State was that in rural areas of the country—rural areas of Minnesota, rural areas of Virginia, rural areas in Wyoming—there are not enough paramedics. Here we have these returning soldiers who are trained in this area, but for them to have to move again and to go through an entire 2 years of training can be very difficult. The idea is not to say no training is needed but to simply give them some credit; set up rules to make it easy for colleges to give them credit for that on-the-job training they had as paramedics in Iraq and Afghanistan. It involves two problems: the problem of returning veterans who don't have jobs, and the problem of the lack of paramedics in the rural areas. So we are very hopeful, with the help of Senator ENZI and Senator HARKIN, that we will be able to get this bill on the health care reform bill.

I look forward to working with my colleagues to pass not just the Veterans to Paramedics Act but also this bill we introduced last week to make it easier for veterans, when they come home—our soldiers—to choose if they want to go to a pipefitting program or to go to a law enforcement program. For those veterans, there will probably be 10 percent of them who don't feel at that moment that they want to pursue an academic degree, but they need a job.

Thank you, Mr. President.

I yield the floor, and I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

MILITARY CONSTRUCTION, VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3082, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3082) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Johnson-Hutchison amendment No. 2730, in the nature of a substitute.

Udall (NM) amendment No. 2737 (to amendment No. 2730), to make available from Medical Services, $150,000,000 for homeless veterans comprehensive service programs.

Johnson amendment No. 2733 (to amendment No. 2730), to increase by $50,000,000 the amount available for the Department of Veterans Affairs for minor construction projects for the purpose of converting unused Department of Veterans Affairs structures into housing with supportive services for homeless veterans, and to provide an offset.

Franken-Johnson amendment No. 2745 (to amendment No. 2730), to ensure that $5,000,000 is available for a study to assess the feasibility and advisability of using service dogs for the treatment or rehabilitation of veterans with physical or mental injuries or disabilities.

Inouye amendment No. 2754 (to amendment No. 2730), to permit $68,500,000, as requested by the Missile Defense Agency of the Department of Defense, to be used for the construction of a test facility to support the Phased Adaptive Approach for missile defense in Europe, with an offset.

Coburn amendment No. 2757 (to amendment No. 2730), to require public disclosure of certain reports.

Durbin amendment No. 2759 (to amendment No. 2730), to enhance the ability of the Department of Veterans Affairs to recruit and retain health care administrators and providers in underserved rural areas.

Durbin amendment No. 2760 (to amendment No. 2730), to designate the North Chicago Veterans Affairs Medical Center, Illinois, as the ''Captain James A. Lovell Federal Health Care Center.''

Johanns amendment No. 2752 (to amendment No. 2730), prohibiting use of funds to fund the Association of Community Organizations for Reform Now (ACORN).

Akaka amendment No. 2740 (to amendment No. 2730), to extend the authority for a regional office of the Department of Veterans Affairs in the Republic of the Philippines.

Menendez amendment No. 2741 (to amendment No. 2730), to provide, with an offset, an additional $4,000,000 for grants to assist States in establishing, expanding, or improving State veterans cemeteries.

DeMint (for Inhofe) amendment No. 2774 (to amendment No. 2730), to prohibit the use of funds appropriated or otherwise made available by this act to construct or modify a facility in the United States or its territories to permanently or temporarily hold any individual held at Guantanamo Bay, Cuba.

DeMint amendment No. 2779 (to amendment No. 2730), to prohibit the use of funds for the transfer or detention in the United States of detainees at Naval Station Guantanamo Bay, Cuba, if certain veterans programs for fiscal year 2010 are not fully funded.

Mr. JOHNSON. Mr. President, as we come back from the Veterans Day recess, the Senate resumes consideration of the MILCON–VA appropriations bill. As I have stated several times on the floor during this debate, this is a vital piece of legislation that needs to be passed as quickly as possible.

As I speak, the VA is operating under a stopgap funding measure. Funding the VA in that manner is far from ideal and interrupts planning and hiring at VA hospitals. The bill before the Senate today protects against this sort of problem in the future by providing $48.2 billion in advance appropriations for VA medical care. This is something that is supported by both sides of the aisle. In fact, this bill is one of the most bipartisan measures that we take up every year. That is why it mystifies me that we seem to be in a holding pattern.

One of the most critical parts of this bill is medical care for our Nation's vets. The VA is expecting to treat almost 6.1 million patients in fiscal year 2010, an increase of 2.1 percent over last year. Moreover, the Department estimates it will see the number of Iraq and Afghanistan war vets rise to 419,000 this year, a 61-percent increase in patient load since 2008. With these facts in mind, the bill targets the vast majority of discretionary funding for vets' medical care. The bill provides a total of $44.7 billion for medical care. Additionally, it provides $580 million for vital medical and prosthetic research. This is one of the many reasons why we need to get this bill passed and sent to conference as soon as possible.

In addition, hundreds of urgent military construction projects are on hold awaiting passage of this bill.

Under a unanimous consent agreement entered into last Monday, there are 27 amendments in order to this bill and one motion. As I understand it, we will soon be voting on one of the amendments and the motion to commit. Between now and the time of the vote, I wish to try to clear some of the other amendments that are in order to the bill. I have read all these amendments, and the vast majority are not controversial. It seems to me we should be able to clear them. If there are objections to any of these amendments, I urge my colleagues to come to the floor and express what objections they may have.

Taking care of our vets and our military troops and their families is one of the most important tasks of this body. Surely, we can all work together and pass this bill quickly.

AMENDMENT NO. 2781 TO AMENDMENT NO. 2779

Mr. JOHNSON. Mr. President, on behalf of Senator DURBIN, I send a second-degree amendment to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. JOHNSON], for Mr. DURBIN, proposes an amendment numbered 2781 to amendment 2779.

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

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

The amendment is as follows:

At the end of the amendment, add the following:

The provision of the amendment shall become effective 1 day after enactment.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

GUANTANAMO PRISONERS

Mr. LEMIEUX. Mr. President, I am here to speak about the recent decision of the Obama administration to bring five terrorists allegedly responsible and who admitted being responsible for planning and executing the 9/11 attacks and having them tried in a criminal court in New York. This is the group of Khalid Shaikh Mohammed and four other alleged 9/11 plotters.

The reason I stand before you today is to ask you the question: Why? Why are we bringing enemy combatants, terrorists, to trial in a civil venue in New York? The decision of the Attorney General does not make sense to me. It is not sound in terms of our historical precedent for these types of hearings, and it puts our national security at risk for the future.

Criminal trials for terrorists are different and should be different than criminal trials of those who commit crimes in this country. After all, we afford our citizens who commit crimes the presumption of innocence. It is part of the bargain we have with our citizens, that we will not presume them guilty. We afford them rights—rights that are set forth in our Bill of Rights, rights that are guaranteed constitutionally. We do not guarantee these rights for people who are not U.S. citizens. More importantly, we do not guarantee these rights for terrorists who attack our country in an act of war.

Right now, we are fighting this war in two theaters—in Afghanistan and Iraq. These are enemy combatants. They are not U.S. citizens. They were not resident in the United States when they committed this crime.

I wish to go through the rights we afford the criminally accused in a normal prosecution in this country and show why they are not suited for a terrorist.

We extend the right to remain silent; the right to have that silence not used against you; the right to choose between a public trial before a judge or jury; the right to summon and compel the attendance of witnesses to testify on the accused's behalf; the right to a speedy trial; the right to see all the evidence collected against the accused; the right to learn how the evidence was collected; and the right to appeal not only the verdict but almost every ruling a judge performs in the case.

Why are we extending these rights to enemy combatants who killed nearly 3,000 innocents on 9/11 through an act of war? They did not wear a military uniform, and the planes they flew were not the planes of foreign countries with foreign flags. But there is no difference between the war we are in with them and wars we have had against other countries.

The precedent of what may happen when we afford these rights to these terrorists is not good. Former Attorney General Michael Mukasey talked about what happened when we tried terrorists in U.S. criminal courts. During the trial of Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing, a part of testimony which we thought was innocuous at the time that came out in the public courtroom talked about the delivery of a cell phone battery. It tipped off the terrorists still at large that one of their communication links had been compromised. Mukasey said that link, which had been monitored by the government and provided enormous, valuable intelligence, was immediately shut down and lost in our war on terror.

Mukasey also noted that ''In the multidefendant terrorism prosecution of Sheik Omar Abdel Rahman, [also known as ''the Blind Sheik'' for his role in the 1993 World Trade Center bombings] . . . the government was required to disclose, as it is routinely in conspiracy cases,'' the names of the unindicted coconspirators, one of whom was Osama bin Laden.

We are giving information in these public trials, which were never meant for terrorism, which was never meant for people we are at war with, that may be used against us in a future terrorist attack.

Why are we doing this? What is the purpose? We have military tribunals to perform this function. This is not something new to this country. We have been using military tribunals since the time of George Washington. He used it during the American Revolution to deal with British spies. None other than Franklin Delano Roosevelt used them in World War II. We had eight German agents who sneaked ashore with the intent to plant explosives at railroad facilities and bridges. Roosevelt used military tribunals to try and convict those Germans who came across in World War II, and the Supreme Court upheld it. These military tribunals are not something new. They have to be done right. They have to give due process.

We used them against the driver of Osama bin Laden, and one of the charges was dismissed against him. So they are a fair process.

Why are we bringing the 9/11 terrorists to a criminal court in New York? These are not bank robbers. These are people with whom we are at war. Why are we affording them extra rights? Why are we affording them extra rights when the information that is revealed during the discovery process in Federal court may compromise our national security and lead to additional terrorist attacks? Why are we doing this? It doesn't make any sense to me. It defies history, and it is going to present and possibly provide future challenges to our national security.

Finally, let's think about what these trials are going to be like. We are giving these terrorists an international reality show where they are going to be able to have a platform each and every day to talk about their war against our country and our values. I wish to quote from David Brooks in his column in the Washington Post. He said:

> Terrorism is an act of propaganda. So now [Khalid Sheik Mohammed] gets to commit the original act of propaganda, which was the attack, and now he's going to have a long trial, an international reality show, which will be followed here, but more importantly, followed around the world. So he's getting a second bite of the apple at spreading his propaganda message.

What happens if because of all of the rights that are afforded to a person who is tried in a criminal court in the United States, what happens if because one of those rights and all of the presumptions there are against being found guilty, presumptions that we afford to our citizens because they are part of our constitutional democracy, what happens if Khalid Shaikh Mohammed, the mastermind of 9/11, is acquitted on a technicality? Then what? What are we going to do with him? Are we going to release him? Are we going to let him off on the streets in New York? I don't think so. Then we are going to hold him again. What does that say to the international community? He had a trial, he was acquitted, but we are still going to hold him because we think he is a threat. That is going to backfire on this administration.

In conclusion, I cannot understand why we are doing this. I cannot understand, when we have a historical precedent of a military tribunal that we have used since the time of George Washington, that we used during World War II, why we are going to bring these terrorists who killed or were responsible for killing nearly 3,000 innocents on September 11, why we are going to try them in Federal court as criminals and not understand what they truly are, which are terrorists with whom we are at war.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2746 TO AMENDMENT NO. 2730

Mr. FEINGOLD. Mr. President, I ask unanimous consent to set aside the pending amendment so I can call up amendment No. 2746.

