Several months into this debate, it is easy to forget that at the outset everyone seemed to agree—at the outset of this debate on health care everyone seemed to agree—on two things: that health care reforms were needed and any reform would have to lower overall health care costs. We all agreed on that. Yet the evidence suggests that the bill Senate Democrats and White House officials are carving up in private would do just the opposite. It would actually increase costs, it would increase premiums, raise taxes, and slash Medicare. That is not reform.

Americans are concerned about the direction in which we are headed: record debts, record deficits, endless borrowing, and yet every day we hear of more plans to borrow and spend, borrow and spend. Americans don't want the same kind of denial, delay, and rationing of care they have seen in countries that have followed the path of government-driven health care for all. They are perplexed that in the midst of a terrible recession, near 10 percent unemployment, massive Federal debt, and a deficit that rivals the deficits of the last 4 years combined, the White House would move ahead with a massive expansion of government health care. They are telling us that common sense, step-by-step reforms are the better, wiser, and more fiscally responsible way to go.

This is the message I have delivered nearly every day on the Senate floor since the first week of June because, in my view, it is the message the American people have been sending us.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

ORDER OF PROCEDURE

Mr. KYL. Mr. President, I ask unanimous consent that the time controlled by the Republican side be allocated as follows: Senator KYL, 10 minutes; Senator ALEXANDER, 10 minutes; Senator GREGG, 10 minutes; Senator WICKER, 10 minutes; and Senator LEMIEUX, 20 minutes.

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

Mr. KYL. Mr. President, I ask the Chair to please inform me when I have consumed 9 minutes since I don't want to go over my time.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 2 hours with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half.

Mr. KYL. Mr. President, I had propounded a unanimous consent request. Has that been agreed to?

The ACTING PRESIDENT pro tempore. It has been.

Mr. KYL. Thank you, Mr. President.

HEALTH CARE REFORM

Mr. KYL. Mr. President, I wish to talk this morning about the same health care issue the Senator from Kentucky just addressed. I think Republicans have always had a lot of very good alternatives to deal with two critical problems: No. 1, the rising costs of health care and, secondly, the problem of some uninsured in this country needing help to get that insurance. Unfortunately, our ideas have not been included in the legislation passed by the committees. In fact, when we have offered amendments to propose these alternative ideas, they have been rejected.

One of the primary ways we know we can reduce costs is through the mechanism of medical malpractice reform. That deals with the problem of the jackpot justice system that currently is abused by trial lawyers where they file lawsuits, they get big recoveries or they force settlements, and the net result is two things which I spoke about yesterday.

First of all, liability insurance premiums for physicians now consume about 10 cents for every health care dollar spent. If we had medical malpractice reform, we could reduce that. We wouldn't, obviously, get rid of it, but the cost for physicians would be significantly less.

For example, we know some specialties, such as obstetrics, neurosurgery, and some others, including anesthesiology, for example, will frequently have annual liability premiums in the range of $200,000. That, obviously, is a cost that is passed on. When they bill patients, they have to cover the cost of their medical malpractice insurance.

I mentioned yesterday a study by the former president of the American Academy of Orthopedic Surgeons, Dr. Stuart Weinstein. He has written about the extra cost of delivering a baby because, he said, if a doctor delivers 100 babies a year and pays $200,000 for medical liability insurance, $2,000 of the delivery cost for each baby goes to pay the cost of the medical liability premium. So we could reduce by $2,000 the cost of delivering a baby if we were able to pass meaningful medical liability insurance reform.

The even bigger cost is defensive medicine—the kinds of things doctors do, not because they are necessary to take care of their patients, but because if they don't do them they might get sued and some expert will claim they should have had this extra test or done this extra procedure; and if they would have just done that, then maybe the patient would have been all right. So as a result, defensive medicine results in hundreds of billions of dollars of expenses every year.

In fact, a 2005 survey published in the Journal of the American Medical Association found that 92 percent of the doctors said they had, indeed, made unnecessary referrals or ordered unnecessary tests just to shield themselves from this liability. How much does this potentially cost? I said hundreds of billions. Well, let me cite two studies.

