

At a time when too many Americans are struggling to pay health care costs, the public health care option will make health insurance more affordable. Our Nation spends more than \$2 trillion—\$2 trillion—that is 2,000 billion dollars. Mr. President, if you had \$1 billion, if you spent \$1 dollar every second of every minute of every hour of every day, it would take you 31 years to spend that \$1 billion.

We spend on health insurance 2,000 billion dollars, 1 trillion. Think how much that is. Yet too many of our citizens are only a hospital visit away from a financial disaster. We cannot afford to squander this opportunity for reform. We cannot settle for marginal improvement. Instead, we must fight for substantial reforms that will significantly improve our health care system.

Remember, it is about protecting what works and fixing what is broken. That is why we must make sure a public health insurance option is available for Americans, not controlled by the health insurance industry. We must preserve access to employer-sponsored coverage for those who want to keep their current plan. But that is not enough. Give Americans the choice to go with a private or public health insurance plan and let them compete with each other. It is good policy. It is common sense. A public insurance option will make health care affordable for small business owners such as Chris from Summit County.

Chris writes that his small business is struggling to keep up with rising health insurance costs for his employees. He is getting priced out of the market. Chris explains how a public health insurance option would help reduce the cost to his small business and provide the employees the health care they need that he so much wants to provide to his employees whom he cares about, whom he knows are productive, who help him pay the bills.

Chris wants me and other Members of the Senate to push for real change for the health care system that helps small business owners and workers alike.

A public health insurance option would also make insurance affordable for Americans struggling when life throws them a curve, such as Karen from Toledo. She wrote to me explaining how she now takes care of her adult son who is suffering from advanced MS. Over the course of the last 5 years, her son lost his small business, lost his insurance, then was diagnosed with progressive MS. They spent years meeting with specialists, dealing with insurers, fighting for care.

All the while, Karen dropped out of her Ph.D. program because her savings were depleted and she needed to take care of her son and she had no one else to turn to.

And we are not going to pass a public health insurance option?

The public health insurance option would offer American workers and fam-

ilies such as Karen and her son affordable, transitional insurance if you lose your job and lose your insurance. We cannot let the health insurance industry dictate how the health care system works or limit the coverage option Americans deserve.

Anyone who has had to shop for individual health coverage knows how expensive it can be, even if you are eligible, such as Peter from Cincinnati. Peter retired after a successful career as an architect, where he enjoyed very good health care coverage. After he retired, he thought he would have no problem affording private health insurance coverage. But despite never filing a claim, his premiums and his deductibles kept rising, forcing him to buy a second policy. And merely 2 weeks after total knee replacement surgery, his secondary insurer dropped him and left him with a bill of \$27,000. Peter asked that we fix what is broken.

And we are not going to pass a public health insurance option?

That is what we are here to do. Millions of Americans are demanding a public health insurance option that increases choice for all Americans and provides economic stability for our Nation's middle-class families. The stories of Darlene, Chris, Karen, and Peter must guide this administration and must direct this Congress to protect and provide health care for all Americans.

Health care reform is about protecting what works and fixing what is broken.

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

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

#### KOH NOMINATION

Mr. DEMINT. Mr. President, I rise today, regretfully, to oppose the nomination of Harold Koh to be the State Department legal adviser. It is hard to do because in meeting Mr. Koh, I certainly enjoyed him. I have friends back in South Carolina who know him. He is certainly a very likable person. But his nomination to this important position requires some scrutiny about what his philosophy is when it comes to the United States and our international agreements and the sovereignty of our country.

I oppose Mr. Koh's nomination for many reasons, and most important of these is my belief that if confirmed, he will work to greatly undermine the principles of sovereignty that I believe all Americans expect of our Federal Government.

Let me talk a little bit about his role and what that would be if he is confirmed as the legal adviser to the State Department.

According to the State Department's Web site, the legal adviser would furnish "advice on all legal issues, domestic and international, arising in the course of the department's work and negotiate, draft, and interpret international agreements involving peace initiatives, arms control discussions, and private law conventions on subjects such as judicial cooperation in recognition of foreign judgments."