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

The assistant legislative clerk read as follows:

> The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 2746 to amendment No. 2730.

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

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

The amendment is as follows:

(Purpose: To require reporting on alternatives to major construction projects related to the security of strategic nuclear weapons facilities)

On page 27, between lines 3 and 4, insert the following:

SEC. 128. (a) During each of fiscal years 2010 through 2014, the Secretary of Defense shall submit to the congressional defense committees a report analyzing alternative designs for any major construction projects requested in that fiscal year related to the security of strategic nuclear weapons facilities.

(b) The report shall examine, with regard to each alternative—

(1) the costs, including full life cycle costs; and

(2) the benefits, including security enhancements.

Mr. FEINGOLD. Mr. President, my amendment would enhance the security of our strategic nuclear weapons arsenal and help ensure that the Defense Department makes the best use of taxpayer dollars. I am pleased it has the support of the chairmen of both the Military Construction Appropriations subcommittee and the Armed Services Committee.

The amendment would require the department to submit an analysis of alternative designs for any major military construction projects to secure our nuclear weapons that it plans to initiate. GAO recently found that the Navy initiated two significant new projects without fully analyzing all of the alternatives. Therefore, we cannot be sure that we have found the safest and most cost effective means of protecting our nuclear weapons.

Ensuring the security of our nuclear materials and weapons is more important today that it has ever been. The Commission on the Strategic Posture of the United States recently concluded that the threat posed by the danger of terrorists accessing nuclear materials is greater than the threat that a foreign government would choose to use such weapons against us. Unfortunately, in the face of this new threat, our stewardship of our own arsenal has grown lax in recent years. All of my colleagues are aware of the serious breakdown in leadership which resulted in the unintentional shipment of nuclear-related intercontinental ballistic missile parts to Taiwan. They are likely also aware that a B–52 bomber flew across the continental United States mistakenly loaded with five nuclear warheads. These incidents led to the resignation of the Air Force Chief of Staff and Air Force Secretary. Just recently, a wing commander was relieved of command for substandard performance during several nuclear surety inspections at Minot Air Force Base. Clearly, this is an area that warrants sustained congressional oversight.

I recently wrote to the Assistant Secretary of Defense for Global Strategic Affairs, Dr. Michael Nacht, asking him to include in the Nuclear Posture Review an analysis of the ideal means to secure our domestic nuclear complex from a terrorist attack. Securing nuclear materials is not just about command and control—it is also about ensuring the physical security needed to ward off an attack. In 2008, the Department of Energy's Office of Independent Oversight conducted an evaluation, including a mock terrorist attack, of a U.S. lab that stores weapons-grade nuclear materials. The oversight office found that the lab's security program had significant weaknesses. In light of these numerous security incidents, Congress must step up its efforts to conduct oversight of our nuclear weapons complex.

This amendment is a small step in that direction. As the Defense Department completes the Nuclear Posture Review and stands up a new command in the Air Force to handle nuclear weapons, it is important that we send a message that we want a careful analysis of the best means to secure our nuclear weapons.

The Defense Department spends roughly a billion dollars annually on nuclear weapons security, including about $50 million annually on military construction. GAO recently found that ''the Navy plans to spend about $1.1 billion on security improvements to protect ballistic missile submarines while in transit, but selected one alternative without considering the full life cycle costs of the available alternatives.'' In particular, the ''Navy did not consider the military construction costs of building new facilities to support the new security measures. . . .'' In another case, the Navy interpreted DOD guidance as ''precluding the considerations of costs and benefits.'' This amendment will ensure that this does not happen again.

GAO also found that DOD occasionally cited costs ''as a criterion for deviations from security requirements.'' This amendment will ensure that the Department conducts a full cost benefit analysis and provides it to Congress. That way we can ensure that DOD is not deviating from security requirements unnecessarily for cost.

I urge my colleagues to support this amendment.

AMENDMENT NO. 2748 TO AMENDMENT NO. 2730

Mr. FEINGOLD. Mr. President, if I could, I would like to move on, set that amendment aside in favor of bringing up amendment No. 2748.

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

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself and Mr. SANDERS, proposes an amendment numbered 2748 to amendment No. 2730.

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

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

The amendment is as follows:

(Purpose: To make available $5,000,000 for grants to community-based organizations and State and local government entities to conduct outreach to veterans in underserved areas)

On page 52, after line 21, add the following:

SEC. 229. Of the amounts appropriated or otherwise made available by this title, the Secretary shall award $5,000,000 in competitively-awarded grants to community-based organizations and State and local government entities with a demonstrated record of serving veterans to conduct outreach to ensure that veterans in under-served areas receive the care and benefits for which they are eligible.

Mr. FEINGOLD. Mr. President, this amendment would establish a pilot program to give grants to community-based organizations to conduct outreach for veterans. Many veterans are not aware of care and benefits available to them through the VA or need help navigating the VA bureaucracy to access those benefits.

The VA has recognized the need to conduct additional outreach to veterans but does not have the presence in certain underserved communities, including rural areas, to do so directly. This amendment would ensure the VA makes grants to organizations, including State and local governmental entities, that have a presence in the community and experience working with veterans.

This amendment is based on my Veterans Outreach Improvement Act, which I first introduced over 5 years ago. That bill has been endorsed by the American Legion; Veterans of Foreign Wars; Paralyzed Veterans of America; Vietnam Veterans of America; National Guard Association of the United States; Wounded Warrior Project; and the National Association of State Directors of Veterans Affairs. The companion bill has already passed the House.

The Senate Veterans Affairs Committee has endorsed the idea of a pilot grant program and has authorized the program in the pending Caregivers and Veterans Omnibus Health Services Act of 2009.

The amendment would set aside $5 million in funding for the grants. CBO has certified that the amendment has no score and is deficit-neutral.

The grants would be awarded on a competitive basis. A wide variety of groups could apply for the grants. State departments of veterans affairs could apply for the grants. In Wisconsin, the Department of Veterans Affairs runs a ''supermarket'' of benefits where veterans can come and learn about programs available to them through the VA. In the first several years of the program, over 10,000 Wisconsin veterans learned about VA programs for which they were eligible. If that many veterans in Wisconsin alone were unaware of these programs, you can imagine the need for greater outreach nationwide.

Other groups that may apply for grants include the county veteran service officers who are present in counties throughout most States. These individuals have a presence in many rural communities where the VA's presence is minimal. Rather than hiring contractors that know nothing about veterans issues to conduct outreach by phone to veterans, as the VA has done, this amendment would allow the VA to leverage existing expertise in the community. Both State and local governmental entities are currently conducting outreach notwithstanding the fact that this is a Federal responsibility. Given the current strain on State and local budgets, we cannot assume that they will continue to be able to offer these services.

Community-based nonprofits with experience working with veterans will also be eligible for the grants. These organizations may have special skills for working with underserved veterans, such as expertise in assisting those with mental disabilities.

Given the high number of service members returning from Afghanistan and Iraq, it is essential that we conduct outreach to these veterans now to ensure that they get the services they need from the VA. I urge my colleagues to support this amendment.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NOMINATION OF DAVID F. HAMILTON

Mr. SESSIONS. Mr. President, I rise to share some thoughts about the Hamilton nomination in particular and some thoughts about the idea that judges can be subject to a filibuster. It is a matter that has been the subject of discussion in the Senate for a number of years. I wish to share with my colleagues how it all came about, where I think we are today, and why Mr. Hamilton does not deserve to be confirmed as a Federal judge.

I recognize he has many qualities, and I am not saying anything about him personally. But his approach to the law is unacceptable and is activist and evidences a philosophy that indicates he would not be serving under the law and under the Constitution but, as he has said, a judge is free to write footnotes to the Constitution. I don't think judges are empowered to write footnotes to the Constitution. According to their oath, judges serve under the Constitution. They don't get to amend it or footnote it, and they are not above it.

Back when President Clinton was in office, he nominated a number of judges who were activist. I voted for over 90 percent of his nominees. But I believed a number were activists, and I opposed them. There was much discussion about it. Nominees such as Marsha Berzon and Richard Paez I believed, were not going to be faithful to the law if confirmed. My instincts in that regard have been proven correct. This was in the 1990s.

Regardless, I remember then-majority leader Trent Lott, a Republican, moved for cloture on Berzon and Paez. We had votes. I and an overwhelming number of Republicans voted for cloture; that is, voted to bring up the nominees for a vote. Then a number of us voted against them. We didn't think they should be confirmed. But we didn't adhere to the view that filibustering was appropriate. That is when President Clinton, a Democrat, was in the White House.

Then, my Democratic colleagues in the Senate opposed filibusters and made all kinds of speeches against filibusters and against delaying votes.

Then President Bush, a Republican, got elected. In January, before he actually took office or about the time he took office, my Democratic colleagues had a retreat. At the retreat they met with legal scholars: Laurence Tribe, Cass Sunstein, and Marcia Greenberg. They advised them they should no longer follow tradition but should change the ground rules. In fact, they did so in a lot of areas. The New York Times reported that the decision at this meeting was about changing the ground rules on confirmations.

When President Bush started nominating judges, they were suddenly subject to filibuster—consistent, sustained filibusters, vote after vote. I believe there were 30 different cloture votes filed to move his nominees forward. That is what happened. We ended up with a series of nominees who were fabulous nominees President Bush had submitted, and they couldn't get a vote. Priscilla Owen, a member of the Texas Supreme Court, was given the highest possible rating by the ABA; Judge Bill Pryor, now Justice Bill Pryor from Alabama, a fabulous, brilliant nominee; Miguel Estrada; Janice Rogers Brown, an African-American woman who had been elected to the California Supreme Court and was a fabulous nominee. I remember her particularly since she had been born in Alabama. We couldn't bring them up for a vote. It went on and on.

Finally, the only thing that then-majority leader Bill Frist could do was to change the rules of the Senate to allow us to vote. He finally got the situation to the point that that appeared to be likely to occur.

It was at that point that the Gang of 14—seven Republican and seven Democratic Senators—got together and basically said: Too many nominees are being filibustered. We are abusing the filibuster rule, but we don't think we ought to eliminate the filibuster altogether, but only in extraordinary circumstances. If you really think this is not a good nominee who should not serve on the bench, vote no. But only if you strongly believe there is some serious flaws in this nominee's background, only then should you participate in a filibuster. It is legitimate if there is extraordinary circumstances. That is what they said.

A number of the judges got through. Several did not. There were 8 or 10 in controversy at that time for the circuit bench. Priscilla Owen, Bill Pryor, and Janice Rogers Brown were confirmed, but several others didn't make it from that group.

Now we have a Democratic President, and his nominees are coming up. Justice Sotomayor, whom he nominated to the Supreme Court, was a nice person, a capable person. She made some speeches that were troubling. We all analyzed that and studied that a good bit. What we concluded was—at least what I concluded, I think most of my colleagues did too—that while we may have serious doubts about whether she should be confirmed for the Supreme Court, we didn't think there were extraordinary circumstances that would justify a filibuster. So she was given an up-or-down vote. I voted against her nomination, but she was confirmed.

That is normally the way things have happened. Robert Bork's nomination failed on an up-or-down vote. Justice Clarence Thomas was confirmed on an up-or-down vote. However, President Bush's nominee for the Supreme Court, Justice Alito, was filibustered. He was a fabulous nominee who was so impressive in committee, almost as impressive as President Bush's other nominee, Chief Justice John Roberts. He should not have been filibustered, but he was. President Obama was one who led the filibuster and participated in it. But it failed, and Justice Alito was confirmed.

