be able to conduct a government-wide review—not just one agency—looking at any funds ACORN or its affiliates have received from any Federal agency. It will be a complete and comprehensive review and investigation.

I am not excusing ACORN or its employees for any misconduct. To the contrary, I think they should be held accountable, particularly for the misuse of any Federal funds, if it occurred. But if we get into the business of passing bills and resolutions against unpopular people or organizations, this is a road we ought to carefully travel. There are a lot of companies and organizations out there that have received government funding and that have had employees commit fraud or other despicable acts.

I found it curious, the level of anger and the level of interest when it comes to ACORN. Yet when it turned out that Kellogg Brown & Root—a subsidiary of Halliburton, which was a sole-source contractor during our war in Iraq—was found to have been involved in conduct that led to shoddy workmanship and which cost the life of an American soldier by electrocution and endangered many others; when this same organization was involved in supplying water supplies and sources to our troops that were dangerous; when in fact there was evidence of sexual harassment, I didn't see the same level of anger coming from the media or from my colleagues on the floor of the Senate. No. But when it comes to ACORN, registering poor people to vote, then we have to take action.

We need an approach that can stand the test of time and the test of justice. My approach is based on some pretty fundamental American principles, calling for this GAO study and investigation. First, individuals should be held accountable for their actions. Second, organizations—and I might add corporations too—should be held accountable for the policies they set. Third, organizations and corporations should not be permanently cut off based on the actions of individual employees who violated the organizational policy and were fired.

There should be a process for addressing wrongs and moving forward with

policies that will prevent future misdeeds. That isn't a new idea, it is a very old idea. It is the American system of justice. So let's let the Government Accountability Office get to the bottom of this. Let's make sure we have done our due diligence; have a thorough, complete, honest and accurate, fair investigation before we pass laws that turn us into judges and juries.

The report I am calling for will provide us with the guidance we need. Let's follow the facts. Let's not follow our passions. It is a clear call for accountability from the Government Accountability Office when it comes to this organization of ACORN. I urge my colleagues to support it.

Mr. President, I yield the floor.

Mr. INOUYE. Mr. President, I submit pursuant to Senate rules a report, and I ask unanimous consent that it be printed in the RECORD.

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

DISCLOSURE OF CONGRESSIONALLY DIRECTED SPENDING ITEMS

I certify that the information required by rule XLIV of the Standing Rules of the Senate related to congressionally directed spending items has been identified in the committee report which accompanies H.R. 2847 and that the required information has been available on a publicly accessible congressional website at least 48 hours before a vote on the pending bill.

Mr. BEGICH. Mr. President, I wish to speak on an amendment I have filed with my colleague from Alaska, Senator MURKOWSKI.

This amendment will repeal a provision contained in the Commerce, Justice, and Science Appropriations bill each year since 2004, which has prevented tribes in certain areas of Alaska—and only in Alaska—from receiving any Federal funds to support their programs. This rider was added several years ago as part of a dispute over tribal sovereignty, but I join with Senator MURKOWSKI to say to our colleagues that whatever the merits of the past dispute, this provision is having real and adverse impacts on the administration of justice in Alaska.

Perhaps no place is seeing the negative impacts of this policy quite as acutely as Sitka, AK. This provision is currently harming the efforts of the Sitka Tribe of Alaska to work with the judicial system of the State of Alaska, and everyone in that part of the State—Alaska Native or not—is paying the price.

The Sitka Tribe has been working with the State of Alaska's court system to create a collaborative effort to battle substance abuse in their community. Tribal leaders and local court officials created the Tribal Youth Diversion Effort, TYDE, which currently takes on the nonviolent drug possession cases of both native and non-native minors, rather than forcing local youth to go through the State court system. This program has reduced the caseload of the both the State courts and city attorney. Perhaps even more importantly, the TYDE program provides the youth with a comprehensive program to deal with substance abuse. It is a successful program, and both tribal leaders and local criminal justice officials would like the opportunity for the Sitka Tribe to receive Federal funds to support and expand their important work.