All of the studies I have seen are roughly within the same ballpark. They differ just a little bit. For example, Sally Pipes, who is president of the Pacific Research Institute, found that defensive medicine costs $214 billion a year. A new study by PricewaterhouseCoopers reveals similar findings, pegging the cost at $239 billion per year. Well, $214 billion, $239 billion, we can quibble about the amount; it is not insignificant. So when we are talking about well over $200 billion a year in defensive medicine, we know there is a big amount of money to be saved, and we could pass those savings on to the consumers of health care.

Yesterday I cited the statistics from Arizona and Texas where both States have implemented medical liability reforms of different kinds, but both States have found significant reductions in insurance premiums for physicians, fewer malpractice cases filed, and, in the case of Texas, an infusion of a remarkable number of physicians into Texas because it is a more benign environment now in which to practice their profession.

The reason I mention all of this is we have been talking about this for months now and not one of the Democratic bills contains medical malpractice reform. The reason is clear. Democrats are frequently supported by trial lawyers, and trial lawyers don't like medical malpractice reform. That is how they make a lot of money, so they don't want to see the reform. We ought to reform the system for the benefit of our constituents rather than to not do it in order to help trial lawyers.

Again, the reason I mention this is because a bill we are going to be taking up later today, the so-called ''doc fix''—and that is a very bad name for it—is a bill that would deal with the formula under which doctors are compensated for Medicare. One of the things that has been reported in newspapers is that the American Medical Association will not push for medical malpractice reform if they are able to get this bill passed. I find that to be a very troubling fact because all of the physicians I know realize we need medical malpractice reform.

Here is how the Washington Post editorialized it yesterday morning, and I am quoting:

The so-called ''doc fix'' is being rushed to the Senate floor this week in advance of

health reform not because it has nothing to do with health reform, but because it has everything to do with it. The political imperative is twofold: To make certain that Republicans don't use the physician payment issue to bring down the larger bill—

That is because of the fact that it would add to the deficit—

and to placate the American Medical Association.

The concern I have is that it doesn't help the physicians. All this legislation does is to say that the formula which has been in effect since 1997, but never adhered to by the Congress, will not be the formula that goes forward in the future, but it doesn't fix the payment problem. Every year, because the formula would result in huge cuts to physicians who take care of Medicare patients—and everybody agrees that is a bad thing—we say we are not going to pay attention to the formula. We are going to raise the doctors' reimbursements by a percentage point or a half percent or some modest amount.

All this legislation does is to freeze physician payments for 10 years—to freeze them—zero; not even any kind of cost-of-living increase. I guarantee that after 10 years, physicians not getting any kind of an increase at all are going to be hurting.

I know what is going to happen, which is that physicians and groups such as the American Medical Association will have to come back to Congress every year and say they need to have some kind of a modest increase. Republicans want to be able to offer amendments on this legislation to provide for such modest increases. Incidentally, those modest increases would be offset—that is to say, the cost to the government would be offset—so that we wouldn't be adding to the deficit. It is very clear there is no new formula in place, no new formula has been proposed, so this legislation doesn't solve the problem. It simply says, well, we are not going to adhere to the formula in the future. Big deal. We have never adhered to it in the past. We are never going to adhere to it because it makes no sense. Everybody agrees with that. So what do we get out of this? Nothing. A freeze for 10 years is not a solution to the problem.

I hope physicians don't see this as a solution as a result of, as I said, this having been reported in some of the media, so that they will decide not to push for medical malpractice reform because physicians know how important that is. I have just talked about how important it is.

We need solutions to problems. One of the problems is we have increases in the costs of providing health care. One solution to that—and we are talking about well over a couple of hundred billion dollars, as I indicated, from the studies I cited a moment ago. One solution to that is to tackle this problem of medical liability reform. Some States, probably about four or five, have done this, and they have demonstrated it can work.

The President's approach is, well, let's have a study about it. Let's maybe have a demonstration project. We have some demonstration projects. One of them is Arizona and one of them is Texas, and they demonstrate that it works. Since the Federal Government has to pay about half of all of the cost of health care in the country because of Medicare, Medicaid, and veterans care and so on, the Congressional Budget Office says we, the Federal Government, could save ourselves $54 billion if we had meaningful medical malpractice reform. We could expect the same amount for the private sector.