In 1997, when a Democratic President was in office and they were trying to move his nominees forward, Senator BOXER said:

> It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given a vote on the Senate floor.

That is being denied an up-or-down vote by filibuster. She opposed that. Yet when President Bush was nominating judges, she voted 35 times to block his nominees by filibuster.

During the Clinton administration, Senator SCHUMER said:

> I also plead with my colleagues to move judges with alacrity—vote them up or down. This delay makes a mockery of the Constitution, makes a mockery of the fact that we are here working, and makes a mockery of the lives of very sincere people. . . .

Senator SCHUMER later voted 34 times to keep President Bush's nominees from having an up-or-down vote, in other words, to filibuster his nominees.

Our distinguished chairman of the Judiciary Committee, Senator LEAHY, likewise made similar statements. I will not go into all of those, but I can do so. I can definitely state time after

time, Senator after Senator who opposed filibusters when President Clinton was sending nominees to the Senate led the filibusters against President Bush's nominees.

The Democrats have a clear majority in the Senate, 60 Members. Senator REID recently came to the Chamber to demand a time agreement for Judge David Hamilton's nomination to the Seventh Circuit Court of Appeals. Apparently, he was not happy that some of us wanted to have more debate about it. He said:

> We are going to do Judge David Hamilton [for the] Seventh Circuit, who has been waiting since April. We have agreed to time agreements. Do you want an hour, 2 hours, 5 hours, 10 hours of debate? No, we don't want anything.

He is speaking for the Republicans.

> They don't want a time agreement. This is so important that we will spend 2 days debating it if we can have a vote. But that is not good enough. No time is sufficient.

That is what he grumbled about. He has a lot on his plate. But Senator REID has a short memory. When Senator REID was in the middle of filibustering Priscilla Owen, a fabulous nominee, and Senator BOB BENNETT made a unanimous consent request that the Senate commit 10 hours to debating her nomination and then give her an up-or-down vote, Senator REID objected. When Senator BENNETT asked how much time would be sufficient for the nomination, Senator REID responded by saying:

> [T]here is not a number [of hours] in the universe that would be sufficient.

Later, Senator MCCONNELL sought a time agreement on Judge Owen. Senator REID responded by saying:

> We would not agree to a time agreement . . . of any duration.

Majority Leader REID voted 27 times to filibuster President Bush's nominees. There are a number of other statements I could cite that demonstrate how some of my Democratic colleagues have forgotten the factual record.

The truth is, my colleagues on the Democratic side fought against moving to cloture on 17 of President Bush's judicial nominees on 30 separate occasions. In doing so, they changed 214 years of Senate tradition. That is a fact.

I remember, as a new Member of the Senate, when President Clinton was in office. I believed the Senate should abide by those rules. I remember voting for cloture to move two nominations—Berzon and Paez. Although I voted against them, I did not support a filibuster. I did not think we should change the Senate tradition.

Once those debates started—colleagues will remember—it was a pretty hot debate. We believed strongly that there was no basis to block a lot of these nominees. The only thing these judges had in common was that they believed a judge should strictly apply the law, that they should be objective, that they should not allow their personal feelings to enter into their decision-making, or their empathies, and that they would be faithful to the law even if they didn't like the law. If it was passed by some legislature or the Congress, they ought to be enforcing it regardless of what they personally thought. They were not elected to make the law; they were elected to enforce the law. The American people agreed with that overwhelmingly.

One night we debated all night. We went all night long to try to encourage colleagues to give up on the filibusters. But they didn't. That is how we got the Gang of 14 came about and made the rule change.

So my Democratic colleagues are sort of suggesting, it seems to me, that it is somehow improper that on any nominee Republicans would demand they achieve a 60-vote margin to move to an up-or-down vote—what they have been doing time after time. I will just say if we allow that to happen, this is the effect of it. It would mean for a Republican President who nominates a judge to the bench, his nominee would have to get 60 votes in the Senate to be confirmed. But if a Democrat is in office, and Republicans are not able to filibuster, it would only take 51 votes to get them confirmed.

That is the kind of situation we are in. So the answer becomes, to me, pretty obvious, and I think to others on our side. We had a full debate. We had a real battle. We went on for several years. We debated the rules of the Senate, and the Senate, in effect, established a new rule. The new rule is, filibusters are legitimate, but only if there are extraordinary circumstances. I think that is not totally improper. I guess we are stuck with it. That is where we are, and I think that is probably where we are going to stay for a while.

So as we go forward today, we will be asking—maybe each of us—what ''extraordinary circumstances'' is. There is no exact definition of it. When is it appropriate to vote against cloture on a judicial nominee? What does ''extraordinary circumstances'' mean? Each Senator will make up their own mind. There is no firm definition.

In my view, Judge Hamilton is an example of a nominee who does fit the ''extraordinary circumstances'' standard for a number of reasons. It is difficult for Members on this side of the aisle to vote to end debate on a nominee as controversial as Judge Hamilton. Indeed, we have had no debate on him at all on the floor to date. No one on this side of the aisle has made a statement similar to the one Senator REID made about there not being enough time in the universe to debate the nominee.

If we look back and see how the decision was made on the nominees who came through when the rule was changed, maybe we can get some feeling for the appropriate way to view—based at least on what happened before—the meaning of ''extraordinary circumstances.''

As to Judge Bill Pryor, the Democrats forced three cloture votes. They blocked him three times. Many of my colleagues who are now arguing against a filibuster, saying Judge Hamilton should not be filibustered, did not hesitate to vote to block an up-or-down vote on Judge Pryor.

During his confirmation, then Alabama Attorney General Pryor was criticized because he had pro-life personal views, although he had a record of showing that he criticized an Alabama law, as attorney general, that was anti-abortion, when he felt it was unconstitutional. As attorney general, he said it was unenforceable. It was a close question, but the Supreme Court had ruled on it, and Bill Pryor said: I am a man of the law. Even though I am pro-life, I cannot enforce this law.

That was not good enough. They thought he, as a strong and practicing Catholic, was too religious. So now, if we look at Judge Hamilton—I am not sure what his religious beliefs are, and it certainly is not a matter that is important—but in Hinrichs v. Bosma, in the district court where he is a Federal district judge, in 2005, Judge Hamilton prohibited prayers in the Indiana House of Representatives that expressly mentioned Jesus Christ, saying they violated the Establishment Clause of the United States. Yet he would have allowed prayers which mentioned Allah. They had an imam pray at the legislature too.

Mr. President, I will wrap up.

In Grossbaum v. Indianapolis-Marion County Building Authority, he denied a rabbi's plea to allow a Menorah to be part of the Indianapolis Municipal Building's holiday display. The Seventh Circuit reversed him unanimously.

So I would ask, between the criticism of Judge Pryor and Judge Hamilton, who is out of the mainstream? Where is the extraordinary circumstance?

Then there was Priscilla Owen, some of my Democratic colleagues found extraordinary her dissents in close, split cases, dealing with parental consent. Judge Owen was concerned that a 16-year-old in Texas could get an aspirin at school without parental consent but, under Texas law, could have an abortion without any parental involvement. She voted to uphold the ruling of the lower court judge that parents should be at least notified before their daughters underwent an operation, and my colleagues did not like that.

Judge Hamilton, on the other hand, succeeded in blocking the enforcement of an Indiana informed consent law for 7 years. In reversing him, the Seventh Circuit noted that Judge Hamilton had abused his judicial discretion. The court of appeals said this:

> [F]or seven years Indiana has been prevented from enforcing a statute materially identical to a law held valid by the Supreme Court in Casey, by this court in Karlin, and by the Fifth Circuit in Barnes. No court anywhere in the country (other than one district judge in Indiana)—

They were talking about Judge Hamilton—

has held any similar law invalid in the years since Casey. . . . Indiana (like Pennsylvania and Wisconsin)—

According to the Court—

is entitled to put its law into effect and have that law judged by its own consequences.

So between the criticisms of Judge Owen and Judge Hamilton, which one is outside the mainstream?

Well, there are other issues we could talk about and will talk about as the debate goes forward. But I just wanted to share that to say I am not one who believes we should lightly oppose a nominee. I think they should be given some deference, whatever a Senator believes. I believe a President's nominee should be given deference. But we are not a rubberstamp. We are being asked to give this nominee a lifetime appointment. If they believe they have the power to frustrate legislative will and popular will, when what the legislature did is not in violation of the Constitution, they do not need to be on the bench. That is my view and I think a lot of others' view too.

The American people are unhappy with judges who believe they can allow their feelings, their empathies to cause them to render opinions that do not follow the law. The great American heritage is an objective view of the law, and the oath that a judge takes is to be impartial and to serve under the Constitution and the laws of the United States.

Because I am deeply troubled by Mr. Hamilton's record—not by his personal qualities, but his record and his speeches—I will be opposing the nomination and not voting for cloture.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Indiana.

Mr. LUGAR. Madam President, I ask unanimous consent to speak as in morning business for up to 20 minutes.

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

NOMINATION OF JUDGE DAVID HAMILTON

Mr. LUGAR. Madam President, I rise today to speak on behalf of Judge David Hamilton whom the President has nominated to serve on the U.S. Court of Appeals for the Seventh Circuit.

I first had the pleasure of supporting David Hamilton almost 15 years ago when he was nominated to the Federal district court. I said then that ''the high quality of his education, legal experience, and character well prepare him for this position'' and expressed my belief that ''his keen intellect and strong legal background will make him a great judge.'' This confidence in David Hamilton's character and abilities was shared by all who knew him regardless of political affiliation throughout Indiana's legal and civic communities.

I have known David since his childhood. His father, the Reverend Richard Hamilton, was our family's pastor at St. Luke's United Methodist Church in Indianapolis where his mother was the soloist in the choir. Knowing firsthand his family's character and commitment to service, it has been no surprise to me that David's life has borne witness to the values learned in his youth.

David graduated with honors from Pennsylvania's Haverford College, won a Fulbright Scholarship to study in Germany, and then earned his law degree at Yale. After clerking for the Seventh Circuit Court, David joined the Indianapolis office of Barnes & Thornburg where he became a partner and acquired extensive litigation experience in the Indiana and Federal judicial systems.

When our colleague, Senator EVAN BAYH, was elected Governor of Indiana, he asked David to serve as his chief legal counsel. Among other achievements in that role, David supervised the overhaul of State ethics rules and guidelines and coordinated judicial and prosecutorial appointments.

In the latter capacity, David worked closely with Judge John Tinder, then a President Reagan appointee to the district bench, whom President Bush recently appointed to the Seventh Circuit with the unanimous support of the Judiciary Committee and the full Senate.

When David was nominated to the district court, Judge John Tinder wrote to me that David was ''meticulous in asking the difficult questions of and about judicial nominees.'' He said his approach to these duties ''typifies the deliberate and sensitive way in which he approaches matters in his professional life.''

The same is true of David's approach to his judicial duties. Leading members of the Indiana bar testify to his brilliance and, as important, to his character, dedication, and fairness. Geoffrey Slaughter, president of the Indiana Federalist Society, also endorsed Judge Hamilton's nomination, saying:

I regard Judge Hamilton as an excellent jurist with a first-rate intellect. He is unfailingly polite to lawyers. He asks tough questions to both sides, and he is very smart. His judicial philosophy is left of center, but well within the mainstream.