On a daily basis, Mr. Koh will also advise our government on a variety of Federal legal issues that he believes affect international law and our foreign relations. He will determine positions the United States should take when dealing with international bodies and in international conferences, and counsel administration officials on international negotiations, treaty interpretations, and treaty implementations.

As we move forward in the future as a country, one of the biggest debates we are going to have is what role does American sovereignty play in the world and how important is it, and there is a difference of philosophy here in Washington today.

So as we review this nomination, it is very important to us, particularly Republicans, that we start from the foundation in our State Department that we will act in the best interest of our country and the American people, and that our interests as a country are paramount in how we deal with the rest of the world. Of course, that does not mean that we don't try to support other countries as best we can, but the fact is, the role of the Federal Government is to protect and defend our people and our interests. So we need to make sure this key adviser to our State Department and our international relations believes those principles.

Many of Mr. Koh's supporters claim that the allegations that have been voiced against him, such as undermining the Constitution, are unjustified. However, Mr. Koh's own writings suggest otherwise. For example, in a 2004 law review article titled "International Law As Part Of Our Law," Mr. Koh states:

U.S. domestic courts must play a key role in coordinating U.S. domestic constitutional rules with rules of foreign and international law, not simply to promote American aims but to advance the broader development of a well-functioning international judicial system. In Justice Blackmun's words, U.S. courts must look beyond narrow U.S. interests to the "mutual interests of all nations in a smoothly functioning international legal regime" and, whenever possible, should "consider if there is a course of action that furthers, rather than impedes, the development of an ordered international system."

Certainly we want good relations with countries all over the world, and we are looking at making treaties of various kinds, but an idea of a smoothly functioning international legal regime, when it subordinates the interests of the American legal regime, should cause all of us to stop and think. Our protection, our prosperity,

our defense—everything we are as a country—depends first on our sovereignty, as does our support of other nations depend on our sovereignty. This idea of a global world order of some kind is frightening to many people, including myself.

It appears Mr. Koh is reinterpreting our own Constitution to comply with rules of foreign and international law instead of first protecting and defending our Constitution and seeing how we can interface with other governments. Frankly, this statement should frighten American citizens who believe in upholding our Constitution, and I hope it will get the attention of my colleagues. Certainly the President has the right to nominate anyone he wants, but it is our role as the Senate to provide advice, and in this case I think disclosure to the American people, of this nominee and how he might direct our State Department activities.

In 2002, in a hearing before the Senate Committee on Foreign Relations, Mr. Koh testified in support of ratification of the United Nations Treaty on the Convention of the Elimination of All Forms of Discrimination Against Women. Not only did Mr. Koh testify in support of ratifying this treaty, he opposed any conditions to ratification of the treaty, even those proposed by the Clinton administration. This included the very important condition stating that the treaty is not self-executing; that it has no domestic legal effect absent an act of Congress.

Our rules here are that the President can sign a treaty, but it has to be ratified here in the Senate before it is executed. To insist that once this is agreed to by the administration it becomes self-acting violates those principles.

Mr. Koh also claims that allegations by those who opposed the treaty due to its promotion of abortion, the legalization of prostitution, and the abolishment of Mother's Day are untrue. However, one only needs to look at the policies issued by the committee—the United Nations body charged with monitoring countries' compliance with their legal obligations under the treaty—to know that Mr. Koh's claims are untrue.

For example, on May 14, 1998, the committee interpreted the treaty to require that "all states of Mexico should review their legislation so that, where necessary, women are granted access to rapid and easy abortion."

In February 1999, the same committee criticized China's law criminalizing prostitution and recommended that China take steps to legalize it.

This does not represent American values.

Also, in February 2000, the committee made the following outrageous statement regarding Belarus's celebration of Mother's Day:

The Committee is concerned by the continuing prevalence of sex-role stereotypes and by the reintroduction of such symbols as a Mothers' Day and a Mothers' Award, which

it sees as encouraging women's traditional roles.