The bottom line is, the bill we are going to be voting on later today doesn't solve any problem. It does not help the physicians. One way we can help not just physicians but patients by reducing their cost of care is accepting some of the Republican alternative ideas that have been proposed, starting with medical liability reform.

Mr. President, I yield the floor to the Senator from Tennessee.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

NO ENEMIES LIST

Mr. ALEXANDER. Mr. President, in 1969 and during the first half of 1970, I was a wet-behind-the-ears, 29-year-old staff aide in the West Wing of the Nixon White House. I was working for the wisest man in that White House whose name was Bryce Harlow. He was a friend of President Johnson, as well as the favorite staff member of President Eisenhower and President Nixon's first appointee.

Based upon that experience and my 40 years since then in and out of public life, I want to make what I hope will be taken as a friendly suggestion to President Obama and his White House, and it is this: Don't create an enemies list.

As I was leaving the White House in 1970, Mr. Harlow was heading out on the campaign plane with Vice President Spiro Agnew, whose job was to vilify Democrats and to help elect Republicans. The Vice President had the help of talented young speechwriters, the late Bill Safire and Pat Buchanan. In Memphis, he called Albert Gore, Sr., the ''southern regional chairman of the eastern liberal establishment,'' and then the Vice President labeled the increasingly negative news media as ''nattering nabobs of negativism.''

These phrases have become part of our political lore. They began playfully enough, in the back and forth of political election combat. But after I had come home to Tennessee, they escalated into something more. They eventually emerged into the Nixon's enemies list.

In 1971, Chuck Colson, who was then a member of President Nixon's staff and today is admired for his decades of selfless work in prison reform, presented to John Dean, the White House Counsel, a list of what he called ''persons known to be active in their opposition to our administration.'' Mr. Dean said he thought the administration should ''maximize our incumbency . . . [or] to put it more bluntly''—and I am using his quotes—''use the available Federal machinery to screw our political enemies.''

On Colson's list of 20 people were CBS correspondent Dan Schorr, Washington Star columnist Mary McGrory, Leonard Woodcock, the head of the United Auto Workers, John Conyers, a Democratic Congressman from Michigan, Edwin Guthman, managing editor of the Los Angeles Times, and several prominent businessmen, such as Howard Stein of the Dreyfus Corporation, Arnold Picker, vice president of United Artists. The New York Times and the Washington Post were made out to be enemies of the Republic.

Make no mistake, politics was not such a gentlemanly affair in those days either. After Barry Goldwater won the Presidential nomination in 1964, Daniel Schorr had told CBS viewers that Goldwater had ''travel[led] to Germany to join up with the right wing there'' and ''visit[ed] Hitler's old stomping ground.'' Schorr later corrected that on the air. What was different about Colson and Dean's effort, though, was the open declaration of war upon anyone who seemed to disagree with administration policies. Colson later expanded his list to include hundreds of people, including Joe Namath, John Lennon, Carol Channing, Gregory Peck, the St. Louis Post-Dispatch, Congressional Black Caucus, Alabama Governor George Wallace. All this came out during the Watergate hearings. You could see an administration spiraling downwards, and, of course, we all know where that led.

The only reason I mention this is because I have an uneasy feeling only 10 months into this new administration that we are beginning to see the symptoms of this same kind of animus developing in the Obama administration.

According to Politico, the White House plans to ''neuter the United States Chamber of Commerce,'' an organization with members in almost every major community in America. The chamber had supported the President's stimulus package and defended some of his early appointments, but has problems with his health care and climate change proposals.

The Department of Health and Human Services imposed a gag order on a large health care company, Humana, that had warned its Medicare Advantage customers that their benefits might be reduced in Democratic health care proposals—a piece of information that is perfectly true. This gag order was lifted only after the Republican leader, Senator MCCONNELL of Kentucky, said he would block any future nominees to the Department until the matter was righted.

The White House communications director recently announced that the administration would treat a major television network, FOX News, as ''part of