His colleagues on the Southern District of Indiana bench—a talented and exceptionally collegial group from both parties—unanimously endorse that conclusion.

I recognize some of my colleagues do not share this view. Specific charges have been levied that Judge Hamilton has used his position on the Federal courts to drive a political agenda. I believe a closer look at his record will reveal that Judge Hamilton has not been a judicial activist and has ruled objectively and within the judicial mainstream.

Upon receiving a letter from my good friend and colleague, the ranking member of the Senate Judiciary Committee, I asked Indianapolis attorney and former Associate Counsel to President Ronald Reagan, namely, Peter Rusthoven, to review concerns raised regarding David Hamilton's nomination.

Judge Hamilton has been criticized for a speech delivered in 2003 when he cited that judges ''write a series of footnotes to the Constitution.''

It has been suggested that this comment is evidence of a judicial activist philosophy. However, Judge Hamilton never wrote that judicial decisions are an appropriate means to change the Constitution. The footnotes comment means simply that judicial decisions illustrate how the Constitution applies to particular circumstances. For example, Chief Justice Marshall's seminal Marbury v. Madison decision, establishing judicial authority to pass on the constitutionality of actions by the political branches, illustrates a vital aspect of how the Constitution applies, but does not assert judicial power to amend the Constitution, much less based on a judge's personal views.

Another charge levied is that Judge Hamilton prohibited public prayers involving Jesus Christ but allowed prayers invoking Allah. However, Judge Hamilton did not say, as some suggest, that prayers in the Indiana Legislature ''Allah'' as the Muslim deity were permissible while prayers to Jesus Christ were not. He in fact said that using Allah as a generic reference to the deity could theoretically be permissible in nonsectarian prayer, as would be true of using the word for God in any language. Judge Hamilton was clear that legislative prayer advancing the religion of Islam would be prohibited. I support a more permissive approach to public prayer than Judge Hamilton, but clearly his ruling comports with Supreme Court authority. As Justice Antonin Scalia explained, government-sponsored endorsements of religion are sectarian if they ''specify details upon which men and women who believe in a benevolent, omnipotent Creator and Ruler of the world are known to differ, for example, the divinity of Jesus Christ.''

Also contrary to certain charges, Judge Hamilton's ruling on the issue was not reversed. The Seventh Circuit's later reversal did not involve the merits, but the separate, procedural issue of whether the taxpayer plaintiffs had legal standing to challenge the legislative practice. In this case, a subsequent Supreme Court ruling created a new precedent which led to the reversal.

A similar reversal situation occurred regarding an effort to compel local officials to include a Menorah as part of a holiday display in the Indianapolis City-County Building. The Seventh Circuit opinion by Reagan appointee Judge Ripple makes this point in its opening paragraph, saying Judge Hamilton's ruling had been made ''without the benefit of the Supreme Court's recent guidance in this area.''

There have have also been claims, citing the Almanac of the Federal Judiciary, that Judge Hamilton is one of the most lenient judges in his district in criminal matters. However, the Almanac cited extraordinarily high

praise for Judge Hamilton. The Almanac summary states: ''Hamilton is fair when it comes to sentencing, according to lawyers.'' Practitioners consistently stated that he is objective and shows no bias.

In demonstrating this alleged leniency, critics have cited a case in which Judge Hamilton ''used his opinion to request clemency for a police officer who pled guilty to two counts of producing child pornography.'' Judge Hamilton in fact imposed the 15-year sentence required by sentencing guidelines even though he believed it excessive in the circumstances. Doing what the law requires even when a judge may personally disagree is a textbook example of judicial restraint. Further, there were, indeed, circumstances in the case that might properly be considered in a later executive clemency request, which is all that the unpublished decision was pointing out. In other cases with different circumstances, Judge Hamilton has imposed rigorous sentences for child pornography as long as 100 years.

Critics also point to another case in which they argue that Judge Hamilton disregarded an earlier conviction in order to avoid imposing a life sentence on a repeat offender. In this particular case, Judge Hamilton made a mistake and has admitted it. Judge Hamilton initially imposed a 25-year sentence for drug and firearms offenses on a 55-year-old man taking into account a 10-year-old prior conviction. The issue was whether the sentence should be further enhanced based on a 35-year-old prior conviction on marijuana charges under the now repealed Federal Youth Corrections Act. Judge Hamilton now believes the Seventh Circuit was correct to apply a sentence enhancement, and he imposed a life sentence on remand.

Another complaint is that Judge Hamilton used his position to purposely delay enforcement of Indiana's informed consent abortion laws for 7 years. Judge Hamilton's analysis in the Indiana case differs from my own, but his actions were defensible in the context of what lower courts must do in the field of abortion law jurisprudence.

As those who believe Roe v. Wade was fundamentally mistaken would argue, ''undue burden'' issues of the sort Judge Hamilton and the Seventh Circuit wrestled with in the Indiana litigation are an unfortunate, inevitable consequence of what Justice Scalia has called the Supreme Court's continued effort to craft an ''abortion code'' without grounding in the text of the Constitution. Hence, it is hardly surprising that jurists will come out on different sides of undue burden inquiries. They necessarily entail judges weighing what is or is not undue by a standard that is unguided by any constitutional language. The Supreme Court itself continues to struggle to articulate tests that will elucidate this matter of law.

One illustration of that point is that five members of the full Seventh Circuit—including Judge Posner, a Reagan appointee—voted to grant rehearing en banc of the 2–1 decision reversing Judge Hamilton's ruling. Further, even in reversing, the Seventh Circuit did not hold that Judge Hamilton's fact findings were ''clearly erroneous,'' which is the pertinent appellate review standard on evidentiary questions.

The delay assertion unfairly ignores that the delay was due in very large part to litigation decisions made by the State of Indiana itself. Judge Hamilton's preliminary injunction decision in 1995 was immediately appealable by the State as a matter of right; but the State chose not to appeal. The same was true of Judge Hamilton's 1997 decision modifying that injunction; again, the State chose not to appeal. Thereafter, the State as well as the plaintiffs sought continuances of the trial, including to permit further discovery on complex statistical issues that are an aspect of the undue burden analysis. The notion that Judge Hamilton was in any way trying personally to delay the case, whether based on his personal views on any issue or for any other reason, is unfounded.

Allow me to close with a few further thoughts on our nominations process. When I introduced now Chief Justice John Roberts to the Senate Judiciary Committee in 2005, I expressed my concern that the Federal judiciary is seen by many as another political branch. The confirmation process is often accompanied by the same oversimplifications and distortions that are disturbing even in campaigns for offices that are, in fact, political. This phenomenon is most pronounced at the Supreme Court level, and traces to several causes that I will not try to address today. I mention this, however, to underscore my commitment to a different view of judicial nominations, which I believe comports with the proper role of the judiciary in our constitutional framework.

I do not view our Federal courts as the forum for resolving political disputes that the legislative and executive branches cannot, or do not want to, resolve.

This is why I believe our confirmation decisions should not be based on partisan considerations, much less on how we hope or predict a given judicial nominee will rule on particular issues of public moment or controversy. I have instead tried to evaluate judicial candidates on whether they have the requisite intellect, experience, character and temperament that Americans deserve from their judges, and also on whether they indeed appreciate the vital, and yet vitally limited, role of the Federal judiciary faithfully to interpret and apply our laws, rather than seeking to impose their own policy views. I support Judge Hamilton's nomination because he is superbly qualified under both sets of criteria.

Finally, permit me to thank my colleague from Indiana, Senator EVAN BAYH, on the thoughtful, cooperative, merit-driven attitude that has marked his own approach to recommending prospective judicial nominees from our State. The two most recent examples are his strong support for President Bush's nominations of Judge Tinder for the Seventh Circuit and of Judge William Lawrence for the Southern district of Indiana.

Thank you for this opportunity to express my support for Judge David Hamilton. I am hopeful that my colleagues will vote tomorrow to end debate on this important nomination.

Madam President, I yield the floor, and I 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 South Dakota.

Mr. JOHNSON. 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. JOHNSON. I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will so state.

Mr. JOHNSON. How much time is remaining on both sides?

The PRESIDING OFFICER. On the minority side, 16½ minutes; on the majority side, 46½ minutes.

Mr. JOHNSON. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSON. Madam President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

MOTION TO COMMIT

Mr. COBURN. Madam President, I know we are going to vote at 5:30 on an amendment and on a motion to commit. I send a motion to commit to the desk at this time.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] moves to commit the bill H.R. 3082 to the Committee on Appropriations of the Senate with instructions to report the same back to the Senate with changes to reprioritize spending within the bill in order to provide sufficient funding to ensure coverage of medically necessary care and payment of caregivers for disabled veterans, including but not limited to those who fought in World War II, the Korean War, the Vietnam War, Operation Desert Shield, Operation Desert Storm, Operation Enduring Freedom, Operation Iraqi Freedom, and any combat zone in the War on Terrorism, and that such funding for veterans' assistance should be paid for with reductions in spending for earmarks for less urgent projects and other unnecessary programs not requested by the Commander in Chief.

Mr. COBURN. Madam President, I think under the agreement I will have 30 minutes to discuss this and the other amendment I have; is that correct?

The PRESIDING OFFICER. Without objection, the Senator may consume 30 minutes.

Mr. COBURN. I thank the Chair. I will try not to consume that amount of time to move this along.

Last weekend, the Senate, prior to Veterans Day, had the urgency of passing a bill that will, in fact, help a specified group of veterans, but it won't help veterans who have identical needs to that group of veterans because they were excluded from it.

The Caregivers Act also will require, at a minimum, $3.7 billion in spending over the next 5 years, and none of it—there was no decision to make in terms of that bill on any priorities about what we get rid of. As a matter of fact, the intent, as stated by the majority whip, was that we needed to pass this before last Wednesday so that people could get care. Well, the truth is, no care will come about if there is no money in this bill for that program.

The whole purpose for this motion to commit is to do two things: One, send the committee back and eliminate the discrimination against veterans in the first gulf war, against veterans in the Vietnam war, the Korean war, and World War II who have identical needs that require family caregivers and include them in it. The second aspect of the motion to commit is to find it from the available funds we have today. We suggest some opportunity for that but don't mandate where it comes from. But we should reduce spending somewhere else to pay for this. The reason that is important is, this past year, 43 cents out of every dollar we spent we borrowed from our grandchildren.

So in making a motion to commit this bill, we are doing three essential things. No. 1 is that we are actually being truthful that we really want to take care of this need and will do it in this fiscal year. No. 2 is that we are not discriminating against other veterans who have identical needs. No. 3 is that we are not discriminating against our children and grandchildren by not making hard choices to pay for it within existing funds.

I have no illusions that this motion to commit will succeed. But it doesn't change the very real facts that are in front of this Nation—that we cannot continue to spend money without making choices about what is most important. None of us disagree that taking care of those who have sacrificed for us has to become No. 2 behind the defense of this Nation in terms of the priorities for this country. Nothing else is higher in priority. Yet the bill we have before us doesn't make that a priority and the authorizing language doesn't make that a priority. As a matter of fact, the bill before us asks the VA to study this issue rather than actually go on and fund this issue by making the appropriate changes.