Currently, because of this 2004 rider, the Sitka Tribe cannot receive any Department of Justice funding for their programs. I believe we should do more to support local programs such as the TYDE in their efforts to prevent alcohol and drug abuse. This is a problem for American youth wherever they live, but it is an especially devastating circumstance for Alaska Natives. Tribal governments in the lower 48 do not face similar restrictions, and along with my colleague Senator MURKOWSKI, I respectfully request that my colleagues support this important amendment.

MORNING BUSINESS

Mr. BENNET. Mr. President, I ask unanimous consent 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.

REMEMBERING SENATOR TED M. KENNEDY

Mr. CASEY. Mr. President, today we remember our colleague and our friend Senator Ted Kennedy. There are few people alive today whose lives have not been impacted by the work of Senator Kennedy.

A brilliant legislator, Senator Kennedy championed bipartisanship and compromise to leave behind an incomparable record. In his 45 plus years in the U.S. Senate, he authored over 2,500 bills and several hundred became law. Today, people with disabilities cannot be discriminated against in the workplace because of Senator Kennedy. Women must be paid the same as men for the same work because of Senator Kennedy. And low-income children have access to health care because of Senator Kennedy.

Like his brothers before him, Senator Kennedy challenged young people across America and around the world to devote their lives to something more than just themselves and lead by example. Whether it was championing civil rights legislation in the 1960s, condemning apartheid in South Africa before it became politically popular to do so, promoting the need for early childhood education or advocating for health care, Senator Kennedy led the charge.

Senator Hubert Humphrey once said that the moral test of government is how it treats those in the dawn of life, our children, those in the twilight of life, our older citizens, and those in the shadows of life, people with disabilities, the homeless, the dispossessed. Senator Kennedy took up the causes of these Americans as his own. The poor, the powerless and the forgotten lost an ever-faithful protector and their tireless advocate.

On a personal note, I recall in early 2007, during my first weeks in the Senate, Senator Kennedy gave me and other freshman Senators floor time to speak about increasing the minimum wage. In early 2009, when I was named to the HELP Committee, Senator Kennedy called to welcome me to the committee and invited me to hold field hearings in Pennsylvania on issues like health care and education. I will never forget his courtesy and the respect he showed to fellow Senators.

In closing, I am reminded of the words Senator Kennedy spoke about Mike Mansfield when the majority leader retired:

> No one in this body personifies more nearly than Mike Mansfield the ideal of the Senate. Wisdom, integrity, compassion, fairness, humanity—these virtues are his daily life. He inspired all of us, Democrat and Republican, by his unequalled example. He could stretch this institution beyond its ordinary ability, as easily as he could shame it for failing to meet its responsibility.

The same can be said about Senator Kennedy. We will miss him in this Chamber, but we will never forget the lessons he taught us or the legacy he leaves behind.

HONORING OUR ARMED FORCES

SPECIALIST PAUL E. ANDERSEN

Mr. BAYH. Mr. President, I rise today with a heavy heart to honor the life of SPC Paul E. Andersen from South Bend, IN. Paul was 49 years old when he lost his life on October 1, 2009, due to injuries sustained from indirect fire in Baghdad, Iraq. He was a member of the 855th Quartermaster Company, U.S. Army Reserve, South Bend.

Today, I join Paul's family and friends in mourning his death. He will forever be remembered as a loving husband, father, and friend to many. Paul is survived by his wife Linda, children, grandchildren, and extended family.

Paul joined the Army in 1984. In November of 2008, he began his second tour in Iraq. Paul was a Michiana native who grew up in Elkhart and graduated from Buchanan High School in 1979. For the past 8 years he was living and working in South Bend. He loved his wife Linda deeply and returned home on leave this past August to celebrate their fifth wedding anniversary. Family members say he lived to be in the service and loved military life. Though he was scheduled to return from Iraq in early November, Paul had expressed a strong desire to stay in Iraq for another year. Just prior to his death, he had reenlisted for the next 6 years. His family takes comfort in the idea that he died doing what he loved most.

While we struggle to express our sorrow over this loss, we can take pride in