As these former Soviet republics, countries all over the world, are looking to America for guidance as they develop their democracies and institutions of freedom, these kinds of statements coming out of the United Nations are concerning, and I certainly don't want this same philosophy coming out of our own State Department.

How can anyone argue that ratification of a radical treaty such as we have discussed will not undermine sovereignty? It is pretty obvious it would.

In a speech entitled "A World Drowning in Guns," published in the *Fordham Law Review* in 2003, Mr. Koh states:

If we really do care about human rights, we have to do something about the guns.

That "something" is a "global system of effective controls on small arms."

In that same speech, Mr. Koh also expressed his disappointment that the 2001 United Nations gun control conference had not led to a legally binding document. He urged that the next steps be the creation of international arms registries, giving nongovernmental organizations, such as the International Action Network on Small Arms, power to monitor government compliance with international gun control and stronger domestic regulation.

In a May 4 column in *Human Events*, Brian Darling of the Heritage Foundation writes:

Koh advocated an international "marking and tracing regime." He complained that the "United States is now the major supplier of small arms in the world, yet the United States and its allies do not trace their newly manufactured weapons in any consistent way." Koh advocated a United Nations governed regime to force the U.S. "to submit information about their small arms production."

Dean Koh supports the idea that the United Nations should be granted the power to "standardize national laws and procedures with member states of regional organizations." Dean Koh feels that the U.S. should "establish a national firearms control system and a register of manufacturers, traders, importers, and exporters" of guns to comply with international obligations. This regulatory regime would allow the United Nations members such as Cuba and Venezuela and North Korea and Iran to have a say in what type of gun regulations are imposed on American citizens.

This is not constitutional government in America.

Taken to their logical conclusion, Dean Koh's ideas could lead to a national database of all firearm owners, as well as the use of international law to force the U.S. to pass laws to find out who owns guns. All who care about freedom, should read his speech. Senators need to think long and hard about whether Koh's extreme views on international gun control are appropriate for America.

Let me cover a couple of other things. This one is about the Iraq war. Mr. Koh published a commentary in the *Hartford Courant* on October 20, 2002, entitled "A Better Way to Deal With Iraq." Here is an excerpt from that article.

I believe that terrorism poses a grave threat to international peace and security. I lost friends on September 11 and have shared in the grief of their families. I believe that Saddam Hussein is an evil and dangerous man who daily abuses his own people and who wishes no good for our country or the world. I fear his weapons of mass destruction and believe they should be eliminated. Yet I believe just as strongly that it would be a mistake for our country to attack Iraq without explicit United Nations authorization. I believe such an attack would violate international law.

We need to think for a minute and digest what this means. Even though Mr. Koh believed that attacking Iraq would be in the best interest of America and the world, he believed we should wait on explicit directions from the United Nations before we acted. Both this commentary and his testimony before the Senate Committee on Foreign Relations demonstrate that Mr. Koh believes that if our President and Congress, empowered by our Constitution, decide military action is needed to defend our Nation from harm, we must get United Nations approval or our actions are illegal. This is an incredible position for the chief legal adviser to the State Department to adhere to.

Some may argue that Mr. Koh's position on the Iraq war is merely a principled liberal position. However, his belief that countries—

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. DEMINT. Mr. President, I ask unanimous consent for 1 more minute to conclude.

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

Mr. DEMINT. Mr. President, I encourage my colleagues to look at the record. Mr. Koh has a very winsome personality, which I appreciate, but the record gives us many reasons for concern that the State Department may not be acting in the best interests of our country under his legal counsel.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The majority leader.

#### UNANIMOUS CONSENT REQUEST— H.R. 2918

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 84, H.R. 2918, which is the legislative branch appropriations bill; that once the bill is reported, the committee substitute amendment which is at the desk and is the text of S. 1294, as reported by the Senate Appropriations Committee, be considered and agreed to; that the bill, as thus amended, be considered original text for the purpose of further amendment, provided that points of order under rule XVI be preserved; provided further that points of order under the Budget Act and budget resolutions be preserved to apply as provided in those measures.

The PRESIDING OFFICER. Is there objection?