There is a significant increase in this bill, and outside of foreign expenditures, it is over 5.5 percent. It is not objectionable that it would be there, that kind of increase, given the demand our troops have had and their injuries and what they have suffered in terms of defending this country and fighting two ongoing wars. However, some of that money ought to be winnowed down so that we can take care of the very people who protect us.

We have had these tremendous speeches on why we have to do it now. If those speeches aren't going to ring hollow, we ought to commit the bill to make sure we have money for the Veterans Caregiver Act.

AMENDMENT NO. 2757

The other area I wish to spend time on is that in this bill we also have various and sundry reports that have been requested by the committee of different branches of the Federal Government. One of the most important ways to build trust in the Congress today is for us to create and increase the level of transparency for the American people to see our actions. This amendment is simply an amendment that says any reports that do not divulge or put at risk national security data should be made available to all the Senators, all the Congress, and all of the American people. This has been in several of the appropriations bills we have passed in the Senate. Unfortunately, rarely has it stayed in the conference report because there are those who don't want the American people to see what we are doing and how we are doing it.

I will sum up. We find ourselves in a big pickle right now as a nation. We soon will be voting in this body to increase the debt limit to $12.1 trillion. That figures out as a significant amount of money for every individual in this country—well over $35,000—but it is a very small amount compared to what is getting ready to happen in the next 9 years as our debt triples. Our debt will triple in the next 9 years, which means we will go from 30-some thousand dollars per individual to very close to $100,000 per individual.

That doesn't compare to the unfunded liability. If you take everybody in this country who is 25 years of age and younger—that is 103 million Americans—and you ask what is the consequence to those young Americans 20 years from now, the consequence is that they are going to be paying for another $1 million in debt for which they got no benefit, and the interest costs on that alone will be over $70,000 per year, per individual under age 25 today and under 45 20 years from now and all their kids.

The idea that we ought to pay for the new things we do by eliminating the things that aren't important, that we ought to pay for the new things we do by eliminating some of the $300 billion worth of waste, fraud, and duplication in the Federal Government every year is not a novel idea outside Washington; it is only a novel idea inside Washington—the very fact that the next generation will be put at a disadvantage because we lack the same courage and clarity of moral character our troops have in terms of making tough choices.

My hope is that with the motion to commit, in fact, the body will look and say we really can fund this and find waste and we can make choices about what is most important versus what is not most important, and not only will we help the veterans who are deserving of our assistance at this time, but we will also help the veterans' children and grandchildren by not plugging a credit card in and saying: Whatever we are going to do for veterans today, we are going to charge to you.

Instead, I hope that we are going to carry the load and that we are going to embrace the heritage of our country, the heritage of sacrifice and of creating opportunity that is better for the generations that follow than the opportunities that were given to us. That is not happening right now in our country. We are going to have a larger deficit next year than we have this year. We are going to take 43 cents out of every dollar we actually spend next year and we are going to charge that all to those two generations that follow us. That is not what made this country strong. That is not what our veterans fought for. That is not the country they want to see in the future. It is time we made some hard choices.

The resistance will be: I don't want to eliminate my earmark; I don't want to eliminate the parochial things I have done for my State to take care of veterans. They will not come out and say that, but that will be the result of the vote. The vote is, take care of the politicians, say you are taking care of the veterans, but undermine the future of the next two generations. That is what the vote is going to be about on the motion to commit—a lot of controversy and emotion associated with not doing things on time. But I would rather do things right and do things that will secure the future rather than destroy it. I would rather do things that honor the sacrifice rather than dishonor the sacrifice.

We can claim all we want when we pass a veterans caregiver bill, but if we don't fund it and there is no money for it, it is an announcement that we care but no action behind it. If we don't cover all the veterans who have the same need, we know it is political only. The motion to commit makes sure that we cover all veterans, that we treat them all equally, and if they have the same kinds of needs, they will get the same kinds of service—not because they are young and served in the war on terror but because they served this great Nation and preserved it with their courage, valor, and commitment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSON. 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. JOHNSON. Madam President, I ask unanimous consent that no amendments be in order to the Coburn amendment or motion.

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

Mr. JOHNSON. Madam President, the MILCON–VA bill before the Senate today funds critically important programs for our Nation's military forces and their families and for our vets. Most of the funding was requested by the President, but certain programs were enhanced or augmented by the committee after careful consideration and evaluation of the budget request. Let me give two examples of the funding in this bill that was not requested by the President that would be stripped out under the mandate of the motion to commit: $50 million for community-based outpatient clinics for vets in rural areas underserved by VA medical centers. These clinics serve as medical lifelines for vets in rural areas who do not have ready access to a VA Hospital.

There is $50 million in a pending amendment to renovate excess buildings on VA medical campuses for homeless vets shelters and services. An estimated 131,000 vets are homeless on any given night. Secretary Shinseki has made it a priority to eliminate homelessness among vets, and this bill supports that effort.

There is $300 million to complete the funding requirement for the expanded Homeowners Assistance Program for military personnel, to protect military families under orders to move during the current mortgage crisis from disastrous losses on home sales and to shield wounded warriors and surviving spouses from the financial ravages of the mortgage crisis.

There is $7.5 million for a chapel center at Dover Air Force Base, DE, to replace a wood-frame chapel built in 1956. The existing chapel has asbestos in the ventilation system, the roof is too unstable for maintenance personnel to walk on, and the Chaplain Command has rated the current chapel as the worst in the command. Yet this decrepit facility serves as the primary site for hosting families waiting to view the dignified transfer of the fallen from the wars in Iraq and Afghanistan. This project was not included in the President's budget request but was added by the committee.

These are but a few examples of the types of programs and projects funded in the bill that were not requested by the President. They are not, as this motion would suggest, less urgent or unnecessary simply because they were not requested by the President. They are the product of careful analysis and evaluation by the committee of jurisdiction and developed in close consultation with the authorizing committees.

I urge my colleagues to support the committee-passed version of the MILCON–VA bill and reject the motion to commit it to the committee.

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.

Mrs. HUTCHISON. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. HUTCHISON. Madam President, I know my colleague, the chairman of the Veterans Affairs and Military Construction Subcommittee, has already spoken on the bill. I rise to make a couple of points.

First, I thank the Senate for not meeting on this bill last Tuesday, when it was scheduled to be taken up and passed and, instead, allowing so many of our colleagues to go to the memorial service at Fort Hood in Killeen. It was a wonderful service. So many of our colleagues were in attendance from all over the country to show their support for the troops, to show sympathy for the families. There were approximately 200 family members there. Of course, the President and Mrs. Obama were there. There were many House Members. It showed to the base and to the thousands of troops who attended how much we care about them. I am grateful to my colleagues for that gesture.

We have a good bill. My colleague Senator JOHNSON and I have worked together on this bill. We have stayed within our budget. We have tried to make sure we are covering the needs of our veterans.

The emphasis in the veterans section is in health care. We know we must do more for the mental health and getting people who have been in Afghanistan or Iraq back into the mainstream so they can lead normal lives. We have done that. We have put over $4 billion into mental health funding. We are setting up centers now for mental health excellence. I am pleased we are making that a priority.

In addition, spinal cord and traumatic brain injuries. We know so many of our wounded soldiers suffer traumatic injuries. We need to make sure we have the ability to give them all of the rehabilitation necessary for them to reenter a life of quality. We are adding one more tier 1 polytrauma center. We have four. We are adding one more in San Antonio, TX, in the VA center, which we are very pleased to be able to do.

The homeless veterans program is also being augmented in this bill, and I applaud Senator JOHNSON's efforts for creating the initiative last year to increase the VA footprint in our rural areas for our health care facilities. I think this is very helpful and warranted.

On the military construction side, this morning I was at Dyess Air Force Base, where we broke ground on two incredible facilities. One will be a maintenance facility for both the B–1 bombers and also the C–130s and new C–130Js that are going to be coming into our system next year. It is going to be a great facility, and we are very excited about that. We have a Reserve training headquarters there at Dyess, as well, and we broke ground on that building today.

In addition, our BRAC has been fully funded. That was a priority of mine because I thought it was very important we fully fund our BRAC.

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

Mrs. HUTCHISON. Thank you, Madam President. I wish to go ahead to the vote because I know it is important. But I will just say, I fully support our bill and look forward to working on the amendments and passing this bill, finally, tomorrow.

AMENDMENT NO. 2757

The PRESIDING OFFICER. There will now be 2 minutes of debate, evenly divided, on Coburn amendment No. 2757.

The Senator from South Dakota.

Mr. JOHNSON. Madam President, I support the amendment from the Senator from Oklahoma, amendment No. 2757, disclosure of reports. Our side was willing to agree to this amendment by unanimous consent or voice vote.

I urge my colleagues to support this amendment.

I yield back my time.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I also support this amendment. I think the reporting requirements are absolutely the right thing to do.

Madam President, I yield back the rest of my time and ask for the vote to commence.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Delaware (Mr. KAUFMAN), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. KAUFMAN) would vote ''yea.''

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM), the Senator from Georgia (Mr. ISAKSON), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 344 Leg.]

YEAS—93

Akaka	Durbin	McConnell
Alexander	Ensign	Menendez
Barrasso	Enzi	Merkley
Baucus	Feingold	Mikulski
Bayh	Feinstein	Murkowski
Begich	Franken	Murray
Bennet	Gillibrand	Nelson (NE)
Bennett	Grassley	Nelson (FL)
Bingaman	Gregg	Pryor
Bond	Hagan	Reed
Boxer	Harkin	Reid
Brown	Hatch	Risch
Brownback	Hutchison	Roberts
Bunning	Inhofe	Rockefeller
Burr	Inouye	Sanders
Burris	Johanns	Schumer
Cantwell	Johnson	Sessions
Cardin	Kerry	Shaheen
Carper	Kirk	Shelby
Casey	Klobuchar	Snowe
Chambliss	Kohl	Specter
Coburn	Kyl	Stabenow
Cochran	Landrieu	Tester
Collins	Lautenberg	Thune
Conrad	Leahy	Udall (CO)
Corker	LeMieux	Udall (NM)
Cornyn	Levin	Voinovich
Crapo	Lincoln	Warner
DeMint	Lugar	Webb
Dodd	McCain	Wicker
Dorgan	McCaskill	Wyden

NOT VOTING—7

Byrd	Kaufman	Whitehouse
Graham	Lieberman	
Isakson	Vitter	

The amendment (No. 2757) was agreed to.

Mr. JOHNSON. Madam President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOTION TO COMMIT

The PRESIDING OFFICER. There are now 2 minutes evenly divided on the Coburn motion to commit.

The Senator from Oklahoma is recognized.

Mr. COBURN. Madam President, this motion to commit is based on the fact that we have a need among veterans that has an upcoming authorization bill but there is no money in this bill for it. The motion to commit would instruct the conferees to expand those eligible to all veterans who have the same need, to find the money to pay for the first year of this in that bill and not charge it to the next generation.

The idea behind the motion to commit is that our veterans are a priority, and if they are, we ought to defund things that are less of a priority and make sure we take care of them. The obligation for us to fulfill our commitment to veterans is not obviated by the lack of our obligation to fulfill our commitment to the generation that follows.

I would appreciate the support of my colleagues on the motion to commit.

The PRESIDING OFFICER. Who yields time on the motion? The Senator from South Dakota.

Mr. JOHNSON. Madam President, as I have indicated before, I strongly oppose the motion to commit this bill with instructions.

This bill funds programs that are vitally important to America's military troops and their families and to our Nation's veterans. Most of these programs were funded in the budget request but not all. This bill includes additional funding for such programs as housing for homeless veterans, rural clinics for veterans in underserved areas, mortgage relief for military personnel under orders to move during the current mortgage crisis, and for wounded veterans and surviving spouses and funding for an array of regionally needed military construction projects not included in the budget request.

The MILCON–VA bill before the Senate is a good piece of legislation. Likewise, the veterans caregiver assistance authorization bill is important legislation. The two bills should not be confused. Congress should pass both the MILCON/VA appropriations bill and the caregivers assistance authorization bill without further delay.

Madam President, I yield the floor.

Mr. COBURN. Madam President, 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 (Mrs. SHAHEEN). Are there any other Senators in the Chamber desiring to vote?

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Delaware (Mr. KAUFMAN), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. KAUFMAN) would vote ''nay.''

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM), the Senator from Georgia (Mr. ISAKSON), and the Senator from Louisiana (Mr. VITTER).

The result was announced—yeas 24, nays 69, as follows:

[Rollcall Vote No. 345 Leg.]

YEAS—24

Barrasso	Crapo	LeMieux
Bayh	DeMint	McCain
Brownback	Ensign	McCaskill
Bunning	Enzi	McConnell
Burr	Grassley	Risch
Chambliss	Hutchison	Roberts
Coburn	Johanns	Sessions
Cornyn	Kyl	Thune

NAYS—69

Akaka	Corker	Kohl
Alexander	Dodd	Landrieu
Baucus	Dorgan	Lautenberg
Begich	Durbin	Leahy
Bennet	Feingold	Levin
Bennett	Feinstein	Lincoln
Bingaman	Franken	Lugar
Bond	Gillibrand	Menendez
Boxer	Gregg	Merkley
Brown	Hagan	Mikulski
Burris	Harkin	Murkowski
Cantwell	Hatch	Murray
Cardin	Inhofe	Nelson (NE)
Carper	Inouye	Nelson (FL)
Casey	Johnson	Pryor
Cochran	Kerry	Reed
Collins	Kirk	Reid
Conrad	Klobuchar	Rockefeller
Sanders	Specter	Voinovich
Schumer	Stabenow	Warner
Shaheen	Tester	Webb
Shelby	Udall (CO)	Wicker
Snowe	Udall (NM)	Wyden

NOT VOTING—7

Byrd	Kaufman	Whitehouse
Graham	Lieberman	
Isakson	Vitter	

The motion was rejected.

Mr. JOHNSON. Madam President, I move to reconsider the vote.

Mr. PRYOR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSON. 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. BARRASSO. 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. BARRASSO. Madam President, I ask unanimous consent to be allowed to speak as in morning business for up to 5 minutes.

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

CONGRESSIONAL AWARD ACT 30TH ANNIVERSARY

Mr. BARRASSO. Madam President, today I rise to recognize the 30th anniversary of Public Law 96–114, which is the Congressional Award Act. My predecessor, Senator Malcolm Wallop of Wyoming, was a champion of this program.

In 1979, the late Congressman James Howard of New Jersey and Senator Wallop introduced the Congressional Award Act legislation.

Thirty years ago, as you recall, America was still living with the Cold War. The country was in the middle of a serious national conversation, one that would require America's young people to participate in a period of national service. It was a controversial concept, in part because the country had eliminated the armed services draft. Legislation to establish the congressional award had been introduced in Congress for several sessions, but no action had yet been taken. When Senator Wallop was approached as someone who might have an interest, he quickly understood and embraced the core of the program.

Our Nation's young people have worthy contributions to make to the world around it, he thought and he said, and the process required to earn an award was a productive path to determine their future. Senator Wallop felt that if America was thinking about requiring national service, then Congress should recognize and thank America's youth for their positive contributions made through the course of their own lives. He saw the congressional award as the perfect opportunity to do this.

When Senator Wallop agreed to serve as a sponsor of the congressional award, he made it a full commitment. The legislation quickly moved through

Congress, and it became law in his very first term of the three terms he spent in the Senate.

The congressional award is available to any young person in our country aged 14 to 23, no matter their life circumstances or their current abilities. Through goal setting, participants move from where they are to where they can be, providing service to others and exploring their own interest in the process.

Recipients of the award are not selected for it. The recipients of the award earn it. It has been my privilege to witness the success of this program both in my home State of Wyoming and around the country. I thank all of the Members of Congress who are involved in the congressional award in their own States and districts. I encourage those who have not yet done so to bring this program to their young constituents. And most of all today, I thank our former colleague, Senator Malcolm Wallop, for his gift—a gift of opportunity for America's young people through the creation of a congressional award, an award that was signed into law 30 years ago today.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

HEALTH CARE REFORM

Mr. BROWN. Madam President, I have come to the Chamber pretty often in the last 3 months, as we continue the debate on health care, to share letters from people from Ohio, from Steubenville, from Wauseon, from Ashtabula, from Hamilton and Middletown, people who write me concerned with the direction of our health care system.

What I find in almost every one of these letters that have come from Ohioans and people I mostly don't know, although I hear these stories in person—last night I heard them in Cleveland, a few days in Columbus; I have heard them from all over the State—is that so many people, a year ago, if you had asked these same people who wrote the letters, are you happy with your health care plan, they would have said yes. But something happened in the last year.

Maybe they had a child born with a preexisting condition. Maybe they got really sick and their insurance was canceled because it cost the insurance company too much money or their premiums were high or they owned a small business with 20 employees and one of their employees got especially sick and the insurance price spiked and they could no longer afford the insurance for any of their 20 employees.

The other thing I hear over and over is—a lot of people who send me letters who have lost their insurance, they are my age or a little bit older. I turned 57 last week. These are letters from people who are 57 or 62, particularly in their early sixties. They say it is so important to them to turn 65 so they will have insurance. Think of that: I can't wait until I am a little older so I can then have the security and peace of mind and put that anxiety behind me. We have a health care system now where people think they want to be a little bit older so they can qualify for Medicare, to have the stability of Medicare. Something is wrong with that. Those are the two things I hear over and over: I need to be 65 so I can get Medicare because I know it is reliable and stable or I used to be satisfied with my insurance but look what happened.

Let me share some of these letters. Karen from Mahoning Valley, around Youngstown, Poland, Austintown, that area of Ohio. She writes:

I am a high school art teacher. Last week I was speaking to one of my students who said she had a health issue. I suggested she go see a doctor but she said she can't because her family doesn't have health insurance. I have suggested she at least go see the school nurse but I know she needs regular visits to a physician. I am appalled at the lack of concern shown by many Members of Congress and by the special interests trying to control the health reform process. Please make the changes for the people who elected you and reap the benefit of seeing positive change in our country.

Do you know what will happen? I don't know the student's health problem, but what people would say about this is, if her student gets sick, she can go to the emergency room and get health care. But that is not the best way to deliver health care. But forget about the best way to deliver it. What happens to the student? Maybe the student has asthma. My wife almost died of asthma when she was a teenager, but she had good health insurance because her dad carried a union card and worked for a local utility company and was able to make sure she got the care she needed. This young woman, say she had asthma. She would only get coverage in the emergency room if she had an asthma attack. She wouldn't get any help from the emergency room to manage her asthma or any of the medicines she needs for asthma or any of the kinds of things my wife's insurance pays for for her asthma and so many others who have insurance. So what we are doing is jeopardizing this girl's life and her health, and we are also costing the system more money because instead of managing the asthma, she has to go for acute care.

So the emergency room does not mean everybody has health care coverage in this country. It means they will take care of you if you are really sick and you have some acute attack of something. They will not take care of you to manage your diabetes or manage your asthma or manage your heart disease. They only take care of you—the emergency room—when you have a heart attack, if you are uninsured. What kind of health care system is that? It is not as humane as it should be, and it is way more expensive and it jeopardizes people's lives.

Margaret is from Clermont County, the whole other end of the State. Clermont County is on the Ohio River, just east of Cincinnati, Batavia, that part of Ohio.

My oral cancer was diagnosed in 2005. It came back in December 2007, September 2008, and February 2009.

We've been lucky and found it early each time, which allowed me to avoid radiation therapy—so far.

I worry all the time that eventually I won't be able to work and would lose my health insurance.

My husband will retire in 2011, when he qualifies for Medicare. But I'm only 61 and have to wait four years before enrolling in Medicare.

I don't understand how opponents of reform can be unsympathetic to the plight of millions of people who have preexisting conditions or have to lose everything to qualify for Medicaid.

We need reform now.

So here is another example. Margaret from southwest Ohio says: I am 4 years away from Medicare. My husband can retire and get Medicare. I am still 4 years away. What are my options? Do we spend everything we have—basically spend whatever their net worth is—to qualify for Medicaid, which is available to many low-income people, or do I just hope my cancer does not act up again before I turn 65? But again, she needs maintenance of care, some medication to help her so she can make it through this time.

Margaret, as Karen's student and Karen's student's family, could benefit from a public option because it would give them more choice.

In Clermont County in southwest Ohio, two insurance companies have 85 percent of the insurance business in that area, that, I believe, four county area: Hamilton, Clermont, Butler, and Warren Counties. Two companies have 85 percent of the business. That means the quality of insurance is less and the cost of the insurance is more. That always happens when there is no real competition. So that is why it is so important people have the public option, so Margaret can get insurance, she can choose the public option or she can choose Aetna or WellPoint or Cigna or Medical Mutual—any company she wants.

But it also means the public option will keep the price down because more competition means better quality; more competition means keeping the price down. As the Presiding Officer, the Senator from Oregon, said in a meeting I was just in, one of the things the public option does is—we tell people: You need to get insurance. There are a number of people who, I am sure, have come up to him in Eugene or Portland or places in Oregon, as they have come up to me in Mansfield and Ashland and Galion and Crestline, OH, and said: You are going to make me

buy insurance. I don't want my insurance dollars to go to a private company. I want the choice of letting them go to the public option, a Medicare-like plan, so I have that choice and I can direct my insurance dollars to the place I want them to go.

A third letter I will read—I have two more to share with my colleagues—is from Bill from Cuyahoga County, which is the Cleveland area. Bill writes:

My spouse was diagnosed with breast cancer over two years ago. She worked for a commercial airline for 36 years, but along with other employees in their mid-50s, she was asked to take early retirement or face the possibility of reduced retirement benefits.

She took the early retirement package and subsequently found a part-time job with a local bank.

The health insurance coverage is inadequate and barely pays any benefits.

We have been together for more than 10 years, and during that time she didn't have so much as a cold.

But boom, the next thing you know she is sick with breast cancer, with chemo and medications that weaken her.

After her treatment sessions, she would then go off to work because she needed to keep her health benefits.

But finally, a few weeks ago, se quit her job. She's on COBRA now which we hope will last until she turns 65 years old and is eligible for Medicare.

My wife paid her [insurance] premiums for 36 years—

When she was with the airline—

while she was healthy but now that she is older and needs insurance, the benefits are cut or non-existent.

Bill's story is what we hear over and over, and it is in this same letter. Bill's story is: My wife paid for insurance all these years. We thought we had good insurance, and we did have good insurance until we needed it, until my wife got sick. Then the insurance was not so good. And Bill's story, with his wife, is: She looks forward to being 65 so she can have Medicare coverage.

Again, what kind of health care system does that? The insurance is OK until you really need it, and then they cut you off if you are too expensive, they cut you off if you have a preexisting condition, or they cut your son or daughter off because a baby is born with a preexisting condition. What kind of health care system says: Boy, I can't wait until I am 3 years older so I can have that good government plan, that Medicare plan that will mean stability and predictability?

We clearly need to help people get through this anxiety that so many Americans have because they just hope they do not get sick before they turn 65 or they hope they do not get too expensively sick, if you will, because they are going to lose their insurance because their insurance company will cut them off. That is why we need the public option. We need insurance reform. We need no more preexisting condition exclusions. We have done that in the bill.

No more discrimination based on gender or disability or race or age or geography. We have done that in the bill. No more disqualifications or annual cap because your health care costs too much, you spent too many days in the hospital, went to too many expensive doctors, had too much treatment. It is so expensive the insurance company is going to cancel your insurance. We are going to say: No more of insurance companies gaming the system.

We know—and the Senator from Oregon was on the floor with me a couple weeks ago and talked then—that insurance companies are making more and more profits, a 400-percent increase from 7 years ago. Insurance company CEOs' salaries—the Aetna CEO makes $24 million a year. The CEOs of the 10 largest insurance companies in the country average $11 million in pay.

How are they doing that? They are doing that by cutting off people such as Bill's wife. They are doing that by using preexisting conditions and keeping people from getting insurance. That is why the public option for Bill and his wife would mean they would be in a situation where they could have more choice—those insurance reforms I talked about. The public option would help to enforce those insurance reforms so Aetna and Blue Cross and WellPoint and these companies could not game the system the way they have so they can pay these huge salaries and have these increasingly huge profits. The public option will simply give people more choice. And it is only an option.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. BROWN. Sure.

Mr. DURBIN. I tell the Senator, I was back home in Illinois during the break and went to southern Illinois, which is an area the Senator would be familiar with in a second. It is a small town, rural area. I love it. That is where my roots are in our State. I stopped at a hotel in the area of Marion, IL, and there is a nice lady who fixes breakfast in the morning for the guests. Her name is Judy. She could not be any kinder and nicer and always has a warm greeting.

She came up to me, as she was getting a cup of coffee, and said: Is this health care thing going to help me?

I said: Do you have health insurance?

She said: Oh, no. I've never had health insurance.

Judy, I am guessing, is about 60 years old.

I said: Well, I can tell you, if you just give me an idea about yourself, I will give you kind of an idea of what you might expect.

She said: Well, they keep cutting our hours at the hotel here. I am down to 30 hours a week, and I get paid about $8 an hour.

So I said: Well, I'll do a quick calculation. I think you make about $12,000 a year.

She said: Yeah.

Imagine, living on $12,000 a year, which is what her gross income is.

I said: By most of the bills that are going through Congress now, unless you are making over $14,000 or $15,000 a year, you will be covered by Medicaid, which means you are going to have health insurance for the first time in your life through Medicaid.

She said: I don't have to pay for it?

I said: No. You're in a low-income situation. You wouldn't have to pay for it at $12,000 a year.

I say to the Senator, I thought, as the Senator was just speaking, what if she were making $15,000 a year and her employer did not offer health insurance? As I understand it, at that point, most of the bills say: It is time for you to find a way to find health insurance. And the insurance exchange will give you some options from which to choose.

What the Senator is saying—what I believe, and I think what the vast majority of our people believe—is, one of those options should be a not-for-profit plan, the lowest cost for Judy to buy into. As the Presiding Officer pointed out in an earlier meeting we had, if we were to say we are going to impose an obligation on people to buy health insurance but only give them private health insurance options, I think most people would say: Wait a minute. If you are going to impose an obligation on me to buy health insurance, give me some affordable options.

Our support for a public option is to come up with a not-for-profit plan that is not trying to please shareholders, that is not advertising on radio and television, and that does not hire lots of people, clerks to say no. That, to me, is a sensible outcome for the obligation to buy health insurance because it gives people choices.

I salute Senator HARRY REID because, as our Democratic leader, he said maybe there are some Governors, some States, some people who just do not want a public option. Let them decide to opt out of the system. They can opt out. They are not going to be forced in. They can opt out. I think that is a reasonable way to move.

So I say to the Senator from Ohio, you probably have a lot of your constituents, just like mine—like Judy who works down at this hotel—who are uninsured at the moment. She has diabetes, incidentally. She told me she had some medical issues and could not even go to a doctor, see a doctor, because she just does not make enough money. That is the reality of life for a lot of hard-working people in Illinois, and in Ohio, I am sure.

Mr. BROWN. Mr. President, I thank Assistant Majority Leader DURBIN.

That story is so common. I was in a restaurant in Columbus one day and had breakfast with my daughter, who lives there. The young woman who waited on us, who is working probably about the same number of hours—she is waiting tables. She is doing a little better than that, I think, in terms of her income. She is also tutoring some music students because she went to college and got a degree in music. She hopes to turn that into a business. She

is making more money than what would qualify her for Medicaid. With the legislation, she would get the opportunity.

She said: Are you going to pass this bill?

I said: Yes.

She said: Are you going to have a public option?

I said: Majority Leader REID is putting the public option in the bill. The House passed a bill with the public option. So I believe we are going to have a public option in the bill.

So again, as Senator DURBIN said, depending on their income, people will take their personal money, adding it to help they get from the government, to be able to pay the premiums. Let them decide for themselves. We do not want to tell them they have to go into a Medicare-like public option. We do not want to tell them they have to go to Aetna or Cigna or Blue Cross or WellPoint. Give them that chance and give them that choice. They can compare on cost. They can compare what kind of service they get, what kind of illnesses are covered.

Then, as Senator DURBIN pointed out, one of the things with private health insurance is that a big part of their profits—and their profits have gown, as have their salaries for the top executives—a big part of their profits comes from hiring bureaucrats who deny care. They first try not to insure you by invoking a preexisting condition or something so you cannot get insurance. They hire a bunch of people to deny you even getting the insurance.

Then, if you are able to qualify for insurance because you do not have a preexisting condition, and you get sick, then they hire a bunch of bureaucrats who process your claim and many times turn you down. About a third—almost a third—of claims initially are turned down by an insurance company. More of them are accepted after you appeal.

But, for example, take Judy in Marion, IL, who the Senator just talked about. If she were to have coverage from a private health insurance company—you know how hard people work in hotels, whether cleaning rooms or waiting tables, or being at the front desk or whatever they are doing, and doing maintenance work there. They are working so hard. They are very tired at the end of the day, as are most Americans. They file a health care claim that is legitimate. The insurance company tells them no. Then they have to find the time during the work day, if they work when the insurance companies' lines are open, to call and call and call.

Some of them call their Congressman or Senator, and we try to help people all the time push the insurance companies. They will talk to us. We are much more likely to be able to help them than they can help themselves when we call in. But why should that be? Why should they have to call their Members of Congress or call Senator DURBIN or Senator MERKLEY or me to help fight an insurance company?

When people are sick, the last thing they want to do is fight an insurance company to get reimbursed.

We know what the President said during the 2008 Presidential race about his own mother, that she was dying from cancer and had to fight with insurance companies. It is simply not the kind of health care system we should have.

I have met so many Judys from Marion, IL, in places such as Steubenville and Cambridge and Lima and Findlay, OH, who work so hard and cannot get insurance and cannot manage their care, cannot manage their health. People like that die younger than people who dress like this and have good insurance. People like that so often—Judy has not been able to take care of her diabetes. My son-in-law has diabetes. He was diagnosed with type I diabetes at the age of 29. That was about 5 years ago. He works for Ohio State. He has a good health care plan. He takes really good care of himself, but he has the support of a health care system to do it. He is in the capital city with great private hospitals and public hospitals, with good insurance, but there are so many who can't go to those hospitals unless they are so acutely sick. Then they go to the emergency room. Why do we want people with diabetes or asthma or a heart condition to wait until they are sick to go to an emergency room instead of managing their care?

Our health care system in this country, as good as it is to so many people who have good insurance, is the worst anywhere. Let me put it this way: We have more people in the hospital who have chronic conditions such as diabetes and heart disease and asthma, conditions that one can manage outside a hospital at a much lower cost. In this country, they are more likely to end up in a hospital than in any other country in the world, and that is one of the things our legislation will fix.

Let me share one last letter, and I appreciate Senator DURBIN joining us. This is from Deborah from Columbiana County, a county just like Marion, IL; a small, rural county; a pretty low-income county, a lot of job loss, just south of Youngstown along the Ohio River. Deborah is a 56-year-old wife of a disabled retiree who suffers from a heart condition, arthritis, and three ruptured discs in his back.

Within 1 month of his retirement, the steel company he worked for filed for bankruptcy and went out of business. This left them with a reduced monthly pension and the loss of all health care coverage that he worked for 33 years to earn. They went without insurance from 2003 until he qualified for Social Security disability and Medicare in 2008. Deborah doesn't qualify, however, for either Social Security disability or Medicare. She has tried to get private health care coverage, but they can't afford the $2,400 to $3,000 a month for premiums.

She says:

My question is this: In the health care reform, will there be a public option that doesn't disqualify me because of my preexisting condition? Will I have to continue trying to purchase coverage from private insurance companies?

Exactly what Senator DURBIN said: You never hear of Medicare denying somebody coverage because of a preexisting condition. We are certainly hearing about it from Wellpoint and CIGNA. We certainly hear about it from other private insurance companies. But we are never going to hear about the public option—once we enact it as part of U.S. law, we are never going to hear about the public option disqualifying people because of a preexisting condition.

So what Deborah wants and needs is the choice. She can choose a private plan or she can choose the public option. But she can be assured the public option will not disqualify her or her husband or anybody else with a preexisting condition. She knows even if she gets sick and she spends a lot of money for her health care and for hospitals and treatments and doctors visits that her insurance would not be cut off because her care costs so much money. That is the beauty of the public option. It brings in competition, it keeps prices down, and it protects the public from being denied care because of a preexisting condition or illness.

In the next few weeks, Senator REID plans to bring this bill to the Senate floor. It will include a strong public option with a State opt-out, as Senator DURBIN said, so if a State such as Arkansas or Nebraska or wherever decides this is not for them, they can go and talk to their Governor and to their legislature and they can opt out of it. I don't think very many States will because I think the public option will matter for millions and millions of Americans. I believe hundreds of thousands of people in my State will decide they want to be in the public option. But even if they don't, they will understand—people will know their private insurance will be better, it will be a higher quality and less cost because of the competition from the public option.

I thank the President, and I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

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

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

Mr. DURBIN. Mr. President, I speak with gratitude to Senator BROWN from Ohio who regularly comes to the Senate floor to address this issue which will be pending soon before the Senate and which may be the most important issue we will face during our lifetime. So I am glad his leadership is demonstrated again this evening on this issue.

GUANTANAMO BAY

When people are asked about our troops on Veterans Day, there is a

warm feeling about the sacrifice and courage they show by volunteering to serve our country. We were all saddened by the tragedy at Fort Hood. We are saddened to learn that even more soldiers are dying overseas. We are worried about the multiple deployments and the conditions they face overseas. We are worried, when they come home, to keep our promise to them that they get the medical care they need.

One of the issues that relates directly to our troops and their safety is the issue of Guantanamo. Guantanamo is a detention facility that was created by the previous President after 9/11 in an effort to try to gather those we thought were dangerous to the United States and other places and hold them safely. That facility was opened and expanded at considerable expense, but, unfortunately, during the course of its early history it became controversial, particularly overseas. Guantanamo came to symbolize in the minds of many overseas an image of the United States of which they were critical. Whether that was just or unjust, it is a fact.

As a result, GEN Colin L. Powell, who served as Chairman of our Joint Chiefs of Staff, as well as Secretary of State under President George Bush, said—and I paraphrase him—I wouldn't close Guantanamo tomorrow, I would close it this afternoon. Similar statements have been made by Admiral Mullen, who is now Chairman of our Joint Chiefs of Staff, about the danger that Guantanamo poses as long as it is open. GEN David Petraeus, who has served and commanded our troops overseas and knows terrorism, as it has stared him in the face, and who has seen its results, has said Guantanamo should be closed. Former President George W. Bush on eight different occasions called for the closure of Guantanamo. It has been a strongly held position by the former President and many in his Cabinet, a position shared by many of us in Congress, and a position which was the leading position taken by our new President when he was elected earlier this year—the closure of Guantanamo.

The obvious question was, What do we do with the remaining prisoners? Some of them are safe to release; others are not. What happens to those who are not? We have had a debate back and forth on the floor of the Senate. The position taken by most on the Republican side of the aisle is to oppose the closure of Guantanamo. They oppose the position taken by General Powell and General Petraeus and so many others, but that is their right to do. Many of them have challenged this President, if he is going to close Guantanamo, to say what he would do with these detainees.

Over the weekend there was a disclosure of a plan the President is developing. They have not made a final decision on where these detainees will go, but one of the options they are considering is in my home State of Illinois. It is in a small community called Thomson, IL, in Carroll County. You will find it on the northwest corner of our State about 50 or 60 miles north of the Quad Cities, Rock Island area, about 50 or 60 miles southwest of Rockford. It is a very rural county. It is a county that has faced enormous difficulties in the past and faces high unemployment today.

About 8 or 9 years ago, the State of Illinois built a state-of-the-art, maximum security prison in Thomson, IL. It holds 1,600 beds and the latest technology to safely contain the prisoners who were sent there. Then my State fell on hard times and couldn't open the prison, and it sat there. The town of Thomson, Carroll County, made infrastructure investments in anticipation of this prison coming and new employment coming to the area. Now, for the last 8 years, they have paid the bills on that infrastructure but have had very few jobs at the prison.

Currently, there are about 100 inmates being held in a minimum security setting. The prison has not been utilized as it should be or could be. So the mayor of the town, who is a very good man—we call him Village President back in Illinois—Jerry ''Duke'' Hebeler, wrote a letter to me and to Governor Patrick Quinn and to the President and said: I hope you will consider our empty prison sitting in Thomson, IL, as a place for Federal prisoners, including the detainees at Guantanamo.

Well, I saw this letter and thought that may be the answer. I submitted the letter to the administration. Governor Quinn hand carried it to the President of the United States and asked him to consider the Thomson facility.

They are now, as of today, on the ground looking at what they would do to convert this into a Federal prison, but also a prison that would house the Guantanamo detainees. It is a little complicated because under the Geneva Convention, those who are arrested in war have to be held in a setting separate from the ordinary corrections facilities of our government. So the Department of Defense maintains a military prison at Guantanamo and would at Thomson as part of that prison facility, but it is separate. It is run by the Department of Defense, not by the Bureau of Prisons.

So the idea is to take about one-fourth of the Thomson facility and set it aside for the Guantanamo detainees. I don't know the exact number we would have transferred there, but we are told it would be fewer than 100 prisoners. That leaves the rest of the facility with over 1,000 beds to alleviate some of the overcrowding we have in Federal prisons today.

The net result of this would be dramatic in terms of the local economy. It is estimated it would create anywhere between 1,800 to 3,200 jobs, some 1,800 at the prison itself and others in the community for businesses that would support the prison. The economic activity associated with this new prison is estimated to be over $200 million a year, which means in a 4-year period of time anywhere from $800 million to $1 billion will be spent in this community.

I need not tell the Presiding Officer, as you reflect on your own home State of Oregon, what it means for a small town in a rural community to have that kind of influence of people and spending. Twenty percent of the jobs will likely go to people living in Iowa across the river, easily accessible, 80 percent on the Illinois side. That is just the best estimate. But the net result of it would be a positive injection of jobs and economic activity into a very tough environment economically.

When we talk about creating jobs, most of us would turn cartwheels as Senators and Congressmen to announce 100 jobs coming to any town. The notion of 2,000 to 3,000 jobs coming is unimaginable, and it is a once-in-a-lifetime opportunity.

Governor Pat Quinn has endorsed it. I have endorsed it as well. We are working out the details and getting questions answered to see if we can move forward and do it on a timely basis.

Not surprisingly, critics have appeared, some within our own State. The Republican—not all of the Republicans in Congress in our State, but many of them—have held press conferences opposing the sale of the Thomson prison to the Federal Government. They are entitled to their point of view, and I respect them even though we may disagree. But I will tell my colleagues that several of the arguments they are making against the use of the Thomson prison are just plain wrong.

One of them—I think the overriding argument—is that we should be afraid of what it means to bring Guantanamo detainees to the United States, on our soil. What they fail to acknowledge is that currently we have 340 convicted terrorists in America's prisons today, and 35 in the State of Illinois, some of them convicted for al-Qaida activities. It has not endangered the people living near those prisons. In fact, they may not even be the most dangerous people in these prisons. The fact is, they are there. The idea of bringing in fewer than 100 into the Thomson prison is not going to change this calculus much, if any. There will still be terrorists held in other prisons in our State, and terrorists would be held there, and that is something our prison people do, and do well. The guards and the administrators know how to handle these prisons safely and securely.

When this Thomson prison is reconfigured, if it is chosen, it will be safer than any supermax facility in the United States, and there has never been an escapee from a supermax facility. That is a fact.

The second argument made by one of the Congressmen is one that is troubling because he said he feared that

these detainees would be released into the United States. That Congressman should know better. We have passed two bills signed by President Obama which prohibit releasing detainees from Guantanamo into the United States. It is not going to happen. It shouldn't happen. So that is a fear that should be dispelled.

The third argument this Congressman made was that under the rules, every detainee would be entitled to 10 visitors a year, which meant if there is 100 detainees there would be 1,000, as he called them, Islamic followers, jihad followers, coming into the State of Illinois, landing at O'Hare and heading over across our State to the Thomson area.

Well, he is just plain wrong. The detainees currently held at Guantanamo are not entitled to any visits from family and friends. None. The only visits come from attorneys, their legal counsel, and that rule would still apply at the Thomson prison. So this notion of a thousand jihadist visitors coming to Illinois isn't going to happen. It wouldn't happen.

The fourth point that has been raised is one that I really think gets to the heart of the issue. It is the argument that if we brought these detainees to the United States and put them in a prison, there would be retaliation against the United States.

This one Congressman has gone so far as to pinpoint specific buildings in Chicago in which he thinks the terrorists would try to destroy and kill innocent people. I think that kind of designation of specific buildings crosses a line we should not cross. I don't know that it gives ideas to terrorists, but to speak of this so casually is wrong. I wish he hadn't said that. Think about what he is arguing. He argues that if we capture, prosecute, and incarcerate those who would terrorize the United States, we run the risk of retaliation. His argument is: Let's not make them mad. Well, I couldn't disagree with him more. As heartbreaking as 9/11 was, after that day we came forward with a determination to tell the world that the United States was going to make those responsible answer for the violence of that day and any other violence perpetrated upon the United States. That is what we are doing.

We have 340 terrorists currently incarcerated across America. The fact that we have successfully prosecuted 195 of them since 9/11 says we are going to use our system of justice to bring justice to this situation. If we are going to cower in fear, believing the enforcement of our laws and the incarceration of terrorists will provoke more terrorism, then we will have lost our way as a nation. We need to show the courage of our convictions to let people know the rule of law will be applied in the United States to all who harm us. That is what this incarceration at Thomson would do.

I don't know if President Obama will make the final decision to send these detainees to his home State of Illinois. I believe we can work with the Bureau of Prisons and the Department of Defense to make certain that they are held safely, that they pay the price for what they have done, and that they are held as long as necessary to avoid any danger to people of the United States. We can do this in a humane fashion, and we can do it in a professional fashion. We don't have to apologize or run scared, as some of the critics of this idea are today.

In conclusion, I am proud of the people of Carroll County in Thomson, IL, for stepping up and realizing they desperately need help economically, seeing a great asset in that community that can be utilized to not only serve our State but to serve our Nation and to put our best foot forward to show we will apply standards of justice there that are applied across America—standards that are fair, standards that recognize the basic freedoms we hold dear and the system of justice we hold dear that says those who are guilty of crime will pay a price.

Mr. President, I yield the floor.

MORNING BUSINESS

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

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

DESIGNATING THURSDAY, NOVEMBER 19, 2009, AS ''FEED AMERICA DAY''

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of and the Senate now proceed to S. Res. 334.

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

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 334) designating Thursday, November 19, 2009, as ''Feed America Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 334) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 334

Whereas Thanksgiving Day celebrates the spirit of selfless giving and an appreciation for family and friends;

Whereas the spirit of Thanksgiving Day is a virtue upon which the Nation was founded;

Whereas according to the Department of Agriculture, roughly 35,000,000 people in the United States, including 12,000,000 children, continue to live in households that do not have an adequate supply of food; and

Whereas selfless sacrifice breeds a genuine spirit of thanksgiving, both affirming and restoring fundamental principles in our society: Now, therefore, be it

Resolved, That the Senate—

(1) designates Thursday, November 19, 2009, as ''Feed America Day''; and

(2) encourages the people of the United States to sacrifice 2 meals on Thursday, November 19, 2009, and to donate the money that they would have spent on such food to a religious or charitable organization of their choice for the purpose of feeding the hungry.

DRIVE SAFER SUNDAY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Res. 335.

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

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 335) designating November 29, 2009, as ''Drive Safer Sunday.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 335) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 335

Whereas motor vehicle travel is the primary means of transportation in the United States;

Whereas every individual traveling on the roads and highways needs to drive in a safer manner in order to reduce deaths and injuries that result from motor vehicle accidents;

Whereas according to the National Highway Traffic Safety Administration, wearing a seat belt saves more than 15,000 lives each year;

Whereas the Senate wants all people of the United States to understand the life-saving importance of wearing a seat belt and encourages motorists to drive safely, not just during the holiday season, but every time they get behind the wheel; and

Whereas the Sunday after Thanksgiving is the busiest highway traffic day of the year: Now, therefore, be it

Resolved, That the Senate—

(1) encourages—

(A) high schools, colleges, universities, administrators, teachers, primary schools, and secondary schools to launch campus-wide educational campaigns to urge students to be focused on safety when driving;

(B) national trucking firms to alert their drivers to be especially focused on driving safely on the Sunday after Thanksgiving, and to publicize the importance of the day through use of Citizen's Band (''CB'') radios and truck stops across the Nation;

(C) clergy to remind their members to travel safely when attending services and gatherings;